

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JONATHAN CREEK WATER DISTRICT AND ITS)	
INDIVIDUAL COMMISSIONERS, JIMMY TUBBS, BARRY)	CASE NO. 2017-00469
HILL, JOSH MEDLEY, MARK HOLT, AND KARA WILSON)	
ALLEGED FAILURE TO COMPLY WITH KRS 278.300)	

NOTICE OF FILING


Notice is given to all parties that the following materials have been filed into the record of this proceeding:

- The digital video recording of the evidentiary hearing conducted on February 27, 2018 in this proceeding;
- Certification of the accuracy and correctness of the digital video recording;
- All exhibits introduced at the evidentiary hearing conducted on February 27, 2018 in this proceeding;
- A written log listing, *inter alia*, the date and time of where each witness' testimony begins and ends on the digital video recording of the evidentiary hearing conducted on February 27, 2018.

A copy of this Notice, the certification of the digital video record, hearing log, and exhibits have been served upon all persons listed at the end of this Notice. Parties desiring to view the digital video recording of the hearing may do so at https://psc.ky.gov/av_broadcast/2017-00469/2017-00469_27Feb18_Inter.aspx.

Parties wishing an annotated digital video recording may submit a written request by electronic mail to pscfilings@ky.gov. A minimal fee will be assessed for a copy of this recording.

Done at Frankfort, Kentucky, this 19th day of March 2018.

A handwritten signature in black ink, reading "Gwen R. Pinson". The signature is written in a cursive style with a large initial 'G' and a stylized 'P'.

Gwen R. Pinson
Executive Director
Public Service Commission of Kentucky

Mark Holt
Commissioner
Jonathan Creek Water District
7564 U. S. Highway 68E
P. O. Box 414
Benton, KY 42025

Kara Wilson
Commissioner
Jonathan Creek Water District
7564 U. S. Highway 68E
P. O. Box 414
Benton, KY 42025

Jimmy Tubbs
Commissioner
Jonathan Creek Water District
7564 U. S. Highway 68E
P. O. Box 414
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Barry Hill
Commissioner
Jonathan Creek Water District
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Josh Medley
Commissioner
Jonathan Creek Water District
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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JONATHAN CREEK WATER DISTRICT AND ITS)	CASE NO.
INDIVIDUAL COMMISSIONERS, JIMMY TUBBS,)	2017-00469
BARRY HILL, JOSH MEDLEY, MARK HOLT,)	
AND KARA WILSON ALLEGED FAILURE TO)	
COMPLY WITH KRS 278.300)	

CERTIFICATE

I, Pamela Hughes, hereby certify that:

1. The attached DVD contains a digital recording of the Hearing conducted in the above-styled proceeding on February 27, 2018. The Hearing Log, Witness List, and Exhibit List are included with the recording on February 27, 2018.
2. I am responsible for the preparation of the digital recording.
3. The digital recording accurately and correctly depicts the Hearing of February 27, 2018
4. The "Hearing Log" attached to this Certificate, accurately and correctly states the events that occurred at the Hearing of February 27, 2018, and the time at which each occurred.

Signed this 15th day of March, 2018.



Pamela Hughes, Notary Public
State at Large
My Commission Expires: April 22, 2019



Session Report - Standard

2017-467_469_27FEB2018

Estill County WD #1_Jonathan
Creek WD

Judge: Bob Cicero; Talina Mathews; Michael Schmitt

Witness: Eddie Beavers; Christopher Burnett; David Foster; Barry Hill; Mark Holt; David Lovett; Jimmie Tubbs

Clerk: Pam Hughes

Date:	Type:	Location:	Department:
2/27/2018	Show Cause Hearing	Hearing Room 1	Hearing Room 1 (HR 1)
Event Time	Log Event		
8:16:28 AM	Session Started		
8:16:30 AM	Session Paused		
8:57:14 AM	Session Resumed		
8:57:17 AM	Chairman Schmitt preliminary remarks		
	Note: Hughes, Pam	Introductions of Commissioners- Robert Cicero - Vice Chairman; Talina Mathews - Commissioner.	
8:57:51 AM	Case No. 2017-00467 Estill CO WD 1		
	Note: Hughes, Pam	Show Cause - First case to be called	
8:58:19 AM	Atty Weutcher for Estill CO WD 1		
	Note: Hughes, Pam	Regarding the filing made to the Commission regarding notice of Hearing and filing offer of settlement.	
8:59:33 AM	Camera Lock PTZ Activated		
8:59:55 AM	Camera Lock Deactivated		
8:59:58 AM	Chairman Schmitt		
	Note: Hughes, Pam	Remarks that no witnesses were needed today for Estill County WD 1, Considering the offer made by the clients.	
9:00:38 AM	Camera Lock PTZ Activated		
9:00:47 AM	Camera Lock Deactivated		
9:00:50 AM	Case No. 2017-000467 Estill County Water District 1		
	Note: Hughes, Pam	Hearing to be continued pending the offered settlement.	
	Note: Hughes, Pam	Case No. 2017-00467 Estill County WD 1 adjourned.	
9:01:15 AM	Session Paused		
9:01:23 AM	Session Resumed		
9:01:30 AM	Case No. 2017-00469 Jonathan Creek WD called		
	Note: Hughes, Pam	Josh Medley and Kara Wilson dismissed as witnesses.	
	Note: Hughes, Pam	Chairman goes over the reasons for the hearing against Jonathan Creek WD.	
	Note: Hughes, Pam	Regarding the purpose of taking evidence in this show cause hearing.	
9:04:09 AM	Chairman Schmitt states notice has been filed into the record		
9:04:24 AM	Atty's introductions		
	Note: Hughes, Pam	Angela Goad and Brittany Koenig for the PSC	
	Note: Hughes, Pam	Kip Mathis for Jonathan Creek WD. Names the Commissioners and Former Commissioners present today.	
9:05:28 AM	No other matters or pending motions.		
9:05:38 AM	Atty Goad calls Witness Foster		
	Note: Hughes, Pam	Sworn in by Chairman	
9:06:07 AM	Atty Goad direct exam of Witness Foster		
	Note: Hughes, Pam	Regarding the trainngs he has had with the Commission.	
	Note: Hughes, Pam	David Foster _ PSC_ Financial Analyst III - Explains his general duties and educational background.	
9:07:47 AM	Atty Goad direct exam of Witness Foster		
	Note: Hughes, Pam	Referring looking at Jonathan Creeks prior case.	

