

**BEFORE THE PUBLIC SERVICE COMMISSION
COMMONWEALTH OF KENTUCKY**

In the Matter of:

| | | |
|---|---|-------------------|
| ELECTRONIC INVESTIGATION INTO |) | |
| TRANSFER OF OWNERSHIP TO |) | |
| PRESTONSBURG CITY UTILITIES |) | CASE NO. |
| COMMISSION OF THE WASTEWATER |) | 2020-00228 |
| SYSTEM AND CERTAIN PORTIONS OF THE |) | |
| WATER SYSTEM OF SOUTHERN WATER |) | |
| AND SEWER DISTRICT PURSUANT TO KRS |) | |
| 278.250 AND KRS 278.390 |) | |

**FIRST SUPPLEMENTAL
RESPONSE OF PRESTONSBURG CITY'S UTILITIES COMMISSION TO THE
COMMISSION'S ORDER DATED JULY 20, 2020**

Come the Prestonsburg City's Utilities Commission (hereinafter "Prestonsburg"),
by counsel, for its First Supplemental Response to the Commission's Order dated July
20, 2020, and states on the following pages:

Respectfully submitted,



Kipley J. McNally, Esq.
Kipley J. McNally, PLC
2527 Nelson Miller Parkway, Ste. 104
Louisville, Kentucky 40223
Telephone: (502) 245-6133
Fax: (502) 245-1974
kjm@mcnallylaw.com

Counsel for Prestonsburg City's
Utilities Commission

Date submitted: 8/10/20

This First Supplemental Response is filed for the purpose of providing additional information and for filing executed documents.


1. As Exhibit A, please find attached the First Amendment to the Asset Purchase Agreement signed by Southern Water and Sewer District (“Southern”) and Prestonsburg.

2. As Exhibit B, please find attached the Financial Management Services Contract signed by Southern and Prestonsburg.

3. As Exhibit C, please find attached the Application for Partial Release signed by Southern and RD, and RD’s letter approving the transfer of water distribution assets to Prestonsburg by Southern.

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that the Prestonsburg City’s Utilities Commission, and the City of Prestonsburg’s electronic filing of this Response is a true and accurate copy of the same document being filed in paper medium; that the electronic filing was transmitted to the Public Service Commission on July 29, 2020; that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding; and that an original and copy paper medium of this Response will be delivered to the Public Service Commission within thirty (30) days after the lifting of the emergency, as discussed in Case No. 2020-00085.


Kipley J. McNally

LIST OF EXHIBITS

- A. Signed First Amendment to the Asset Purchase Agreement;
- B. Signed Financial Management Services Contract;
- C. RD Application signed by Southern and RD dated August 10, 2020,
and RD Approval Letter dated August 10, 2020.

EXHIBIT A

FIRST AMENDMENT
TO
ASSET PURCHASE AGREEMENT

This First Amendment to the Asset Purchase Agreement dated as of the 1st day of January, 2017 ("APA"), by and between the Southern Water and Sewer District, P.O. Box 610, McDowell, Kentucky 41647, hereinafter referred to as "Southern District"; and Prestonsburg City's Utilities Commission, 2560 South Lake Drive, Prestonsburg, Kentucky 41653, hereinafter referred to as "PCUC".

WITNESSETH:

WHEREAS, Southern District and PCUC entered into an Operating Agreement effective July 1, 2016 ("Initial O & M Agreement"), which provided that PCUC would commence the "... managing, operating, repairing, and maintaining Southern's Wastewater System while they negotiate the detailed terms of the Asset Purchase Agreement ..." in exchange for a monthly fee of \$3,000.00. The Initial O & M Agreement was entered into by the parties to forestall enforcement action by the Division of Enforcement of the Kentucky Energy and Environment Cabinet for numerous violations of Kentucky water quality laws. The initial O & M Agreement was attached as Exhibit 1 to the Joint Application dated February 6, 2017;

WHEREAS, the term of the Initial O & M Agreement was due to expire on the closing of the Assets under an Asset Purchase Agreement yet to be negotiated, but not later than June 30, 2018;

WHEREAS, the parties entered into the Asset Purchase Agreement effective January 1, 2017 ("APA"), but executed on December 20, 2016 by PCUC, pursuant to which Southern

