

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LEVEE ROAD)
WATER ASSOCIATION FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY)
TO CONSTRUCT A SYSTEM IMPROVEMENTS) Case No. 2021-00015
PROJECT AND AN ORDER APPROVING A CHANGE)
IN RATES AND AUTHORIZING THE ISSUANCE)
OF SECURITIES PURSUANT TO KRS 278.023)

A P P L I C A T I O N

This electronic application of the Levee Road Water Association, Inc. ("Applicant"), respectfully shows:

1. That the Applicant is a non-profit water association of Montgomery County, Kentucky, created and existing under and by virtue of Chapter 273 of the Kentucky Revised Statutes.

2. That the post office address of Applicant is:

Levee Road Water Association, Inc.
c/o Ms. Brenda Murphy, Secretary
P.O. Box 770
Mt. Sterling, Kentucky 40353
Phone: (859) 498-6980
email address: brendamurphyrg@gmail.com

3. That Applicant, pursuant to the provisions of KRS 278.023, seeks (i) a Certificate of Public Convenience and Necessity ("CPCN"), permitting Applicant to construct a waterworks improvement project (the "Project"); (ii) an Order approving increased water rates; and (iii) approval of the proposed plan of financing said Project.

4. That the Project is described in the Project description attached hereto as **Exhibit "A"**.

5. That Applicant proposes to finance the construction of the Project through (i) the issuance of a \$1,050,000 promissory note; and (ii) a USDA, Rural Development ("RD") grant in the

amount of \$250,000. Applicant has a commitment from RD to purchase said \$1,050,000 note maturing over a 40-year period, at an interest rate not to exceed 1.875% per annum as set out in the RD Letter of Conditions filed herewith as an Exhibit.

6. That Applicant does not contemplate having the Project constructed with any deviation from minimum construction standards of this Commission.

7. That Applicant files herewith the following Exhibits pursuant to 807 KAR 5:069, Section 2 in support of this Application:

- A. Copy of RD Letter of Conditions and RD Form 1940-1 (**Exhibit "B"**).
- B. Copy of RD Letter of Concurrence in Contract Award (**Exhibit "C"**).
- C. Copy of Preliminary Engineering Report, Final Engineering Report and certified bid tabulations.
- D. Certified statement from the Chairman of Applicant (**Exhibit "D"**), based upon statements of the Engineers for Applicant, concerning the following:
 - (1) The proposed plans and specifications for the Project have been designed to meet the minimum construction and operating requirements set out in 807 KAR 5:066 Section 4(3) and (4); Section 5(1); Sections 6 and 7; Section 8(1) through (3); Section 9(1) and Section 10.
 - (2) All other state approvals or permits have been obtained;
 - (3) The proposed rates of Applicant shall produce the total revenue requirements recommended in the engineering reports; and
 - (4) Setting out the dates when it is anticipated that construction will begin and end.

8. That Applicant has complied with the "public postings" requirement of 807 KAR 5:069, Section 3(1)(a) by posting a copy of the Notice of Proposed Rate Change (the "Notice") at its place of business. Applicant does not maintain a website. Applicant has also arranged for the publication, prior to or at the same time this Application is filed, of the Notice pursuant to 807 KAR 5:069, Section 3(2) in the newspaper of general circulation in Applicant's service area. Said Notice sets out the content requirements of 807 KAR 5:069, Section 3(4). A copy of said Notice is filed herewith as **Exhibit "E"**. Applicant shall file with this Commission no later than fifteen (15) days from the date this Application was initially filed, an affidavit and tearsheet from the publisher as required by 807 KAR 5:069 Section 3(3)(b).

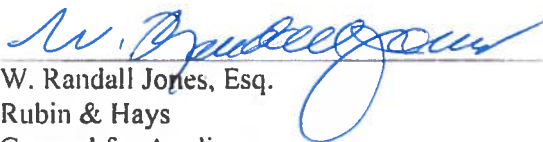
9. That the foregoing constitutes the documents necessary to obtain the approval of this Commission in accordance with Section 278.023 of the Kentucky Revised Statutes and in accordance with the "Filing Requirements" specified in 807 KAR 5:069, Section 2.

WHEREFORE, Applicant, the Levee Road Water Association, Inc., asks that the Public Service Commission of the Commonwealth of Kentucky grant to Applicant the following:

- a. A Certificate of Public Convenience and Necessity permitting Applicant to construct a water system improvements project.
- b. An Order approving the financing arrangements made by Applicant, viz., (i) the issuance of a \$1,050,000 promissory note at an interest rate not to exceed 1.875% per annum; and (ii) an RD grant in the amount of \$250,000.
- c. An Order approving the proposed water rates as set out in Section 32 of the RD Letter of Conditions filed herewith as an Exhibit.

Levee Road Water Association, Inc.


By: 
President
Board of Directors


W. Randall Jones, Esq.
Rubin & Hays
Counsel for Applicant
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Louisville, Kentucky 40202
Phone: (502) 569-7534
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wjones@rubinhays.com

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF MONTGOMERY)

The undersigned, Artie Gibson, being duly sworn, deposes and states that he is the President of the Board of Directors of the Levee Road Water Association, Inc., Applicant, in the above proceedings; that he has read the foregoing Application and has noted the contents thereof; that the same is true of his own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, he believes same to be true.

IN TESTIMONY WHEREOF, witness the signature of the undersigned on this January 14, 2021.



Artie Gibson, President
Levee Road Water Association, Inc.

Subscribed and sworn to before me by Artie Gibson, President of the Board of Directors of the Levee Road Water Association, Inc., on this January 14, 2021.

