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206 EAST MAIN STREET
MOREHEAD, KY 40351

(606) 783-1504
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June 5, 2012

Public Service Commission
Attn: Mr. Bob Robards
211 Sower Blvd.
Frankfort, KY 40602

RECEIVED

JUN 06 2012

PUBLIC SERVICE
COMMISSION

Subject: Rowan Water, Inc.
Case No: 2012-00189

Dear Mr. Robards:

Enclosed herewith you will find the original Letter of Conditions from USDA dated August 29, 2011, which you requested. The original Letter of Condition (08/29/2011), as revised by the USDA letter of 04/25/2012, constitute the Conditions of the Loan and Grant from USDA.

The total project cost is \$1,430,000.00, which will be financed 100% by a \$1,031,000.00 RUS loan, and a \$399,000.00 RUS Grant. Rowan Water will not be required to make any cash contributions to the project. The loan will be repaid over a period of 40 years.

If there is any additional information required please give me a call at (606) 783-1504

Very truly yours,

Truman L. Dehner

TLD:mb

Cc: Rowan Water, Inc.
U.S.D.A. (Attn: Mr. Douglas Hoff)
Kentucky Engineering Group, PLLC



United States Department of Agriculture
Rural Development
Kentucky State Office

August 29, 2011

Larry M. Johnson, President
Rowan Water, Inc.
110 S. Hargis Ave
Morehead, Kentucky 40351

RECEIVED

JUN 06 2012

PUBLIC SERVICE
COMMISSION

Dear Mr. Johnson:

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

This letter is not to be considered as loan and grant approval or as a representation as to the availability of funds. The docket may be completed on the basis of a RUS loan not to exceed \$931,000; a RUS grant not to exceed \$399,000. No applicant cash contribution will be required.

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

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

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

If the conditions set forth in this letter are not met within 210 days from the date hereof, Rural Development reserves the right to discontinue the processing of the application.

In signing Form RD 1942-46, "Letter of Intent to Meet Conditions," you are agreeing to complete the following as expeditiously as possible:

1. Number of Users and Their Contribution:

There shall be 6,774 water users, of which all are existing users. The Area Director will review and authenticate the number of users prior to advertising for construction bids.

2. Grant Agreement:

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

3. Drug-Free Work Place:

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

4. Repayment Period:

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

5. Recommended Repayment Method:

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

6. Reserve Accounts:

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

The Corporation will be required to deposit \$370 per month into a "Funded Debt Reserve Account" until the account reaches \$44,400. The deposits are to be resumed any time the account falls below the \$44,400.

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

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

The Corporation also needs to fund an account for short-lived assets by depositing a sum of \$1,500 monthly to the account. The funds in the short-lived asset account may be used by the Corporation as needed to replace or add short-lived assets in the Corporation's water system.

7. Security Requirements:

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

8. Land Rights and Real Property:

The Corporation will be required to furnish satisfactory title, easements, etc., necessary to install, maintain and operate the facility to serve the intended users. The pipelines will be on private rights-of-way where feasible. Easements and options are to be secured prior to advertising for construction bids.

9. Organization:

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

10. Business Operations:

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

11. Accounts, Records and Audits:

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

The enclosed audit booklet will be used as a guide for preparation of audits. The Corporation shall be required to submit a copy of its audit agreement for review and concurrence by Rural Development prior to pre-closing the loan.

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

The Corporation will accomplish audits in accordance with OMB Circular A-133, during the years in which federal funds are received. The Corporation will provide copies of the audits to

the Area Office and the appropriate Federal cognizant agency as designated by OMB Circular A-133.

13. Insurance and Bonding:

The following insurance and bonding will be required:

- A. Adequate Liability and Property Damage Insurance including vehicular coverage, if applicable, must be obtained and maintained by the Corporation. The Corporation should obtain amounts of coverage as recommended by its attorney, consulting engineer and/or insurance provider.
- B. Worker's Compensation - The Corporation will carry worker's compensation insurance for employees in accordance with applicable state laws.
- C. Fidelity Bond - The Corporation will provide Fidelity Bond Coverage for all persons who have access to funds. Coverage may be provided either for all individual positions or persons, or through "blanket" coverage providing protection for all appropriate employees and/or officials. The amount of coverage required for all RUS loans is \$310,000.
- D. Real Property Insurance - The Corporation will obtain and maintain adequate fire and extended coverage on all structures including major items of equipment or machinery located in the structures. The amounts of coverage should be based on recommendations obtained by the Corporation from its attorney, consulting engineer and/or insurance provider. Subsurface lift stations do not have to be covered except for the value of electrical and pumping equipment therein.
- E. Flood Insurance - The Corporation will obtain and maintain adequate coverage on any facilities located in special flood and mudslide prone areas.