District agreed to convey and transfer to PCUC Southern District's wastewater system, and a portion of Southern District's potable water system (collectively, the "Assets");

WHEREAS, on May 2, 2017, the Public Service Commission (hereinafter the "Commission") entered an Order ("Order") approving the transfer of the Assets by Southern District to PCUC, which stated inter alia, that:

1. Approved the transfer of ownership and control of the Assets by Southern District to PCUC;
2. Within ten (10) days of the transfer of the Assets, Southern District and PCUC shall notify the Commission in writing of the occurrence of the asset transfer; and
3. Any material revisions of the proposed transaction must be approved by the Commission in order for the amendment to be effective.

WHEREAS, the parties entered into a second Operating & Maintenance Agreement effective July 1, 2017 ("Water O & M Agreement"), but executed after the date of the Commission's Order in December of 2017 to provide that PCUC would manage, operate, repair, and maintain Southern District's Designated Water Assets as described in paragraph 3 of the APA;

WHEREAS, on June 28, 2018, Southern District transferred only the wastewater assets to PCUC;

WHEREAS, by letter dated July 20, 2018, Damon Talley, joint counsel for Southern District and PCUC stated that "... the Closing of this transaction and the transfer of the District's Wastewater Assets to PCUC took place on June 28, 2018";

WHEREAS, none of the water distribution assets have been transferred to PCUC, nor has the consent and release from Rural Development been obtained;

WHEREAS, Southern District and PCUC have been unable to consummate the transfer of the Designated Water Assets and Southern District has retained ownership of the Designated Water Assets, while PCUC has been operating and maintaining the Designated Water Assets;

WHEREAS, the parties desire to modify certain provisions of the APA to obtain the consent and release for the water distribution assets from Rural Development ("RD").

NOW, THEREFORE, in consideration of the covenants and agreements set forth in this First Amendment, and for other good and reasonable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Southern District shall apply for the consent and release from USDA Rural Development's ("RD") lien against the portion of the water distribution assets that are scheduled to be transferred to PCUC. Upon receipt of RD's Agreement to consent to the transfer of water assets and release thereof, PCUC shall pay directly to RD an amount, not to exceed One Million Six Hundred Thousand Dollars (\$1,600,000.00) (hereinafter the "Payoff") in exchange for the release.
2. Immediately prior to the payment of Payoff by PCUC, the duly authorized representative of Southern District shall execute such transfer documents, as PCUC's counsel deems necessary, appropriate or helpful, to perfect title to all water assets described, directly, or indirectly, in the APA.
3. Southern District acknowledges that it is indebted to PCUC in the sum of \$275,000.00, for earned, but unpaid sewer service fees collected from Southern District's water

customers in the Wayland and Eastern service area that are sewer customers of PCUC, as of July 1, 2020.

4. PCUC will forgive the sum of One Hundred Thirty-Seven Thousand Five Hundred Dollars (\$137,500.00) of the outstanding balance of the sewer user fees after the closing to transfer the foregoing water assets. Southern District shall pay the remaining unpaid balance in monthly installments on the tenth (10th) day, without interest, of Two Thousand Five Hundred Dollars (\$2,500.00) per month until said remaining balance is paid in full; PROVIDED, HOWEVER, if said sum is not paid in full by August 1, 2026, the remaining balance shall become immediately due and payable. The remaining unpaid balance as of August 1, 2026, shall bear interest at four percent (4%) per annum payable monthly. The monthly payment amount shall remain Two Thousand Five Hundred Dollars (\$2,500.00), but the payment shall be applied to any accrued, but unpaid interest first. If any monthly payment is not made by the tenth (10th) day of the month, a penalty of five percent (5%) shall be added to the payment for each month the payment is late.

5. Southern District acknowledges and states that it has already refunded all customer deposits provided to Southern District by water customers that will be transferred to PCUC. Therefore, PCUC has no obligation to make refunds to former customers that provided deposits to Southern District. Prior to the Closing for the water assets, Southern District shall furnish the PCUC a current list that shows the name, address, account number, and amount still on deposit for each of these customers.