My Commission expires: 06-025-2024



Notary Public

EXHIBIT A

Project Description

Owner: Levee Road Water Association

Project: Water System Improvements Project Contract 1-3

Description:

The project will replace approximately thirty-seven hundred feet of water main and an approximate 700 LF of creek crossings in various locations. Additionally the project will install approximately ten (10) gate valves, one (1) new Chlorine booster station, twelve (12) new flush hydrants, four (4) new Auto-Flush Units, and two (2) new fire hydrants, and radio read meters throughout the system. The project will also include connection to the City of Jeffersonville's Water System, rehabilitation of the two tanks and purchasing and renovating a garage for the Levee Road Water Association office.

EXHIBIT B

RD Letter of Conditions and Forms RD 1940-1



March 17, 2020

Arthur Gibson, Chairman
Levee Road Water Association, Inc.
P.O. Box 770
Mt. Sterling, Kentucky 40353

SUBJECT: Recipient Name: Levee Road Water Association, Inc.
Project Name: Water System Improvements

Dear Chairman Gibson:

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to the application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area office staff of USDA Rural Development. Any changes in project cost, source of funds, scope of services or any other significant changes in the project or applicant must be reported to and approved by USDA Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application. It should also be understood that Rural Development is under no obligation to provide additional funds to meet an overrun in construction costs.

This letter is not to be considered as loan or grant approval or as a representation as to the availability of funds. The docket may be completed on the basis of a RUS loan not to exceed \$1,050,000 and a RUS grant not to exceed \$250,000. There will be no applicant contribution.

If Rural Development makes the loan, the interest rate will be the lower of the rate in effect at the time of loan approval or the rate in effect at the time of loan closing, unless the applicant otherwise chooses. The loan will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you.

Please complete and return the attached Form RD 1942-46, "Letter of Intent to Meet Conditions," if you desire that further consideration be given to your application.

The "Letter of Intent to Meet Conditions" must be executed within three weeks from the date of this letter or it becomes invalid unless a time extension is granted by Rural Development.

If the conditions set forth in this letter are not met within 240 days from the date hereof, Rural Development reserves the right to discontinue the processing of the application. In signing Form RD 1942-46, "Letter of Intent to Meet Conditions," you are agreeing to complete the following as expeditiously as possible:

Rural Development • Kentucky State Office
771 Corporate Drive, Suite 200, Lexington, Kentucky 40502
Voice (859) 224-7300 • Fax (855) 661-8335 • TTY (859) 224-7422

USDA is an equal opportunity provider, employer and lender.

1. Number of Users and Their Contribution:

There shall be 857 water users, of which all are existing users. The Area Director will review and authenticate the number of users prior to advertising for construction bids.

2. Grant Agreement:

Attached is a copy of RUS Bulletin 1780-12, "Water and Waste System Grant Agreement," for your review. You will be required to execute a completed form at the time of grant closing.

3. Drug-Free Work Place:

Prior to grant closing, the Association will be required to execute Form AD-1049, "Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I - For Grantees Other Than Individuals."

4. Repayment Period:

The loan will be scheduled for repayment over a period not to exceed 40 years from the date of the Promissory Note. Principal payment will not be deferred. The Association may be required to adopt a supplemental payment agreement providing for monthly payments of principal and interest so long as the Promissory Note is held or insured by RUS. Monthly payments will be approximate amortized installments.

5. Recommended Repayment Method:

Payments on this loan shall be made using the Preauthorized Debit (PAD) payment method. This procedure eliminates the need for paper checks and ensures timely receipt of RD loan payments. To initiate PAD payments, Form RD 3550-28, "Authorization Agreement for Preauthorized Payments," should be signed by the Association to authorize the electronic withdrawal of funds from your designated bank account on the exact installment payment due date. The Area Director will furnish the necessary forms and further guidance on the PAD procedure.

6. Reserve Accounts:

Reserves must be properly budgeted to maintain the financial viability of any operation. Reserves are important to fund unanticipated emergency maintenance, pay for repairs, and assist with debt service should the need arise.

The Association will be required to deposit \$335 per month into a "Funded Debt Reserve Account" until the account reaches \$40,200. The deposits are to be resumed any time the account falls below the \$40,200.

The required monthly deposits to the Reserve Account and required Reserve Account levels are in addition to the requirements of the Association's prior loan resolutions.

The monthly deposits to the Reserve Account are required to commence with the first month of the first full fiscal year after the facility becomes operational.

The Association also needs to fund an account for short-lived assets by depositing a sum of \$1,959 monthly to the account. The funds in the short-lived asset account may be used by the Association as needed to replace or add short-lived assets in the Association's water system.

7. Security Requirements:

The loan will be secured by a real estate mortgage, a financing statement, and a pledge of gross water revenue, in the Loan Resolution and Financing Statement.

8. Land Rights and Real Property:

The Association will be required to furnish satisfactory title, easements, etc., necessary to install, maintain and operate the facility to serve the intended users.

The pipelines will be on private rights-of-way where feasible. Easements and options are to be secured prior to advertising for construction bids.

9. Organization:

The Association will be legally organized under applicable KRS, which will permit them to perform this service, borrow, or repay money.

The Association must maintain a current registration of their Dun and Bradstreet Data Universal Numbering System (DUNS) number in SAM.gov (System for Award Management) in order to receive federal loan and/or grant financial assistance. This registration must be updated/renewed at least annually.

10. Business Operations:

The Association will be required to operate the system under a well-established set of resolutions, rules and regulations. A budget must be established annually and adopted by the Association after review by Rural Development. At no later than loan pre-closing, the Association will be required to furnish a prior approved management plan to include, as a minimum, provisions for management, maintenance, meter reading, miscellaneous services, billing, collecting, delayed payment penalties, disconnect/reconnect fees, bookkeeping, making and delivering required reports and audits.