9:08:33 AM	PSC exhibit 1 Note: Hughes, Pam	Copy of Business Loan Agreement between Jonathan Creek WD and Community Financial Services Bank.
9:09:24 AM	Atty Goad direct exam of Witness Foster Note: Hughes, Pam	Regarding the note of \$600,671.50. 5-3-2016 is date when the loan was taken.
	Note: Hughes, Pam	Bill review on 9-13-2017 done by Witness Foster.
9:11:11 AM	Atty Matthis cross exam of Witness Foster Note: Hughes, Pam	Regarding what the loan was taken out for. Capital expenses.
9:12:18 AM	Atty Mathis cross exam of Witness Foster Note: Hughes, Pam	Regarding the PSC Staff Report
9:12:54 AM	Vice Chairman cross of Witness Foster Note: Hughes, Pam	Regarding any reference to the amorization , principle, or payment.
9:13:38 AM	Chairman cross of Witness Foster Note: Hughes, Pam	Regarding any records from the Jonathan Creek loan and did anyone at Jonathan Creek state they got the loan without Commission approval. No collateral to secure the loan.
9:15:01 AM	Atty Mathis re cross of Witness Foster Note: Hughes, Pam	Page 5 of Business loan agreement (PSC exhibit 1). What does the Loan agreement typically set forth.
9:16:33 AM	Witnees excused	
9:16:53 AM	Atty Goad calls Witness Lovett to the stand Note: Hughes, Pam	Sworn in by the Chairman
9:17:22 AM	Atty Goad direct of Witness Lovett Note: Hughes, Pam	David Lovett, superintendent of Jonathan Creek. Held this position for 4 years and other duties.
	Note: Hughes, Pam	Regarding if there are any specific staff designated to flag this issue of obtaining loans going forward.
	Note: Hughes, Pam	Who in Water District is responsible for loans for the district.
9:19:21 AM	Atty Goad direct of Witness Lovett Note: Hughes, Pam Note: Hughes, Pam	Regarding why Jonathan Creek needed this loan. Regarding PSC exhibit 1 - Business loan agreement. He did not assist in obtaoing the loan. No interest rate is on document but he doesn't know why. Was collateral put up to take this loan.
9:21:21 AM	Atty Goad direct of Witness Lovett Note: Hughes, Pam	Regarding that they didn't seek approval from the Commission for loan.
9:21:43 AM	PSC Exhibit 2 Note: Hughes, Pam	KRS 278.300
9:22:21 AM	Atty Goad direct of Witness Lovett Note: Hughes, Pam	Referring to the KRS 278.300 and what it means. Was he aware of this statute?
	Note: Hughes, Pam	Referring to him saying he had prior knowledge of this statute. He attended a PSC water training.
9:24:17 AM	Atty Goad direct of Witness Lovett Note: Hughes, Pam Note: Hughes, Pam	Regarding conferring with an attorney before seeking this loan. When did he realize this loan permission should have been sought from the Commission. What actions did he take to rectify this issue after he realized this problem
9:25:32 AM	Atty Goad direct of Witness Lovett Note: Hughes, Pam	Regarding if policy has been put into place to keep this from happening again.

9:25:59 AM	Atty Mathis cross of Witness Lovett	
	Note: Hughes, Pam	Capital expenses went to a Well that affected the quality of the water.
	Note: Hughes, Pam	Regarding equipment bought with the proceeds from this loan and why they purchased these. Dump truck purchased was a 1992 for 10,000. Backhoe was new.
9:28:17 AM	Atty Mathis cross of Witness Lovett	
	Note: Hughes, Pam	He did not intentionally not seek permission from the Commission. Audit is prepared and submitted every year.
	Note: Hughes, Pam	Regarding painting a water tank-Reed Road tank. Last time was 1976.
	Note: Hughes, Pam	Regarding his prior knowledge of this statute, KRS 278.300. Did he know he had to get permission from the Commission.
9:30:24 AM	Vice Chairman cross of Witness Lovett	
	Note: Hughes, Pam	Regarding an Asset ledger. PHDR needed for this information.
	Note: Hughes, Pam	Regarding who told him to enter into the loan.
	Note: Hughes, Pam	Regarding listing of all projects that were completed with the loan proceedings. PHDR needed for this information.
9:32:42 AM	Chairman cross of Witness Lovett	
	Note: Hughes, Pam	Regarding trainings he has attended. Does he remember anything about obtaining loans from the trainings.
	Note: Hughes, Pam	Regarding if the District has regular legal counsel that attends meetings. Mathis and Johnson are their attorneys.
	Note: Hughes, Pam	Regarding being employed in other Water districts prior to Jonathan Creek.
9:35:53 AM	Chairman Schmitt cross of Witness Lovett	
	Note: Hughes, Pam	Regarding the staff at Jonathan Creek WD.
9:36:35 AM	Witness excused	
9:37:13 AM	Atty Goad calls Witness Tubbs to the stand	
	Note: Hughes, Pam	Sworn in by the Chairman
9:37:38 AM	Atty Goad direct of Witness Tubbs	
	Note: Hughes, Pam	Jimmie Tubbs, Commissioner for Jonathan Creek. He is Chairman of the board.
	Note: Hughes, Pam	Regarding his assistance in getting loans for the water district
	Note: Hughes, Pam	Regarding any other loans since he has been on the commission. Who is responsible for preparing loan documents to the PSC. Josh Medley the Treasurer.
9:40:14 AM	Atty Goad direct of Witness Tubbs	
	Note: Hughes, Pam	PSC exhibit 1 - Business Loan Agreement in underlying case. Why they entered into this agreement.
	Note: Hughes, Pam	As a Commissioner did he approve this loan. States that he did approve and also signed for the former Chairman of the Board. That person was out of town and he signed in his place. (Larry Conner). He was not chairman at that time.
	Note: Hughes, Pam	Regarding if he is aware of interest rate since none on the document.
9:43:25 AM	Post Hearing Data Request	
	Note: Hughes, Pam	Full loan record.
9:44:04 AM	Atty Goad direct of Witness Tubbs	
	Note: Hughes, Pam	Regarding any collateral or unsecured loan.
	Note: Hughes, Pam	Regarding if they ever discussed attaching collateral to this loan. Can he commit to getting approval going forward and knowing the steps. Nothing in writing yet. He agrees they did not ask for prior approval