6. Pursuant to Section 3 (F) and 3 (G) of the APA, certain water distribution assets were scheduled to be transferred to PCUC known as the "Pyramid Distribution System", but have not

been transferred. Therefore, PCUC hereby releases its claim or right to have the Pyramid Distribution System transferred to it.

7. RD agrees that on the Closing Date for the water distribution assets, it will deliver its consent and release for those water distribution assets described in Section 3 of the APA, except for the Pyramid Distribution System, in exchange for PCUC delivery of cash funds in the amount of \$1,600,000.00, and for the other consideration delivered directly to Southern as provided herein. RD enters into this Agreement for the limited purpose to agree to release its lien on the transferred water assets in exchange for a cash payment by PCUC.

8. Southern District acknowledges the receipt from PCUC the consideration described in Section 4 of the APA totaling \$2,140,000.00.

9. Southern District has caused this Contract to be executed in its name and on its behalf by the Chairman of its Commission, and has caused its seal to be affixed, attested by the Secretary of its Commission, and represents that due authority has been vested in the Chairman by a Resolution of the Commission of the District, now in full force and effect.

10. PCUC has caused this Contract to be executed in its name and on its behalf by its Superintendent, attested by the Chairman of its Commission, and represents that due authority has been vested in such Superintendent by a Resolution of its Commission, now in full force and effect.

11. RD has caused this Contract to be executed by its State Director, and represents that said State Director is vested with full authority in law to execute the same.

12. This First Amendment shall be filed by Southern District, and/or PCUC with the Public Service Commission ("PSC"), and shall become effective on the date of such approval.

13. The closing shall occur within thirty (30) days after PSC approval is received.

14. In all other respects, the parties hereto approve, confirm and ratify the terms and conditions of the APA, except as modified by a separate agreement for operation and billing for the water customers located in Wayland and Eastern served by the sewer facilities located there (the, "Financial Management Services Contract").

15. The Parties covenant and agree that, subsequent to the execution and delivery of this Agreement and without any additional consideration, each of the Parties will execute and deliver any further legal instruments and perform any acts which are or may become reasonably necessary to effectuate this Agreement.

This First Amendment is made as of the year and date first above written, and shall be effective as of that date without regard to the fact that execution hereof by the parties shall have been effected at the same or different times.

SOUTHERN WATER & SEWER DISTRICT

BY: Jeff Prater
ITS: CHAIRMAN

ATTEST:

Rudolph D. Doherty 7-27-2x
SECRETARY

PRESTONSBURG CITY'S UTILITIES COMMISSION

BY: Brian Music
BRIAN MUSIC, SUPERINTENDENT/CEO

ATTEST:

Jimmy A. Calhoun
JIMMY A. CALHOON, CHAIRMAN OF
THE PRESTONSBURG CITY'S
UTILITIES COMMISSION

UNITED STATES DEPARTMENT OF AGRICULTURE,
ACTING BY AND THROUGH THE RURAL
DEVELOPMENT

BY: _____
STATE DIRECTOR FOR KENTUCKY

EXHIBIT B

FINANCIAL MANAGEMENT SERVICES CONTRACT
PRESTONSBURG CITY'S UTILITIES COMMISSION

THIS CONTRACT, made effective the 1st day of August, 2020, by and between Prestonsburg City's Utilities Commission (hereinafter referred to as the "Agency"), and the Southern Water & Sewer District (hereinafter referred to as the "District"), for and in the consideration of the mutual covenants and promises hereinafter enumerated hereby agree as follows:

I. Financial Services

1) The Agency has determined that it is more economical and efficient for the District to provide financial management services for the Agency's billing collection system for the Agency's waste-water customers that are also potable water customers of the District. The services are to consist of preparing and sending bills, collecting revenues, keeping financial records and making reports to the Agency (hereinafter the "Financial Services").

II. The District's Obligations

2) The District does not assume responsibility for any existing, contractual or financial obligations of the Agency, but will perform the desired Financial Services. The District shall contract for all supplies and services to be furnished by it pursuant to this contract in its own name and will not obligate the Agency for any such obligations. In instances where it is necessary to obtain services or supplies from an outside source, the District shall not obligate the Agency for any such obligations without prior approval of the Agency, except in the case of emergencies, and will in those instances make every attempt to obtain prior approval from the authorized agent of the Agency.

