

**KENTUCKY INFRASTRUCTURE AUTHORITY**

**ASSISTANCE AGREEMENT**

**FUND F**

**PROJECT NUMBER:** F11-07

**BORROWER:** Breathitt County Water District

**BORROWER'S ADDRESS:** 1137 Main Street, Suite 305  
Jackson, Kentucky 41339

**DATE OF ASSISTANCE AGREEMENT:** January 1, 2012

**CFDA NO.:** 66.458

# ASSISTANCE AGREEMENT

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## ASSISTANCE AGREEMENT

This Assistance Agreement made and entered into as of the date set forth on the cover page hereof (the "Assistance Agreement") by and between the KENTUCKY INFRASTRUCTURE AUTHORITY, a body corporate and politic, constituting a public corporation and governmental agency and instrumentality of the Commonwealth of Kentucky (the "Authority") and the Governmental Agency identified on the cover of this Assistance Agreement (the "Governmental Agency"):

### WITNESSETH

WHEREAS, the General Assembly of the Commonwealth of Kentucky, being the duly and legally constituted legislature of Kentucky at its 1988 Regular Session, enacted House Bill 217 amending Chapter 224A of the Kentucky Revised Statutes (the "Act"), creating the "Kentucky Infrastructure Authority" to serve the public purposes identified in the Act; and

WHEREAS, the Authority has established its Program as hereinafter defined, for the purpose of providing financial assistance to Governmental Agencies, as defined in the Act, in connection with the acquisition and construction of Projects, as defined in the Act, in order to preserve, protect, upgrade, conserve, develop, utilize and manage the resources of the Commonwealth of Kentucky (the "Commonwealth") for the protection and preservation of the health, safety, convenience, and welfare of the Commonwealth and its citizens, and in that respect to assist and cooperate with Governmental Agencies in achieving such purposes; and

WHEREAS, the Program is funded in part, pursuant to the Capitalization Grant Operating Agreement between the Authority and the U.S. Environmental Protection Agency dated as of November 1, 1998 (the "Federal Agreement") under which the Authority is responsible for providing certain "match funding" described in the Federal Agreement; and

WHEREAS, the Authority has issued, and will issue from time to time, its revenue bonds pursuant to a General Trust Indenture dated as of February 1, 2000 (the "Indenture") between the Authority and National City Bank of Kentucky (the "Trustee") in order to provide the "match funding" for the Program; and

WHEREAS, the Governmental Agency has determined that it is necessary and desirable to finance the acquisition and construction of the Project, as hereinafter defined, and the Authority has determined that the Project is a Project within the meaning of the Act and the Indenture, thereby qualifying for financial assistance from the Authority; and

WHEREAS, the Governmental Agency desires to enter into this Assistance Agreement with the Authority for the purpose of securing from the Authority the repayable Loan hereinafter identified; and

WHEREAS, the Authority is willing to cooperate with the Governmental Agency in making available the Loan pursuant to the Act and the Indenture to be applied to the Project upon the conditions hereinafter enumerated and the covenants by the Governmental Agency herein contained to repay the Loan and the interest thereon from the sources herein provided, all as hereinafter more specifically provided; and

WHEREAS, the Authority and the Governmental Agency have determined to enter into this Assistance Agreement pursuant to the terms of the Act and the Indenture and to set forth their respective duties, rights, covenants, and obligations with respect to the acquisition, construction and financing of the Project and the repayment of the Loan and the interest thereon;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN SET FORTH, THE LOAN HEREBY EFFECTED AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED BY EACH PARTY, THE PARTIES HERETO MUTUALLY COVENANT AND AGREE, EACH WITH THE OTHER AS FOLLOWS:

## ARTICLE I

### DEFINITIONS

All of the terms utilized in this Assistance Agreement will have the same definitions and meaning as ascribed to them in the Act and the Indenture, which Act and Indenture are hereby incorporated in this Assistance Agreement by reference, the same as if set forth hereby verbatim; provided, however, that those definitions utilized in the Act and the Indenture having general application are hereby modified in certain instances to apply specifically to the Governmental Agency and its Project.

"*Act*" shall mean Chapter 224A of the Kentucky Revised Statutes, as amended.

"*Administrative Fee*" means the charge of the Authority for the servicing of the Loan, which is the annual percentage charged against the unpaid principal balance of the Loan as identified in the Project Specifics.

"*Architects*" means the firm of consulting architects employed by the Governmental Agency in connection with the Project identified in the Project Specifics.

"*Assistance Agreement*" shall mean this agreement made and entered into by and between a Governmental Agency and the Authority, as authorized by the Act, providing for a Loan to the Governmental Agency by the Authority, and for the repayment thereof to the Authority by the Governmental Agency.

"*Authority*" shall mean the Kentucky Infrastructure Authority created by the Act, a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the Commonwealth of Kentucky, or such other designation as may be effected by future amendments to the Act.

"*Bond*" or "*Bonds*" or "*Revenue Bonds*" shall mean any Kentucky Infrastructure Authority Bond or Bonds, or the issue of such Bonds, as the case may be, authenticated and delivered under the Indenture.

"*Business Day*" shall mean any day other than a Saturday, Sunday or other legal holiday on which the general offices of the Commonwealth are closed.

"*Cabinet*" means the Natural Resources and Environmental Protection Cabinet of the Commonwealth.

"*Code*" shall mean the Internal Revenue Code of 1986, as amended, and shall include the Regulations of the United States Department of the Treasury promulgated thereunder.

"*Commonwealth*" shall mean the Commonwealth of Kentucky.

"*Construction*" shall mean construction as defined in the Act.

"*Debt Obligations*" shall mean those outstanding obligations of the Governmental Agency identified in the Project Specifics outstanding as of the date of this Assistance

Agreement or issued in the future in accordance with the terms hereof, payable from the income and revenues of the System.

*"Drinking Water Supply Project"* shall mean the planning, design and construction of drinking water treatment and distribution systems, including expenditures to address Federal Act health goals, or to address situations where compliance standards have been exceeded or to prevent future violations of rules, and may further include drinking water treatment plants, including basins for rapid mix, flocculation, coagulation, filtration, pre-treatment disinfection, and disinfection prior to entry to the distribution system; distribution systems; storage tanks; intake lines and short-term water storage; clearwells; drilled wells and wellhead areas; and any other structure or facility considered necessary by the Natural Resources Cabinet of the Commonwealth of Kentucky to the efficient and sanitary operation of a public water system and complies with the requirements of the Federal Act.

*"Engineers"* means the firm of consulting engineers employed by the Governmental Agency in connection with the Project identified in the Project Specifics.

*"Federal Act"* shall mean the Federal Safe Drinking Water Act, as amended, 42 U.S.C. Section 1401, et seq.

*"Governmental Agency"* shall mean any incorporated city or municipal corporation, or other agency or unit of government within the Commonwealth, now having or hereafter granted the authority and power to finance, acquire, construct, and operate infrastructure projects, including specifically but not by way of limitation, incorporated cities, counties, including any counties containing a metropolitan sewer district, sanitation districts, water districts, sewer construction districts, metropolitan sewer districts, sanitation taxing districts, and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another pursuant to any regional or area compact, or multi-municipal agreement), now or hereafter established pursuant to the laws of the Commonwealth having and possessing such described powers; and for the purposes of this Assistance Agreement shall mean the Governmental Agency identified in the Project Specifics.

*"Indenture"* shall mean the General Trust Indenture dated as of February 1, 2000 between the Authority and the Trustee.

*"Interagency Agreement"* means the Memorandum of Understanding dated as of July 1, 1999 between the Authority and the Cabinet, as the same may be amended or supplemented from time to time.

*"Loan"* shall mean the loan effected under this Assistance Agreement from the Authority to the Governmental Agency in the principal amount set forth in the Project Specifics, for the purpose of defraying the costs incidental to the Construction of the Project.

*"Loan Rate"* means the rate of interest identified in the Schedule of Payments.

*"Person"* shall mean any individual, firm, partnership, association, corporation or Governmental Agency.

"*Program*" shall mean the program authorized by KRS 224A.1115 and the Indenture as the "federally assisted drinking water revolving fund" for financing Projects through Loans by the Authority to Governmental Agencies and shall not be deemed to mean or include any other programs of the Authority.

"*Project*" shall mean, when used generally, a Drinking Water Supply Project, and when used in specific reference to the Governmental Agency, the Project described in the Project Specifics.

"*Project Specifics*" means those specific details of the Project identified in Exhibit A hereto, all of which are incorporated by reference in this Assistance Agreement.

"*Requisition for Funds*" means the form attached hereto as Exhibit B to be utilized by the Governmental Agency in obtaining disbursements of the Loan from the Authority as the Construction of the Project progresses.

"*Resolution*" means the resolution of the Governmental Agency attached hereto as Exhibit D authorizing the execution of this Assistance Agreement.

"*Schedule of Payments*" means the principal and interest requirements of the Loan as set forth in Exhibit F hereto, to be established and agreed to upon or prior to the completion of the Project.

"*Schedule of Service Charges*" shall mean those general charges to be imposed by the Governmental Agency for services provided by the System, as set forth in Exhibit C hereto, and such other revenues identified in Exhibit C hereto from which the Loan is to be repaid, which Schedule of Service Charges shall be in full force and effect to the satisfaction of the Authority

"*Service Charges*" shall mean any monthly, quarterly, semi-annual, or annual charges, surcharges or improvement benefit assessments to be imposed by a Governmental Agency, or by the Authority, in respect of the System, which Service Charges arise by reason of the existence of, and requirement of, any Assistance Agreement and for the purposes of this Assistance Agreement said Service Charges shall be no less than those set forth in the Schedule of Service Charges.

"*System*" shall mean the water system owned and operated by the Governmental Agency of which the Project shall become a part and from the earnings of which (represented by the Service Charges) the Governmental Agency shall repay the Authority the Loan hereunder.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of Authority. The Authority represents and warrants for the benefit of the Governmental Agency as follows:

(A) The Authority is a body corporate and politic constituting a governmental agency and instrumentality of the Commonwealth, has all necessary power and Authority to enter into, and perform its obligations under, this Assistance Agreement, and has duly authorized the execution and delivery of this Assistance Agreement.

(B) Neither the execution and delivery hereof, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions and provisions of any restriction or any agreement or instrument to which the Authority is now a party or by which the Authority is bound, or constitutes a default under any of the foregoing.

(C) To the knowledge of the Authority, there is no litigation or proceeding pending or threatened against the Authority or any other person affecting the right of the Authority to execute or deliver this Assistance Agreement or to comply with its obligations under this Assistance Agreement. Neither the execution and delivery of this Assistance Agreement by the Authority, nor compliance by the Authority with its obligations under this Assistance Agreement, require the approval of any regulatory body, or any other entity, which approval has not been obtained.

(D) The authorization, execution and delivery of this Assistance Agreement and all actions of the Authority with respect thereto, are in compliance with the Act and the Federal Act and any regulations issued thereunder.

Section 2.2. Representations and Warranties of the Governmental Agency. The Governmental Agency hereby represents and warrants for the benefit of the Authority as follows:

(A) The Governmental Agency is a duly organized and validly existing Governmental Agency, as described in the Act, with full power to own its properties, conduct its affairs, enter into this Assistance Agreement and consummate the transactions contemplated hereby.

(B) The negotiation, execution and delivery of this Assistance Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite action of the governing body of the Governmental Agency.

(C) This Assistance Agreement has been duly executed and delivered by the Governmental Agency and is a valid and binding obligation of the Governmental Agency enforceable in accordance with its terms, except to the extent that the enforceability hereof may be limited by equitable principles and by bankruptcy, reorganization, moratorium, insolvency or similar laws heretofore or hereafter enacted relating to or affecting the enforcement of creditors' rights or remedies generally.

(D) To the knowledge of the Governmental Agency, there is no controversy or litigation of any nature pending or threatened, in any court or before any board, tribunal or administrative body, to challenge in any manner the authority of the Governmental Agency or its governing body to make payments under this Assistance Agreement or to proceed with the Project, or to challenge in any manner the authority of the Governmental Agency or its governing body to take any of the actions which have been taken in the authorization or delivery of this Assistance Agreement or the Construction of the Project, or in any way contesting or affecting the validity of this Assistance Agreement, or in any way questioning any proceedings taken with respect to the authorization or delivery by the Governmental Agency of this Assistance Agreement, or the application of the proceeds thereof or the pledge or application of any monies or security provided therefor, or in any way questioning the due existence or powers of the Governmental Agency, or otherwise wherein an unfavorable decision would have an adverse impact on the transactions authorized in connection with this Assistance Agreement.

(E) The authorization and delivery of this Assistance Agreement and the consummation of the transactions contemplated hereby will not constitute an event of default or violation or breach, nor an event which, with the giving of notice or the passage of time or both, would constitute an event of default or violation or breach, under any contract, agreement, instrument, indenture, lease, judicial or administrative order, decree, rule or regulation or other document or law affecting the Governmental Agency or its governing body.

(F) Attached hereto as Exhibit D is a true, accurate and complete copy of the resolution or ordinance of the governing body of the Governmental Agency approving and authorizing the execution and delivery of this Assistance Agreement. Such resolution or ordinance was duly enacted or adopted at a meeting of the governing body of the Governmental Agency at which a quorum was present and acting throughout; such resolution or ordinance is in full force and effect and has not been superseded, altered, amended or repealed as of the date hereof; and such meeting was duly called and held in accordance with law.

(G) All actions taken by the Governmental Agency in connection with this Assistance Agreement and the Loan described herein and the Project have been in full compliance with the provisions of the Kentucky Open Meeting Law, KRS 61.805 to 61.850.

(H) The Governmental Agency has all licenses, permits and other governmental approvals (including but not limited to all required approvals of the Kentucky Public Service Commission) required to own, occupy, operate and maintain the Project, to charge and collect the Service Charges and to enter into this Assistance Agreement, is not in violation of and has not received any notice of an alleged violation of any zoning or land use laws applicable to the Project, and has full right, power and authority to perform the acts and things as provided for in this Assistance Agreement.

(I) Legal counsel to the Governmental Agency has duly executed and delivered the opinion of legal counsel substantially in the form set forth in Exhibit E hereto.

(J) The Governmental Agency is in full compliance with all federal and state labor and procurement laws in connection with the planning, design, acquisition and construction of the Project.

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(K) Project is consistent with the water supply plan developed pursuant to 401 KAR 4:220 for the county in which the Governmental Agency is located.

## ARTICLE III

### AUTHORITY'S AGREEMENT TO MAKE LOAN; TERMS

Section 3.1. Determination of Eligibility. Pursuant to the terms of the Act and the Indenture, the Authority has determined that the Governmental Agency's Project is a Drinking Water Supply Project under the Act and the Governmental Agency is entitled to financial assistance from the Authority in connection with financing the Construction of the Project.

Section 3.2. Principal Amount of Loan Established; Loan Payments; Disbursement of Funds. The principal amount of the Loan shall be the Loan Amount as identified in the Project Specifics, subject to such adjustments as may be set forth in the Schedule of Payments. Principal payments shall be made semiannually in the amounts and on the dates to be established by the Schedule of Payments, which Schedule of Payments shall provide for approximately level debt service payments over the Repayment Term set forth in the Project Specifics, commencing with the Amortization Commencement Date set forth in the Project Specifics.

The Loan shall bear interest, payable semiannually, at the Loan Rate identified in the Project Specifics, and after the Amortization Commencement Date, in the amounts (based on such Loan Rate) and on the dates set forth in the Schedule of Payments; provided that, should an Event of Default occur, such payments of interest shall be made on the first day of each month during the continuation of such Event of Default.

The Authority shall advance the proceeds of the Loan as Construction of the Project progresses upon the submission by the Governmental Agency of a Requisition for Funds in substantially the same form as Exhibit B hereto. Each disbursement under a Requisition for Funds representing a portion of the principal amount of the Loan shall bear interest at the Loan Rate from the date of the disbursement; and shall be subject to the further requirements set forth in Article IV hereof.

Payments of principal and interest on the Loan shall be made at the principal office of the Authority or the Trustee, as designated by the Authority.

Section 3.3. Governmental Agency's Right to Prepay Loan. The Governmental Agency shall have the right to prepay and retire the entire amount of the Loan at any time without penalty upon written notice to the Authority no less than five (5) Business Days in advance of said prepayment.

Notwithstanding the foregoing, upon the determination by the Authority that it intends to issue revenue bonds secured by a pledge of the payments on the Loan, the Authority shall advise the Governmental Agency (i) of its intention to proceed with the authorization of such bonds (ii) of the limitation on prepayments after such bonds are issued and (iii) that the Governmental Agency has thirty (30) days from its receipt of said notice to exercise its option to prepay the Loan. Upon the expiration of said thirty day period the Governmental Agency's right to prepay the Loan shall be limited to the terms described in such notice.

Section 3.4. Subordination of Loan. The Authority hereby agrees that the security interest and source of payment for the Loan shall be inferior and subordinate to the security interest and source of payment for the Debt Obligations of the Governmental Agency payable

from the revenues of the System outstanding at the time this Assistance Agreement is executed as identified in the Project Specifics; provided, however, the Authority shall receive notice of any additional financings in accordance with Section 5.5(D) hereof.

## ARTICLE IV

### CONDITIONS PRECEDENT TO DISBURSEMENT; REQUISITION FOR FUNDS

Section 4.1. Covenants of Governmental Agency and Conditions of Loan. By the execution of this Assistance Agreement, the Governmental Agency agrees that prior to any requests for the disbursement of all or a portion of the Loan made hereunder, the Governmental Agency shall supply the Authority and the Cabinet appropriate documentation, satisfactory to the Authority indicating the following:

(A) That the Authority and the Cabinet and any appropriate regulatory agency of the Commonwealth as may be designated by the Authority or the Cabinet, and their respective duly authorized agents, shall have the right at all reasonable times, subject to prior notice to the Governmental Agency, to examine and inspect the Project.

(B) All real estate and interest in real estate and all personal property constituting the Project and the sites of the Project heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency and constitute a part of the System.

(C) In the event the Governmental Agency is required to provide financing for the Project from sources other than the Authority (as described in the Project Specifics) the Authority shall have the right to receive such reasonable proofs as it may require of the ability of the Governmental Agency to finance the costs of the Construction of the Project over and above the Loan, prior to the disbursement by the Authority of any portion of the Loan.

(D) The Governmental Agency shall do all things necessary to acquire all proposed and necessary sites, easements and rights of way necessary or required in respect of the Project and demonstrate its ability to construct the Project in accordance with the plans, design and specifications prepared for the Governmental Agency by the Engineers.

(E) Actual construction and installation incident to the Project shall be performed by either the lump-sum (fixed price) or unit price contract method, and adequate legal methods of obtaining public, competitive bidding will be employed prior to the awarding of the construction contract for the Project in accordance with Kentucky law.