11. Conflict of Interest Policy:

Prior to obligation of funds, you will certify in writing that your organization has in place an up-to-date written policy on conflict of interest. The policy will include, at a minimum: (1) a requirement for those with a conflict/potential conflict to disclose the conflict/potential conflict; (2) a prohibition of interested members of the applicant's governing body from voting on any matter in which there is a conflict, and (3) a description of the specific process by which the governing body will manage identified or potential conflicts.

You must also submit a disclosure of planned or potential transactions related to the use of Federal funds that may constitute or present the appearance of personal or organizational conflict of interest. Disclosure must be in the form of a written letter signed and dated by the applicant's official. A negative disclosure in the same format is required if no conflicts are anticipated.

Sample conflict of interest policies may be found at the National Council of Nonprofits website, <https://www.councilofnonprofits.org/tools-resources/conflict-of-interest>, or in Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy," at <http://www.irs.gov/pub/irs-pdf/i1023.pdf>. Though these examples reference non-profit corporations, the requirement applies to all types of Agency borrowers.

Disclosure must be in the form of a written letter signed and dated by the applicant's official. A negative disclosure of the same format is required if no conflicts are anticipated. Assistance in developing a conflict of interest policy is available through Agency-contracted technical assistance providers if desired.

12. Accounts, Records and Audits:

The Association will be required to maintain adequate records and accounts and submit annual budgets and year-end reports (annual audits)/statistical and financial reports, quarterly and annually, in accordance with subsection 1780.47 of RUS Instruction 1780.

The Association shall be required to submit a copy of its audit agreement for review and concurrence by Rural Development prior to pre-closing the loan.

13. Accomplish Audits for Years in Which Federal Financial Assistance is Received:

The type of financial information that must be submitted is specified below:

Audits – An annual audit under the Single Audit Act is required if you expend \$750,000 or more in Federal financial assistance per fiscal year. The total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Expenditures of interim financing are considered Federal expenditures.

All audits are to be performed in accordance with 2 CFR Part 200, as adopted by USDA through 2 CFR Part 400. Further guidance on preparing an acceptable audit can be obtained from the Agency. It is not intended that audits required by this part be separate and apart from audits performed in accordance with State and local laws. To the extent feasible, the audit work should be done in conjunction with those audits. The audit must be prepared by an independent licensed Certified Public Accountant, or a State or Federal auditor if allowed by State law, and must be submitted within 9 months of your fiscal year end.

14. Insurance and Bonding:

The following insurance and bonding will be required:

- A. Adequate Liability and Property Damage Insurance including vehicular coverage, if applicable, must be obtained and maintained by the Association. The Association should obtain amounts of coverage as recommended by its attorney, consulting engineer and/or insurance provider.

- B. Worker's Compensation - The Association will carry worker's compensation insurance for employees in accordance with applicable state laws.
 - C. Fidelity Bond - The Association will provide Fidelity Bond Coverage for all persons who have access to funds. Coverage may be provided either for all individual positions or persons, or through "blanket" coverage providing protection for all appropriate employees and/or officials. The amount of coverage required for all RUS loans is \$51,000.
 - D. Real Property Insurance - The Association will obtain and maintain adequate fire and extended coverage on all structures including major items of equipment or machinery located in the structures. The amounts of coverage should be based on recommendations obtained by the Association from its attorney, consulting engineer and/or insurance provider. Subsurface lift stations do not have to be covered except for the value of electrical and pumping equipment therein.
 - E. Flood Insurance - The Association will obtain and maintain adequate coverage on any facilities located in special flood and mudslide prone areas.
15. Planning and Performing Development:
- A. The engineer should not be authorized to commence work on final plans and specifications until a determination has been made that the project can be planned and constructed within the estimated cost shown in paragraph "28" of this letter. The engineer may then proceed to develop final plans and specifications to be completed no later than 210 days from this date, and prepare bid documents. The Area Director is prepared to furnish the necessary guide to follow so as to keep the project plans and documents within our guidelines and requirements. The project must be constructed by the design/bid/build method of construction. The project should not be advertised for construction bids until all easements and enforceable options have been obtained, and total funds are committed or available for the project.
 - B. The following documents will be submitted to Rural Development for review and must be concurred in by Rural Development prior to advertisement for construction bids:
 - 1. Final plans, specifications and bid documents.
 - 2. Applicant's letter on efforts to encourage small business and minority - owned business participation.
 - 3. Legal Service Agreements.
 - 4. Engineering Agreements.

Revision in these documents will be subject to Rural Development concurrence. Any agreements, contracts, etc. not reviewed and approved by Rural Development will not be eligible for payment from project funds or revenues from facilities financed by this Agency.

16. Bid Tabulation:

Immediately after bid opening, you must provide the Agency with the bid tabulation and your engineer's evaluation of bids and recommendations for contract awards. If the Agency agrees that the construction bids received are acceptable, adequate funds are available to cover the total project costs, and all the requirements of this letter have been satisfied, the Agency will authorize you to issue the Notice of Award.

- A. Cost Overruns – If bids are higher than expected, or if unexpected construction problems are encountered, you must utilize all options to reduce cost overruns. Negotiations, redesign, use of bidding alternatives, rebidding or other means will be considered prior to commitment of subsequent funding by the Agency. Any requests for subsequent funding to cover cost overruns will be contingent on the availability of funds.

Cost overruns exceeding 20% of the development cost at time of loan or grant approval or where the scope of the original purpose has changed will compete for funds with all other applications on hand as of that date.

- B. Excess Funds – If bids are lower than anticipated at time of obligation, excess funds must be deobligated prior to start of construction except in the cases addressed in this paragraph. In cases where the original PER for the project included items that were not bid, or were bid as an alternate, the State Office official may modify the project to fully utilize obligated funds for those items. Amendments to the PER, ER, and letter of conditions may be needed for any work not included in the original project scope. In all cases, prior to start of construction, excess funds will be deobligated, with grant funds being deobligated first. Excess funds do not include contingency funds as described in this letter.