9:45:36 AM	Atty Goad direct of Witness Tubbs Note: Hughes, Pam Note: Hughes, Pam Note: Hughes, Pam	Regarding in the future they will ask Commission staff for more information or consult with counsel. PSC exhibit 2 - KRS 278.300 and his knowledge of this. As Commissioner did they confer with an attorney before signing loan document.
9:46:56 AM	Atty Goad direct of Witness Tubbs Note: Hughes, Pam	Regarding as to when he realized they had entered into an unauthorized loan. Maybe a month before Mr. Foster coming to meet with them. Anything done to rectify this at this point.
9:48:08 AM	Atty Goad direct of Witness Tubbs Note: Hughes, Pam	Policies and procedures in place for future commissioners
9:48:28 AM	Atty Mathis cross of Witness Tubbs Note: Hughes, Pam	Regarding when he came to be Commissioner and when he attended training. Regarding the challenges the District was facing and why they needed this loan.
9:50:59 AM	Atty Mathis cross of Witness Tubbs Note: Hughes, Pam Note: Hughes, Pam	Referring to any reserve money at hand instead of borrowing. Loan payments prior to getting this loan.
9:51:43 AM	Atty Mathis cross of Witness Tubbs Note: Hughes, Pam Note: Hughes, Pam	Regarding attending additional training if the Commission asks him to. 2019 is when his term expires.
9:52:20 AM	VC cross of Witness Tubbs Note: Hughes, Pam Note: Hughes, Pam	Regarding an action plan they made, Regarding the dire needs of Jonathan Creek to clean up the water problem. Who developed the plan of action to get the loan? All the commissioners got together and wrote down all they needed to do and someone came and told them the funds they needed to fix the issues.
9:57:09 AM	VC cross of Witness Tubbs Note: Hughes, Pam	Regarding missed payments on the loan or late payments. No they have not missed a payment.
9:57:40 AM	Comm Mathews cross of Witness Tubbs Note: Hughes, Pam	Regarding if they are compliant with safe drinking standards.
9:57:57 AM	Chairman cross of Witness Tubbs Note: Hughes, Pam Note: Hughes, Pam Note: Hughes, Pam	Regarding his acknowledgment that WD's cant borrow money without conferring with the Commission. Failing to get rate increases and how they can hurt the district. It has been 14 years since they have asked for a rate increase. Chairman states study showing Ky needing 6 billion to keep up. Witness states there is an area to fix and estimate was 4.2 million to fix this area.
10:03:20 AM	Vice Chairman cross of Witness Tubbs Note: Hughes, Pam	Regarding draining tank and loss of water. Regarding asset ledger.
10:04:14 AM	Witness excused	
10:04:21 AM	Atty Goad calls Witness Hill to the stand Note: Hughes, Pam	Sworn in by the Chairman
10:04:44 AM	Atty Goad direct of Witness Hill Note: Hughes, Pam Note: Hughes, Pam	Barry Hill. Retired and former Commissioner of Jonathan Creek board. 24 years service. June 2017, was when his commission expired. He tells his positions and duties while on the board. During his time did he ever assist with approval of loans. Had one with KIA that allowed them to build their new plant. He didn't realize a PSC regulation was broken until this case came up.

	Note: Hughes, Pam	To his knowledge KIA took care of everything in the case regarding the 27 WD's
10:08:22 AM	Atty Goad direct of Witness Hill Note: Hughes, Pam	PSC exhibit 1 - he signed the loan as Treasurer. Is he aware of the interest rate and collateral. Documents here are not complete. No collateral associated with this debt. He agrees Jonathan Creek did not seek Commission approval. Was he aware that prior loans approved by the PSC.
	Note: Hughes, Pam	PSC exhibit 2 - KRS 278.300 Was he aware of this statute and if they conferred with an attorney.
10:11:15 AM	Atty Goad direct of Witness Hill Note: Hughes, Pam	Regarding when he realized they had not sought permission from the Commission. He was off the board at that point, and special meeting with their attorney. Regarding Policies and procedures in place to guide board members.
10:12:23 AM	Atty Mathis cross of Witness Hill Note: Hughes, Pam	Regarding when he was on the board how many customers did district have. 1993, a million in debt and 700 meters. 3000 meters when he left the board.
	Note: Hughes, Pam	Debt from the KIA loan, was paid for. They also paid other loans. GMAC loans were for building the water plant. KIA loan purposes
10:14:30 AM	Atty Mathis cross of Witness Hill Note: Hughes, Pam	Regarding accomplishments the district has made.
10:15:42 AM	Vice Chairman cross of Witness Hill Note: Hughes, Pam	Regarding his occupation before he retired. Any background in finance. No he does not.
	Note: Hughes, Pam	Action plan and going to the bank and the loan that doesn't specify a lot of items that should be. Regarding doing assessments. Outside accountant with them for 2 years. Annual audit done every year he has been on the board.
	Note: Hughes, Pam	Unanimous decision that Witness Hill was the person to take care of this. Ledgers are kept by the office staff. Christopher Burnett is accountant for the Water board Commission.
10:20:48 AM	Chairman cross of Witness Hill Note: Hughes, Pam	Regarding payment to water board commissioners. Pay was all the same. In 1993 they got \$1 a month, he got \$400 monthly in June of 2017. Had to have trainings in order to get paid. He had trainings with the PSC and with KRWA.
10:22:36 AM	Witness excused	
10:22:52 AM	Atty Goad calls Witness Holt to the stand. Note: Hughes, Pam	Sworn in by the Chairman
10:23:19 AM	Atty Goad direct Witness Holt Note: Hughes, Pam Note: Hughes, Pam	Regarding his General duties and responsibilities Mark Holt, self-employed logger. Former commissioner of the Jonathan Creek WD.
	Note: Hughes, Pam	2006 or 2008 is when he became a Commissioner. He resigned in June 2017.
10:25:01 AM	Atty Goad direct Witness Holt Note: Hughes, Pam	Referring to assisting with loans.
10:25:27 AM	Post Hearing Data Request Note: Hughes, Pam	Any loan documents they have in last 10 years.
10:25:44 AM	Atty Goad direct of Witness Holt Note: Hughes, Pam	Regarding why the interest rate and payments not on this document. No collateral.
	Note: Hughes, Pam	He authorized the district to enter into this loan.