(F) Unless construction of the Project has already been initiated as of the date of this Assistance Agreement, pursuant to due compliance with state law and applicable regulations, the Project will not be advertised or placed on the market for construction bidding by the Governmental Agency until the final plans, designs and specifications therefor have been approved by such state and federal agencies and authorities as may be legally required, and until written notification of such approvals has been received by the Governmental Agency and furnished to the Cabinet.

(G) Duly authorized representatives of the Cabinet and such other agencies of the Commonwealth as may be charged with responsibility will have reasonable access to the construction work whenever it is in preparation or progress, and the Governmental Agency will assure that the contractor or contractors will provide facilities for such access and inspection.

(H) The construction contract or contracts shall require the contractor to comply with all provisions of federal and state law legally applicable to such work, and any amendments or modifications thereto, together with all other applicable provisions of law, to cause appropriate provisions to be inserted in subcontracts to insure compliance therewith by all subcontractors subject thereto, and to be responsible for the submission of any statements required of subcontractors thereunder.

(I) A work progress schedule utilizing a method of standard acceptance in the engineering community shall be prepared prior to the institution of construction in connection with each construction contract, or, if construction has already been initiated as of the date of this Assistance Agreement, at the earliest practicable date, to indicate the proposed schedule as to completion of the Project, and same shall be maintained monthly thereafter to indicate the actual construction progress of the Project.

(J) Prior to the award of the construction contract and prior to the commencement of construction, the Governmental Agency will arrange and conduct a conference as to the Project said conference to include representatives of the Authority, the Governmental Agency, the Cabinet and any other participating federal or state agency, the Engineers, and all construction contractors, such conference to be held in accordance with guidelines established by the Authority and the Cabinet. A written brief of said conference summarizing the construction schedule, fund requirements schedule, payment authorizations, responsible parties for approval of all facets of the construction work and payment therefor, and other pertinent matters shall be prepared and distributed to each agency involved, and all construction contractors and Engineers. Provided, however, that in the event construction shall have been initiated as of the date of this Assistance Agreement, this provision may be waived.

(K) All construction contracts will be so prepared that federal participation costs, if any, and state participation costs may be readily segregated from local participation costs, if any, and from each other, and in such manner that all materials and equipment furnished to the Governmental Agency may be readily itemized.

(L) Any change or changes in a construction contract will be promptly submitted to the Cabinet and any state or federal agencies.

(M) The Construction, including the letting of contracts in connection therewith, will conform in all respects to applicable requirements of federal, state and local laws, ordinances, rules and regulations.

(N) The Governmental Agency will proceed expeditiously with and complete the Project in accordance with the approved surveys, plans specifications and designs or amendments thereto, prepared by the Engineers for the Governmental Agency and approved by state and federal agencies.

(O) If requested, the Governmental Agency will erect at the Project sites, signs satisfactory to the Authority and the United States Environmental Protection Agency noting the participation of the Authority and the U.S. Government, respectively, in the financing of the Project.

(P) Except as otherwise provided in this Assistance Agreement, the Governmental Agency shall have the sole and exclusive charge of all details of the Construction.

(Q) The Governmental Agency shall keep complete and accurate records of the costs of acquiring the Project sites and the costs of Construction. The Governmental Agency shall permit the Authority and the Cabinet, acting by and through their duly authorized representatives, and the duly authorized representatives of state and/or federal agencies to inspect all books, documents, papers and records relating to the Project at any and all reasonable times for the purpose of audit and examination, and the Governmental Agency shall submit to the Authority and the Cabinet such documents and information as such public bodies may reasonably require in connection with the administration of any federal or state assistance.

(R) The Governmental Agency shall require that each construction contractor or contractors furnish a performance and a payment bond in an amount at least equal to one hundred percent (100%) of the contract price or the portion of the Project covered by the particular contract as security for the faithful performance of such contract.

(S) The Governmental Agency shall require that each of its contractors and all subcontractors maintain during the life of the construction contract, worker's compensation insurance, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed and accepted by the Governmental Agency, the contractor shall maintain builders risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor, and all subcontractors, as their interests may appear.

(T) The Governmental Agency shall provide and maintain competent and adequate resident engineering services covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of assuring that Construction conforms to the approved plans, specifications and designs prepared by the Engineers. Such resident engineer shall certify to the Cabinet, any involved state or federal agencies, and the Governmental Agency at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or, approved amendments thereto.

(U) The Governmental Agency shall demonstrate to the satisfaction of the Authority the legal capability of the Governmental Agency to enact, adopt, levy, charge, collect, enforce and remit to the Authority and the Cabinet the Service Charges of the Governmental Agency described in the Schedule of Service Charges attached to and made a part of this Assistance Agreement as Exhibit C and submit proof satisfactory to the Authority that the Service Charges are in full force and effect.

(V) The Governmental Agency shall require all laborers and mechanics employed by contractors and subcontractors on the Project shall be paid wages at rates not less than prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of Chapter 31 of title 40, United States Code.

Section 4.2. Additional Conditions to Disbursement Required Under the Federal Agreement. The Governmental Agency, in order to comply with the terms and conditions of the

Federal Agreement, further covenants and further agrees to additional conditions to disbursement, as follows:

(A) Notwithstanding any other agreements contained herein regarding the maintenance of books and records, that it shall maintain Project accounts in accordance with generally accepted governmental accounting standards, as required by the Federal Agreement. The Governmental Agency shall retain such records for no less than three (3) years following the final payment by the Governmental Agency under this Assistance Agreement or if any portion of the Project is disposed of, until at least three (3) years after such disposition; provided that if any litigation, claim, appeal or audit is commenced prior to the end of such period such records shall be maintained until the completion of such action or until three (3) years after such commencement, whichever is later.

(B) That it has not and will not apply any other federal funding to the Project in a manner that would cause it to receive "double benefits" as described in Section 603 of the Water Quality Act of 1987.

(C) That all property required for the completion of the Project shall be obtained, by easement, purchase or other means acceptable to the Authority, prior to commencement of construction and that the relocation of any Person resulting therefrom be in accordance with 49 CFR24 for Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

(D) That all Project contractors shall be required to retain Project records for the periods established for the retention of the Governmental Agency's records in Section 4.2(A).

(E) That no more than fifty percent (50%) of the proceeds of the Loan shall be disbursed until approval by the Cabinet of the final plan for operation for the Project.

(F) That no more than ninety percent (90%) of the proceeds of the Loan shall be disbursed until approval by the Cabinet of the draft operations and maintenance manual.

(G) That final disbursement will not be allowed until approval by the Cabinet of a final operations and maintenance manual.

(H) That, as required by 40 CFR 35.2218, all engineering services regarding construction and regarding the first year of operation of the Project shall be provided for, including the following:

(1) The operation of the Project and the revision of the operations and maintenance manual as necessary to accommodate actual operating experience;

(2) The training of operating personnel, including preparation of curricula and training material for operating personnel; and

(3) Advice as to whether the Project is meeting the Project performance standards (including three quarterly reports and one project performance report).

(I) That it shall advise the Cabinet and the Authority in writing of the date for initiation of operation of the Project.

(J) That one year after operation is initiated, it shall certify to the Cabinet and the Authority that the Project is capable of meeting the Project performance standards.

(K) That it shall provide that qualified inspectors are present at the construction site. A summary of such inspector's qualifications and experience shall be submitted to the Cabinet and the Authority.

(L) That it shall notify the Authority and the Cabinet of the completion date of the Project.

(M) That it agrees to the terms and conditions of its application for assistance and the Authority's commitment to provide assistance, the terms of which are incorporated herein by reference.

(N) That all measures required to minimize water pollution to affected waters shall be employed in the Project including compliance with Section 404 of PL 92-500, as amended, it being understood that approval of the Project does not constitute sanction or approval of any changes or deviations from established water quality standards, criteria implementation dates, or dates established by enforcement proceedings.

Section 4.3. Disbursements of Loan; Requisition for Funds. The Governmental Agency shall submit to the Authority (or the Trustee acting on behalf of the Authority, if so designated) and the Cabinet a Requisition for Funds prior to the fifth day of each month (or such other designated period as is acceptable to the Authority), in substantially the same form as that attached to this Assistance Agreement as Exhibit B and made a part hereof, accompanied by, to the extent requested by the Authority, the following documentation:

(A) A full and complete accounting of the costs of the planning and design of the Project to be obligated by contract or otherwise during the month in question, or already obligated and not included in any previous accounting;

(B) A full and complete accounting of any costs of the planning and design of the Project paid by the Governmental Agency from its own funds with the approval of the Authority and not included in any previous accounting for which it seeks reimbursement;

(C) A full and complete accounting of any costs of the planning and design of the Project paid or requisitioned under any other financing, loan, bond, grant or similar agreement or paid from its own funds for which it does not seek reimbursement and which have not been identified in any previous requisition form.

(D) The Contractor's estimate of work performed during the preceding month pursuant to construction contracts for the Project and payment thereunder due, together with the Engineer's and Governmental Agency's approval thereof for disbursement by the Authority.

Upon the Authority's receipt of the Requisition for Funds, and such additional documentation as it may require, and subject to certification by the Cabinet, the Authority may direct the Trustee to remit the amount requested to the Governmental Agency as a draw upon the Loan.

## ARTICLE V

### CERTAIN COVENANTS OF THE GOVERNMENTAL AGENCY; PAYMENTS TO BE MADE BY GOVERNMENTAL AGENCY TO THE AUTHORITY

**Section 5.1. Imposition of Service Charges.** The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Assistance Agreement, pursuant to which the Loan is to be made by the Authority to the Governmental Agency as specified herein and in the Act and the Indenture. The Governmental Agency hereby further irrevocably covenants and agrees that it already has, or will, to the extent necessary, immediately impose Service Charges upon all persons, firms and entities to whom or which services are provided by the System, such Service Charges to be no less than as set forth in Exhibit C annexed hereto. If so required, such Service Charges shall be in addition to all other rates, rentals and service charges of a similar nature of the Governmental Agency now or hereafter authorized by law, and now or hereafter being levied and collected by the Governmental Agency and shall be levied and collected solely for the purpose of repaying to the Authority all sums received from the Authority as representing the Loan in respect of the Project.

**Section 5.2. Governmental Agency's Obligation to Repay Loan.** The obligation of the Governmental Agency to repay to the Authority the amount of the Loan from the Service Charges shall not be revocable, and in the event that services supplied by the Project shall cease, or be suspended for any reason, the Governmental Agency shall continue to be obligated to repay the Loan from the Services Charges. In the event the Governmental Agency defaults in the payment of any Service Charges to the Authority, the amount of such default shall bear interest at the per annum rate equal to the Default Rate set forth in the Project Specifics, from the date of the default until the date of the payment thereof.

**Section 5.3. Covenant to Adjust Service Charges.** In the event, for any reason, the Schedule of Service Charges shall prove to be insufficient to provide to the Authority the minimum sums set forth in the Schedule of Payments, to make the required deposits to the Maintenance and Replacement Reserve and to provide for the operation of the System, the Governmental Agency hereby covenants and agrees that it will, upon notice by the Authority, to the full extent authorized by law, both federal and state, immediately adjust and increase such Schedule of Service Charges, or immediately commence proceedings for a rate adjustment and increase with all applicable regulatory authorities, so as to provide funds sufficient to pay to the Authority the minimum sums set forth in the Schedule of Payments, to provide for the operation of the System as required under this Assistance Agreement and to make the required deposits to the Maintenance and Replacement Reserve.

**Section 5.4. Adequacy of Service Charges.** The Service Charges herein covenanted to be imposed by the Governmental Agency shall be fixed at such rate or rates (and it is represented that the Schedule set forth in Exhibit C hereto so qualifies), as shall be at least adequate to make the payments at the times and in the amounts set forth in the Schedule of Payments, to make the required deposits to the Maintenance and Replacement Reserve and to provide for the operation of the System, subject to necessary governmental and regulatory approvals.

The Service Charges imposed by the Governmental Agency shall be paid by the users of the System and accordingly the Project not less frequently than the Service Charge Payment period set forth in the Project Specifics, and shall be remitted to the Authority by the

Governmental Agency with a report showing collections and any delinquencies. A report of all collections and delinquencies shall be made at least semi-annually on or before each Payment Date identified in the Schedule of Payments.

Section 5.5. Covenant to Establish Maintenance and Replacement Reserve. The Governmental Agency shall establish a special account identified as a "Maintenance and Replacement Reserve". The Governmental Agency shall deposit into the Maintenance and Replacement Reserve an amount equal to the amount set forth in the Project Specifics at the times set forth in the Project Specifics. Amounts in the Maintenance and Replacement Reserve may be used for extraordinary maintenance expenses related to the Project or for the unbudgeted costs of replacing worn or obsolete portions of the Project.

Section 5.6. Covenant to Charge Sufficient Rates; Reports; Inspections. The Governmental Agency hereby irrevocably covenants and agrees with the Authority:

(A) That, as aforesaid, it will at all times impose, prescribed, charge and collect the Service Charges set forth in Exhibit C as shall result in net revenues to the Governmental Agency at least adequate to provide for the payments to the Authority required by this Assistance Agreement, to provide for the operation of the System and to make the required deposits to the Maintenance and Replacement Reserve.

(B) That it will furnish to the Authority and the Cabinet not less than annually reports of the operations and income and revenues of the System, and will permit authorized agents of the Authority to inspect all records, accounts and data of the System at all reasonable times.

(C) That it will collect, account for and promptly remit to the Authority those specific revenues, funds, income and proceeds derived from Service Charges incident to this Assistance Agreement.

(D) That it will notify the Authority in writing of its intention to issue bonds or notes payable from the revenues of the System not less than thirty (30) days prior to the sale of said obligations. It further covenants that it will not issue any notes, bonds or other obligations payable from the revenues of the System, if the pledge of the revenues of the System to the repayment of such obligations is to rank on a parity with, or superior to, the pledge of the revenues of the System for the repayment of the Loan granted under this Assistance Agreement, unless the Governmental Agency has secured the consent of the Authority not less than fifteen (15) days prior to the issuance of such obligations.

Section 5.7. Segregation of Funds. The Governmental Agency shall at all times account for the income and revenues of the System and distinguish same from all other revenues, moneys and funds of the Governmental Agency, if any.

## ARTICLE VI

### OTHER COVENANTS OF THE GOVERNMENTAL AGENCY

**Section 6.1. Further Assurance.** At any time and all times the Governmental Agency shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, assets and revenues herein pledged or assigned, or intended so to be, or which the Governmental Agency may hereafter become bound to pledge or assign.

**Section 6.2. Completion of Project.** The Governmental Agency hereby covenants and agrees to proceed expeditiously with and promptly complete the Project in accordance with the plans, designs and specifications prepared by the Engineers for the Governmental Agency.

**Section 6.3. Establishment of Completion Date.** The completion date for the Project shall be evidenced to the Authority by a certificate signed by the Engineer and an authorized representative of the Governmental Agency stating that, except for amounts retained by the Authority for costs of the Project not then due and payable, (i) the Construction has been completed and all labor, services, materials, supplies, machinery and equipment used in such Construction have been paid for, (ii) all other facilities necessary in connection with the Project have been acquired, constructed, equipped and installed and all costs and expenses incurred in connection therewith have been paid, (iii) the Project and all other facilities in connection therewith have been acquired, constructed, equipped and installed to his satisfaction.

**Section 6.4. Commitment to Operate.** The Governmental Agency hereby covenants and agrees to commence operation of the Project immediately on completion of construction and not to discontinue operations or dispose of such Project without the approval of the Authority.

**Section 6.5. Continue to Operate.** The Governmental Agency hereby covenants and agrees to continuously operate and maintain the Project in accordance with applicable provisions of federal and state law and to maintain adequate records relating to said operation; said records to be made available to the Authority upon its request at all reasonable times.

**Section 6.6. Tax Covenant.** In the event the Authority issues Bonds which are intended to be excludable from gross income for federal income tax purposes to provide the funds for the Loan, the Governmental Agency shall at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure such exclusion and shall take such actions as may be directed by the Authority in order to accomplish the foregoing. The Governmental Agency shall not permit (i) the proceeds of the Loan to be used directly or indirectly in any trade or business, (ii) its payments hereunder to be secured directly or indirectly by property to be used in a trade or business, (iii) any management agreement for the operation of the System or (iv) any federal guarantee of its obligations hereunder without the prior written consent of the Authority. The Governmental Agency will not acquire or pledge any obligations which would cause the Bonds to be "arbitrage bonds" within the meaning of the Code.

**Section 6.7. Accounts and Reports.** The Governmental Agency shall at all times keep, or cause to be kept, proper books of record and account in accordance with the "Uniform System of

Accounts" established by the Commonwealth, in which complete and accurate entries shall be made of all its transactions relating to the System and which shall at all reasonable times be subject to the inspection of the Authority.

Section 6.8. Financial Statements. Within one hundred eighty (180) days after the end of each fiscal year of the Governmental Agency, the Governmental Agency shall provide to the Authority, itemized financial statements of income and expense and a balance sheet in reasonable detail, certified as accurate by a firm of independent certified public accountants or the Auditor of Public Accounts of the Commonwealth. All financial information must be satisfactory to the Authority as to form and content and be prepared in accordance with generally accepted accounting principles on a basis consistent with prior practice unless specifically noted thereon. With such financial statements, the Governmental Agency shall furnish to the Authority a certificate stating that, to the best knowledge of the authorized representative signing such certificate, no default under this Assistance Agreement exists on the date of such certificate, or if any such default shall then exist, describing such default with specificity.

Section 6.9. General Compliance With All Duties. The Governmental Agency shall faithfully and punctually perform all duties with reference to the Project and the System required by the Constitution and laws of the Commonwealth, and by the terms and provisions of this Assistance Agreement and any other Debt Obligations.

Section 6.10. General. The Governmental Agency shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Governmental Agency under the provisions of the Act, the Federal Act and this Assistance Agreement in accordance with the terms of such provisions including the Additional Covenants and Agreements, if any, set forth in Exhibit G hereto.

Section 6.11. Further Covenants under the Federal Agreement. The Governmental Agency shall comply with all further requirements or conditions which may arise from time to time in order to assure compliance with the Federal Act, and with the agreements of the Authority set forth in the Federal Agreement, including but not limited to the following:

(A) The Governmental Agency shall provide all information requested of it by the Authority or the Cabinet so that (i) the Grants Information Control System, referred to in the Federal Agreement, can be maintained, (ii) the accounting and auditing procedures required by the Federal Act can be maintained and (iii) the Authority can furnish the information required of its under the Federal Agreement.

(B) Qualified operating personnel, properly certified by the Cabinet, shall be retained by the Governmental Agency to operate the Project during the entire term of this Assistance Agreement. An approved plan of operating and an operations and maintenance manual for the Project shall be provided by the Governmental Agency to the Cabinet and the Authority. The Project shall be operated and maintained in an efficient and effective manner.