17. Contract Documents, Final Plans and Specifications:

- A. The contract documents must consist of the EJCDC construction contract documents as indicated in RUS Bulletin 1780-26 or other Agency-approved forms of agreement.
- B. The contract documents, final plans and specifications must comply with RUS Instruction 1780, Subpart C – Planning, Designing, Bidding, Contracting, Constructing and Inspections, and must be submitted to the Agency for concurrence prior to advertising for bids along with an updated cost estimate. The Agency may require another updated cost estimate if a significant amount of time elapses between the original submission and advertising for bids.
- C. The use of any procurement method other than competitive sealed bids must be requested in writing and approved by the Agency.

18. Contract Review:

Your attorney will certify that the executed contract documents, including performance and payment, if required are adequate and that the persons executing these documents have been properly authorized to do so in accordance with RUS Instruction 1780.61(b).

19. Civil Rights & Equal Opportunity:

You should be aware of and will be required to comply with other federal statute requirements including but not limited to:

A. Section 504 of the Rehabilitation Act of 1973:

Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Rural Development financial assistance.

B. Civil Rights Act of 1964:

All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and Subpart E of Part 1901 of this Title, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by paragraph 1901.202(e) of this Title.

C. The Americans with Disabilities Act (ADA) of 1990:

This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, state and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by state and local public entities that provide services, programs, and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities that accommodate the public.

D. Age Discrimination Act of 1975:

This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

E. Limited English Proficiency (LEP) under Executive Order 13166:

LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally-assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons.

LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance, free of charge.

You must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information your organization provides. These protections are pursuant to Executive Order 13166 entitled, "Improving Access to Services by Persons with Limited English Proficiency" and further affirmed in the USDA Departmental Regulation 4330-005, "Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA."

Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap. You must display posters (provided by the Agency) informing users of these requirements, and the Agency will monitor your compliance with these requirements during compliance reviews.

20. Closing Instructions:

The Office of General Counsel, our Regional Attorney, will be required to write closing instructions in connection with this loan. Conditions listed therein must be met by the Association.

21. Compliance with Special Laws and Regulations:

The Association will be required to conform to any and all state and local laws and regulations affecting this type project.

22. Treatment Plant and System Operator:

The Association is reminded that the water system operator must have an Operator's Certificate issued by the State.

23. Prior to Pre-Closing the Loan and Grant, the Association Will Be Required to Adopt:

- A. Form RD 1942-8, "Resolution of Members or Stockholders."
- B. Form RUS Bulletin 1780-28, "Loan Resolution Security Agreement."
- C. Form RD 400-1, "Equal Opportunity Agreement."
- D. Form RD 400-4, "Assurance Agreement."
- E. Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transaction."
- F. Form RD 1910-11, "Applicant Certification Federal Collection Policies for Consumer or Commercial Debts."
- G. RD Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans."
- H. RUS Bulletin 1780-22, "Eligibility Certification."

24. Refinancing and Graduation Requirements:

The Association is reminded that if at any time it shall appear to the Government that the Association is able to refinance the amount of the RUS indebtedness then outstanding, in whole or in part, by obtaining a loan from commercial sources at reasonable rates and terms, upon the request of the Government, the Association will apply for and accept such loan in sufficient amount to repay the Government.

25. Commercial Interim Financing:

The Association will be required to use commercial interim financing for the project during construction for the RUS loan portion of the financing, if available at reasonable rates and terms.

Before the loan is closed, the Association will be required to provide Rural Development with statements from the contractor, engineer and attorneys that they have been paid to date in accordance with their contract or other agreements and, in the case of the contractor, that he has paid his suppliers and sub-contractors.

26. Disbursement of Project Funds:

A construction account for the purpose of disbursement of project funds (RUS) will be established by the Association prior to start of construction. The position of officials entrusted with the receipt and disbursement of RUS project funds will be covered by a "Fidelity Bond," with USDA Rural Development as Co-Obligee, in the amount of construction funds on hand at any one time during the construction phase.

For each "construction account" as established, if the amount of RUS loan and grant funds plus any applicant contributions or funds from other sources to be deposited into the account are expected to exceed \$250,000 at any time, the financial institution will secure the amount in excess of \$250,000 by pledging collateral with the Federal Reserve Bank in an amount not less than the excess in accordance with 7 CFR, 1902.7(a).

Agency funds will be disbursed into the construction account through an electronic transfer system. The borrower should complete Form SF-3881, "Electronic Funds Transfer Payment Enrollment Form," for each account where funds will be electronically received. The completed form(s) must be received by Rural Development at least thirty (30) days prior to the first advance of funds.

Monthly audits of the Association's construction account records shall be made by Rural Development.

Borrowers receiving federal loan and/or grant funds by EFT will have funds directly deposited to a specified account at a financial institution with funds being available to the recipient on the date of payment

Any applicant contribution will be the first funds expended, followed by other funding sources. Interim financing or Agency loan funds will be expended after all other funding sources unless an agreement is reached with all other funding sources on how funds are to be disbursed prior to start of construction or loan closing, whichever occurs first.

Interim financing funds or Agency loan funds must be used prior to the use of Agency grant funds. The Grant funds must not be disbursed prior to loan funds except as specified in RUS Instruction 1780.45 (d). In the unlikely event the Agency mistakenly disburses funds, the funds will be remitted back to the Agency electronically.

During construction, the Association shall disburse project funds in a manner consistent with subsection 1780.76 (e) of RUS Instruction 1780. Form RD 1924-18, "Partial Payment Estimate," or similar form approved by Rural Development, shall be used for the purpose of documenting periodic construction estimates, and shall be submitted to Rural Development for review and acceptance. Prior to disbursement of funds by the Association, the Board of Directors shall review and approve each payment estimate. All bills and vouchers must be approved by Rural Development prior to payment by the Association.