3) The District shall maintain separate records, but not separate bank accounts for the Agency. The District shall bill its residential water customers (“Residential Customer”), as designated on the District’s records, residing in the District’s service area and served by the Agency for the waste water fees due the Agency. New Residential Customers shall be billed by the District and a list of new Residential Customers shall be given to the Agency monthly.

4) The District shall maintain Financial Services accounts in a form where sound management practice can be readily ascertained. The District shall prepare a monthly statement of accounts, balance said accounts and prepare monthly reconciliations.

5) The District shall provide routine data to support periodic reports or other filings with Federal and state regulatory authorities, if necessary.

6) The District shall charge each Residential Customer in accordance with the tariff schedules established by the Agency, as amended from time to time. The Agency shall give the District notice of its initial, or amended tariff sheet at least thirty (30) days prior to the date of the District’s billing date. The initial tariff sheet is attached hereto as Exhibit A and is hereby incorporated by reference as if fully set forth herein. The District shall perform the Financial Services in accordance with the District’s established billing and collection procedures (“Residential Retail Billing Procedures”), as may be amended from time to time. The District will only terminate a customer’s water service for non-payment in accordance with its Residential Retail Billing Procedure.

7) Any partial payments received from a customer shall be first applied to any amount due the District for utility services rendered and the remaining portion of the payment, if any, shall be applied to amounts charged by the Agency.

8) The District shall obtain insurance to protect itself against any error or omissions by its employees. The District shall also provide fidelity bond coverage by an insurance company on all employees handling the Agency's funds.

9) The District shall remit, by check, to the Agency all amounts collected during the preceding month, less the District's Basic Charge for the preceding month by the tenth day of the succeeding month. The District shall include a listing of customers having made payment.

III. Agency's Obligations

10) The Agency shall pay the District a Basic Charge of three percent (3.0%) of the Agency's tariff schedule for each customer based upon the customer classification established by the Agency ("Basic Charge") for the described Financial Services. The Basic Charge will be added to the Agency's applicable tariff and collected from the customer. On the customer statement the Basic Charge will be separately stated and separately identified as an "Administrative Fee".

11) The Agency shall pay the District for all other services rendered under this Contract or which may be agreed to in addition to the contract one month after such services are rendered.

12) The Agency shall reimburse the District for the expenses related to the preparation and filing of any forms, etc. required by Federal and state regulatory authorities.

13) For the purpose of computing cost under this contract for items not covered by the Basic Charge, the District shall maintain records of materials and supplies and employee and equipment time utilized in performing services under this contract.

Employee time shall include employee benefits, employer taxes and other costs directly related to the payment of wages. Equipment time shall include operating and maintenance cost, depreciation, finance charges and other charges directly related to the utilization of the equipment. Administration overhead, including supervisory salaries, rents, utilities, interest costs on inventory, office equipment and related charges may be allocated directly as a percentage of other charges, or on a per customer basis, using generally accepted principles of cost accounting.

14) The Agency hereby authorizes the District to act as its agent in carrying out the functions that the District agrees to perform.

15) The Agency shall receive, process and make payment for any refund claims submitted. In the event of a duplicate payment, the Agency shall be responsible for making all refunds.

IV. Termination and Renewal

16) The contract shall become effective and shall remain in effect for a period of one (1) year. It may be renewed for periods of one (1) year thereafter by mutual agreement of the parties and shall renew automatically unless written notice of termination is given as hereinafter provided. Either party may terminate this contract by giving a written notice to the other party thirty (30) days prior to the date of termination, or thirty (30) days following any decision of any regulatory agency having jurisdiction that, in either party's view, adversely affect the basis upon which this Contract was executed.

V. Miscellaneous

17) This contract may be reviewed and approved by a representative of bond holder of either party and the parties hereto agree to modify or amend the Contract to satisfy the requirements of such bond holder.

18) Each party shall indemnify the other party, its employees, and agents from all claims, demands, and liabilities of any kind relating to or arising out of this Agreement, except to the extent such claims, demands, or liabilities result from or arise out of the negligence of the party being indemnified.