(C) All residents in the service area of the Project must be offered the same opportunity to become users of the Project regardless of race, creed, color, or level of income.

(D) The Governmental Agency shall comply with provisions contained in the following federal regulations, orders, acts and circulars and the following statutes and regulations of the Commonwealth.

(1) Federal Cross-Cutters

Environmental Authorities

- (a) Archeological and Historic Preservation Act of 1974, Pub. L. 86-523, as amended
- (b) Clean Air Act, Pub. L. 84-159, as amended
- (c) Coastal Barrier Resources Act, Pub. L. 97-348
- (d) Coastal Zone Management Act, Pub. L. 93-583, as amended
- (e) Endangered Species Act, Pub. L. 93-205, as amended
- (f) Environmental Justice, Executive Order 12898
- (g) Floodplain Management, Executive Order 11988 as amended by Executive Order 12148
- (h) Protection of Wetlands, Executive Order 11990
- (i) Farmland Protection Policy Act, Pub. L. 97-98
- (j) Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended
- (k) National Historic Preservation Act of 1966, PL 89-665, as amended
- (l) Safe Drinking Water Act, Pub. L. 93-523, as amended
- (m) Wild and Scenic Rivers Act, Pub. L. 90-542, as amended ..

Economic and Miscellaneous Authorities

- (a) Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended, Executive Order 12372
- (b) Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans.
- (c) Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended
- (d) Debarment and Suspension, Executive Order 12549

Social Policy Authorities

- (a) Age Discrimination Act of 1975, Pub. L. 94-135
- (b) Title VI of the Civil Rights Act of 1964, Pub. L. 88-352
- (c) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act)
- (d) Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250)
- (e) Equal Employment Opportunity, Executive Order 11246
- (f) Women's and Minority Business Enterprise, Executive Orders 11625, 12138, and 12432

- (g) Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590

(2) State:

- (a) KRS 224
- (b) KRS 224A.1115 Federally Assisted Drinking Water Revolving Fund
- (c) KRS Chapter 337, Labor Laws
- (d) 401 KAR Chapter 5

Section 6.12. Continuing Disclosure Obligation. The Governmental Agency covenants and agrees that notwithstanding any other provision of this Assistance Agreement to the contrary, upon written notice from the Authority that the Schedule of Payments provides ten percent (10%) or more of the debt service requirements on an issue of the Authority's Bonds and that compliance by the Governmental Agency with the requirements of Securities and Exchange Commission Rule 15c2-12, as amended (the "SEC Rule") is required in connection with the Authority's Bonds, the Governmental Agency shall provide to the Authority such information as may be required by the Rule, within the time periods set out in such notice by the Authority, to enable the Authority to establish to the satisfaction of prospective purchasers of the Authority's Bonds that the requirements of the SEC Rule will be satisfied in connection with the issuance of the Authority's Bonds. The Governmental Agency further understands and agrees that the Authority shall act as the Governmental Agency's disclosure agent for purposes of compliance with the SEC Rule and that upon a failure by the Governmental Agency to provide the information required to be provided under the SEC Rule within the time frame specified in such notice, the Authority and/or the beneficial owners and holders of the Authority's Bonds shall be specifically granted the right of enforcing the provisions of this Section 6.12 by an action in mandamus, for specific performance, or similar remedy to compel performance.

## ARTICLE VII

### MAINTENANCE, OPERATION, INSURANCE AND CONDEMNATION

Section 7.1. Maintain System. The Governmental Agency agrees that during the entire term of this Assistance Agreement, it will keep the Project, including all appurtenances thereto, and the equipment and machinery therein, in good and sound repair and good operating condition at its own cost so that the completed Project will continue to provide the services for which the System is designed.

Section 7.2. Additions and Improvements. The Governmental Agency shall have the privilege of making additions, modifications and improvements to the sites of the Project, and to the Project itself from time to time provided that said additions, modifications and improvements do not impair the operation or objectives of the Project. The Cost of such additions, modifications and improvements shall be paid by the Governmental Agency, and the same shall be the property of the Governmental Agency and shall be included under the terms of this Assistance Agreement as part of the site of the Project, or the Project, as the case may be. Nothing herein contained shall be construed as precluding the Authority and the Governmental Agency from entering into one or more supplementary Assistance Agreements providing for an additional Loan or Loans in respect of additional Projects undertaken by the Governmental Agency.

Section 7.3. System Not to Be Disposed Of. The Governmental Agency covenants and agrees that, until satisfaction in full of its obligations hereunder, it will not, without the prior written consent of the Authority, which consent shall not be unreasonably withheld, sell, mortgage, or in any manner dispose of, or surrender control or otherwise dispose of any of the facilities of the System or any part thereof (except that the Governmental Agency may retire obsolete and worn out facilities, and sell same, if appropriate).

Section 7.4. Compliance with State and Federal Standards. The Governmental Agency agrees that it will at all times provide operation and maintenance of the Project to comply with the water quality standards, if any, established by any state or federal agency. The Governmental Agency agrees that qualified operating personnel properly certified by the Commonwealth will be retained to operate the Project during the entire term of this Assistance Agreement.

Section 7.5. Access to Records. The Governmental Agency agrees that it will permit the Authority and any state or federal agency and their respective agents to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the Project at any reasonable time following completion of construction of the Project, and commencement of operations thereof.

Section 7.6. Covenant to Insure - Casualty. The Governmental Agency agrees to insure the Project facilities in such amount as like properties are similarly insured by political subdivisions similarly situated, against loss or damage of the kinds usually insured against by political subdivisions similarly situated, by means of policies issued by reputable insurance companies duly qualified to do such business in the Commonwealth.

Section 7.7. Authority as Named Insured. Any insurance policy issued pursuant to Section 7.5 hereof, shall be so written or endorsed as to make losses, if any, payable to the Governmental Agency, and to the Authority, as their interests may appear.

Section 7.8. Covenant to Insure - Liability. The Governmental Agency agrees that it will carry public liability insurance with reference to the Project with one or more reputable insurance companies duly qualified to do business in the Commonwealth, insuring against such risks (including but not limited to personal injury, death and property damage) and in such amounts as are set forth in the Project Specifics, and naming the Authority as an additional insured.

Section 7.9. Covenant Regarding Worker's Compensation. Throughout the entire term of this Assistance Agreement, the Governmental Agency shall maintain worker's compensation coverage, or cause the same to be maintained.

Section 7.10. Application of Casualty Insurance Proceeds. If, prior to the completion of the term of this Assistance Agreement, the Project shall be damaged or partially or totally destroyed by fire, windstorm or other casualty, there shall be no abatement or reduction in the amount payable by the Governmental Agency pursuant to the terms of this Assistance Agreement and the Governmental Agency will (1) promptly repair, rebuild or restore the Project damaged or destroyed; and (2) apply for such purpose so much as may be necessary of any net proceeds of insurance resulting from claims for such losses, as well as any additional moneys of the Governmental Agency necessary therefor. All net proceeds of insurance resulting from claims for such losses shall be paid to the Governmental Agency, and shall be promptly applied as herein provided.

Section 7.11. Eminent Domain. In the event that title to, or the temporary use of, the Project, or any part thereof, shall be taken under the exercise of the power of eminent domain by any governmental body or by any Person acting under governmental authority, there shall be no abatement or reduction in the minimum amounts payable by the Governmental Agency to the Authority pursuant to the terms of this Assistance Agreement, and any and all net proceeds received from any award made in such eminent domain proceedings shall be paid to and held by the Governmental Agency in a separate condemnation award account and shall be applied by the Governmental Agency in either or both of the following ways, as shall be determined by the Governmental Agency in its sole discretion:

(A) The restoration of the improvements located on the Project sites to substantially the same condition as prior to the exercise of said power of eminent domain; or

(B) The acquisition of additional property, if necessary, and the acquisition of additional facilities by construction or otherwise, equivalent to the Project facilities, which property and facilities shall be deemed to be a part of the Project sites and a part of the Project facilities and to be substituted for Project facilities so taken by eminent domain, without the payment of any amount other than herein provided, to the same extent as if such property and facilities were specifically described herein.

Any balance of the net proceeds of the award in such eminent domain proceedings after the carrying out of the mandatory proceedings stipulated in (A) and (B) of this Section 7.11, shall be paid to the Governmental Agency upon delivery to the Authority of a certificate signed by an authorized officer of the Governmental Agency to the effect that the Governmental Agency has

complied with either subparagraph (A) or (B), or both, of this Section, and written approval of such certificate by an authorized officer of the Authority. In no event will the Governmental Agency voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the written consent of the Authority.

Section 7.12. Flood Insurance. All structures located in flood prone areas shall be covered by flood insurance carried by the Governmental Agency for an amount equal to the total Project cost excluding the cost of land and any uninsurable improvements, or for the maximum limit available under the National Flood Insurance Act of 1968, as amended, whichever is less, for the entire useful life of the Project.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

**Section 8.1. Events of Default Defined.** The following will be "Events of Default" under this Assistance Agreement and the term "Event of Default" or "Default" will mean, whenever it is used in this Assistance Agreement, any one or more of the following events:

(A) Failure by the Governmental Agency to pay any payments specified herein at the times specified herein.

(B) Failure by the Governmental Agency to observe or perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (A) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied will have been given to the Governmental Agency by the Authority unless the Authority agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Authority will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Governmental Agency within the applicable period and diligently pursued until such failure is corrected.

(C) The dissolution or liquidation of the Governmental Agency, or the voluntary initiation by the Governmental Agency of any proceeding under any federal or state law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Governmental Agency of any such proceeding which will remain undismissed for sixty (60) days, or the entry by the Governmental Agency into an agreement of composition with creditors or the failure generally by the Governmental Agency to pay its debts as they become due.

(D) A default by the Governmental Agency under the provisions of any agreements relating to its Debt Obligations.

**Section 8.2. Remedies on Default.** Whenever any Event of Default referred to in Section 8.1 has occurred and is continuing (other than an event of default arising under Section 6.13 of this Assistance Agreement), the Authority may, without any further demand or notice, take one or any combination of the following remedial steps:

(A) Declare all payments due hereunder, as set forth in the Schedule of Payments, to be immediately due and payable.

(B) Exercise all the rights and remedies of the Authority set forth in the Act.

(C) Take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Assistance Agreement.

(D) Submit a formal referral to the appropriate federal agency, as required by the Federal Agreement.

The sole remedies for an Event of Default under this Assistance Agreement arising by virtue of the failure of the Governmental Agency to comply with the provisions of Section 6.10 hereof shall be those remedies specifically set forth in Section 6.10 hereof

Section 8.3. Appointment of Receiver. Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Authority under this Assistance Agreement, the Authority shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the System and all receipts therefrom, pending such proceedings, with such power as the court making such appointment shall confer; provided, however, that the Authority may, with or without action under this Section, pursue any available remedy to enforce the payment obligations hereunder, or to remedy any Event of Default.

Section 8.4. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive, and every such remedy will be cumulative and will be in addition to every other remedy given hereunder and every remedy now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power and any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 8.5. Consent to Powers of Authority Under Act. The Governmental Agency hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges in respect of the Project upon the occurrence of an Event of Default, and the Governmental Agency hereby covenants and agrees that if the Authority should in the future have recourse to said rights and powers, the Governmental Agency shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Assistance Agreement.

Section 8.6. Waivers. In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver will be limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

Section 8.7. Agreement to Pay Attorneys' Fees and Expenses. In the event that either party hereto will default under any of the provisions hereof and the non-defaulting party employs attorneys or incurs other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will pay on demand therefor to the non-defaulting party the fees of such attorneys and such other expenses so incurred by the non-defaulting party.

## ARTICLE IX

### MISCELLANEOUS PROVISIONS

Section 9.1. Approval not to be Unreasonably Withheld. Any approval of the Authority required by this Assistance Agreement shall not be unreasonably withheld and shall be deemed to have been given on the thirtieth (30th) day following the submission of any matter requiring approval to the Authority, unless disapproved in writing prior to such thirtieth (30th) day. Any provision of this Assistance Agreement requiring the approval of the Authority or the satisfaction or the evidence of satisfaction of the Authority shall be interpreted as requiring action by an authorized officer of the Authority granting, authorizing or expressing such approval or satisfaction, as the case may be, unless such provision expressly provides otherwise.

Section 9.2. Approval. This Agreement is made subject to, and conditioned upon, the approval of this Assistance Agreement by the Secretary of the Finance and Administration Cabinet.

Section 9.3. Effective Date. This Assistance Agreement shall become effective as of the date first set forth hereinabove and shall continue in full force and effect until the date the obligations of the Governmental Agency pursuant to the provisions of this Assistance Agreement have been fully satisfied.

Section 9.4. Binding Effect. This Assistance Agreement shall be binding upon, and shall inure to the benefit of the parties hereto, and to any person, officer, board, department, agency, municipal corporation, or body politic and corporate succeeding by operation of law to the powers and duties of either of the parties hereto. This Assistance Agreement shall not be revocable by either of the parties, without the written consent of the other party.

Section 9.5. Severability. In the event that any provision of this Assistance Agreement will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

Section 9.6. Assignability. The rights of the Authority under this Assistance Agreement shall be assignable by the Authority without the consent of the Governmental Agency, but none of the rights, duties or obligations of the Governmental Agency under this Assistance Agreement shall be assignable by the Governmental Agency without the prior written consent of the Authority.

Section 9.7. Execution in Counterparts. This Assistance Agreement may be simultaneously executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

Section 9.8. Applicable Law. This Assistance Agreement will be governed by and construed in accordance with the laws of the Commonwealth.

Section 9.9. Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Assistance Agreement.

**EXHIBIT A**  
**Breathitt County Water District**  
**PROJECT SPECIFICS**  
**F11-07**

**GOVERNMENTAL AGENCY:**

Name:        Breathitt County Water District  
              1137 Main Street, Suite 305  
              Jackson, KY 41339

Contact     Bobby Thorpe, Jr.  
Person:     (606) 436-3158

**SYSTEM:**    Water

**PROJECT:**

This request is comprised of three primary components. These projects will provide an adequate water supply to a community that currently has contaminated drinking water sources. Selective testing indicates that contaminants include iron, sulfur, manganese, sodium chloride as well as pathogens that usually include fecal coliform bacterial contamination at various levels.

The first project is the installation of approximately 78,330 linear feet of PVC and ductile iron pipe in various sizes to service KY 315 north of 1933 (Turner's Creek) and the remaining side roads off of Canoe Road including Canoe, Spicer Branch, Butter Point, Buzzard Fork, Stamper Fork and Lick Branch. The project will also install a service line via railroad bore to Cecil Clair on HWY 52 and upgrade the HWY 52 and Town Hill pump stations. In addition, approximately 46,247 linear feet of 6", 4" and 2" PVC of new lines will be constructed to serve the area of South Fork from Swift Branch to Open Fork and Press Howard Fork and the Short Fork Road area. Lastly, approximately 25,000 linear feet of 4" and 2" line will be constructed to extend service from KY 1114 to Walter Combs' House at the end of Houston Road. Approximately 340 customers will be added as a result of the projects.

**PROJECT BUDGET:**

|                         | <u>Total</u>        |
|-------------------------|---------------------|
| Administrative Expenses | \$ 40,839           |
| Legal Expenses          | 18,700              |
| Land, Easements         | 4,699               |
| Engineering Fees        | 355,554             |
| Construction            | 2,117,200           |
| Contingency             | 238,008             |
| <b>Total</b>            | <b>\$ 2,775,000</b> |

**FUNDING SOURCES:**

|              | <u>Amount</u>       | <u>%</u>    |
|--------------|---------------------|-------------|
| Fund F Loan  | \$ 2,500,000        | 90%         |
| HB1          | 275,000             | 10%         |
| <b>Total</b> | <b>\$ 2,775,000</b> | <b>100%</b> |

**KIA DEBT SERVICE:**

|                                            |                     |
|--------------------------------------------|---------------------|
| Construction Loan                          | \$ 2,500,000        |
| Less: Principal Forgiveness (40%)          | \$ 875,000          |
| Amortized Loan Amount                      | <u>\$ 1,625,000</u> |
| Interest Rate                              | 1.00%               |
| Loan Term (Years)                          | 20                  |
| Estimated Annual Debt Service              | \$ 89,848           |
| Administrative Fee (0.25%)                 | <u>\$ 4,063</u>     |
| <b>Total Estimated Annual Debt Service</b> | <b>\$ 93,910</b>    |

**AMORTIZATION COMMENCEMENT DATE:** June 1 and December 1

Interest payments will commence within six months from first draw of funds (estimated 6/1/12).

Full principal and interest payments will commence within one year of initiation of operation (estimated 12/1/13).

|                                     |                        |
|-------------------------------------|------------------------|
| <b>REPLACEMENT RESERVE ACCOUNT:</b> | \$ 6,250 ANNUAL AMOUNT |
|                                     | \$ 62,500 TOTAL AMOUNT |

The annual replacement cost is \$6,250. This amount should be added to the replacement account each December 1 until the balance reaches \$62,500 and maintained for the life of the loan.