Form RD 440-11, "Estimate of Funds Needed for 30-Day Period Commencing _____," will be prepared by the Association and submitted to Rural Development in order that a periodic advance of federal cash may be requested.

27. Disbursement of Grant Funds:

The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of obligations due and payable by the Association.

Grant funds are to be deposited in an interest bearing account in accordance with 2 CFR part 200 and interest in excess of \$500 per year remitted to the Agency.

The funds should be disbursed by the recipient immediately upon receipt and there should be little interest accrual on the Federal funds. Recipients shall maintain advances of Federal funds in interest-bearing account, unless:

- a. The recipient receives less than \$120,000 in Federal awards per year.
- b. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
- c. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
- d. A foreign government or banking system prohibits or precludes interest-bearing accounts.

28. Project Budget:

Estimated expenditures are as follows:

Project Costs:

Development	\$1,004,875
Legal and Administrative	10,000
Engineering Fees	169,300
Interest	10,325
Environmental	5,000
Contingencies	<u>\$ 100,500</u>
TOTAL PROJECT COST	\$1,300,000

Project Funding:

RUS Loan	\$1,050,000
RUS Grant	\$ 250,000
TOTAL FUNDING	\$1,300,000

29. Construction Completion Timeframe:

All projects are required to be completed and all funds disbursed within five years of obligation. If funds are not disbursed within five years of obligation, you must submit a written waiver request with adequate justification of extenuating circumstances beyond your control for an extension of time. Any additional requests for waivers beyond the initial extension will be submitted through the State Office to the Assistant Administrator for concurrence decision.

30. Use of Remaining Project Funds:

The applicant contribution shall be considered as the first funds expended. After providing for all authorized costs, any remaining project funds will be considered to be RUS grant funds and refunded in proportion to participation in the project. If the amount of unused project funds exceeds the grants, that part would be RUS loan funds.

31. Proposed Operating Budget:

You will be required to submit to Rural Development a copy of your proposed annual operating budget that supports the proposed loan repayment prior to this agency giving you written authorization to proceed with the bidding phase. The operating budget should be based on a typical year cash flow, subject to completion of this project in the first full year of operation. Form RD 442-7, Operating Budget, or similar form may be utilized for this purpose.

32. Rates and Charges:

Rates and charges for facilities and services rendered by the Association must be at least adequate to meet cost of maintaining, repairing and operating the water system and meeting required principal and interest payments and the required deposits to debt service and/or depreciation reserve.

Water rates will be at least:

All meter sizes:

First	2,000	gallons @ \$23.25 - Minimum Bill.
Next	5,000	gallons @ \$ 8.00 – per 1,000 gallons.
Next	13,000	gallons @ \$ 6.00 – per 1,000 gallons.
All Over	20,000	gallons @ \$ 5.50 – per 1,000 gallons.

33. Water Purchase Contract:

The Association will submit a Water Purchase Contract for approval by Rural Development before advertising for construction bids. If the contract is not on Form RD 442-30, "Water Purchase Contract," the contract will require approval by our Regional Attorney. The contract must meet the requirements of subsection 1780.62 of RUS Instruction 1780, which includes there must be 40 years left on the term of the water purchase contract. The contract term must match the term of the loan.

34. Vulnerability Assessment/Emergency Response Plan (VA/ERP):

The Agency requires all financed water and wastewater systems to have a VA/ERP in place. Borrowers with existing systems must provide a certification that a VA/ERP has been completed prior to advertising for bids. The documents are not submitted to the Agency for VA/ERP requirements throughout the life of the loan.

35. Floodplain Construction:

The Association will be required to pass and adopt a Resolution or amend its By-Laws whereby the Association will deny any water service to any future customer wishing to build on or develop property located within a designated floodplain.

If a customer or developer requests service for construction in a designated floodplain, the customer or developer must provide evidence and a justification for approval by the Association and Rural Development officials that there are no other alternatives to construction or development within the designated floodplain. The community must be a participant in the National Flood Insurance Program (NFIP) and the customer or developer must obtain the required permits prior to the tap on restrictions being waived.

36. Mitigation Measures:

- A. The project shall be in compliance with all requirements noted in the Governor's Office for Local Development letter dated February 27, 2019, from Ms. Lee Nalley.
- B. The design and construction shall be in compliance with the requirements of the U.S. Fish and Wildlife Service as requested by letter dated August 10, 2019, and signed by Virgil Lee Andrews, Jr., Field Supervisor.
- C. The line design and construction shall be accomplished in a way that will leave flood plains and farmland without effect after construction is complete. The Army Corps of Engineers Nationwide Permit No. 12 applies to all floodplain and wetland utility line construction.
- D. Any excavation by Contractor that uncovers a historical or archaeological artifact shall be immediately reported to Owner and a representative of Agency. Construction shall be temporarily halted until RD can consult with the State Historical Preservation Officer and issue further directions.
- E. The design and construction shall be in compliance with all local, state and federal environmental statutes, regulations and executive orders applicable to the project.
- F. Best Management Practices shall be incorporated into the project design, construction, and maintenance.

37. System for Award Management:

You will be required to maintain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and maintain an active registration in the System for Award Management (SAM) database. Renewal can be done on-line at: <http://sam.gov>.

This registration must be renewed and revalidated every twelve (12) months for as long as there are Agency funds to be expended.

To ensure the information is current, accurate and complete, and to prevent the SAM account expiration, the review and updates must be performed within 365 days of the activation date, commonly referred to as the expiration date. The registration process may take up to 10 business days. (See 2 CFR Part 25 and the "Help" section at <http://sam.gov>).

38. Prepayment and Extra Payments:

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of borrower, with no penalty.