19) All obligations of either party with respect to service hereunder shall be excused without liability during the pendency of any condition of force majeure. Force majeure shall include any act, event or condition beyond the reasonable control of the party claiming force majeure, and shall include, but not be limited to, any act of God, pandemic, fire, storm, earthquake, freezing condition, wind, flood, drought, snow, power surges and outages, environmental release, breakage of or delay in receiving parts, equipment or supplies, or shortage thereof, strike or lockout, or any act, event or requirement of any governmental law, regulation or entity. Force majeure shall not include financial inability to pay.

20) All notices and other communications provided hereunder shall be in writing and shall be delivered personally or transmitted by certified mail, return receipt requested or by a recognized overnight courier service. Such notice shall be deemed to have been given at the time of personally delivery or upon receipt thereof, as reflected on the signed certificate or delivery statement of the courier service. Notice must be delivered or sent to the party at the following address or to such other address as a party may have designated by notice:

TO AGENCY: Brian Music, Superintendent
Prestonsburg City's Utilities Commission
2560 South Lake Drive
Prestonsburg, Kentucky 41653-1048

TO DISTRICT: Chairman
Southern Water & Sewer District
245 KY-680
McDowell, Kentucky 41647

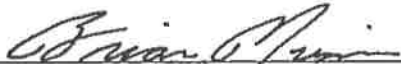
- 21) This Agreement may be amended in writing only, duly signed by both parties, and will be governed by and construed in accordance with Kentucky law.
- 22) Upon execution, the Agreement will inure to the benefit of and be binding upon the parties hereto and their respective officers, successors and assigns.
- 23) The terms and provisions of this Agreement shall not be severable, and in the event that any term or provision hereof is held to be invalid or unenforceable, the remaining terms or provisions hereof shall be invalid and unenforceable, and the parties shall have no further obligation hereunder.
- 24) Either party's failure to exercise any of its rights hereunder at any time will not operate as a waiver of its right to exercise same at any other time(s).
- 25) This Agreement may be executed in several counterparts with the same effect as if the parties executing the several counterparts had all executed one counterpart.
- 26) Notwithstanding any other provision of the Agreement, either party may reduce the amount of any payment otherwise payable to or on behalf of the other party by the amount of any obligation due or payable to the other party and the applicable party shall be deemed to have consented to such reduction.
- 27) The District shall include the beginning balance of all amounts outstanding for the Agency's customers that are currently connected to the Agency's wastewater

collection system as of the initial billing cycle. In the event an amount is outstanding from a former customer that no longer occupies such address, whether as a tenant or owner, the District shall not be responsible for the collection of same.


28) This Agreement shall be filed by the District with the Public Service Commission ("Commission") and shall be subject to the Commission's jurisdiction, and is contingent upon the Commission's approval.

IN WITNESS WHEREOF, Prestonsburg City's Utilities Commission, by and through its authorized agent, has caused its signature to be affixed hereto and Southern Water & Sewer District, by and through its authorized agent has caused its signature to be affixed hereto.

Prestonsburg City's Utilities Commission



Brian Music, Superintendent
Prestonsburg City's Utilities Commission

ATTEST:


Jimmy A. Calhoun, Chairman

Southern Water & Sewer District



Jeff Pfater, Chairman

EXHIBIT C



Rural Development

August 10, 2020

Kentucky State Office

771 Corporate Drive,
Suite 200
Lexington, KY
40503

Jeff Prather, Chairman
Southern Water & Sewer District
P.O. Box 610
McDowell, KY 41647

Les Stapleton, Mayor
City of Prestonsburg
200 North Lake Drive
Prestonsburg, KY 41653

Voice 859.224.7300
Fax 855.661.8335
TTY 859.224.7422

Honorable Mr. Prater and Mr. Stapleton:

USDA Rural Development has reviewed the documentation submitted to us requesting a Partial Release of certain Southern Water and Sewer District customers along HWY 23 in Floyd county; these customers are to be transferred to the Prestonsburg Utility system in exchange for a cash payment in the amount of \$1,600,000. This proposal is outlined in the Asset Purchase Agreement that has been drafted between the two parties. As Rural Development has indebtedness with Southern Water and Sewer that is secured by a Water Revenue Bond, the release of these customers would be a release of future revenues, and thus a release of security that is pledged to Rural Development. We have reviewed our guidelines and regulations that pertain to a partial release of security, along with the Asset Purchase Agreement and Amendments, an appraisal (income valuation) on the customers to be released, and the projected income statement for Southern Water and Sewer.