14. Planning and Performing Development:

- A. The engineer should not be authorized to commence work on final plans and specifications until a determination has been made that the project can be planned and constructed within the estimated cost shown in paragraph "24" of this letter. The engineer may then proceed to develop final plans and specifications to be completed no later than 180 days from this date, and prepare bid documents. The Area Director is prepared to furnish the necessary guide to follow so as to keep the project plans and documents within our guidelines and requirements. The project should not be advertised for construction bids until all easements and enforceable options have been obtained, and total funds are committed or available for the project.
- B. The following documents will be submitted to Rural Development for review and must be concurred in by Rural Development prior to advertisement for construction bids:
 - 1. Final plans, specifications and bid documents.

2. Applicant's letter on efforts to encourage small business and minority - owned business participation.
3. Legal Service Agreements.
4. Engineering Agreements.

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

15. Civil Rights & Equal Opportunity:

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

A. Section 504 of the Rehabilitation Act of 1973:

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

B. Civil Rights Act of 1964:

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

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

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

D. Age Discrimination Act of 1975:

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

Rural Development financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap.

16. Closing Instructions:

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

17. Compliance with Special Laws and Regulations:

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

18. System Operator:

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

19. Prior to Pre-Closing the Loan, the Corporation Will Be Required to Adopt:

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

20. Refinancing and Graduation Requirements:

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

21. Commercial Interim Financing:

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

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

22. Disbursement of Project Funds:

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

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

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

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

Borrowers receiving federal loan and/or grant funds by EFT will have funds directly deposited to a specified account at a financial institution with funds being available to the recipient on the date of payment. The borrower should complete Form SF-3881, "Electronic Funds Transfer Payment Enrollment Form," for each account where funds will be electronically received. The completed form(s) must be received by Rural Development at least thirty (30) days prior to the first advance of funds.

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

23. Disbursement of Grant Funds:

The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of obligations due and payable by the Corporation. Grant funds, upon receipt, must be deposited in an interest bearing account in accordance with 7 CFR part 3019 (as applicable). Interest earned on grant funds in excess of \$250 (as applicable) per year will be submitted to RUS at least quarterly.

24. Cost of Facility:

Breakdown of Costs:

Development	\$ 1,030,000
Legal and Administrative	29,390
Engineering	167,610
Contingencies	<u>103,000</u>
TOTAL	\$ 1,330,000

Financing:

RUS Loan	\$ 931,000
RUS Grant	<u>399,000</u>
TOTAL	\$ 1,330,000

25. Use of Remaining Project Funds:

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

26. Proposed Operating Budget:

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

27. Rates and Charges:

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

Water rates will be at least:

29. Compliance with the Bioterrorism Act:

Prior to pre-closing the loan, the Corporation will provide a certification they have completed a Vulnerability Assessment (VA) and prepared an emergency response plan (ERP) as required by the Safe Drinking Water Act (SDWA).

30. Floodplain Construction:

The Corporation will be required to pass and adopt a Resolution or amend its By-Laws whereby the Corporation will deny any water service to any future customer wishing to build on or develop property located within a designated floodplain. If a customer or developer requests service for construction in a designated floodplain, the customer or developer must provide evidence and a justification for approval by the Corporation and Rural Development officials that there are no other alternatives to construction or development within the designated floodplain. The community must be a participant in the National Flood Insurance Program (NFIP) and the customer or developer must obtain the required permits prior to the tap on restrictions being waived.

31. Mitigation Measures:

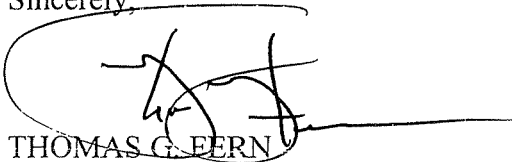
- A. The project shall be in compliance with all requirements noted in the Governor's Office for Local Development letter dated November 8, 2010, from Ms. Lee Nalley.
- B. The design and construction shall be in compliance with the requirements of the U.S. Fish and Wildlife Service as requested by letter dated May 5, 2011, and signed by James Gruhala, Fish and Wildlife Biologist. US Fish and Wildlife Services (USFWS) have stated that the federally endangered Indiana Bat is located within the project area. A Mitigation limiting removal of trees greater than 5" in diameter to the period of October 15th to March 15th is required.
- C. The line design and construction shall be accomplished in a way that will leave flood plains and farmland without effect after construction is complete. The Army Corps of Engineers Nationwide Permit No. 12 applies to all floodplain and wetland utility line construction.
- D. Any excavation by Contractor that uncovers a historical or archaeological artifact shall be immediately reported to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the State Historic Preservation Officer (SHPO).
- E. The design and construction shall be in compliance with all local, state and federal environmental statutes, regulations and executive orders applicable to the project.
- F. Best Management Practices shall be incorporated into the project design, construction, and maintenance.

36. Final Approval Conditions:

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

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

Sincerely,

A handwritten signature in black ink, appearing to read 'THOMAS G. EERN', is written over a circular stamp. The signature is fluid and somewhat stylized.

THOMAS G. EERN
State Director

Enclosures

cc: Area Director - Morehead, Kentucky
Gateway ADD - Owingsville, Kentucky
Truman Dehner - Morehead, Kentucky
Kentucky Engineering Group - Versailles, Kentucky
PSC - ATTN: Dennis Jones - Frankfort, Kentucky