10:27:05 AM	Note: Hughes, Pam Atty Goad direct of Witness Holt Note: Hughes, Pam Note: Hughes, Pam Note: Hughes, Pam	PSC exhibit 1 - business loan agreement He affirms they did not seek permission for Commission Staff When he was on board does he recall any written policies and procedures. PSC exhibit 2, the KRS statute. He was no longer on the board and didn't participate in the special meeting once the Commission opened this case.
10:28:48 AM	Atty Mathis cross of Witness Holt Note: Hughes, Pam	Regarding no other loans since he has been on the board. The KIA loan was when he was on the board.
10:30:07 AM	VC cross of Witness Holt Note: Hughes, Pam	How long he was on the board of commissioners. He was asked to be on the board. He agreed this loan was best plan of action. He left because of differences with other commissioner so he resigned.
10:32:17 AM	Comm cross of Witness Holt Note: Hughes, Pam	Regarding water trainings he attended.
10:32:42 AM	Witness excused	
10:33:03 AM	Chairman Schmitt statement Note: Hughes, Pam Note: Hughes, Pam Note: Hughes, Pam	Reason why the Commission is holding these hearings regarding the loans being taken without prior approval. Atty Mathis states he can file a brief if needed and makes statement about the efforts the PSC is taking to educate the water commissioners. Asks the penalties to be suspended. Three Post Hearing Data Requests's to be issued. PSC can get out by March 6th. Atty Mathis can respond in 20 days. If not, then file a Motion for an extension.
10:39:23 AM	Case No. 2017-00469 Adjourned	
10:39:31 AM	Session Paused	
2:22:49 PM	Session Ended	



Exhibit List Report

2017-467_469_27FEB2018

Estill County WD #1_Jonathan
Creek WD

Judge: Bob Cicero; Talina Mathews; Michael Schmitt

Witness: Eddie Beavers; Christopher Burnett; David Foster; Barry Hill; Mark Holt; David Lovett; Jimmie Tubbs

Clerk: Pam Hughes

Name:**Description:**

PSC Exhibit 01

Business Loan Agreement

PSC Exhibit 02

KRS 278.300 statute

BUSINESS LOAN AGREEMENT

Principal	Loan Date	Maturity	Loan No.	Call Coll	Account	Officer	Initials
\$600,671.50	05-03-2016	05-15-2021	300442283	10M / 015	J000458	SJP	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.

Borrower: JONATHAN CREEK WATER DISTRICT
7564 US HWY 68 E
BENTON, KY 42025-0414

Lender: COMMUNITY FINANCIAL SERVICES BANK
CALLOWAY COUNTY BANKING CENTER
1721 N 12TH ST
MURRAY, KY 42071-3594

THIS BUSINESS LOAN AGREEMENT dated May 3, 2016, is made and executed between JONATHAN CREEK WATER DISTRICT ("Borrower") and COMMUNITY FINANCIAL SERVICES BANK ("Lender") on the following terms and conditions. Borrower has received prior commercial loans from Lender or has applied to Lender for a commercial loan or loans or other financial accommodations, including those which may be described on any exhibit or schedule attached to this Agreement. Borrower understands and agrees that: (A) in granting, renewing, or extending any Loan, Lender is relying upon Borrower's representations, warranties, and agreements as set forth in this Agreement; (B) the granting, renewing, or extending of any Loan by Lender at all times shall be subject to Lender's sole judgment and discretion; and (C) all such Loans shall be and remain subject to the terms and conditions of this Agreement.

TERM. This Agreement shall be effective as of May 3, 2016, and shall continue in full force and effect until such time as all of Borrower's Loans in favor of Lender have been paid in full, including principal, interest, costs, expenses, attorneys' fees, and other fees and charges, or until May 15, 2021.

CONDITIONS PRECEDENT TO EACH ADVANCE. Lender's obligation to make the initial Advance and each subsequent Advance under this Agreement shall be subject to the fulfillment to Lender's satisfaction of all of the conditions set forth in this Agreement and in the Related Documents.

Loan Documents. Borrower shall provide to Lender the following documents for the Loan: (1) the Note; (2) Security Agreements granting to Lender security interests in the Collateral; (3) financing statements and all other documents perfecting Lender's Security Interests; (4) evidence of insurance as required below; (5) together with all such Related Documents as Lender may require for the Loan; all in form and substance satisfactory to Lender and Lender's counsel.

Borrower's Authorization. Borrower shall have provided in form and substance satisfactory to Lender properly certified resolutions, duly authorizing the execution and delivery of this Agreement, the Note and the Related Documents. In addition, Borrower shall have provided such other resolutions, authorizations, documents and instruments as Lender or its counsel, may require.

Payment of Fees and Expenses. Borrower shall have paid to Lender all fees, charges, and other expenses which are then due and payable as specified in this Agreement or any Related Document.

Representations and Warranties. The representations and warranties set forth in this Agreement, in the Related Documents, and in any document or certificate delivered to Lender under this Agreement are true and correct.

No Event of Default. There shall not exist at the time of any Advance a condition which would constitute an Event of Default under this Agreement or under any Related Document.

REPRESENTATIONS AND WARRANTIES. Borrower represents and warrants to Lender, as of the date of this Agreement, as of the date of each disbursement of loan proceeds, as of the date of any renewal, extension or modification of any Loan, and at all times any indebtedness exists:

Organization. Borrower is a governmental entity which is, and at all times shall be, duly organized, validly existing, and in good standing under and by virtue of the laws of the Commonwealth of Kentucky. Borrower is duly authorized to transact business in all other states in which Borrower is doing business, having obtained all necessary filings, governmental licenses and approvals for each state in which Borrower is doing business. Specifically, Borrower is, and at all times shall be, duly qualified as a foreign in all states in which the failure to so qualify would have a material adverse effect on its business or financial condition. Borrower has the full power and authority to own its properties and to transact the business in which it is presently engaged or presently proposes to engage. Borrower maintains an office at 7564 US HWY 68 E, BENTON, KY 42025-0414. Unless Borrower has designated otherwise in writing, the principal office is the office at which Borrower keeps its books and records including its records concerning the Collateral. Borrower will notify Lender prior to any change in the location of Borrower's state of organization or any change in Borrower's name. Borrower shall do all things necessary to preserve and to keep in full force and effect its existence, rights and privileges, and shall comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental or quasi-governmental authority or court applicable to Borrower and Borrower's business activities.