In accordance with Rural Development instruction 1782.12 (a), we have determined that this proposal will satisfy the requirements of our instructions as follows:

- 1) The consideration is adequate for the security released.
- 2) The sale will not impair the purpose of the loan or service to the customers.
- 3) Southern Water has adequate repayment ability for the remaining debt owed.
- 4) Prestonsburg will continue to provide service to existing users.
- 5) The proceeds from this transaction will be used to reduce existing RD debt.

As these requirements have been satisfied, Rural Development does hereby approve this transaction subject to receipt of the above mentioned \$1,600,000 payment. This cash payment to Southern Water and Sewer will in turn be paid to Rural Development and will be applied to Southern's loan 91-11; thereby reducing the RD indebtedness to compensate for the security released. As the RD debt is secured by a Revenue Bond, and since there is no RE Mortgage or UCC lien to release, the approval of Rural Development is evidenced through this letter, and through our signature on Form 465-1 Application for Partial Release.

Respectfully,



HILDA GAY LEGG
State Director

USDA is an equal opportunity provider, employer and lender.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
FARM SERVICE AGENCY

| |
|------------------------------|
| STATE Kentucky |
| COUNTY Floyd |
| CASE NO. 21-036-611265253 |

**APPLICATION FOR PARTIAL RELEASE,
SUBORDINATION, OR CONSENT**

| |
|--|
| TYPE OF LOAN 91-01, 91-04, 91-06, and 91-11 (SPECIFY) |
|--|

The undersigned Southern Water and Sewer District
(Names of Borrower and Co-Borrower)

P.O.Box 610, McDowell, KY 41647

whose address (Including ZIP Code) is _____
in accordance with the terms of the security instruments held by Rural Development or the Farm Service Agency (hereafter referred to as "Agency") on their property, apply for release or subordination of the liens of said security instruments or consent to the following transaction.

release of lien on certain assets to allow completion of Asset Purchase Agreement
(Description)

1. Plot of Property:

2. Prior lienholders listed in order:

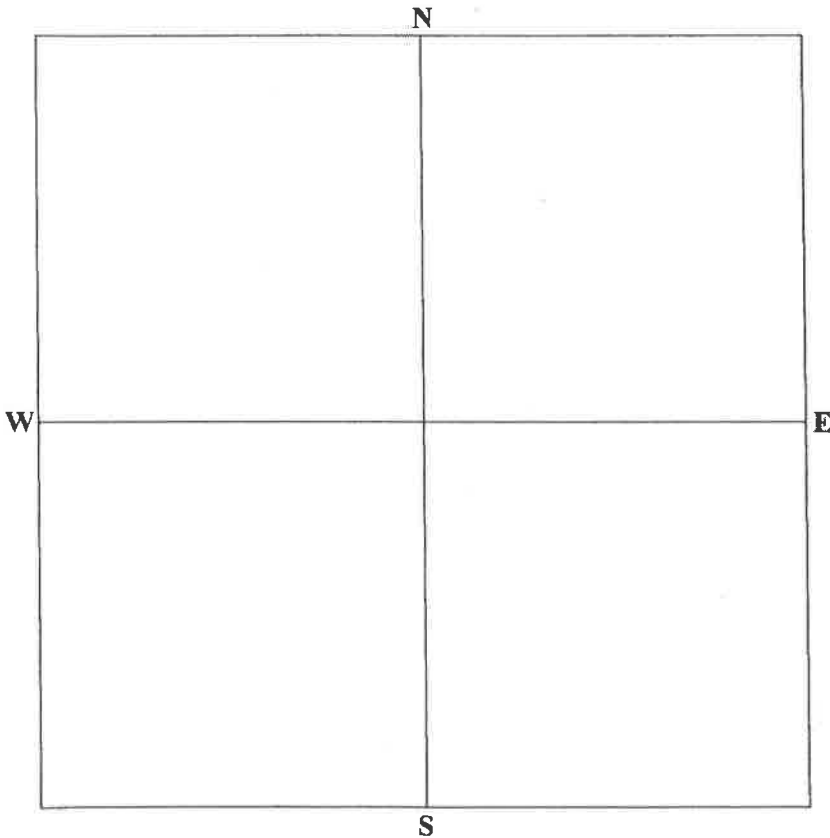
none

3. The prior lien to which subordination is requested is to be held by:

N/A

4. The property to be leased or conveyed to:

Prestonsburg City Utility
Commission (PCUC)