Security instruments, including bonding documents, must contain the following language regarding extra payments, unless prohibited by State statute:

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the borrower. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Agency debt, shall, after payment of interest, be applied to the installments last to become due under this note and shall not affect the obligation of borrower to pay the remaining installments as scheduled in your security instruments.

39. Security/Operational Inspections:

The Agency will inspect the facility and conduct a review of your operations and records management system and conflict of interest policy every three years for the life of the loan. You must participate in these inspections and provide the required information.

40. American Iron & Steel:

Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) applies a new American Iron and Steel requirement:

- (1) No Federal funds made available for this fiscal year for the rural water, waste water, waste disposal, and solid waste management programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 et seq.) shall be used for a project for the construction, alteration, maintenance, or repair of a public water or wastewater system unless all of the iron and steel products used in the project are produced in the United States.

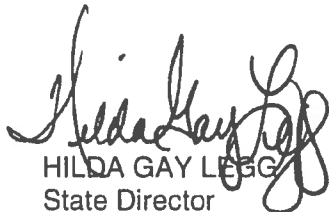
- (2) The term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.
- (3) The requirement shall not apply in any case or category of cases in which the Secretary of Agriculture (in this section referred to as the "Secretary") or the designee of the Secretary finds that— a. applying the requirement would be inconsistent with the public interest; b. iron and steel products are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or c. inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

41. Final Approval Conditions:

Final approval of this assistance will depend on your willingness, with the assistance of all your co-workers, to meet the conditions of this letter in an orderly and systematic manner. Then too, final approval will depend on funds being available.

If you desire to proceed with your application, the Area Director will allot a reasonable portion of time to provide guidance in application processing.

Sincerely,



HILDA GAY LEGG
State Director

Enclosures

cc: Field Director – Morehead, Kentucky
Field Specialist – Morehead, Kentucky
Gateway ADD – Morehead, Kentucky
Leah Hawkins – Mt. Sterling, Kentucky
Kentucky Engineering – Versailles, Kentucky
PSC - ATTN: Talina Mathews - Frankfort, Kentucky

REQUEST FOR OBLIGATION OF FUNDS

APR 13 2020

FORM APPROVED
OMB No. 0570-0062

6

INSTRUCTIONS-TYPE IN CAPITALIZED ELITE TYPE IN SPACES MARKED () Complete Items 1 through 29 and applicable Items 30 through 34. See FMI.							
1. CASE NUMBER ST CO BORROWER ID 20-087-*****6993		LOAN NUMBER		FISCAL YEAR			
2. BORROWER NAME Levee Road Water Association			3. NUMBER NAME FIELDS (1, 2, or 3 from Item 2)				
			4. STATE NAME Kentucky				
			5. COUNTY NAME Montgomery				
GENERAL BORROWER/LOAN INFORMATION							
6. RACE/ETHNIC CLASSIFICATION 1 - WHITE 2 - BLACK 3 - A/AN 4 - HISPANIC 5 - API		7. TYPE OF APPLICANT 1 - INDIVIDUAL 2 - PARTNERSHIP 3 - CORPORATION 4 - PUBLIC BODY 5 - ASSOC OF FARMERS 6 - ORG OF FARMERS 7 - NONPROFIT-SECULAR 8 - NONPROFIT-FAITH BASED 9 - INDIAN TRIBE 10 - PUBLIC COLLEGE/UNIVERSITY 11 - OTHER		8. COLLATERAL CODE 1 - REAL ESTATE SECURED 2 - REAL ESTATE AND CHATTEL 3 - NOTE ONLY OR CHATTEL ONLY 4 - MACHINERY ONLY 5 - LIVESTOCK ONLY 6 - CROPS ONLY 7 - SECURED BY BONDS 8 - RLF ACCT		9. EMPLOYEE RELATIONSHIP CODE 1 - EMPLOYEE 2 - MEMBER OF FAMILY 3 - CLOSE RELATIVE 4 - ASSOC	
10. SEX CODE 1 - MALE 2 - FEMALE		11. MARITAL STATUS 1 - MARRIED 2 - SEPARATED 3 - UNMARRIED (INCLUDES WIDOWED/DIVORCED)		12. VETERAN CODE 1 - YES 2 - NO		13. CREDIT REPORT 1 - YES 2 - NO	
14. DIRECT PAYMENT 3 (See FMI)		15. TYPE OF PAYMENT 1 - MONTHLY 2 - ANNUALLY 3 - SEMI ANNUALLY 4 - QUARTERLY		16. FEE INSPECTION 1 - YES 2 - NO			
17. COMMUNITY SIZE 1 - 10 000 OR LESS (FOR SFH AND HPG ONLY) 2 - OVER 10 000		18. USE OF FUNDS CODE (See FMI)					
COMPLETE FOR OBLIGATION OF FUNDS							
19. TYPE OF ASSISTANCE 067 (See FMI)		20. PURPOSE CODE 3		21. SOURCE OF FUNDS		22. TYPE OF ACTION 1 - OBLIGATION ONLY 2 - OBLIGATION/CHECK REQUEST 3 - CORRECTION OF OBLIGATION	
23. TYPE OF SUBMISSION 1 - INITIAL 2 - SUBSEQUENT 2		24. AMOUNT OF LOAN \$1,050,000.00		25. AMOUNT OF GRANT \$250,000.00			
26. AMOUNT OF IMMEDIATE ADVANCE		27. DATE OF APPROVAL MO DAY YR 04 14 20		28. INTEREST RATE 1.8750% 2.2500%		29. REPAYMENT TERMS 40	
COMPLETE FOR COMMUNITY PROGRAM AND CERTAIN MULTIPLE-FAMILY HOUSING LOANS							
30. PROFIT TYPE 1 - FULL PROFIT 2 - LIMITED PROFIT 3 - NONPROFIT							
COMPLETE FOR EM LOANS ONLY			COMPLETE FOR CREDIT SALE-ASSUMPTION				
31. DISASTER DESIGNATION NUMBER (See FMI)			32. TYPE OF SALE 1 - CREDIT SALE ONLY 2 - ASSUMPTION ONLY 3 - CREDIT SALE WITH SUBSEQUENT LOAN 4 - ASSUMPTION WITH SUBSEQUENT LOAN				
FINANCE OFFICE USE ONLY			COMPLETE FOR FP LOANS ONLY				
33. OBLIGATION DATE MO DA YR			34. BEGINNING FARMER/RANCHER (See FMI)				

If the decision contained above in this form results in denial, reduction or cancellation of USDA assistance, you may appeal this decision and have a hearing or you may request a review in lieu of a hearing. Please use the form we have included for this purpose.