**ADMINISTRATIVE FEE:** 0.25%

**DEFAULT RATE:** 8.00%

**DEBT OBLIGATIONS CURRENTLY OUTSTANDING:**

|                                | <u>Outstanding</u>      | <u>Maturity</u> |
|--------------------------------|-------------------------|-----------------|
| Series 2009 Revenue Bonds (RD) | \$350,000               | 2049            |
| KIA (F2 09-05)                 | 257,630                 | 2030            |
| <b>Total</b>                   | <u><b>\$607,630</b></u> |                 |

**LIABILITY INSURANCE COVERAGE:**

Death or Personal Injury (per person)  
 Death or Personal Injury (per occurrence)  
 Property Damage on System

See attached  
see attached  
see attached

**Kentucky Association of Counties**  
**KACo All Lines Fund Statement of Values**  
11/16/2011

Breathitt County Water District

Member Number 0963

***Auto List***

Total Vehicles 5  
Total Value \$123,650.00

| <u>Year</u> | <u>Department</u> | <u>Make/Model</u>        | <u>VIN</u>        | <u>Value</u> | <u>Type</u> |
|-------------|-------------------|--------------------------|-------------------|--------------|-------------|
| 2008        |                   |                          | 1S9F720288K087110 | \$4,525      | Trailer     |
| 2008        |                   | Chevrolet/Silverado      | 1GBHK24658E192333 | \$32,314     | Van/Pickup  |
| 2008        |                   | Chevrolet/Silverado      | 1GBJK34668E191151 | \$36,170     | Van/Pickup  |
| 2006        |                   | Chevrolet/Silverado 2500 | 1GBHK24046E196868 | \$26,000     | Van/Pickup  |
| 2011        | Water District    | Chevrolet/Silverado      | 1GC2KVCG1BZ215894 | \$24,641     | Van/Pickup  |

Breathitt County Water District

**Kentucky Association of Counties  
KACo All Lines Fund Statement of Values  
11/16/2011**

**Membership Information**

Breathitt County Water District  
1137 Main Street  
Jackson, KY 41339

**Member Number** 0963  
**Member Type** Water District

**Contact Information**

| <i>Last Name</i> | <i>First Name</i> | <i>Title</i>   | <i>Telephone</i> | <i>FAX</i>    | <i>Email</i>             |
|------------------|-------------------|----------------|------------------|---------------|--------------------------|
| McIntosh         | Estill            | Superintendent | (606)666-3800    | (606)666-2860 | breathittwater@yahoo.com |

**General Liability**

|                     |          |
|---------------------|----------|
| Full Time Employees | 3        |
| Part Time Employees | 0        |
| Total Budget        | \$80,000 |

**Special Events**

|                           |                              |                                        |
|---------------------------|------------------------------|----------------------------------------|
| Fireworks                 | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Fairs/Carnivals/Festivals | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Athletic                  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Racing/Rodeo              | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Bleachers/Arenas          | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

**Kentucky Association of Counties**  
**KACo All Lines Fund Statement of Values**  
11/16/2011

Breathitt County Water District

Member Number 0963

**Summary of Coverage**

| <b>Coverage</b>                               |                          |           | <b>Deductible</b> |
|-----------------------------------------------|--------------------------|-----------|-------------------|
| <i>General Liability (Per OCC/AGG)</i>        | 3,000,000                | 5,000,000 | 0                 |
| <i>Law Enforcement (Per OCC/AGG)</i>          | NCD                      | NCD       | NCD               |
| <i>Errors/Omissions (Per OCC/AGG)</i>         | 3,000,000                | 3,000,000 | 1,000             |
| <i>Employment Practices (Per claim/AGG)</i>   | 3,000,000                | 3,000,000 | 1,000             |
| <i>Auto Liability (CSL)</i>                   | 3,000,000                |           | 0                 |
| Auto Comprehensive                            | Hired/Non-Owned          |           | 500               |
| Auto Collision                                | Hired/Non-Owned          |           | 500               |
| P.I.P. (No Fault)                             | 10,000                   |           | 0                 |
| Under Insured/Un-Insured                      | 60,000                   |           | 0                 |
| Non Owned Auto Coverage                       | Primary                  |           |                   |
| <i>Property/Buildings</i>                     | As Per Statement on File |           | 500               |
| Personal Property                             | As Per Statement on File |           | 500               |
| Boiler & Machinery                            | 15,000,000               |           | 1,000             |
| Inland Marine & EDP                           | As Per Statement on File |           | 500               |
| Business Income                               | 500,000                  | 500,000   | 0                 |
| Flood                                         | 1,000,000                | 1,000,000 | 0                 |
| Earthquake                                    | N/A                      | n/A       | NCD               |
| <i>Crime (Other than Employee Dishonesty)</i> | 150,000                  |           | 500               |
| <i>Employee Dishonesty</i>                    | 150,000                  |           | 250               |
| (Policy #: CIC1964)                           |                          |           |                   |
| <i>Legal Defense Coverage</i>                 | 100,000                  |           | 0                 |

**Kentucky Association of Counties  
KACo All Lines Fund Statement of Values  
11/16/2011**

Breathitt County Water District

Member Number 0963

***Equipment List***

Total Equipment 12  
Total Value \$256,790.00

| <u>Department</u> | <u>Year</u> | <u>Manufacturer</u> | <u>Serial Number</u> | <u>Value</u> | <u>Description</u>                                                                          |
|-------------------|-------------|---------------------|----------------------|--------------|---------------------------------------------------------------------------------------------|
|                   | 0           |                     |                      | \$1,000      | Miscellaneous Items                                                                         |
|                   | 0           |                     |                      | \$5,638      | Miscellaneous Tools                                                                         |
|                   | 0           | Honda               |                      | \$1,020      | 2" Trash Pump                                                                               |
|                   | 0           | SunSurface          |                      | \$2,995      | LD-12 Water Leak Detector                                                                   |
|                   | 0           | Reed                |                      | \$2,142      | DM2000 Universal Drill                                                                      |
|                   | 0           | MetroTech           |                      | \$1,862      | RSP Impulse Generator                                                                       |
|                   | 0           |                     |                      | \$100,000    | Telemetry System                                                                            |
|                   | 0           | Orion Radio Read    |                      | \$20,000     | Laptop which includes antennas, attachments and connect software                            |
|                   | 0           |                     |                      | \$50,000     | Office Equipment which includes computer/software, office furniture, machines and equipment |
|                   | 2008        | Caterpillar         | CAT0304CCFPK03784    | \$52,810     | Hydrolic Excavator                                                                          |
|                   | 2008        | Caterpillar         | 0BWM02171            | \$7,850      | Hammer (attachment) Model#H55DS                                                             |
|                   | 2008        | Sulliar             | 200803120072         | \$11,473     | Air Compressor Model 185CA                                                                  |

Breathitt County Water District

**Kentucky Association of Counties**  
**KACo All Lines Fund Statement of Values**  
11/16/2011

Breathitt County Water District

Member Number 0963

**Property List**

Total Building Value                   \$2,711,900.00  
Total Contents Value                   \$526,500.00  
Total Insured Value                   \$3,238,400.00

| Loc# | Bldg # | Occupancy                                     | Address                      | City    | Zip   | GPS LAT/LONG    | F/P Code | Year Built | # of Stories | SqFt | ISO | Sprinkler | Building Value | Contents Value | Total Value |
|------|--------|-----------------------------------------------|------------------------------|---------|-------|-----------------|----------|------------|--------------|------|-----|-----------|----------------|----------------|-------------|
| 1    | 1      | 106,000 Gallon <del>Elevated</del> Water Tank | Highway 30 West              | Jackson | 41339 | 37.5089/83.4373 | 9/9      | 2004       | 1            | 0    | 3   | No        | \$193,800      | \$4,500        | \$198,300   |
| 1    | 2      | Booster Station                               | Highway 30 West              | Jackson | 41339 | 37.5194/83.4108 | 9/9      | 2004       | 1            | 270  | 4   | No        | \$54,500       | \$82,000       | \$136,500   |
| 2    | 1      | Office                                        | 1137 Main Street             | Jackson | 41339 |                 | 9/9      |            | 1            | 600  | 2   | No        | \$0            | \$16,000       | \$16,000    |
| 3    | 1      | 106,000 Gallon <del>Elevated</del> Water Tank | Highway 30 West - Cane Creek | Jackson | 41339 | 37.4880/83.4243 | 9/9      | 2004       | 1            | 0    | 3   | No        | \$193,800      | \$5,000        | \$198,800   |
| 4    | 1      | 150,000 Gallon <del>Elevated</del> Water Tank | Town Hill Road               | Jackson | 41339 | 37.5464/83.3978 | 9/9      | 2008       | 1            | 0    | 3   | No        | \$225,000      | \$5,000        | \$230,000   |
| 4    | 2      | Booster Station                               | Town Hill Road               | Jackson | 41339 | 37.5493/83.3891 | 9/9      | 2006       | 1            | 225  | 3   | No        | \$82,500       | \$0            | \$82,500    |
| 5    | 1      | 150,000 Gallon <del>Elevated</del> Water Tank | 197 Gabberd Hill Rd.         | Jackson | 41339 | 37.5368/83.4111 | 9/9      | 2006       | 1            | 0    | 3   | No        | \$292,500      | \$13,500       | \$306,000   |
| 5    | 2      | Booster Station                               | 2079 Highway 52              | Jackson | 41339 | 37.5589/83.4504 | 9/9      | 2006       | 1            | 270  | 4   | No        | \$54,500       | \$74,000       | \$128,500   |
| 6    | 1      | 44,000 Gallon Water Storage Tank              | Highway 541                  | Jackson | 41339 | 37.6033/83.4325 | 9/9      | 2007       | 1            | 0    | 3   | No        | \$138,800      | \$5,500        | \$144,300   |
| 6    | 2      | Booster Station                               | Highway 541                  | Jackson | 41339 | 37.6032/83.4326 | 9/9      | 2007       | 1            | 270  | 4   | No        | \$54,500       | \$52,000       | \$106,500   |
| 7    | 1      | 88,000 Gallon Water Storage Tank              | Highway 205                  | Jackson | 41339 | 37.6516/83.4111 | 9/9      | 2007       | 1            | 0    | 3   | No        | \$245,700      | \$19,000       | \$264,700   |
| 8    | 1      | Watts Booster Station                         | Marie Roberts Loop           | Jackson | 41339 | 37.4850/83.3212 | 9/9      | 2008       | 1            | 270  | 4   | No        | \$54,500       | \$74,000       | \$128,500   |
| 8    | 2      | Watts Tank (44,000 Gallons)                   | Highway 15 South             | Jackson | 41339 | 37.4650/83.3213 | 9/9      | 2008       | 1            | 0    | 3   | No        | \$138,800      | \$17,000       | \$155,800   |
| 9    | 1      | Highway 15 South Tank (150,000 Gallons)       | Highway 15 South             | Jackson | 41339 | 37.4460/83.3179 | 9/9      | 2008       | 1            | 0    | 3   | No        | \$225,000      | \$5,000        | \$230,000   |
| 10   | 1      | Booster Station                               | Hwy 1110                     | Jackson |       |                 |          | 2009       | 1            | 300  |     | No        | \$200,000      | \$0            | \$200,000   |

| Loc # | Bldg # | Occupancy                            | Address               | City    | Zip   | GPS LAT/LONG | F/P Code | Year Built | # of Stories | SqFt | ISO | Sprinkler | Building Value | Contents Value | Total Value |
|-------|--------|--------------------------------------|-----------------------|---------|-------|--------------|----------|------------|--------------|------|-----|-----------|----------------|----------------|-------------|
| 11    | 1      | 196,000 Gallon Tank                  | Granny Lane           | Jackson |       |              |          | 2009       | 1            | 0    |     | No        | \$250,000      | \$0            | \$250,000   |
| 12    | 1      | KY 30 East 32000 Gallon Tank         | KY 30 East            | Jackson | 41339 |              | 9/9      | 2010       | 1            | 0    | 3   | No        | \$99,000       | \$18,000       | \$117,000   |
| 12    | 2      | KY 30 East Booster Station           | KY 30 East            | Jackson | 41339 |              | 9/9      | 2010       | 1            | 300  | 4   | No        | \$47,000       | \$65,000       | \$112,000   |
| 13    | 1      | Sugar Camp 48000 Gallon Storage Tank | Sugar Camp KY 30 East | Jackson | 41339 |              | 9/9      | 2010       | 1            | 0    | 3   | No        | \$156,000      | \$18,000       | \$174,000   |
| 14    | 1      | Hydroneumatic Booster Station        | Penbowl               | Jackson | 41339 |              | 9/9      | 2010       | 1            | 50   | 6   | No        | \$6,000        | \$53,000       | \$59,000    |

**ISO Codes**

- 1 Frame
- 2 Joisted Masonry
- 3 Noncombustible
- 4 Masonry Noncombustible
- 5 Modified Fire Resistive
- 6 Fire Resistive

Note. Our water tanks are not elevated.

## EXHIBIT B

### REQUEST FOR PAYMENT WITH RESPECT TO ASSISTANCE AGREEMENT DATED JANUARY 1, 2012 LOAN NO. F11-07

Request No. \_\_\_\_\_

Dated: \_\_\_\_\_

Original sent to: Kentucky Infrastructure Authority  
1024 Capital Center Drive  
Suite 340  
Frankfort, Kentucky 40601

Copy sent to: Branch Manager  
Water Infrastructure Branch  
Division of Water  
Energy and Environment Cabinet  
200 Fair Oaks, 4<sup>th</sup> Floor  
Frankfort, Kentucky 40601

FROM: BREATHITT COUNTY WATER DISTRICT (the "Governmental Agency")

Gentlemen:

The above identified Governmental Agency has entered into an Assistance Agreement with the Kentucky Infrastructure Authority (the "Authority") for the acquisition and construction of drinking water supply facilities, described in the Assistance Agreement as the "Project."

Pursuant to the Assistance Agreement, we hereby certify that we have incurred the following expenses in connection with the Project and that the Authority's funding share of these expenses is in the amount so denoted in this request totaling \$\_\_\_\_\_.

Documentation supporting the expenses incurred and identified per this request are attached.

#### ELIGIBLE PROJECT EXPENSES INCURRED

| <u>Contractor</u> | <u>Expenses this<br/>Request</u> | <u>Expenses to<br/>Date</u> |
|-------------------|----------------------------------|-----------------------------|
|-------------------|----------------------------------|-----------------------------|

Total

## ALLOCATION OF FUNDING FOR EXPENSES

| <u>Funding Source</u> | <u>Portion of<br/>Expenses this Request</u> | <u>Portion of Expenses<br/>Total to Date</u> |
|-----------------------|---------------------------------------------|----------------------------------------------|
|-----------------------|---------------------------------------------|----------------------------------------------|

Totals

The Governmental Agency certifies it has also paid Project expenses for planning and design or has submitted requisitions to the applicable funding sources for Project expenses, which have not been identified in any previous Request or Payment, as follows:

| <u>Funding Source</u> | <u>Amount of Payment<br/>or Requisition</u> | <u>Date of Payment<br/>or Requisition</u> |
|-----------------------|---------------------------------------------|-------------------------------------------|
|-----------------------|---------------------------------------------|-------------------------------------------|

Respectfully submitted,

\_\_\_\_\_  
Governmental Agency

By: \_\_\_\_\_

Title \_\_\_\_\_

CERTIFICATE OF CONSULTING ENGINEERS AS TO  
PAYMENT REQUEST

The undersigned, a duly qualified and licensed Engineer hereby certifies that he or she represents the Governmental Agency submitting this request in connection with the "Eligible Project" and that all expenses represented in this request were duly incurred for the Construction of the "Project," that the Authority's funding share of these expenses is accurately represented and that such expenses have not been the subject of any request for disbursement previously submitted.

\_\_\_\_\_  
Engineer/Architect

\_\_\_\_\_  
Firm Name

**EXHIBIT C**

**SCHEDULE OF SERVICE CHARGES**

See Attached

## **NOTICE**

Due to a rate increase from the City of Jackson, notice is hereby given that Breathitt County Water District has filed An Application for a Purchased Water Adjustment with the Kentucky Public Service Commission for the purpose of adjusting its water rates. Customer rates will increase by \$1.22 per 1,000 gallons used. The proposed change will be effective for all bills issued on and after November 1, 2011.

**5/8 x 3/4 Meter**

|                     |                           |
|---------------------|---------------------------|
| First 2,000 Gallons | \$22.34 Minimum Bill      |
| Over 2,000 Gallons  | \$11.17 Per 1,000 Gallons |
| Leak Adjustment     | \$6.17 Per 1000 Gallons   |

The monthly bill for a customer using an average of 5,000 gallons per month will increase \$6.10 from \$49.75 to \$55.85 or 12.26%.

The rates contained in this notice are the rates proposed by Breathitt County Water District. However, the Public Service Commission may order rates to be charged that differ from these proposed rates. Such action may result in rates for consumers other than the rates in this notice.

Breathitt County Water District has available for inspection at its office the application submitted to the Public Service Commission. The office is located at 1137 Main Street, Jackson, KY 41339.

Breathitt County Water District

## **NOTICE**

Due to a rate increase from the City of Jackson, notice is hereby given that Breathitt County Water District has filed An Application for a Purchased Water Adjustment with the Kentucky Public Service Commission for the purpose of adjusting its water rates. Customer rates will increase by \$1.22 per 1,000 gallons used. The proposed change will be effective for all bills issued on and after November 1, 2011.

First 10,000 gallons \$111.20 Minimum Bill  
A Rate of \$6.20 Per 1000 gallon used from 10,000 to 200,000 Gallons  
All usage over 200,000 gallons a rate of \$5.02 per gallons used

The rates contained in this notice are the rates proposed by Breathitt County Water District. However, the Public Service Commission may order rates to be charged that differ from these proposed rates. Such action may result in rates for consumers other than the rates in this notice.

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**Breathitt County Water District**

## **NOTICE**

Due to a rate increase from the City of Jackson, notice is hereby given that Breathitt County Water District has filed An Application for a Purchased Water Adjustment with the Kentucky Public Service Commission for the purpose of adjusting its water rates. Customer rates will increase by \$1.22 per 1,000 gallons used. The proposed change will be effective for all bills issued on and after November 1, 2011.

\$3.72 per 1000 gallon

The rates contained in this notice are the rates proposed by Breathitt County Water District. However, the Public Service Commission may order rates to be charged that differ from these proposed rates. Such action may result in rates for consumers other than the rates in this notice.

Breathitt County Water District has available for inspection at its office the application submitted to the Public Service Commission. The office is located at 1137 Main Street, Jackson, KY 41339.

Breathitt County Water District

P.S.C. KY. NO. 1

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

BREATHITT COUNTY WATER DISTRICT

OF

1137 MAIN STREET

JACKSON, KENTUCKY, 41339

RATES & CHARGES

AND

RULES & REGULATIONS

FOR FURNISHING

WATER SERVICE

AT

JACKSON,  
KENTUCKY

FILED WITH THE

PUBLIC SERVICE COMMISSION

OF

KENTUCKY

DATE OF ISSUE \_\_\_\_\_  
Month / Date / Year

DATE EFFECTIVE \_\_\_\_\_  
Month / Date / Year

ISSUED BY [Signature]  
(Signature of Officer)

TITLE Chairman

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE  
10/11/2005  
PURSUANT TO 807 KAR 5:011  
SECTION 9 (1)

By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 1

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

## CONTENTS

### RATES AND CHARGES

Monthly Rates  
Deposits  
Meter Connection/Tap-on Charges  
Special Non-recurring Charges  
Purchased Water Rates  
Leak Adjustment Rate  
Wholesale Water Rates  
Fire Sprinkler Rates

### RULES AND REGULATIONS

- A. Service Information
- B. Special Rules or Requirements
- C. Billings, Meter Readings, and Related Information
- D. Deposits
- E. Special Nonrecurring Charges
- F. Customer Complaints to the Utility
- G. Bill Adjustments
- H. Status of Customer Accounts during Billing Disputes

DATE OF ISSUE \_\_\_\_\_

Month / Date / Year

DATE EFFECTIVE \_\_\_\_\_

Month / Date / Year

ISSUED BY \_\_\_\_\_

(Signature of Officer)

TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION

IN CASE NO. \_\_\_\_\_ DATED \_\_\_\_\_

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE  
10/11/2005  
PURSUANT TO 807 KAR 5:011  
SECTION 9 (1)

By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 2

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

## CONTENTS

- I. Customer Request for Termination of Service
- J. Customer Relations
- K. Refusal or Termination of Service
- L. Meter Testing
- M. Meter Test Records
- N. Customer Requested Meter Tests
- O. Access to Property
- P. Location of Records
- Q. Safety Program
- R. System Inspections
- S. Reporting of Accidents, Property Damage, or Loss of Service
- T. Continuity of Service
- U. Pressures
- V. Service Lines and Connections
- W. Leak Adjustments
- X. Ownership of Mains, Services, and Appurtenances
- Y. Notification of System Problems
- Z. Legal Disclaimers

DATE OF ISSUE \_\_\_\_\_  
Month / Date / Year

DATE EFFECTIVE \_\_\_\_\_  
Month / Date / Year

ISSUED BY [Signature]  
(Signature of Officer)

TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION

IN CASE NO. \_\_\_\_\_ DATED \_\_\_\_\_

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE  
10/11/2005  
PURSUANT TO 807 KAR 5:011  
SECTION 9 (1)

By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 3

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

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CONTENTS

---

- AA. Fire Departments
- AB. Fire Hydrants
- AC. Fire Sprinkler Systems
- AD. Requirements for New Connections
- AE. Water Main Extensions
- AF. Extension Policy for Developers and New Subdivisions and Developments

ATTACHMENTS

Water User Agreement  
Easement Agreement  
Partial Payment Agreement  
Sample Bill

DATE OF ISSUE \_\_\_\_\_  
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Month / Date / Year

ISSUED BY [Signature]  
(Signature of Officer)

TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION  
IN CASE NO. \_\_\_\_\_ DATED \_\_\_\_\_

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE  
10/11/2005  
PURSUANT TO 807 KAR 5:011  
SECTION 9 (1)

By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 2

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

RATES AND CHARGES

A. MONTHLY RATES:

First 2,000 gallons  
All Over 2,000 gallons

\$19.90 Minimum Bill  
9.95 Per 1,000 Gallons

DATE OF ISSUE \_\_\_\_\_  
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ISSUED BY [Signature]  
(Signature of Officer)

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SECTION 9 (1)

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Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 3

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

RATES AND CHARGES

B. DEPOSITS:

Each customer will pay an equal deposit not to exceed 2/12 of the average annual bill.