Assumed Business Names. Borrower has filed or recorded all documents or filings required by law relating to all assumed business names used by Borrower. Excluding the name of Borrower, the following is a complete list of all assumed business names under which Borrower does business: None.

Authorization. Borrower's execution, delivery, and performance of this Agreement and all the Related Documents have been duly authorized by all necessary action by Borrower and do not conflict with, result in a violation of, or constitute a default under (1) any provision of any agreement or other instrument binding upon Borrower or (2) any law, governmental regulation, court decree, or order applicable to Borrower or to Borrower's properties.

Financial Information. Each of Borrower's financial statements supplied to Lender truly and completely disclosed Borrower's financial condition as of the date of the statement, and there has been no material adverse change in Borrower's financial condition subsequent to the date of the most recent financial statement supplied to Lender. Borrower has no material contingent obligations except as disclosed in such financial statements.

Legal Effect. This Agreement constitutes, and any instrument or agreement Borrower is required to give under this Agreement when delivered will constitute legal, valid, and binding obligations of Borrower enforceable against Borrower in accordance with their respective terms.

Properties. Except as contemplated by this Agreement or as previously disclosed in Borrower's financial statements or in writing to Lender and as accepted by Lender, and except for property tax liens for taxes not presently due and payable, Borrower owns and has good title to all of Borrower's properties free and clear of all Security Interests, and has not executed any security documents or financing statements relating to such properties. All of Borrower's properties are titled in Borrower's legal name, and Borrower has not used or filed a financing statement under any other name for at least the last five (5) years.

Hazardous Substances. Except as disclosed to and acknowledged by Lender in writing, Borrower represents and warrants that: (1) During the period of Borrower's ownership of the Collateral, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from any of the Collateral; (2) Borrower has no knowledge of, or reason to believe that there has been (a) any breach or violation of any Environmental Laws; (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Collateral by any prior owners or occupants of any of the Collateral; or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters. (3) Neither Borrower nor any tenant, contractor, agent or other authorized user of any of the Collateral shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from any of the Collateral; and any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations, and ordinances, including without limitation all Environmental Laws. Borrower authorizes Lender and its agents to enter upon the Collateral to make such inspections and tests as Lender may deem appropriate to determine compliance of the Collateral with this section of the Agreement. Any inspections or tests made by Lender shall be at Borrower's expense and for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Borrower or to any other person. The representations and warranties contained herein are based on Borrower's due diligence in investigating the Collateral for hazardous waste and Hazardous Substances. Borrower hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Borrower becomes liable for cleanup or other costs under any such laws, and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Agreement or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release of a hazardous waste or substance on the Collateral. The provisions of this section of the Agreement, including the obligation to indemnify and defend, shall survive the payment of the indebtedness and the termination, expiration or satisfaction of this Agreement and shall not be affected by Lender's acquisition of any interest in any of the Collateral, whether by foreclosure or otherwise.

Litigation and Claims. No litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) against Borrower is pending or threatened, and no other event has occurred which may materially adversely affect Borrower's financial condition or properties, other than litigation, claims, or other events, if any, that have been disclosed to and acknowledged by Lender in

writing.

Taxes. To the best of Borrower's knowledge, all of Borrower's tax returns and reports that are or were required to be filed, have been filed, and all taxes, assessments and other governmental charges have been paid in full, except those presently being or to be contested by Borrower in good faith in the ordinary course of business and for which adequate reserves have been provided.

Lien Priority. Unless otherwise previously disclosed to Lender in writing, Borrower has not entered into or granted any Security Agreements, or permitted the filing or attachment of any Security Interests on or affecting any of the Collateral directly or indirectly securing repayment of Borrower's Loan and Note, that would be prior or that may in any way be superior to Lender's Security Interests and rights in and to such Collateral.

Binding Effect. This Agreement, the Note, all Security Agreements (if any), and all Related Documents are binding upon the signers thereof, as well as upon their successors, representatives and assigns, and are legally enforceable in accordance with their respective terms.

AFFIRMATIVE COVENANTS. Borrower covenants and agrees with Lender that, so long as this Agreement remains in effect, Borrower will:

Notice of Claims and Litigation. Promptly inform Lender in writing of (1) all material adverse changes in Borrower's financial condition, and (2) all existing and all threatened litigation, claims, investigations, administrative proceedings or similar actions affecting Borrower or any Guarantor which could materially affect the financial condition of Borrower or the financial condition of any Guarantor.

Financial Records. Maintain its books and records in accordance with GAAP, applied on a consistent basis, and permit Lender to examine and audit Borrower's books and records at all reasonable times.

Financial Statements. Furnish Lender with the following:

Annual Statements. As soon as available, but in no event later than sixty (60) days after the end of each fiscal year, Borrower's balance sheet and income statement for the year ended, compiled by a certified public accountant satisfactory to Lender.

Tax Returns. As soon as available, but in no event later than sixty (60) days after the applicable filing date for the tax reporting period ended, Borrower's Federal and other governmental tax returns, prepared by a certified public accountant satisfactory to Lender.

All financial reports required to be provided under this Agreement shall be prepared in accordance with GAAP, applied on a consistent basis, and certified by Borrower as being true and correct.

Additional Information. Furnish such additional information and statements, as Lender may request from time to time.

Insurance. Maintain fire and other risk insurance, public liability insurance, and such other insurance as Lender may require with respect to Borrower's properties and operations, in form, amounts, coverages and with insurance companies acceptable to Lender. Borrower, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least thirty (30) days prior written notice to Lender. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Borrower or any other person. In connection with all policies covering assets in which Lender holds or is offered a security interest for the Loans, Borrower will provide Lender with such lender's loss payable or other endorsements as Lender may require.

Insurance Reports. Furnish to Lender, upon request of Lender, reports on each existing insurance policy showing such information as Lender may reasonably request, including without limitation the following: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the properties insured; (5) the then current property values on the basis of which insurance has been obtained, and the manner of determining those values; and (6) the expiration date of the policy. In addition, upon request of Lender (however not more often than annually), Borrower will have an independent appraiser satisfactory to Lender determine, as applicable, the actual cash value or replacement cost of any Collateral. The cost of such appraisal shall be paid by Borrower.