Position 2

ORIGINAL - Borrower's Case Folder COPY 1 - Finance Office COPY 2 - Applicant/Lender COPY 3 - State Office

CERTIFICATION APPROVAL

For All Farmers Programs

EM, OL, FO, and SW Loans

This loan is approved subject to the availability of funds. If this loan does not close for any reason within 90 days from the date of approval on this document, the approval official will request updated eligibility information. The undersigned loan applicant agrees that the approval official will have 14 working days to review any updated information prior to submitting this document for obligation of funds. If there have been significant changes that may affect eligibility, a decision as to eligibility and feasibility will be made within 30 days from the time the applicant provides the necessary information.

If this is a loan approval for which a lien and/or title search is necessary, the undersigned applicant agrees that the 15-working-day loan closing requirement may be exceeded for the purposes of the applicant's legal representative completing title work and completing loan closing.

35. COMMENTS AND REQUIREMENTS OF CERTIFYING OFFICIAL

Approval of financial assistance is subject to the provisions of the Letter of Conditions dated 3-17-2020, and any amendments thereto.

4/14/2020 Obligation entered over terminal @ 2:10pm. ord

36. I HEREBY CERTIFY that I am unable to obtain sufficient credit elsewhere to finance my actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near my community for loans for similar purposes and periods of time. I agree to use the sum specified herein, subject to and in accordance with regulations applicable to the type of assistance indicated above, and request payment of such sum. I agree to report to USDA any material adverse changes, financial or otherwise, that occur prior to loan closing. I certify that no part of the sum specified herein has been received. I have reviewed the loan approval requirements and comments associated with this loan request and agree to comply with these provisions.

(For FP loans at eligible terms only) If this loan is approved, I elect the interest rate to be charged on my loan to be the lower of the interest rate in effect at the time of loan approval or loan closing. If I check "NO", the interest rate charged on my loan will be the rate specified in Item 28 of this form. X YES NO

WARNING: Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both."

Date 3/31/2020, 20 20

Arthur Gibson, Chairman

(Signature of Applicant)

Date _____, 20 _____

(Signature of Co-Applicant)

37. I HEREBY CERTIFY that all of the committee and administrative determinations and certifications required by regulations prerequisite to providing assistance of the type indicated above have been made and that evidence thereof is in the docket, and that all requirements of pertinent regulations have been complied with. I hereby approve the above-described assistance in the amount set forth above, and by this document, subject to the availability of funds, the Government agrees to advance such amount to the applicant for the purpose of and subject to the availability prescribed by regulations applicable to this type of assistance.

Hilda Gay Legg

(Signature of Approving Official)

Typed or Printed Name: Hilda Gay Legg

Date Approved: 4-14-2020

Title: State Director

38. TO THE APPLICANT: As of this date 4-22-2020, this is notice that your application for financial assistance from the USDA has been approved, as indicated above, subject to the availability of funds and other conditions required by the USDA. If you have any questions contact the appropriate USDA Servicing Office.

EXHIBIT C

RD Letter of Concurrence in Contract Award



Rural Development

January 25, 2021

Kentucky State Office

771 Corporate Drive,
Suite 200
Lexington, KY
40503

SUBJECT: Levee Road Water Association
2019 Water Improvements
Contract Award Concurrence

Voice 859.224.7300
Fax 859.224.7425
TTY 859.224.7422

TO: Area Office
Morehead, Kentucky

Based on the bids received and the recommendation of the consulting engineer, Rural Development concurs in the award of subject project to the low bidder on Contract 1, AGrade Construction, Inc., in the amount of \$554,373 with an additive change order executed simultaneously in the amount of \$61,360 to bring the contract to \$615,733. Contract 2 bidders were rejected due to a cost overrun and Simple Procedures procurement method utilized. The lowest quote received was from Allen Construction, LLC, in the amount of \$244,400. The low bidder on Contract 3, Currens Construction Services, in the amount of \$253,700 with a deductive change order being executed simultaneously in the amount of -\$205,100 to bring the contract to \$48,600.

If you have any questions, please contact Julie Anderson, State Engineer, at (859) 224-7348.

Julie Anderson
Julie Anderson
State Engineer
Rural Development

USDA is an equal opportunity provider and employer.

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.

EXHIBIT D

Certificate of President

**CERTIFICATE OF PRESIDENT OF LEVEE ROAD WATER ASSOCIATION, INC.
AS TO STATEMENT REQUIRED BY SECTION 2(6) OF 807 KAR 5:069**

I, Artie Gibson, hereby certify that I am the duly qualified and acting President of the Board of Directors of the Levee Road Water Association, Inc. (the "Association"), and that said Association is in the process of arranging to finance the construction of extensions, additions and improvements to the existing waterworks system of the Association (the "Project"), in cooperation with the Engineers for the Association, Kentucky Engineering Group, PLLC, Versailles, Kentucky.