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(Signature of Officer)

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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 6

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

RATES AND CHARGES

E. PURCHASED WATER RATES:

Jackson Municipal Water Works

Rate  
\$1.90 per 1,000 Gallons\*

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Original SHEET NO. 7

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Breathitt County Water District  
(Name of Utility)

RATES AND CHARGES

F. LEAK ADJUSTMENT RATE: \$4.95 per 1,000 Gallons

G. WHOLESALE WATER RATES:

Not Applicable

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P.S.C. KY. NO. 1

Original SHEET NO. 8

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Breathitt County Water District  
(Name of Utility)

RATES AND CHARGES

H. FIRE SPRINKLER SYSTEM RATES:

Not Applicable

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Executive Director

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P.S.C. KY. NO. 1

Original SHEET NO. 9

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\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

## RULES AND REGULATIONS

The following are the rules and regulations of the Breathitt County Water District. The schedule of rates prescribed herein will be uniformly charged to all customers of the utility. No one will receive or be entitled to free service by the utility. No employee or individual commissioner of the utility is permitted to make an exception to these rates, rules, or regulations. These rules and regulations are subject to change by the utility at any time, subject to the approval of the Public Service Commission.

### Service Information.

Upon request the utility will give its customers or prospective customers such information as is reasonably possible in order that they may secure safe, efficient, and continuous service. The utility will inform its customers of any change made or proposed in the character of its service that might affect the efficiency, safety, or continuity of operation.

The utility will obtain the approval of the Public Service Commission prior to making any substantial change in the character of the service furnished that would affect the efficiency, adjustment, speed, or operation of the equipment or appliances of any customer. The application will show the nature of the change to be made, the number of customers affected, and the manner in which they will be affected.

The utility will inform each applicant for service of each type, class, and character of service available at his/her location.

Upon request the utility will provide the following information to any applicant/customer:

- a) Characteristics of Water. A written description of chemical constituents and bacteriological standards of the treated water as required by the Natural Resources Cabinet.
- b) Rates. A schedule of rates for water service applicable to the service to be rendered to the customer.

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\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

### RULES AND REGULATIONS

- c) Reading Meters. Information about the method of reading meters.
- d) Bill Analysis. A statement of the past readings of a customer's meter for a period of two (2) years.

#### Special Rules or Requirements.

1. The utility cannot establish any special rule or requirement without first obtaining the approval of the Public Service Commission.
2. A customer that has complied with Public Service Commission rules and regulations cannot be denied service for failure to comply with the utility's rules that have not been approved by the Public Service Commission.
3. Each prospective customer desiring water service will be required to sign the utility's Water Service Contract before service is supplied by the utility.
4. No customer is allowed to resell water except under the terms of a special contract executed by the utility and approved by the Public Service Commission.

#### Billings, Meter Readings, and Related Information.

Information on bills. Each bill issued by the utility will clearly show the following, if applicable: class of service; present and last preceding meter readings; date of the present reading; number of units consumed; meter constant, if any; net amount for service rendered; all taxes; any adjustments; and the gross amount of the bill. The date after which a late payment penalty applies to the gross amount will also be indicated. Estimated or calculated bills will be distinctly marked as such. The rate schedule under which the bill is computed will be furnished under one (1) of the following methods:

By printing it on the bill.

By publishing it in a newspaper of general circulation once each year.

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Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

By mailing it to each customer once each year.

By providing a place on each bill where a customer may request a copy of the applicable rates. The utility will mail the customer a copy by return first class mail.

Bill format. A copy of the utility's billing form will be included in the utility's tariff.

Meter readings. Registration of each meter shall read in the same units as used for billing unless a conversion factor is shown on the billing form.

Frequency of meter reading. Unless prevented by reasons beyond the utility's control, meter readings will be taken every month. Records will be kept by the utility to insure that this information is available to Public Service Commission staff and any customer requesting this information. If, due to reasons beyond its control, the utility is unable to read a meter in accordance with this subsection, the utility will record the date and time the attempt was made, if applicable, and the reason the utility was unable to read the meter.

#### Related Information.

Bills and notices related to the utility's business will be mailed to the customer at the address listed on the Water Service Contract unless a change of address has been filed with the utility in writing. The utility will not otherwise be responsible for delivery of any bill or notice nor will the customer be excused from the payment of any bill or any performance required in the notice.

Water service will be billed monthly between the 1<sup>st</sup> and 3<sup>rd</sup> of each month.

Bills are payable and due on the date of issuance.

Payment must be received and or postmarked, before the close of business on the 10<sup>th</sup> day of the month; otherwise, the delinquent bill will be assessed the late payment penalty approved and on-file with the Public Service Commission. If the due date is on a

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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
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\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

Sunday or Holiday they have until the next business day before the penalty is assessed.

The late payment penalty will be assessed on the delinquent amount of the bill, less taxes and any prior penalty amounts. Pursuant to 807 KAR 5:006 Section 8 (3)(h), a penalty may be assessed only once on any bill for rendered services.

With the exception of existing connections, the existence of a special contract, or unusual circumstances requiring approval of the utility, a single meter can serve no more than one residential or commercial unit on and after the effective date of this tariff.

For existing connections, special contracts, or other utility approved situations, where two or more units are being served by one meter, the following rules will apply:

- 1) One bill per meter will be sent to the customer that signed the Water Service Contract.
- 2) The bill will consist of a charge in the amount of the utility's minimum bill multiplied by the number of units the meter serves. The amount of water included with a minimum bill will be multiplied by the number of units and deducted from the total amount of consumption. The remaining consumption will be evenly distributed among each unit, added to each unit's minimum bill, with the charges calculated in accordance with the currently approved rate schedule.
- 3) The customer that signed the Water Service Contract will be fully and solely responsible for the charges associated with the connection including payment for all water passing through the meter, regardless of which unit is responsible for the water consumption

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Executive Director

FOR Jackson, Kentucky  
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\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

#### D. Deposits.

1. Deposits to secure payment. The utility may require a minimum cash deposit or other guaranty to secure payment of bills.
2. Equal Deposits. An equal deposit amount for each class of customers will be established based on the average annual bill of customers in that class. Deposit amounts will not exceed two-twelfths (2/12) of the average annual bill of customers in each class where bills are rendered monthly. Deposit amounts are listed in the Rates and Charges section of this tariff.
3. Recalculation of deposits. If the utility retains the deposit for more than eighteen (18) months, it will notify customers in writing that, at the customer's request, the deposit will be recalculated every eighteen- (18) months based on actual usage of the customer. The notice of deposit recalculation will be included either on the customer's application for service or on the receipt of deposit, or may be included annually with or on customer bills. The notice of deposit recalculation will state that if the deposit on account differs by more than ten (10) dollars for residential customers, or by more than ten (10) percent for nonresidential customers, from the deposit calculated on actual usage, then the utility will refund any over-collection and may collect any underpayment. Refunds will be made either by check or by credit to the customer's bill, except that the utility will not refund any excess deposit if the customer's bill is delinquent at the time of recalculation.
4. Waiver of Deposits. The deposit may be waived upon a customer's showing of satisfactory credit or payment history. In determining whether a deposit will be required or waived, the following criteria will be considered:

Previous payment history with the utility. If the customer has no previous history with the utility, statements from other utilities, banks, etc. may be presented by the customer as evidence of good credit.

Whether the customer has an established income or line of credit.

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PUBLIC SERVICE COMMISSION  
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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
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Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

Length of time the customer has resided or been located in the area.

Whether the customer owns the property to be served.

Whether another customer with a good payment history is willing to sign as a guarantor for an amount equal to the required deposit.

5. Additional deposit requirement. If a deposit has been waived or returned and the customer fails to maintain a satisfactory payment record, the utility may require that a deposit be made. The utility may require a deposit in addition to the initial deposit if the customer's classification of service changes or if there is a substantial change in usage.
6. Receipt of deposit. The utility will issue a receipt to every customer that pays a deposit. The receipt will show the name of the customer, location of the service or customer account number, date, and amount of deposit. If the notice of recalculation described in this section is not included in the utility's application for service or mailed with customer bills, the receipt of deposit will contain the notification. If deposit amounts change, the utility will issue a new receipt of deposit to the customer.
7. Deposits as a condition of service. Service may be refused or discontinued if payment of requested deposits is not made.
8. Interest on deposits. Interest will accrue on all deposits at the rate prescribed by law beginning on the date of the deposit. Interest accrued will be refunded to the customer or credited to the customer's bill on an annual basis, except that the utility will not be required to refund or credit interest on deposits if the customer's bill is delinquent on the anniversary of the deposit date. Upon termination of service, the deposit, any principal amounts, and interest earned and owing will be credited to the final bill with any remainder refunded to the customer.

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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
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Breathitt County Water District  
(Name of Utility)

## RULES AND REGULATIONS

### E. Special Non-recurring Charges:

The utility will collect for special nonrecurring charges to recover customer-specific costs incurred which would otherwise result in monetary loss to the utility or increased rates to other customers to whom no benefits accrue from the service provided or action taken. The utility may establish or change any special nonrecurring charge by applying for Public Service Commission approval of such charge in accordance with the provisions of 807 KAR 5:011, Section 10.

2. Special nonrecurring charges will be applied uniformly throughout the area served by the utility. Such charges will relate directly to the service performed or action taken and only yield enough revenue to pay the expenses incurred in rendering the service.

3. The utility will assess a charge for the following non-recurring services:

Connection/Turn-on Charge: Will be assessed for new service turn-ons, seasonal turn-ons, temporary service, or transfer of service. The charge will not be made for initial installation of service where a meter connection/tap-on charge is applicable.

Field Collection Charge: Will be assessed when a utility representative visits the premises of the service connection to terminate service, and the customer is on-site and pays the bill to avoid termination of service. This fee may only be charged once per billing period.

Late Payment Penalty: Will be assessed on the delinquent amount of the bill, less taxes.

Meter Relocation Charge: Will be assessed when a customer or other authorized person requests that a meter be relocated, changed, or modified. Those requesting a change must reimburse the utility for the actual costs incurred,

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FOR Jackson, Kentucky  
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Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

including but not limited to appropriate legal, administrative, engineering, overhead, or other related costs.

**Meter Re-read Charge:** Will be assessed when a customer requests the utility to re-read the customer's meter and the re-read proves that the original meter reading was correct.

**Meter Test Charge:** Will be assessed when a customer requests the utility perform a test on the customer's meter to check for accuracy, and the test shows the customer's meter is not more than two percent (2%) fast.

**Reconnection Charge:** Will be assessed to reconnect service that has been terminated for non-payment of service or for violation of Utility or Public Service Commission rules and regulations, and will include the cost of the service trip for both the disconnection and the reconnection.

**Returned Check Charge:** Will be assessed when a customer's check is returned, either due to insufficient funds or other reason due to customer fault.

**Service Call/Investigation Charge:** Will be assessed when a customer requests the onsite presence of utility personnel to investigate a service problem and the problem is a result of the customer's own plumbing facilities, beyond the utility's delivery point, or not caused by failure of utility facilities. Any maintenance and repair of facilities beyond the utility's delivery point is the responsibility of the customer.

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Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

F. Customer Complaints to the Utility. Upon complaint to the utility by a customer at the utility's office, by telephone, or in writing, the utility will make a prompt and complete investigation and advise the complainant of its findings. The utility's operator/manager will make a decision within ten (10) days, which the complainant will then have ten (10) days to appeal to the utility's board of commissioners. The customer will receive a final decision from the utility no later than thirty (30) days following the date that the complaint was made. If the complainant is not satisfied with the utility's decision, the utility will provide written notice to the complainant of his/her right to appeal the utility's decision by filing a complaint with the Public Service Commission. The utility will also provide the customer with the address and telephone number of the Public Service Commission. The utility will keep a record of all written complaints. This record will show the name and address of the complainant, the date and nature of the complaint, and the adjustment or disposition of the complaint. Records will be maintained for two (2) years from the date of resolution of the complaint.

G. Bill Adjustments:

Fast or slow reading meters:

- a) If upon periodic test, requested test, or complaint test, a meter in service is found to be more than two (2) percent fast, additional tests will be made to determine the average error of the meter. The tests will be made in accordance with Public Service Commission rules and regulations applicable to the type of meter involved.
- b) If test results on a customer's meter show an average error greater than two (2) percent fast or slow, or if a customer has been incorrectly billed for any other reason, except in an instance where a utility has filed a verified complaint with the appropriate law enforcement agency alleging fraud or theft by a customer, the utility will immediately determine the period during which the error has existed, and will recompute and adjust the customer's bill to either provide a

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Executive Director

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Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

refund to the customer or collect an additional amount of revenue from the underbilled customer. Any adjustment to the customer's account will be in accordance with the rules and regulations of the Public Service Commission pursuant to 807 KAR 5:006 Section 10.

- c) The utility will readjust the account based upon the period during which the error is known to have existed. If the period during which the error existed cannot be determined with reasonable precision, the time period will be estimated using such data as elapsed time since the last meter test, if applicable, and historical usage data for the customer. If that data is not available, the average usage of similar customer loads will be used for comparison purposes in calculating the time period. If the customer and the utility are unable to agree on an estimate of the time period during which the error existed, the Public Service Commission will determine the issue. In all instances of customer overbilling, the customer's account will be credited or the overbilled amount refunded at the discretion of the customer within thirty (30) days after final meter test results. A utility will not require customer repayment of any underbilling to be made over a period shorter than a period coextensive with the underbilling.

Meter read failure. When a meter has ceased to register, or a meter reading cannot be obtained, the quantity of water to be billed will be based upon an average of twelve-months' consumption. If said meter readings are not available for an entire twelve-month period, the water bill will be estimated by the utility, subject to an upward or downward adjustment once a twelve-month average of actual meter readings can be calculated.

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TITLE Chairman

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Breathitt County Water District  
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#### RULES AND REGULATIONS

**Monitoring usage.** The utility will monitor a customer's usage at least annually in such a way to draw the utility's attention to unusual deviations in a customer's usage. If a customer's usage is unduly high (100% above average) and the deviation is not otherwise explained, the utility will test the customer's meter to determine whether the meter shows an average error greater than two (2) percent fast or slow.

**Usage investigation.** If the utility's procedure for monitoring usage indicates that an investigation of a customer's usage is necessary, the utility will notify the customer in writing either during or immediately after the investigation of the reasons for the investigation, and of the findings of the investigation. If knowledge of a serious situation requires more expeditious notice, the utility will notify the customer by the most expedient means available.

**Customer notification.** If a meter is tested and it is found necessary to make a refund or back bill a customer, the customer will be notified in substantially the following form:

On \_\_\_\_\_, 19\_\_\_\_, the meter bearing identification No. \_\_\_\_\_ installed in your building located at \_\_\_\_\_ (Street and Number) in \_\_\_\_\_ (city) was tested at \_\_\_\_\_ (on premises or elsewhere) and found to register \_\_\_\_\_ (percent fast or slow). The meter was tested on \_\_\_\_\_ (Periodic, Request, Complaint) test.

Based upon this we herewith \_\_\_\_\_ (charge or credit) with the sum of \$\_\_\_\_, which amount has been noted on your regular bill. If you desire a cash refund, rather than a credit to your account, of any amount overbilled, you must notify this office in writing within seven (7) days of the date of this notice.

- H. Status of Customer Accounts during Billing Disputes. With respect to any billing dispute, customer accounts shall be considered to be current while the dispute is pending as long as the customer continues to make undisputed payments and stays current on subsequent bills.

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ISSUED BY [Signature]  
(Signature of Officer)

TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION  
IN CASE NO. \_\_\_\_\_ DATED \_\_\_\_\_

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE  
10/11/2005  
PURSUANT TO 807 KAR 5:011  
SECTION 9 (1)

By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 20

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

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### I. Customer's Request for Termination of Service.

Any customer desiring service terminated or changed from one address to another shall give the utility three (3) working days' notice in person, in writing, or by telephone, provided such notice does not violate contractual obligations. The customer will not be responsible for charges for service beyond the three- (3) day notice period if the customer provides proper notification and reasonable access to the meter during the notice period. If the customer notifies the utility of his/her request for termination by telephone, the burden of proof is on the customer to prove that service termination was requested if a dispute arises.

Upon request that service be reconnected at any premises subsequent to the initial installation or connection to its service lines, the utility will charge the applicant a reconnect fee as set out in this tariff and approved by the Public Service Commission

### J. Customer Relations.

1. Display of customer rights. The utility will prominently display in the office in which payment is received a copy of Customer's Rights. If a customer indicates to any utility personnel that he is experiencing difficulty in paying a current utility bill, that employee will refer the customer to the designated representative for explanation of the customer's rights.
2. Partial payment plans. The utility shall negotiate and accept reasonable partial payment plans at the request of residential customers who have received a termination notice for failure to pay, except that a utility is not required to negotiate a partial payment plan with a customer who is delinquent under a previous partial payment plan. Partial payment plans must be mutually agreed upon. Plans which extend for a period longer than thirty (30) days will be in writing and will advise customers that service may be terminated without additional notice if the customer fails to meet the obligations of the plan.
3. Utility inspections of service conditions prior to providing service. The utility will inspect the condition of the meter and service connections before providing service to a new customer so

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TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION  
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PUBLIC SERVICE COMMISSION  
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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
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P.S.C. KY. NO. 1

Original SHEET NO. 21

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

\_\_\_\_\_ SHEET NO. \_\_\_\_\_

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that prior or fraudulent use of the facilities will not be attributed to the new customer. The new customer will be afforded the opportunity to be present at such inspections. The utility will not be required to render service to any customer until any defects in the customer-owned portion of the service facilities have been corrected.