Other Agreements. Comply with all terms and conditions of all other agreements, whether now or hereafter existing, between Borrower and any other party and notify Lender immediately in writing of any default in connection with any other such agreements.

Loan Proceeds. Use all Loan proceeds solely for Borrower's business operations, unless specifically consented to the contrary by Lender in writing.

Taxes, Charges and Liens. Pay and discharge when due all of its indebtedness and obligations, including without limitation all assessments, taxes, governmental charges, levies and liens, of every kind and nature, imposed upon Borrower or its properties, income, or profits, prior to the date on which penalties would attach, and all lawful claims that, if unpaid, might become a lien or charge upon any of Borrower's properties, income, or profits. Provided however, Borrower will not be required to pay and discharge any such assessment, tax, charge, levy, lien or claim so long as (1) the legality of the same shall be contested in good faith by appropriate proceedings, and (2) Borrower shall have established on Borrower's books adequate reserves with respect to such contested assessment, tax, charge, levy, lien, or claim in accordance with GAAP.

Performance. Perform and comply, in a timely manner, with all terms, conditions, and provisions set forth in this Agreement, in the Related Documents, and in all other instruments and agreements between Borrower and Lender. Borrower shall notify Lender immediately in writing of any default in connection with any agreement.

Operations. Maintain executive and management personnel with substantially the same qualifications and experience as the present executive and management personnel; provide written notice to Lender of any change in executive and management personnel; conduct its business affairs in a reasonable and prudent manner.

Environmental Studies. Promptly conduct and complete, at Borrower's expense, all such investigations, studies, samplings and testings as may be requested by Lender or any governmental authority relative to any substance, or any waste or by-product of any substance defined as toxic or a hazardous substance under applicable federal, state, or local law, rule, regulation, order or directive, at or affecting any property or any facility owned, leased or used by Borrower.

Compliance with Governmental Requirements. Comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the conduct of Borrower's properties, businesses and operations, and to the use or occupancy of the Collateral, including without limitation, the Americans With Disabilities Act. Borrower may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Borrower has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Collateral are not jeopardized. Lender may require Borrower to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Inspection. Permit employees or agents of Lender at any reasonable time to inspect any and all Collateral for the Loan or Loans and Borrower's other properties and to examine or audit Borrower's books, accounts, and records and to make copies and memoranda of Borrower's books, accounts, and records. If Borrower now or at any time hereafter maintains any records (including without limitation computer generated records and computer software programs for the generation of such records) in the possession of a third party, Borrower, upon request of Lender, shall notify such party to permit Lender free access to such records at all reasonable times and to provide Lender with copies of any records it may request, all at Borrower's expense.

Compliance Certificates. Unless waived in writing by Lender, provide Lender at least annually, with a certificate executed by Borrower's chief financial officer, or other officer or person acceptable to Lender, certifying that the representations and warranties set forth in this Agreement are true and correct as of the date of the certificate and further certifying that, as of the date of the certificate, no Event of Default exists under this Agreement.

Environmental Compliance and Reports. Borrower shall comply in all respects with any and all Environmental Laws; not cause or permit to exist, as a result of an intentional or unintentional action or omission on Borrower's part or on the part of any third party, on property owned and/or occupied by Borrower, any environmental activity where damage may result to the environment, unless such environmental activity is pursuant to and in compliance with the conditions of a permit issued by the appropriate federal, state or local governmental authorities; shall furnish to Lender promptly and in any event within thirty (30) days after receipt thereof a copy of any notice, summons, lien, citation, directive, letter or other communication from any governmental agency or instrumentality concerning any intentional or unintentional action or omission on Borrower's part in connection with any environmental activity whether or not there is damage to the environment and/or other natural resources.

Additional Assurances. Make, execute and deliver to Lender such promissory notes, mortgages, deeds of trust, security agreements, assignments, financing statements, instruments, documents and other agreements as Lender or its attorneys may reasonably request to evidence and secure the Loans and to perfect all Security Interests.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Collateral or if Borrower fails to comply with any provision of this Agreement or any Related Documents, including but not limited to Borrower's failure to discharge or pay when due any amounts Borrower is required to discharge or pay under this Agreement or any Related Documents, Lender on Borrower's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or

paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on any Collateral and paying all costs for insuring, maintaining and preserving any Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Borrower. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity.

NEGATIVE COVENANTS. Borrower covenants and agrees with Lender that while this Agreement is in effect, Borrower shall not, without the prior written consent of Lender:

Indebtedness and Liens. (1) Except for trade debt incurred in the normal course of business and indebtedness to Lender contemplated by this Agreement, create, incur or assume indebtedness for borrowed money, including capital leases, (2) sell, transfer, mortgage, assign, pledge, lease, grant a security interest in, or encumber any of Borrower's assets (except as allowed as Permitted Liens), or (3) sell with recourse any of Borrower's accounts, except to Lender.

Continuity of Operations. (1) Engage in any business activities substantially different than those in which Borrower is presently engaged, (2) cease operations, liquidate, merge, transfer, acquire or consolidate with any other entity, change its name, dissolve or transfer or sell Collateral out of the ordinary course of business, or (3) make any distribution with respect to any capital account, whether by reduction of capital or otherwise.

Loans, Acquisitions and Guaranties. (1) Loan, invest in or advance money or assets to any other person, enterprise or entity, (2) purchase, create or acquire any interest in any other enterprise or entity, or (3) incur any obligation as surety or guarantor other than in the ordinary course of business.

Agreements. Enter into any agreement containing any provisions which would be violated or breached by the performance of Borrower's obligations under this Agreement or in connection herewith.

CESSATION OF ADVANCES. If Lender has made any commitment to make any Loan to Borrower, whether under this Agreement or under any other agreement, Lender shall have no obligation to make Loan Advances or to disburse Loan proceeds if: (A) Borrower or any Guarantor is in default under the terms of this Agreement or any of the Related Documents or any other agreement that Borrower or any Guarantor has with Lender; (B) Borrower or any Guarantor dies, becomes incompetent or becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged a bankrupt; (C) there occurs a material adverse change in Borrower's financial condition, in the financial condition of any Guarantor, or in the value of any Collateral securing any Loan; or (D) any Guarantor seeks, claims or otherwise attempts to limit, modify or revoke such Guarantor's guaranty of the Loan or any other loan with Lender; or (E) Lender in good faith deems itself insecure, even though no Event of Default shall have occurred.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

DEFAULT. Each of the following shall constitute an Event of Default under this Agreement:

Payment Default. Borrower fails to make any payment when due under the Loan.