Based on information furnished to me by said Engineers for the Association, I hereby certify as follows:

1. That the proposed plans and specifications for the Project have been designed to meet the minimum construction and operating requirements set out in 807 KAR 5:066, Section 4(3) and (4); Section 5(1); Sections 6 and 7; Section 8(1) through (3); Section 9(1) and Section 10.
2. That all other state approvals and/or permits have already been obtained.
3. That the rates of the Association shall produce the total revenue requirements set out in the engineering reports.
4. That it is now contemplated that construction of the Project will begin on or about March 1, 2021, and will end on or about October 1, 2021.

IN TESTIMONY WHEREOF, witness my signature this January 14, 2021.



President

Levee Road Water Association, Inc.

STATE OF KENTUCKY)
) SS
COUNTY OF MONTGOMERY)

Subscribed and sworn to before me by Artie Gibson, President of the Board of Directors of the Levee Road Water Association, Inc., on this January 14, 2021.



Notary Public

In and For Said State and County

(Seal of Notary)

EXHIBIT E

Notice of Proposed Rate Change

NOTICE OF PROPOSED RATE CHANGE

In accordance with the requirements of the Kentucky Public Service Commission ("PSC") as set out in 807 KAR 5:069, Section 3, notice is hereby given to the customers of the Levee Road Water Association ("Association") of a change in water rates for users of the Association's water system. The changes in water rates are required by the U.S. Department of Agriculture, acting through Rural Development ("RD") in connection with a loan by RD to the Association in the principal amount of \$1,050,000 to be evidenced by the issuance by the Association of its promissory note in such amount, which RD has agreed to purchase provided the Association meets certain conditions of RD, including revising the water rates as set forth below:

Current Monthly Water Rates

<u>5/8 x 3/4 Inch Meter</u>	<u>Monthly Rate</u>
First 1,000 gallons	\$11.45 Minimum
Next 2,000 gallons	\$5.05 Per 1,000 gallons
Next 3,000 gallons	\$4.35 Per 1,000 gallons
Next 19,000 gallons	\$3.60 Per 1,000 gallons
Next 25,000 gallons	\$3.25 Per 1,000 gallons
All Over 50,000 gallons	\$2.95 Per 1,000 gallons
Commercial Hauler	\$5.33 Per 1,000 gallons
Any individual with private loading unit	\$5.33 Per 1,000 gallons
All water purchased from water coin vendor	\$5.33 Per 1,000 gallons
Leak adjustment rate (Mt Sterling wholesale rate plus 10%)	\$3.49 Per 1,000 gallons

Proposed Monthly Water Rates

<u>Meter</u>	<u>Monthly Rate</u>
First 2,000 gallons	\$23.25 Minimum
Next 5,000 gallons	\$8.00 Per 1,000 gallons
Next 13,000 gallons	\$6.00 Per 1,000 gallons
All Over 20,000 gallons	\$5.50 Per 1,000 gallons
Leak adjustment rate (Mt Sterling wholesale rate plus 10%)	\$3.49 Per 1,000 gallons

Customer Class (Current and Proposed Rate Structure)	Average Monthly Usage Per Customer (Gallons)	Average Monthly Bill (Present Rates and Structure)	Average Monthly Bill (Proposed Rates and Structure)	Increase in Average Monthly Bill (\$)	Increase in Average Monthly Bill (%)
5/8" x 3/4" Meter All	4,015	\$21.62	\$39.37	\$17.75	82.1%
5/8" x 3/4" Meter (0-1,000 Current Bracket) 0-2000 Future Bracket	400	\$11.16	\$23.25	\$12.09	108%
5/8" x 3/4" Meter 1,000-3,000 Current Bracket 2000-7000 Future Bracket	2,150	\$16.64	\$24.25	\$7.61	45.7%
5/8" x 3/4" Meter 3,000-6,000 Current Bracket 2000-7000 Future Bracket	4,250	\$25.76	\$41.25	\$15.49	60.1%
5/8" x 3/4" Meter 6,000-25,000 Current Bracket 7000-20000 Future Bracket	9,850	\$45.61	\$80.35	\$34.74	76.1%
5/8" x 3/4" Meter 25,000-50,000 Current Bracket 20000+ Future Bracket	32,000	\$116.47	\$207.25	\$90.78	77.9%
5/8" x 3/4" Meter 50,000+ Current Bracket 20000+ Future Bracket	160,000	\$462.35	\$911.25	\$448.90	97.1%

The proposed monthly water rates shall be effective for water sold after the date of the final approving Order of the PSC, which Order is expected to be issued no later than 30 days of the filing of the Application. The Application for approval of the rate change has been filed with the PSC and may be examined during normal business hours at the following locations: (i) Levee Road Water Association Office, 4969 Levee Road Mt. Sterling, KY 40353; (ii) PSC, 211 Sower Boulevard, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m., E.T.; and (iii) via the PSC website at <http://psc.ky.gov>. Comments regarding the Application may be submitted to the PSC via its website or by mail to PSC, P.O. Box 615, Frankfort, Kentucky 40602.

The proposed rates are required under the terms of an agreement between the Association and RD and KRS 278.023 does not grant the PSC any discretionary authority to modify or reject any portion of the agreement between the Association and RD, or to defer the issuance of all necessary orders to implement the terms of the agreement. The RD loan proceeds will be used to finance the costs of the (i) installation of approximately 3,700 linear feet of 6 inch water main improvements, replacement of customer's meters, installation of 19 hydrants, 9 valves, and associated appurtenances; (ii) purchase and renovation of a garage building for a new business office and installation of a chlorine booster station, (iii) rehabilitation of an existing ground water storage tank and access

road. With additional funds remaining the District will undertake the following improvements: (i) replacement of service tubing, meter boxes control valves, and purchase office equipment.

Signed: Artie Gibson, Chairman, Levee Road Water Association.