4. Prompt connection of service. The utility will reconnect existing service within twenty-four (24) hours, and will install and connect new service within seventy-two (72) hours, when the cause for refusal or discontinuance of service has been corrected and the rules and regulations of the utility and Public Service Commission have been met.
5. Advance termination notice. When advance termination notice is required, the termination notice will be mailed or otherwise delivered to the last known address of the customer. The termination notice will be in writing, distinguishable and separate from any bill. The termination notice will plainly state the reason for termination, that the termination date will not be affected by receipt of any subsequent bill, and that the customer has the right to dispute the reasons for termination.

K. Refusal or Termination of Service.

1. The utility may refuse service to a customer under the following conditions:

For noncompliance with utility or Public Service Commission rules and regulations. The utility cannot refuse service to any customer for noncompliance without first having made a reasonable effort to obtain customer compliance. After such effort by the utility, service may be refused only after the customer has been given a written notice of refusal stating the reasons for refusal of service.

For dangerous conditions. If a dangerous condition exists which could subject any person to imminent harm or result in substantial damage to the property of the utility or others is found to exist on the customer's premises, then service will be refused. The utility will notify the customer in writing and, if possible, orally for the reasons for

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TITLE Chairman

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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
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P.S.C. KY. NO. 1

Original SHEET NO. 22

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

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Breathitt County Water District  
(Name of Utility)

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refusal of service. Such notice will be recorded by the utility and will include the corrective action to be taken by the customer before service can be provided.

For refusal of access. When a customer refuses or neglects to provide reasonable access to the premises for installation, operation, meter reading, maintenance or removal of utility property, the utility may refuse service. The utility will notify the customer in writing and, if possible, orally for the reasons for refusal of service. Such notice will be recorded by the utility and will include the corrective action to be taken by the customer before service can be provided.

For outstanding indebtedness. The utility will not furnish new service to any customer who is indebted to the utility until that customer has repaid the indebtedness.

For noncompliance with state, local, or other codes. The utility may refuse service to a customer if the customer does not comply with state, municipal or other codes, rules, and/or administrative regulations applying to such service. The utility will notify the customer in writing and, if possible, orally for the reasons for refusal of service. Such notice will be recorded by the utility and will include the corrective action to be taken by the customer before service can be provided.

#### 2. Utility Initiated Termination of Service.

- a) The termination notice requirements stated herein will not apply if termination notice requirements to a particular customer or customers are otherwise dictated by the terms of a special contract between the utility and customer which has been approved by the Public Service Commission.
- b) When advance termination notice is required, the termination notice shall be mailed or otherwise delivered to the last known address of the customer. The termination notice shall be in writing, distinguishable and separate from any bill. The termination notice shall plainly state the reason for termination, that the termination date will not

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be affected by receipt of any subsequent bill, and that the customer has the right to dispute the reasons for termination.

c) The utility may terminate service to a customer under the following conditions with an advance termination notice:

- 1) For noncompliance with utility or Public Service Commission rules and regulations. The utility cannot terminate service to any customer for noncompliance without first having made a reasonable effort to obtain customer compliance. After such effort by the utility, service may be terminated only after the customer has been given at least ten (10) days written termination notice.
- 2) For refusal of access. When a customer refuses or neglects to provide reasonable access to the premises for installation, operation, meter reading, maintenance, or removal of utility property, the utility may terminate service. Such action will be taken only when corrective action negotiated between the utility and customer has failed to resolve the situation and after the customer has been given at least ten (10) days' written notice of termination.
- 3) For noncompliance with state, local, or other codes. The utility may terminate service to a customer that does not comply with state, municipal, and/or other codes, rules, and regulations that apply to such service. A utility may terminate service only after ten (10) days' written notice of termination is provided unless ordered to terminate immediately by a governmental official.
- 4) For nonpayment of bills. The utility may terminate service for nonpayment of charges incurred for utility services. The utility may terminate service only after five (5) days' written notice of termination is provided, and after twenty (20) days have elapsed since the mailing date of the original unpaid bill.

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- d) The utility may terminate service to a customer if the following conditions exist without an advance termination notice. Within twenty-four (24) hours after such termination, the utility shall send written notification to the customer of the reason(s) for termination upon which the utility relies, and of the customer's right to challenge the termination by filing a formal complaint with the Public Service Commission. The utility will not restore service until the customer agrees to comply with all rules and regulations of the utility and Public Service Commission.

For illegal use or theft of service. The utility may terminate service to a customer without advance notice if it has evidence that a customer has obtained unauthorized service by illegal use or theft. This right of termination is separate from and in addition to any other legal remedies that the utility may pursue for illegal use or theft of service.

For dangerous conditions. If a dangerous condition relating to the utility's service which could subject any person to imminent harm or result in substantial damage to the property of the utility or others is found to exist on the customer's premises, then service will be terminated immediately. Upon termination the utility will leave notification at the customer's dwelling and, if possible, orally contact the customer to inform him/her of the reasons for the termination. Such notice will be recorded by the utility and will include the corrective action to be taken by the customer or utility before service can be restored.

Unapproved Extensions and/or Additions. Any extension or additions to an existing service connection that have not been approved by the utility will be considered theft of service, and will constitute grounds for termination of service. This right of termination is separate from and in addition to any other legal remedies that the utility may pursue for illegal use or theft of service.

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TITLE Chairman

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**Misrepresentation.** Any misrepresentation in the application or contract as to the property or fixtures to be supplied or additional use to be made of water will constitute grounds for termination of service, and the customer shall be liable for any damage to any of the utility's facilities or equipment.

**Failure to Report Changes.** Failure to notify the utility of additions to the property or fixtures to be supplied or additional use to be made of water will constitute grounds for termination of service.

**Resale of Water.** Under no circumstances will a customer be allowed to resell or give away water except under the terms of a special contract executed by the utility and approved by the Public Service Commission. Failure to comply with this rule will constitute grounds for termination of service.

**Waste or Misuse.** Waste or misuse of water due to improper or imperfect service pipes and/or failure to keep said pipes in suitable state of repair will constitute grounds for termination of service.

**Tampering with meter, meter seal, service, valves, or other system facilities, or permitting such tampering by others** will constitute grounds for termination of service.

**Connections, cross-connections, or permitting the same, of any separate water supply to premises that receive water from the utility** will constitute grounds for termination of service.

e) The utility will not terminate service to a customer if the following conditions exist:

If payment for services is made. Service will not be terminated to a customer that was sent a termination notice if the customer delivers full payment to the utility prior to the actual termination of service.

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TITLE Chairman

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If a partial payment agreement is in effect. Service will not be terminated for nonpayment if the customer and the utility have entered into a partial payment plan and the customer is meeting the requirements of the plan.

If a medical certificate is presented. Service will not be terminated for thirty (30) days beyond the termination date if a physician, registered nurse or public health officer certifies in writing that termination of service will aggravate a debilitating illness or infirmity on the affected premises. The utility may refuse to grant consecutive extensions for medical certificates past the original thirty (30) days unless the certificate is accompanied by an agreed partial payment plan. The utility will not require a new deposit from a customer to avoid termination of service for a thirty (30) day period who presents to the utility a medical certificate certified in writing by a physician, registered nurse or public health officer.

#### L. Meter Testing.

Water meters will be tested before being installed for use by any customer. The water meter will be in good working order and adjusted as close to the optimum operating tolerance as possible, in accordance with 807 KAR 5:022, Section 8(3)(a), 807 KAR 5:041, Section 17(1)(a)-(c) and 807 KAR 5:066, Section 15(2)(a)-(b).

The utility may have all or part of its meter testing performed by another utility or agency approved by the Public Service Commission. The utility will notify the Public Service Commission of the make, type, and serial number of standards used for testing.

The utility cannot place in service any basic measurement standard unless the Public Service Commission has approved the calibration. The Public Service Commission will be notified promptly of the adoption or deletion of any basic standards requiring approval of the calibration.

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|                                                                                                                                                                                   |
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| <p>PUBLIC SERVICE COMMISSION<br/>OF KENTUCKY<br/>EFFECTIVE<br/>10/11/2005<br/>PURSUANT TO 807 KAR 5:011<br/>SECTION 9 (1)</p> <p>By <u>[Signature]</u><br/>Executive Director</p> |
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## RULES AND REGULATIONS

Meter testers must be certified by the Public Service Commission. Certified meter testers will perform tests as necessary to determine the accuracy of the utility's meters and to adjust the utility's meters to the degree of accuracy required by the rules and regulations of the Public Service Commission.

### M. Meter Test Records.

A complete record of all meter tests and adjustments and data sufficient to allow checking of test calculations will be recorded by the meter tester. Such record will include: information to identify the unit and its location; date of tests; reason for such tests; readings before and after test; statement of "as found" and "as left" accuracies sufficiently complete to permit checking of calculations employed; notations showing that all required checks have been made; statement of repairs made, if any; identifying number of the meter; type and capacity of the meter; and the meter constant. The complete record of tests of each meter will be continuous for at least two (2) periodic test periods and will in no case be less than two (2) years.

The utility will keep numerically arranged and properly classified records for each meter owned, used and inventoried by the utility. The identification number, date of purchase, name of manufacturer, serial number, type, rating, and name and address of each customer on whose premises the meter has been in service with date of installation and removal will be included in the records. These records will also contain condensed information concerning all tests and adjustments including dates and general results of such adjustments. The records will reflect the date of the last test and indicate the proper date for the next periodic test required by the applicable Public Service Commission rule and/or regulation.

Upon completion of adjustment and test of any meter pursuant to Public Service Commission rules and regulations, the utility will affix to the meter a suitable seal in such a manner that adjustments or registration of the meter cannot be altered without breaking the seal.

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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
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Breathitt County Water District  
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### N. Customer Requested Meter Tests.

The utility will make a test of any meter upon written request and payment of the meter test charge, the amount being approved by the Public Service Commission and set out in the utility's tariff, of any customer if the request is not made more frequently than once every twelve- (12) months. The customer shall be given the opportunity to be present at the requested test. If the test shows that the meter was more than two (2) percent fast, the utility will refund the amount of the meter test charge.

After having first obtained a test from the utility, any customer of the utility may request a meter test by the Public Service Commission upon written application. Such request shall not be made more frequently on one (1) meter than once every twelve- (12) months.

### O. Access to Property.

1. The utility shall at all reasonable hours have access to meters, service connections, and other property owned by it and located on customer's premises for purposes of installation, maintenance, meter reading, operation, replacement or removal of its property at the time service is terminated. Any employee of the utility whose duties require him/her to enter the customer's premises will wear a distinguishing uniform or other insignia identifying him/her as an employee of the utility, or show a badge or other identification which will identify him/her as an employee.
2. Obtaining easements and right-of-ways necessary to extend service will be the responsibility of the utility.
3. All customers must grant, convey, or cause to be granted or conveyed to the utility a perpetual easement and right-of-way across any property owned or controlled by the customer wherever necessary for the utility's facilities in order to provide service.

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4. The utility cannot require a prospective customer to obtain easements or rights-of-way on property not owned by the prospective customer as a condition for providing service. However, the cost of obtaining easements or rights-of-way will be included in the total per foot cost of an extension, and will be apportioned among the utility and customer in accordance with the applicable extension administrative regulation.
- P. Location of Records. All records required by Public Service Commission rules and regulations will be kept in the office of the utility and will be made available to representatives, agents or staff of the Public Service Commission upon reasonable notice at all reasonable hours.
- Q. Safety Program. The utility will adopt and execute a safety program, appropriate to the size and type of its operations. At a minimum, the safety program will:
- Establish a safety manual with written guidelines for safe working practices and procedures to be followed by utility employees.
- Instruct employees in safe methods of performing their work.
- Instruct employees who, in the course of their work, are subject to the hazard of electrical shock, asphyxiation or drowning, in accepted methods of artificial respiration.
- R. System Inspections.
1. The utility will adopt inspection procedures to assure safe and adequate operation of its facilities and compliance with Public Service Commission rules and regulations. These procedures will be filed with the Public Service Commission for review.
  2. Upon receipt of a report of a potentially hazardous condition at any utility facility made by a qualified employee, public official, or customer, the utility will inspect all portions of the system which are the subjects of the report.

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3. Appropriate records will be kept by the utility to identify the inspection made, deficiencies found and action taken to correct the deficiencies.
4. Inspections. The utility will make systematic inspections of its system in the manner set out below to insure that the Public Service Commission's safety requirements are being met. These inspections will be made as often as necessary but not less frequently than is set forth below for various classes of facilities and types of inspection.

The utility will annually inspect all structures pertaining to source of supply for their safety and physical and structural integrity, including dams, intakes, and traveling screens. The utility will semiannually inspect supply wells, their motors and structures, including electric power wiring and controls for proper and safe operation.

The utility will annually inspect all structures pertaining to purification for their safety, physical and structural integrity and for leaks, including sedimentation basins, filters, and clear wells; chemical feed equipment; pumping equipment and water storage facilities, including electric power wiring and controls; hydrants, mains, and valves.

The utility will monthly inspect construction equipment and vehicles for defects, wear, operational hazards, lubrication, and safety features.

S. Reporting of Accidents, Property Damage, or Loss of Service.

1. Within two (2) hours following discovery the utility will notify the Public Service Commission by telephone or electronic mail of any utility related accident which results in:

Death; or shock or burn requiring medical treatment at a hospital or similar medical facility, or any accident requiring inpatient overnight hospitalization;

Actual or potential property damage of \$25,000 or more; or

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Loss of service for four (4) or more hours to ten (10) percent or 500 or more of the utility's customers, whichever is less.

2. A summary written report will be submitted by the utility to the Public Service Commission within seven (7) calendar days of the utility related accident.

T. Continuity of Service.

**Emergency interruptions.** The utility will make all reasonable efforts to prevent interruptions of service and when such interruptions occur will endeavor to reestablish service with the shortest possible delay consistent with the safety of its consumers and the general public. If an emergency interruption of service affects service to any public fire protection device, the utility will immediately notify the fire chief or other public official responsible for fire protection.

**Scheduled interruptions.** If the utility finds it necessary to schedule an interruption of its service, it will notify all customers to be affected by the interruption, stating the time and anticipated duration of the interruption. Whenever possible, scheduled interruptions will be made at hours of least inconvenience to customers. If public fire protection is provided by mains affected by the interruptions, the utility will notify the fire chief or other officials responsible for fire protection of the interruption, stating the time and anticipated duration. The fire chief or other official responsible for fire protection will be notified immediately upon restoration of service.

**Record of interruptions.** The utility will keep a complete record of all interruptions on its entire system. This record will show the cause of interruption, date, time, duration, remedy and steps taken to prevent recurrence.

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(Signature of Officer)

TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION

IN CASE NO. \_\_\_\_\_ DATED \_\_\_\_\_

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE  
10/11/2005  
PURSUANT TO 807 KAR 5:011  
SECTION 9 (1)

By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 32

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

## RULES AND REGULATIONS

### U. Pressures.

1. Standard pressure. The utility will maintain a standard pressure in its distribution system at locations to be designated as the point or points of "standard pressure." The selection of such points will be confined to locations fairly representative of average conditions. In selecting points for fixed standard pressure, the utility may divide its distribution system into districts if division is necessary due to differences of elevation or loss of pressure because of friction, or both, and may either adopt a standard pressure for each division or establish a single standard pressure for its distribution system as a whole. In no case will the constant difference between the highest and lowest pressures in a district for which a standard has been adopted exceed fifty (50) percent of such standard. The utility may, in extenuating circumstances, furnish service that does not comply with the foregoing specifications if the customer is fully advised of the conditions under which average service may be expected. The Public Service Commission, upon investigation, may require improvements when it appears right and proper that such upgrades should be made. In no event, however, will the pressure at the customer's service pipe under normal conditions fall below thirty- (30) psig nor will the static pressure exceed 150 psig.
2. Pressure surveys. At least once a year the utility will make a survey of pressures in its distribution system of sufficient magnitude to indicate the quality of service being rendered at representative points in its system. Pressure charts for these surveys will show the date and time of beginning and end of the test and the location at which the test was made. Records of these pressure surveys will be maintained at the utility's office and will be made available to the Public Service Commission upon request.

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ISSUED BY \_\_\_\_\_

(Signature of Officer)

TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE  
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SECTION 9 (1)

By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 33

Breathitt County Water District  
(Name of Utility)

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

\_\_\_\_\_ SHEET NO. \_\_\_\_\_

## RULES AND REGULATIONS

### V. Service Lines & Connections.

1. The utility will furnish and install at its own expense for the purpose of connecting its distribution system to the customer's premises that portion of the service connection from its main to and including the meter and meter box. The utility will recoup this expense from the customer in accordance with KRS 278.0152.
2. In areas where the distribution system follows well-defined streets and roads, the customer's point of service will be located at that point on or near the street right-of-way or property line most accessible to the utility from its distribution system. In areas where the distribution system does not follow streets and roads, the point of service will be located as near the customer's property line as practicable. Prior to installation of the meter the utility will consult with the customer as to the most practical location.
3. Depth of service line. All service lines must be laid at a sufficient depth to prevent freezing during the coldest weather normally experienced except where services are not intended for use during freezing weather and are actually drained during such periods.
4. A plumbing permit from the appropriate regulatory agency is required before the utility can set the meter.
5. The applicant/customer must furnish and lay the necessary pipe to make the connection from the point of service to the point of usage and be financially responsible for all costs associated with the installation and maintenance of his/her service line plumbing, including a shut-off valve and one-way check valve, installed on his/her property beginning at the outlet side of the water meter. The service line must be kept in good repair and in accordance with utility and Public Service Commission rules and regulations.
6. The installation and maintenance of the water service line must be in accordance with the rules and regulations of the Kentucky Department of Health.