Other Defaults. Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

False Statements. Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Agreement or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Death or Insolvency. The death of Borrower or the dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

Defective Collateralization. This Agreement or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the Loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the indebtedness.

Adverse Change. A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of the Loan is impaired.

Insecurity. Lender in good faith believes itself insecure.

Right to Cure. If any default, other than a default on indebtedness, is curable and if Borrower or Grantor, as the case may be, has not been given a notice of a similar default within the preceding twelve (12) months, it may be cured if Borrower or Grantor, as the case may be, after Lender sends written notice to Borrower or Grantor, as the case may be, demanding cure of such default: (1) cure the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiate steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

EFFECT OF AN EVENT OF DEFAULT. If any Event of Default shall occur, except where otherwise provided in this Agreement or the Related Documents, all commitments and obligations of Lender under this Agreement or the Related Documents or any other agreement immediately will terminate (including any obligation to make further Loan Advances or disbursements), and, at Lender's option, all indebtedness immediately will become due and payable, all without notice of any kind to Borrower, except that in the case of an Event of Default of the type described in the "Insolvency" subsection above, such acceleration shall be automatic and not optional. In addition, Lender shall have all the rights and remedies provided in the Related Documents or available at law, in equity, or otherwise. Except as may be prohibited by applicable law, all of Lender's rights and remedies shall be cumulative and may be exercised singularly or concurrently. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Borrower or of any Grantor shall not affect Lender's right to declare a default and to exercise its rights and remedies.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

Amendments. This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Attorneys' Fees; Expenses. Borrower agrees to pay upon demand all of Lender's costs and expenses, including Lender's reasonable attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may hire or pay someone else to help enforce this Agreement, and Borrower shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's reasonable attorneys' fees and legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Borrower also shall pay all court costs and such additional fees as may be directed by the court.

Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

Consent to Loan Participation. Borrower agrees and consents to Lender's sale or transfer, whether now or later, of one or more participation interests in the Loan to one or more purchasers, whether related or unrelated to Lender. Lender may provide, without any

limitation whatsoever, to any one or more purchasers, or potential purchasers, any information or knowledge Lender may have about Borrower or about any other matter relating to the Loan, and Borrower hereby waives any rights to privacy Borrower may have with respect to such matters. Borrower additionally waives any and all notices of sale of participation interests, as well as all notices of any repurchase of such participation interests. Borrower also agrees that the purchasers of any such participation interests will be considered as the absolute owners of such interests in the Loan and will have all the rights granted under the participation agreement or agreements governing the sale of such participation interests. Borrower further waives all rights of offset or counterclaim that it may have now or later against Lender or against any purchaser of such a participation interest and unconditionally agrees that either Lender or such purchaser may enforce Borrower's obligation under the Loan irrespective of the failure or insolvency of any holder of any interest in the Loan. Borrower further agrees that the purchaser of any such participation interests may enforce its interests irrespective of any personal claims or defenses that Borrower may have against Lender.

Governing Law. This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the Commonwealth of Kentucky without regard to its conflicts of law provisions. This Agreement has been accepted by Lender in the Commonwealth of Kentucky.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Borrower, or between Lender and any Grantor, shall constitute a waiver of any of Lender's rights or of any of Borrower's or any Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Notices. Any notice required to be given under this Agreement shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Borrower agrees to keep Lender informed at all times of Borrower's current address. Unless otherwise provided or required by law, if there is more than one Borrower, any notice given by Lender to any Borrower is deemed to be notice given to all Borrowers.

Severability. If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

Subsidiaries and Affiliates of Borrower. To the extent the context of any provisions of this Agreement makes it appropriate, including without limitation any representation, warranty or covenant, the word "Borrower" as used in this Agreement shall include all of Borrower's subsidiaries and affiliates. Notwithstanding the foregoing however, under no circumstances shall this Agreement be construed to require Lender to make any loan or other financial accommodation to any of Borrower's subsidiaries or affiliates.

Successors and Assigns. All covenants and agreements by or on behalf of Borrower contained in this Agreement or any Related Documents shall bind Borrower's successors and assigns and shall inure to the benefit of Lender and its successors and assigns. Borrower shall not, however, have the right to assign Borrower's rights under this Agreement or any interest therein, without the prior written consent of Lender.

Survival of Representations and Warranties. Borrower understands and agrees that in making the Loan, Lender is relying on all representations, warranties, and covenants made by Borrower in this Agreement or in any certificate or other instrument delivered by Borrower to Lender under this Agreement or the Related Documents. Borrower further agrees that regardless of any investigation made by Lender, all such representations, warranties and covenants will survive the making of the Loan and delivery to Lender of the Related Documents, shall be continuing in nature, and shall remain in full force and effect until such time as Borrower's indebtedness shall be paid in full, or until this Agreement shall be terminated in the manner provided above, whichever is the last to occur.

Time is of the Essence. Time is of the essence in the performance of this Agreement.

Waive Jury. All parties to this Agreement hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code. Accounting words and terms not otherwise defined in this Agreement shall have the meanings assigned to them in accordance with generally accepted accounting principles as in effect on the date of this Agreement:

Advance. The word "Advance" means a disbursement of Loan funds made, or to be made, to Borrower or on Borrower's behalf on a line of credit or multiple advance basis under the terms and conditions of this Agreement.

Agreement. The word "Agreement" means this Business Loan Agreement, as this Business Loan Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Business Loan Agreement from time to time.

Borrower. The word "Borrower" means JONATHAN CREEK WATER DISTRICT and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Collateral. The word "Collateral" means all property and assets granted as collateral security for a Loan, whether real or personal property, whether granted directly or indirectly, whether granted now or in the future, and whether granted in the form of a security interest, mortgage, collateral mortgage, deed of trust, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien, charge, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever, whether created by law, contract, or otherwise.

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Agreement in the default section of this Agreement.

GAAP. The word "GAAP" means generally accepted accounting principles.