5. Description of property to be covered by the release, subordination, or consent:

a certain "portion" of the Southern Water and Sewer District water system that serves approximately 1050 water customers along HWY 23 in Floyd County, KY. Said assets are identified and valued per an appraisal dated June 15, 2020 and completed by Dean Dorton Allen Ford, LLC.

6. The use to be made of the property covered by this application is:

no change in use

7. The anticipated proceeds from this transaction are:

Initial payment \$ 1,600,000.00
Subsequent payment(s) \$ 0.00

Other considerations:

If the borrower obtains a loan from another lender as a result of any subordination covered by this application, the lender must incorporate in the borrower's note a statement that the loan will be in default should any proceeds of the loan funds obtained as a result of this subordination be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

n/a

8. Subject to the provisions of Paragraph 7 it is proposed to use the proceeds as follows:

n/a

9. Have you or any member, stockholder, partner or joint operator of the entity borrower been convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance since December 23, 1985?

Yes No

If yes, provide date of conviction and details on a separate sheet.

10. If this application is approved, the undersigned borrower(s) agree to comply with such terms as may be prescribed by Agency and to disposition of the proceeds as required by Agency pursuant to its regulations, including the method of applying payments to the borrower(s)' loan accounts. It is expressly understood that unless a separate written instrument of subordination or partial release is executed and delivered by Agency pursuant to this application, approval by Agency of this application will merely constitute and evidence its consent, as lienholder, to the proposed transaction without in any way subordinating its lien, releasing any of its security, modifying the payment terms of the loan, or otherwise affecting any rights of Agency.

The borrower(s) agrees that none of the funds obtained as a result of any subordination covered by this application will be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as explained in Exhibit M of Subpart G of Part 1940 of Title 7 of the Code of Federal Regulations.

Date 08-03-2020

Signed  (Borrower)

(Co-Borrower)

1. The proposed transaction:

- WILL WILL NOT prevent or make more difficult the successful operation of this property.
- WILL WILL NOT reduce the efficiency of the property.

2. The proposed transaction will affect the value of this property as security for the loan as follows:

Present Market Value

| | |
|--------------------------------------|----------------|
| (a) Value of Real Estate Before | \$1,510,960.00 |
| (b) Value of Real Estate After | |
| (c) Value of Real Estate Disposed of | \$1,510,960.00 |

3. The following damages benefits will result to this property from the transaction:

These customers are more closely located to and are more efficiently served by the City of Prestonsburg water system. This proposed transaction will transfer this section of the Southern system to Prestonsburg. This will result in better service to the end customers, and will also result in reduced maintenance, workload, and financial obligations for the Southern Water and Sewer District system. Southern will sell or release assets worth \$1,510,960 and will receive \$1,600,000 cash in exchange which will reduce their Rural Development indebtedness.

I hereby recommend that this application be approved and that the proceeds be applied or released as follows:

INITIAL PAYMENT

SUBSEQUENT PAYMENTS:

| | | | | | | |
|-----------------|-----------------------------------|----|----|--|---|-----------------------------------|
| \$ 1,600,000.00 | To extra payment on Agency loan | \$ | or | | % | To extra payment on Agency loan |
| \$ | To regular payment on Agency loan | \$ | or | | % | To regular payment on Agency loan |
| \$ | To borrower as regular income | \$ | or | | % | To borrower as regular income |
| \$ | To prior lien(s) | \$ | or | | % | To prior lien(s) |
| \$ | Other (specify) | \$ | | | | Other (specify) |

Date 8/5/2020

Recommended by [Signature]

Date 8/10/2020

Approved

Disapproved by

[Signature]
 Paycom Direct
 (Title)
[Signature]
 State Director
 (Title)

UNITED STATES DEPARTMENT OF AGRICULTURE