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(Signature of Officer)

TITLE Chairman \_\_\_\_\_

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PUBLIC SERVICE COMMISSION  
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By [Signature] \_\_\_\_\_  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 34

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

7. A cross-connection of the utility's system with any other source is strictly prohibited.
8. A well that has or is being used on the premises must be inspected by utility personnel to verify disconnection and separation.
9. All service lines on the customer's side of the meter must consist of copper or PVC pipe with a rating of no less than 160 psi, and should not be less than 3/4 inches.
10. Absolutely no galvanized pipe or fittings can be used in the installation.
11. The utility will only set a meter on a customer's service line at a point that delivers a minimum of 30 psig at the meter.
12. If the applicant/customer's point of usage is at a higher elevation than the meter, the customer should consult with a reputable engineering firm to properly size the service line from the meter to the point of usage.
13. Should an applicant/customer desire a pressure higher than the minimum required 30psig due to location or other need, provisions must be made by the applicant for an individual pressure booster system. The manner of connection, location cross-connection protection and type is subject to approval by the utility. The utility reserves the right to require discontinuance and disconnection should the private booster system have a detrimental effect on the utility's system.
14. Piping on the premises of the applicant/customer must be installed so that connections are conveniently located with respect to the utility's lines and mains. A place must be provided for metering that is unobstructed and reasonably accessible at all times.
15. The utility may require the applicant/customer, at his/her own expense, to install a back-flow preventor and/or pressure regulator.

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ISSUED BY [Signature]  
(Signature of Officer)

TITLE Chairman

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PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 35

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

16. All meters will be installed, renewed, and maintained at the expense of the utility, and the utility reserves the right to approve the size and type of meter used.
17. All taps and connections to the mains of the utility must be made by and/or under the direction and supervision of utility personnel and will incur a meter connection/tap-on charge, an amount that has been approved by the Public Service Commission for such service. Payment of this fee is for the privilege of connecting to the water system and the payment of the fee does not constitute the purchase of a water meter.
18. Should an applicant requesting a 5/8" x 3/4" meter require service on the opposite side of the road from the water main, the utility will provide the service at no additional cost to the customer other than the standard meter connection/tap-on charge. All larger size meters will be charged the actual cost of installing the meter, including, when applicable, the additional costs for crossing the road.
19. Any customer having boilers and/or pressure vessels that receive water from the utility must have a check valve on the water supply line and a vacuum valve on the steam line in order to prevent a collapse were the water supply from the utility be interrupted or discontinued.
- W. Leak Adjustments. A customer may make a request for a bill adjustment in the event of a leak under the following conditions:
- The customer must request a leak adjustment in writing to the utility.
- The customer's bill will be based on two components. The first step will be to calculate the customer's average monthly usage over a twelve-month period. The second step will be to deduct the customers average monthly usage (as calculated in the above) from the total amount of water that passed through the meter. The usage calculated in step one will be billed at the utility's regular rates, while the remaining usage will be charged at the per thousand gallon leak adjustment rate, as set forth in the rates and charges portion of the utility's approved tariff. All water passing through the meter must be accounted and paid for

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TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION

IN CASE NO. \_\_\_\_\_ DATED \_\_\_\_\_

PUBLIC SERVICE COMMISSION  
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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

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Original SHEET NO. 36

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\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

by the customer. So the customer will owe the amount of his/her average bill plus the per thousand gallon leak adjustment rate for the remainder of the water that passed through the meter.

If meter readings are not available for an entire twelve-month period, the water bill will be estimated by the utility, subject to an upward or downward adjustment once a twelve-month average of actual meter readings can be calculated.

Only one (1) leak adjustment will be made per twenty-four month period.

X. Ownership of Mains, Services, and Appurtenances:

All mains, fire hydrants, valves, crossings, and other appurtenances are and shall remain the property of the utility, whether installed by the utility or the customer.

All service lines from the main to the meter with appurtenances are and shall remain the property of the utility, whether installed by the utility or the customer.

The customer shall install, own, and maintain his/her service line from the meter (or point of delivery) to the point of usage.

Y. Notification of System Problems. The customer shall notify the utility immediately should the service be unsatisfactory for any reason, or should there be any defects, problems, trouble, or accidents affecting the water system.

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(Signature of Officer)

TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION  
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PUBLIC SERVICE COMMISSION  
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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
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Original SHEET NO. 37

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Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

#### Z. Legal Disclaimers.

The utility shall in no event be held responsible for any claims made against it for reasons of system failure or interruption of service. No persons shall be entitled to damages nor for any portion of a payment refunded for any system failure or interruption of service which in the opinion of the utility is deemed necessary.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure appurtenance or equipment which is a part of the utility's water system. Any person violating this provision will be subject to immediate arrest and/or discontinuance of water service and shall pay the cost of repairing or replacing the utility's facilities.

If any loss or damage to the property of the utility or any accident or other injury to persons or property is caused by or results from the negligence or wrongful action of a customer, members of his/her household, his/her agent or employee, the cost of necessary repairs or replacements shall be paid by the customer of the utility and any liability otherwise resulting shall be that of the customer.

For purposes of fire protection, including any customer's fire protection system, the utility cannot guarantee a water supply at any particular flow rate or pressure. The fire flow may vary depending upon other water demands on the system, various water facility limitations, or other circumstances. The customer will indemnify and hold harmless the utility and its employees from and against all claims, damages, losses, and expenses incurred as a result of insufficient water supply or deficient system facilities.

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ISSUED BY [Signature]  
(Signature of Officer)

TITLE Chairman

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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
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P.S.C. KY. NO. 1

Original SHEET NO. 38

Breathitt County Water District  
(Name of Utility)

CANCELLING P.S.C. KY. NO. \_\_\_\_\_

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#### RULES AND REGULATIONS

AA. Fire Departments. For the purpose of off-setting fifty percent or more of its operation expenses, any fire department not receiving public funds from the Commonwealth of Kentucky, or any political subdivision thereof, may withdraw water from the utility's facilities at no charge, for the extinguishing of fires or the training of firemen. A fire department making such withdrawals shall provide an estimate of its withdrawals to the utility at the end of each month.

AB. Fire Hydrants:

In accordance with 807 KAR 5:066 Section 10(2)(b), a new fire hydrant will not be installed unless:

A professional engineer with a Kentucky registration has certified that the system can provide a minimum fire flow of 250 gallons per minute, and

The system supporting this flow has the capability of providing this flow for a period of not less than two (2) hours plus consumption at the maximum daily rate.

The location, installation, and the responsibility for maintenance of fire hydrants, public and private fire protection facilities, connecting mains, and their ownership may be subject to negotiation between the utility and the applicant/customer. Fire hydrants and public and private fire protection facilities shall be installed as required by the utility and if owned by the utility shall be subject to any conditions the Public Service Commission may impose, based upon the compensation received for this service.

AC. Fire Sprinkler Systems. Unless specifically exempted within the utility's approved tariff, all connections to the utility's system must be metered; one exception being fire sprinkler systems, subject to utility inspection and approval. A monthly charge will be assessed for each fire sprinkler system. The charge will be approved by the Public Service Commission and included in the rates and charges portion of the utility's approved tariff.

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By \_\_\_\_\_  
Executive Director

FOR Jackson, Kentucky  
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Breathitt County Water District  
(Name of Utility)

### RULES AND REGULATIONS

**AD. Requirements for New Water Connections.**

The water line must be buried in a ditch that is at a minimum of 24 inches in depth.

The water line must be a minimum of 200 psi

A shut-off valve must be installed.

A one-way check valve must be installed.

A pressure regulator may be required as prescribed by the utility.

There shall be absolutely no galvanized pipe or fittings used in the installation.

The water line must be visually inspected by the utility.

If a well is being used, it must be disconnected and the utility must inspect to verify separation.

**AE. Water Main Extensions.**

Normal extension. An extension of fifty (50) feet or less shall be made by a utility to its existing distribution main without charge for a prospective customer who shall apply for and contract to use service for one (1) year or more.

Other extensions.

When an extension of the utility's main to serve an applicant or group of applicants amounts to more than fifty (50) feet per applicant, the utility may require the total cost of the excessive footage over fifty (50) feet per applicant/customer to be deposited with the utility by the applicant or the applicants, based on the average estimated cost per foot of the total extension.

When an extension of the utility's main to serve an applicant or group of applicants amounts to more than fifty (50) feet per applicant, the utility will require the applicant(s) to sign an agreement between the utility and the property owner

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TITLE Chairman

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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

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Original SHEET NO. 40

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\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

(applicant/customer) that specifically define the responsibilities of each party with regards to the extension.

Each customer who paid for service under such extension will be reimbursed under the following plan:

For a period of five (5) years after construction of the extension, each additional customer whose service line is directly connected to the extension installed, and not to extensions or laterals therefrom, will be required to contribute to the cost of the extension based on a recomputation of both the utility's portion of the total cost and the amount contributed by the customers. The utility will refund to those customers that have previously contributed to the cost of the extension that amount necessary to reduce their contribution to the currently calculated amount for each customer connected to the extension. All customers directly connected to the extension for a five- (5) year period after it is placed in service must contribute equally to the cost of construction of the extension. In addition, each customer must pay the approved tap-on fee applicable at the time of his/her application for the meter connection. The tap-on fee will not be considered part of the refundable cost of the extension and may be changed during the refund period. After the five- (5) year refund period expires, any additional customer will be connected to the extension for the amount of the approved tap-on fee only. After the five (5) year refund period expires, the utility will be required to make refunds for an additional five (5) year period in accordance with subparagraph 1 of 807 KAR 5:066 Section 11 (2)(b).

An applicant desiring an extension to proposed real estate subdivision may be required to pay the entire cost of the extension. Each year, for a refund period of ten (10) years, the utility will refund to the applicant who paid for the extension a sum equal to the cost of fifty (50) feet of the extension installed for each new customer connected during the year whose service line is

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TITLE Chairman

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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 41

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\_\_\_\_\_ SHEET NO. \_\_\_\_\_

Breathitt County Water District  
(Name of Utility)

#### RULES AND REGULATIONS

directly connected to the extension installed by the developer, and not to extensions or laterals therefrom. Total amount refunded will not exceed the amount paid to the utility. No refund will be made after the refund period ends.

Nothing contained herein shall be construed to prohibit the utility from making extensions under different arrangements if such arrangements have received the prior approval of the Public Service Commission.

Upon complaint to and investigation by the Public Service Commission a utility may be required to construct extensions greater than fifty (50) feet upon a finding by the Public Service Commission that such extension is reasonable and that an extension of fifty (50) feet or less is unreasonable under the circumstances.

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TITLE Chairman

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By [Signature]  
Executive Director

FOR Jackson, Kentucky  
Community, Town or City

P.S.C. KY. NO. 1

Original SHEET NO. 42

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Breathitt County Water District  
(Name of Utility)

RULES AND REGULATIONS

AF. Extension Procedures for Developers and/or New Subdivisions.

Nothing contained herein shall be construed to prohibit the utility from contracting to make extensions under different arrangements if such arrangements have received the prior approval of the Public Service Commission.

An applicant desiring an extension to a real estate subdivision may be required to pay the entire cost of the extension. Under this plan, annually for a refund period of ten (10) years, the utility will refund to the applicant who paid for the extension a sum equal to the cost of fifty (50) feet of the extension installed for each new customer connected during the year whose service line is directly connected to the extension installed by the developer, and not to extensions or laterals therefrom. Total amount refunded will not exceed the amount paid to the utility. No refund will be made after the refund period ends.

The utility may also, upon Public Service Commission approval, contract privately with owners and/or developers of subdivisions for the installation of water service for the subject subdivision. The owners/developers, pursuant to these contracts, extend mains and install water service at their expense. The utility would not accept nor receive any contribution, cost reimbursement, or deposit from any customer (lot owner) in this circumstance and as contemplated by 807 KAR 5:066 Section 11 (2)(a), and therefore, 807 KAR 5:066 Section 11 (2)(b) (1) or (2) or (3) would not apply to the utility with regard to newly-developed subdivisions.

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ISSUED BY [Signature]  
(Signature of Officer)

TITLE Chairman

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By [Signature]  
Executive Director

# Breathitt County Water District

## EASEMENT AGREEMENT

This EASEMENT AGREEMENT made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_

in the year \_\_\_\_\_, between \_\_\_\_\_  
Owner

and the BREATHITT COUNTY WATER DISTRICT, a water utility and political subdivision organized and existing according to Kentucky Revised Statutes, hereinafter referred to as the SUPPLIER.

WITNESSETH: That for and in consideration of the sum of one dollar (\$1.00) cash in hand paid the receipt of which is hereby acknowledged and other good and valuable consideration as specifically set out in a water service contract between parties given above.

The owner agrees to and does hereby grant and convey to the SUPPLIER, a permanent easement over, across, under, and upon land situated in said County, being a strip of land ten (10) feet wide for the purpose of laying, maintaining, operating, inspecting, replacing, and removing a water line, meter, and/or appurtenances. Said easement adjoins and parallels the road on which the property fronts and extends from one side line of the property the other side line of the property along said road, or otherwise so as to permit access to suppliers facilities, and may also be utilized for service installation to that property lying immediately across the road, or adjacent to suppliers facilities.

IN WITNESS WHEREOF, we have executed this Easement Agreement this, the aforementioned day and year.

WITNESS:

Water User

Address

Phone

Attest:

Breathitt County Water District

Water System

By

STATE OF KENTUCKY  
COUNTY OF \_\_\_\_\_

Title

I, the undersigned, do certify that the foregoing instrument was produced to me in the County aforesaid, and was acknowledged by \_\_\_\_\_, to be his/their free act and deed. This

day of \_\_\_\_\_ in the year \_\_\_\_\_.

My Commission expires:

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE  
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SECTION 9 (1)

By

Executive Director

## EXHIBIT D

### RESOLUTION

RESOLUTION OF THE BREATHITT COUNTY WATER DISTRICT APPROVING AND AUTHORIZING AN ASSISTANCE AGREEMENT DATED AS OF JANUARY 1, 2012 BETWEEN THE BREATHITT COUNTY WATER DISTRICT AND THE KENTUCKY INFRASTRUCTURE AUTHORITY.

WHEREAS, the Board of Commissioners ("Governing Authority") of the Breathitt County Water District ("Governmental Agency") has previously determined that it is in the public interest to acquire and construct certain facilities and improvements to the Governmental Agency's Water System (the "Project") and

WHEREAS, the Governmental Agency has made application to the Kentucky Infrastructure Authority (the "Authority") for the purpose of providing monies to acquire and construct the Project; and

WHEREAS, in order to obtain such monies, the Governmental Agency is required to enter into an assistance agreement dated as of January 1, 2012 (the "Assistance Agreement") with the Authority.

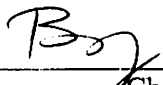
NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Breathitt County Water District, as follows:

SECTION 1. That the Governing Authority hereby approves and authorizes the Assistance Agreement between the Governmental Agency and the Authority substantially in the form on file with the Governmental Agency for the purpose of providing the necessary financing to the Governmental Agency for the acquisition and construction of the Project.

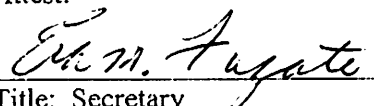
SECTION 2. That the Chairman and Secretary of the Governmental Agency be and hereby are authorized, directed and empowered to execute necessary documents or agreements, and to otherwise act on behalf of the Governmental Agency to effect such financing.

SECTION 3. That this resolution shall take effect at the earliest time provided by law.

ADOPTED on January 23, 2012.

  
\_\_\_\_\_  
Chairman

Attest:

  
\_\_\_\_\_  
Title: Secretary

CERTIFICATE

I, the undersigned, hereby certify that I am the duly qualified and acting Secretary of the Breathitt County Water District; that the foregoing is a full, true and correct copy of a Resolution adopted by the Board of Commissioners of said City at a meeting duly held on January 23, 2012; that said official action appears as a matter of public record in the official records or journal of the governing authority; that said meeting was held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820 and 61.825; that a quorum was present at said meeting; that said official action has not been modified, amended, revoked or repealed and is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature this 23 day of January, 2012.

  
Secretary



**OFFICE OF THE BREATHITT COUNTY ATTORNEY**

**BRENDON D. MILLER**

1149 MAIN STREET  
JACKSON, KENTUCKY 41339  
E-mail: *bdmiller@setel.com*

STANLEY T. TURNER  
SAMUEL BRUCE HERAUD  
ASSISTANT COUNTY ATTORNEYS

PHONE: (606) 666-3809  
FAX: (606) 666-4422  
CHILD SUPPORT: (606) 666-5927

January 23, 2012

Kentucky Infrastructure Authority  
1024 Capital Center Drive  
Suite 340  
Frankfort, Kentucky 40601

RE: Assistance Agreement by and between Kentucky Infrastructure Authority and  
Breathitt County Water District, dated as of January 1, 2012

Ladies and Gentlemen:

The undersigned is an attorney at law duly admitted to the practice of law in the Commonwealth of Kentucky and is legal counsel to the Breathitt County Water District, hereinafter referred to as the "Governmental Agency". I am familiar with the organization and existence of the Governmental Agency and the laws of the Commonwealth applicable thereto. Additionally I am familiar with the drinking water supply project (the "Project") with respect to which the Assistance Agreement by and between the Kentucky Infrastructure Authority ("Authority") and the Governmental Agency is being authorized, executed and delivered.

I have reviewed the form of Assistance Agreement by and between the Authority and the Governmental Agency, the resolution or ordinance of the governing authority authorizing the execution and delivery of said Assistance Agreement.

Based upon my review I am of the opinion that:

- 1) The Governmental Agency is a duly organized and existing political subdivision or body politic of the Commonwealth of Kentucky validly existing under the Constitution and statutes of the Commonwealth of Kentucky.
- 2) The Assistance Agreement has been duly executed and delivered by the Governmental Agency and is a valid and binding obligation of the Governmental Agency enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by equitable principles and by bankruptcy, reorganization, moratorium, insolvency or similar laws heretofore or hereafter enacted relating to or affecting the enforcement of creditors' rights or remedies generally.
- 3) The Governmental Agency has all necessary power and authority (i) to enter into, perform and consummate all transactions contemplated by the Assistance Agreement, and (ii) to execute and

deliver the documents and instruments to be executed and delivered by it in connection with the construction of the Project.

4) The Service Charges, as defined in the Assistance Agreement, are in full force and effect and have been duly and lawfully adopted by the Governmental Agency.

5) The execution and delivery of the Assistance Agreement and the performance by the Governmental Agency of its obligations thereunder does not and will not conflict with, violate or constitute a default under any court or administrative order, decree or ruling, or any law, statute, ordinance or regulation, or any agreement, indenture, mortgage, lease, note or other obligation or instrument, binding upon the Governmental Agency, or any of its properties or assets. The Governmental Agency has obtained each and every authorization, consent, permit, approval or license of, or filing or registration with, any court or governmental department, commission, board, bureau, agency or instrumentality, or any specifically granted exemption from any of the foregoing, that is necessary to the valid execution, delivery or performance by the Governmental Agency of the Assistance Agreement and the imposition of the Service Charges.