Grantor. The word "Grantor" means each and all of the persons or entities granting a Security Interest in any Collateral for the Loan, including without limitation all Borrowers granting such a Security Interest.

Guarantor. The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Loan.

Guaranty. The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

Indebtedness. The word "Indebtedness" means the indebtedness evidenced by the Note or Related Documents, including all principal and interest together with all other indebtedness and costs and expenses for which Borrower is responsible under this Agreement or under any of the Related Documents.

Lender. The word "Lender" means COMMUNITY FINANCIAL SERVICES BANK, its successors and assigns.

Loan. The word "Loan" means any and all loans and financial accommodations from Lender to Borrower whether now or hereafter existing, and however evidenced, including without limitation those loans and financial accommodations described herein or described on any exhibit or schedule attached to this Agreement from time to time.

Note. The word "Note" means the Note dated May 3, 2016 and executed by JONATHAN CREEK WATER DISTRICT in the principal amount of \$600,671.50, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.

Permitted Liens. The words "Permitted Liens" mean (1) liens and security interests securing indebtedness owed by Borrower to Lender; (2) liens for taxes, assessments, or similar charges either not yet due or being contested in good faith; (3) liens of materialmen, mechanics, warehousemen, or carriers, or other like liens arising in the ordinary course of business and securing obligations which are not yet delinquent; (4) purchase money liens or purchase money security interests upon or in any property acquired or held by Borrower in the ordinary course of business to secure indebtedness outstanding on the date of this Agreement or permitted to be incurred under the paragraph of this Agreement titled "Indebtedness and Liens"; (5) liens and security interests which, as of the date of this Agreement, have been disclosed to and approved by the Lender in writing; and (6) those liens and security interests which in the aggregate constitute an immaterial and insignificant monetary amount with respect to the net value of Borrower's assets.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.

Security Agreement. The words "Security Agreement" mean and include without limitation any agreements, promises, covenants, arrangements, understandings or other agreements, whether created by law, contract, or otherwise, evidencing, governing, representing, or creating a Security Interest.

Security Interest. The words "Security Interest" mean, without limitation, any and all types of collateral security, present and future, whether in the form of a lien, charge, encumbrance, mortgage, deed of trust, security deed, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever whether created by law, contract, or otherwise.

BORROWER ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS BUSINESS LOAN AGREEMENT AND BORROWER AGREES TO ITS TERMS. THIS BUSINESS LOAN AGREEMENT IS DATED MAY 3, 2016.

BORROWER:

JONATHAN CREEK WATER DISTRICT

By: 

Barry Hill, Treasurer of Jonathan Creek Water District

By: 

Larry Conner, Chairman of the Board of Jonathan Creek Water District

LENDER:

COMMUNITY FINANCIAL SERVICES BANK

By: 

Jason Pittman, Vice President

278.300 Issuance or assumption of securities by utilities.

- (1) No utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the commission.
- (2) Application for authority to issue or assume securities or evidences of indebtedness shall be made in such form as the commission prescribes. Every such application shall be made under oath, and shall be signed and filed on behalf of the utility by its president, or by a vice president, auditor, comptroller, or other executive officer having knowledge of the matters set forth and duly designated by the utility. Every such application shall be placed at the head of the docket of the commission and disposed of promptly within sixty (60) days after it is filed with the commission, unless it is necessary for good cause to continue the application for longer time than sixty (60) days, in which case the order making the continuance shall state fully the facts that make it necessary.
- (3) The commission shall not approve any issue or assumption unless, after investigation of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed assumption of obligation or liability, the commission finds that the issue or assumption is for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.
- (4) The commission may grant or deny the application in whole or in part, or may grant it with such modifications and upon such terms and conditions as the commission deems necessary or appropriate. The order of the commission shall specify that the securities or evidences of indebtedness, or the proceeds thereof, shall be used only for the lawful purposes specified in the application, and both the application of the utility and the order of the commission shall state in general terms the purpose of the issuance or assumption.
- (5) A copy of any order made and entered by the commission under this section, duly certified by the executive director of the commission, shall be sufficient evidence for all purposes of full and complete compliance by the utility with all procedural and other matters required precedent to the entry of the order.
- (6) Securities and evidences of indebtedness issued and obligations and liabilities assumed by a utility, for which, under the provisions of this section, the authorization of the commission is required, shall comply with the terms and conditions of the order of authorization entered prior to the issue or assumption, and where the order has been fully complied with the validity of the issue or assumption shall not be affected by a failure to comply with any provision of this section or rule of the commission relating to procedure or other matters preceding the entry of the order of authorization or order supplemental thereto.
- (7) The commission may require periodical or special reports from the utility issuing any security or evidence of indebtedness. The report shall show, in such detail as the commission requires, the disposition made of such securities or evidences of

indebtedness, and the application of the proceeds thereof.

- (8) This section does not apply to notes issued by a utility, for proper purposes and not in violation of law, that are payable at periods of not more than two (2) years from the date thereof, or to like notes, payable at a period of not more than two (2) years from date thereof, that are issued to pay or refund in whole or in part any such notes, or to renewals of such notes from time to time, not exceeding in the aggregate six (6) years from the date of the issue of the original notes so renewed or refunded.
- (9) Nothing in this section implies any guarantee of securities or evidences of indebtedness by the state, or any obligation on the part of the state with respect thereto, and nothing in this section limits the power of any court having jurisdiction to authorize or cause receiver's certificates or debentures to be issued according to the rules and practice obtaining in receivership proceedings in courts of equity.
- (10) This section does not apply in any instance where the issuance of securities or evidences of indebtedness is subject to the supervision or control of the federal government or any agency thereof, but the commission may appear as a party to any proceeding filed or pending before any federal agency if the issuance of the securities or evidences of indebtedness will materially affect any utility over which the commission has jurisdiction.
- (11) This section also does not apply to the issuance of securities or evidence of indebtedness by a utility principally engaged in transportation of gas by pipeline in interstate commerce and subject to the supervision, control or jurisdiction of the federal government or any agency, board or commission thereof.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 166, sec. 3, effective July 15, 1994. -- Amended 1982 Ky. Acts ch. 82, sec. 34, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 379, sec. 37, effective April 1, 1979. -- Amended 1972 Ky. Acts ch. 9, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3952-24.

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