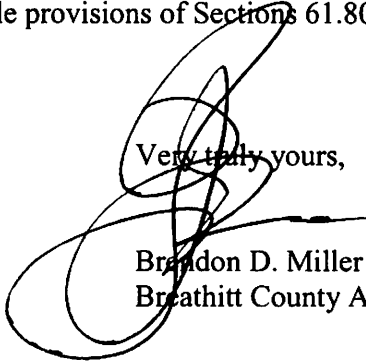
6) To the best of my knowledge after due inquiry there is no action, suit, proceedings or investigation at law or in equity before any court, public board or body pending or threatened against, affecting or questioning (i) the valid existence of the Governmental Agency, (ii) the right or title of the members and officers of the Governmental Agency to their respective positions, (iii) the authorization, execution, delivery or enforceability of the Assistance Agreement or the application of any monies or security therefor, (iv) the construction of the Project, (v) the validity or enforceability of the Service Charges or (vi) that would have a material adverse impact on the ability of the Governmental Agency to perform its obligations under the Assistance Agreement.

7) None of the proceedings or authority heretofore had or taken by the Governmental Agency for the authorization, execution or delivery of the Assistance Agreement has or have been repealed, rescinded, or revoked.

8) To the best of my knowledge, the Governmental Agency has fully complied with all federal and state labor and procurement laws in connection with the construction of the Project.

9) All proceedings and actions of the Governmental Agency with respect to which the Assistance Agreement is to be delivered were had or taken at meetings properly convened and held in substantial compliance with the applicable provisions of Sections 61.805 to 61.850 of the Kentucky Revised Statutes.

Very truly yours,



Brandon D. Miller  
Breathitt County Attorney

**EXHIBIT F**

**TO ASSISTANCE AGREEMENT BETWEEN  
BREATHITT COUNTY WATER DISTRICT  
("GOVERNMENTAL AGENCY") AND  
THE KENTUCKY INFRASTRUCTURE AUTHORITY**

Total Loan to be Repaid by  
Governmental Agency to  
Kentucky Infrastructure Authority                      \$ \_\_\_\_\_

Principal and Interest Payable  
on Each June 1 and December 1

It is understood and agreed by the parties to this Assistance Agreement that this Exhibit F is an integral part of the Assistance Agreement between the Governmental Agency and the Kentucky Infrastructure Authority.

IN WITNESS WHEREOF, the parties have caused this Exhibit F to Assistance Agreement to be executed by their respective duly authorized officers as of the date of said Assistance Agreement.

**KENTUCKY INFRASTRUCTURE AUTHORITY**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**BREATHITT COUNTY WATER DISTRICT,  
Governmental Agency**

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT G

### ADDITIONAL COVENANTS AND AGREEMENTS

1. The Division of Water (DOW) must receive plans and specifications (or required information in lieu of plans and specs) for the following projects:
  - i. South Fork Phase II
  - ii. Cecil Clair Railroad Crossing
  - iii. KY52 and Town Hill Pumps Rehabilitation
  - iv. Bethany Road
  - v. Canoe Road
2. DOW must approve the plans and specifications for all projects referenced in (1) above.
3. An environmental review must be conducted and approved by the DOW for the Canoe Road extension.
4. The Authority to Award (bid) package must be submitted to the DOW for approval within 14 days of bid opening for each contract. DOW must perform the DBE reviews and approve contract documents.
5. Planning and design costs will be reimbursed monthly to the Governmental Agency upon presentation to the Authority and DOW of invoices and supporting documentation showing costs incurred for those projects the Kentucky Public Service Commission has authorized. No more than 50% of the loan funds designated for planning and design will be requested by the Governmental Agency prior to presentation of the plans and specifications to DOW.
6. The remaining 50% of the loan funds designated for planning and design may be requested upon approval of the plans and specifications by DOW and upon approval by the Kentucky Public Service Commission.
7. The Kentucky Public Service Commission must issue a Certificate of Public Convenience and Necessity for all projects identified in (1) above prior to any funds being disbursed for planning, design or construction.
8. No construction funds will be reimbursed to the Governmental Agency until the Authority receives from DOW a certification letter that states that the contract related to each project has been bid and meets all SRF requirements.

Re: Assistance Agreement between the Kentucky Infrastructure Authority ("KIA") and Breathitt County Water District (the "Governmental Agency"), dated as of January 1, 2012

### **GENERAL CLOSING CERTIFICATE OF GOVERNMENTAL AGENCY**

In connection with the above-captioned Assistance Agreement (the "Assistance Agreement"), the Governmental Agency, through its undersigned duly authorized officer hereby certifies, represents, warrants and covenants as follows:

1. No event of default exists, or with the passage of time will exist, under the Assistance Agreement and the representations and warranties set forth in the Assistance Agreement are true and correct as of the date hereof.

2. The Governmental Agency has examined and is familiar with proceedings of the governing body of the Governmental Agency approving the Assistance Agreement and authorizing its negotiation, execution and delivery and such proceedings were duly enacted or adopted at a meeting of the governing body of the Governmental Agency at which a quorum was present and acting throughout; such proceedings are in full force and effect and have not been superseded, altered, amended or repealed as of the date hereof; and such meeting was duly called and held in accordance with law.

3. The Governmental Agency is a duly organized and validly existing political subdivision of the Commonwealth of Kentucky with full power to own its properties, conduct its affairs, enter into the Assistance Agreement and consummate the transactions contemplated thereby.

4. The negotiation, execution and delivery of the Assistance Agreement by the Governmental Agency and the consummation of the transactions contemplated thereby by the Governmental Agency have been duly authorized by all requisite action of the governing body of the Governmental Agency.

5. The Assistance Agreement has been duly executed and delivered by the Governmental Agency and is a valid and binding obligation of the Governmental Agency enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by equitable principles and by bankruptcy, reorganization, moratorium, insolvency or similar laws heretofore or hereafter enacted relating to or affecting the enforcement of creditors' rights or remedies generally.

6. There is no controversy or litigation of any nature pending, or to the knowledge of the Governmental Agency after diligent inquiry, threatened, in any court or before any board, tribunal or administrative body, to challenge in any manner the authority of the Governmental Agency or its governing body to make payments under the Assistance Agreement or to construct the Project, or to challenge in any manner the authority of the Governmental Agency or its governing body to take any of the actions which have been taken in the authorization or delivery of the Assistance Agreement or the construction of the Project, or in any way contesting or affecting the validity of the Assistance Agreement, or in any way questioning any proceedings taken with respect to the authorization or delivery by the Governmental Agency of the

Assistance Agreement, or the application of the proceeds thereof or the pledge or application of any monies or security provided therefor, or in any way questioning the due existence or powers of the Governmental Agency, or otherwise wherein an unfavorable decision would have an adverse impact on the transactions authorized in connection with the Assistance Agreement.

7. The authorization and delivery of the Assistance Agreement and the consummation of the transactions contemplated thereby will not constitute an event of default or violation or breach, nor an event which, with the giving of notice or the passage of time or both, would constitute an event of default or violation or breach, under any contract, agreement, instrument, indenture, lease, judicial or administrative order, decree, rule or regulation or other document or law affecting the Governmental Agency or its governing body.

8. All actions taken by the Governmental Agency in connection with the Assistance Agreement and the loan described therein and the Project, as defined in the Assistance Agreement, have been in full compliance with the provisions of the Kentucky Open Meetings Law, KRS 61.805 to 61.850.

9. The Governmental Agency has all licenses, permits and other governmental approvals required to own, occupy, operate and maintain the Project and to enter into the Assistance Agreement, is not in violation of and has not received any notice of an alleged violation of any zoning or land use laws applicable to the Governmental Agency Project, and has full right, power and authority to perform the acts and things as provided for in the Assistance Agreement.

10. The individuals named below are the duly elected or appointed qualified and acting incumbents in the office of the Governmental Agency indicated after their respective names and the signatures subscribed above their names are their genuine signatures.

WITNESS our signatures, this 15<sup>th</sup> day of February, 2012.

**GOVERNMENTAL AGENCY:  
BREATHITT COUNTY WATER DISTRICT**

By:   
Name: Bobby Thorpe, Jr.  
Title: Chairman

Attest:

By:   
Name: Eva Mae Fugate  
Title: Secretary

61786v1



OFFICE OF THE BREATHITT COUNTY ATTORNEY

**BRENDON D. MILLER**

1149 MAIN STREET  
JACKSON, KENTUCKY 41339  
E-mail: *bdmiller@setel.com*

STANLEY T. TURNER  
SAMUEL BRUCE HERALD  
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PHONE: (606) 666-3809  
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January 23, 2012

Kentucky Infrastructure Authority  
1024 Capital Center Drive  
Suite 340  
Frankfort, Kentucky 40601

RE: Assistance Agreement by and between Kentucky Infrastructure Authority and  
Breathitt County Water District, dated as of January 1, 2012

Ladies and Gentlemen:

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I have reviewed the form of Assistance Agreement by and between the Authority and the Governmental Agency, the resolution or ordinance of the governing authority authorizing the execution and delivery of said Assistance Agreement.

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5) The execution and delivery of the Assistance Agreement and the performance by the Governmental Agency of its obligations thereunder does not and will not conflict with, violate or constitute a default under any court or administrative order, decree or ruling, or any law, statute, ordinance or regulation, or any agreement, indenture, mortgage, lease, note or other obligation or instrument, binding upon the Governmental Agency, or any of its properties or assets. The Governmental Agency has obtained each and every authorization, consent, permit, approval or license of, or filing or registration with, any court or governmental department, commission, board, bureau, agency or instrumentality, or any specifically granted exemption from any of the foregoing, that is necessary to the valid execution, delivery or performance by the Governmental Agency of the Assistance Agreement and the imposition of the Service Charges.

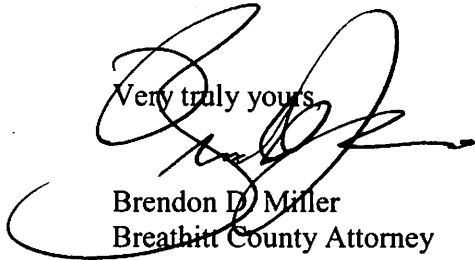
6) To the best of my knowledge after due inquiry there is no action, suit, proceedings or investigation at law or in equity before any court, public board or body pending or threatened against, affecting or questioning (i) the valid existence of the Governmental Agency, (ii) the right or title of the members and officers of the Governmental Agency to their respective positions, (iii) the authorization, execution, delivery or enforceability of the Assistance Agreement or the application of any monies or security therefor, (iv) the construction of the Project, (v) the validity or enforceability of the Service Charges or (vi) that would have a material adverse impact on the ability of the Governmental Agency to perform its obligations under the Assistance Agreement.

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9) All proceedings and actions of the Governmental Agency with respect to which the Assistance Agreement is to be delivered were had or taken at meetings properly convened and held in substantial compliance with the applicable provisions of Sections 61.805 to 61.850 of the Kentucky Revised Statutes.

Very truly yours,

  
Brendon D. Miller  
Breathitt County Attorney

## UNOFFICIAL MINUTES

### MINUTES

**DATE: January 23, 2012**

Breathitt County Water District  
1:00 p.m.

The Breathitt County Water District met in Special Session on the 23rd day of January 2012 at 1:00 p.m. in the Fiscal Court Room. Members present and presiding were Chairman Thorpe, Kash Noble, Sammie Turner, Eva Fugate and Eugene Turner. Also present were Estill McIntosh, Kay Barnett and Crystal Deaton.

The meeting was called to order by Chairman Thorpe.

Discussion was held on ARC Funding. Chairman Thorpe stated that the Board had voted during a previous meeting to not apply for ARC Funding for War Creek Road, Firetrail Road, Robinson Fork, Roark Branch and Hwy. 205, however, now the Board wanted to pursue the funding.

Motion by Chairman Thorpe to authorize Jennifer McIntosh to apply for ARC Grant Funding in the amount of \$500,000.00 and Coal Severance Funding in the amount of \$298,000.00 and use any left over money for Sigman Road. Motion died due to a lack of a second.

Motion by Kash Noble, seconded by Sammie Turner to authorize Jennifer McIntosh to apply for ARC Funding in the amount of \$500,000.00 and to use the money for what it was earmarked for and use any left over money for a new project. Vote is as follows: Chairman Thorpe-aye, Kash Noble-aye, Sammie Turner-aye, Eva Fugate-aye and Eugene Turner-aye. Motion carried.

Motion by Eugene Turner, seconded by Eva Fugate to approve the Resolution authorizing an assistance agreement dated as of January 1, 2012 between the Water District and the Kentucky Infrastructure Authority. Vote is as follows: Chairman Thorpe-aye, Kash Noble-aye, Sammie Turner-aye, Eva Fugate-aye and Eugene Turner-aye. Motion carried.

Motion by Chairman Thorpe, seconded Eugene Turner to use any leftover money from the KIA to tie up other projects including Sigman Road. Vote is as follows: Chairman Thorpe-aye, Kash Noble-aye, Sammie Turner-aye, Eva Fugate-aye and Eugene Turner-aye. Motion carried.

Chairman Thorpe opened the floor for discussion.

Kash Noble inquired as to why the Board was willing to spend at least \$60,000.00 on river bores instead of running waterlines down Hwy. 315. Chairman Thorpe asked Mike

Miller, Director of KRADD, with his past experience as Mayor of Jackson, did the river bores work well. Mr. Miller stated he didn't have any problems with the river bores.

Motion by Eugene Turner, seconded by Chairman Thorpe to advertise for bid both ways, the river bores and running lines beside the road on Hwy. 315. This includes the junction of Hwy. 30/Hwy. 315 at the old Turner School. Vote is as follows: Chairman Thorpe, Kash Noble-aye, Sammie Turner-aye, Eva Fugate-aye and Eugene Turner-aye. Motion carried.

Chairman Thorpe adjourned the meeting.

---

Bobby Thorpe, Jr., Chairman

## EXHIBIT D

### RESOLUTION

RESOLUTION OF THE BREATHITT COUNTY WATER DISTRICT  
APPROVING AND AUTHORIZING AN ASSISTANCE AGREEMENT  
DATED AS OF JANUARY 1, 2012 BETWEEN THE BREATHITT COUNTY  
WATER DISTRICT AND THE KENTUCKY INFRASTRUCTURE  
AUTHORITY.

WHEREAS, the Board of Commissioners ("Governing Authority") of the Breathitt County Water District ("Governmental Agency") has previously determined that it is in the public interest to acquire and construct certain facilities and improvements to the Governmental Agency's Water System (the "Project") and

WHEREAS, the Governmental Agency has made application to the Kentucky Infrastructure Authority (the "Authority") for the purpose of providing monies to acquire and construct the Project; and

WHEREAS, in order to obtain such monies, the Governmental Agency is required to enter into an assistance agreement dated as of January 1, 2012 (the "Assistance Agreement") with the Authority.

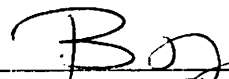
NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Breathitt County Water District, as follows:

SECTION 1. That the Governing Authority hereby approves and authorizes the Assistance Agreement between the Governmental Agency and the Authority substantially in the form on file with the Governmental Agency for the purpose of providing the necessary financing to the Governmental Agency for the acquisition and construction of the Project.

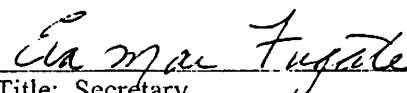
SECTION 2. That the Chairman and Secretary of the Governmental Agency be and hereby are authorized, directed and empowered to execute necessary documents or agreements, and to otherwise act on behalf of the Governmental Agency to effect such financing.

SECTION 3. That this resolution shall take effect at the earliest time provided by law.

ADOPTED on January 23, 2012.

  
Chairman

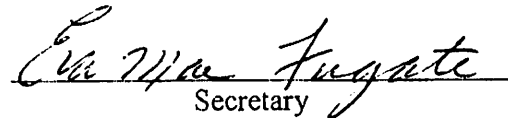
Attest:

  
Title: Secretary

### CERTIFICATE

I, the undersigned, hereby certify that I am the duly qualified and acting Secretary of the Breathitt County Water District; that the foregoing is a full, true and correct copy of a Resolution adopted by the Board of Commissioners of said City at a meeting duly held on January 23, 2012; that said official action appears as a matter of public record in the official records or journal of the governing authority; that said meeting was held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820 and 61.825; that a quorum was present at said meeting; that said official action has not been modified, amended, revoked or repealed and is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature this 23 day of January, 2012.

  
Secretary



AA

**Steven L. Beshear**  
Governor

**KENTUCKY INFRASTRUCTURE AUTHORITY**

1024 Capital Center Drive, Suite 340  
Frankfort, Kentucky 40601  
Phone (502) 573-0260  
Fax (502) 573-0157  
<http://kia.ky.gov>

**John E. Covington III**  
Executive Director

March 2, 2012

Secretary Lori H. Flanery  
Finance and Administration Cabinet  
702 Capitol Ave, Room 383  
Frankfort, KY 40601

RE: Kentucky Infrastructure Authority (KIA) Fund F Loan Assistance Agreement  
Breathitt County Water District (F11-07)

Dear Secretary Flanery:

Enclosed please find for your review and signature the Assistance Agreement for the above referenced project. This loan was approved by the KIA Board and has been reviewed and approved by the Capital Projects and Bond Oversight Committee.

Dirk Bedarff, attorney with KIA legal council Peck, Shaffer & Williams LLP, has examined the agreement and its supporting documentation for completeness and correctness and shows his concurrence via signature.

KIA staff has reviewed the documentation for financial compliance with the State Revolving Fund Loan program. KIA shows its concurrence via the signature of the Executive Director.

Division of Water staff has reviewed the documentation for technical compliance with the State Revolving Fund Loan program. The Energy and Environment Cabinet shows its concurrence via the signature of the Director of the Division of Water.

Please return all documents to KIA upon execution.

Sincerely,

A handwritten signature in cursive script, reading "Tammy J. McCall".

Tammy J. McCall  
Financial Analyst

Enclosure

IN WITNESS WHEREOF, the parties hereto have caused this Assistance Agreement to be executed by their respective duly authorized officers as of the day and year above written.

ATTEST:

KENTUCKY INFRASTRUCTURE  
AUTHORITY

Sandy Williams  
SECRETARY  
Title: \_\_\_\_\_

By: [Signature]  
EXECUTIVE DIRECTOR  
Title: \_\_\_\_\_

ATTEST:

GOVERNMENTAL AGENCY:  
BREATHITT COUNTY WATER DISTRICT

E. M. Fugate  
Title: Secretary

By: Bo  
Title: Chairman

APPROVED:

EXAMINED:

\_\_\_\_\_  
SECRETARY/FINANCE AND  
ADMINISTRATION CABINET OF THE  
COMMONWEALTH OF KENTUCKY

Pick Haffer + Williams LLP  
LEGAL COUNSEL TO THE  
KENTUCKY INFRASTRUCTURE  
AUTHORITY

ENERGY AND ENVIRONMENT CABINET

By: [Signature]  
Director  
Division of Water

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
APPROVED  
FINANCE AND ADMINISTRATION CABINET