



REQUEST FOR BOARD ACTION

ITEM NO. 8.

DATE OF MEETING: April 15, 2013

REQUESTED BY: Michael G. Mack, Utilities Director

SHORT TITLE: Resolution Approving an Amended and Restated Requirements Water Supply Agreement to Address Future Infrastructure Requirements of the Lower Cape Fear Water and Sewer Authority for the Provision of an Additional Raw Water Supply of 6 Million Gallons Per Day (12 MGD Total) to Pender County in Order for the LCFWASA to Finance Debt Service for Construction of a New 60-inch Raw Water Delivery Line.

BACKGROUND: On September 1, 2006, Pender County and the Lower Cape Fear Water and Sewer Authority (LCFWASA) executed a Water Supply Agreement for Pender County to purchase up to 6 million gallons per day of raw water as the water supply for the Pender County Surface Water Treatment Plant. The Agreement was subsequently amended on December 7, 2009 and September 10, 2012 to reduce the interest rate charged on the System Development Charge payments. Based on our 20-year demand projections, PCU will be in need of more than 6 million gallons per day of raw water by 2027 and as a result of long-term strategic planning and discussions with the LCFWASA and its other primary customers (CFPUA and Brunswick County) regarding future raw water needs, the LCFWASA has determined the need to construct a new 14 mile long 60-inch raw water delivery line from the Cape Fear intake (Kings Bluff Facility) to the Reservoir site in Brunswick County to ensure adequate raw water delivery to their customers into the future. Construction of this project is scheduled to begin in 2013 and be completed by April 30, 2017. The project is estimated to cost approximately \$53,000,000 and will be funded by revenue bonds issued by the LCFWASA. As a result of the new debt service for the construction of the project, each primary customer of the LCFWASA is obligated to pay their proportionate share (based on their future raw water needs) of an Availability Charge. Beginning in the month in which the Authority is capable of delivering an additional 6 million gallons per day (for a total of 12 MGD) of raw water to Pender County, Pender County agrees to pay to the Authority in equal monthly installments an Availability Charge equal to 14.4% of the annual Debt Service payments which the Authority is obligated to pay in order to pay the amounts due on the revenue bonds. The monthly installments shall continue for a period of thirty (30) years or until the bonds are paid in full. The estimated monthly Availability Charge to Pender County is \$40,300 or approximately \$483,000 per year. This amended and restated Agreement and Amended Standard Provisions for Water Supply Agreements details the terms of the future raw water purchase from the LCFWASA. A copy of the *Restated Requirements Water Supply Agreement* and *Standard Provisions for Water Supply Agreements as Amended 2013* are attached.

SPECIFIC ACTION REQUESTED: Consider a resolution approving the Restated Requirements Water Supply Agreement and Standard Provisions for Water Supply Agreements as Amended 2013 between Pender County and the Lower Cape Fear Water and Sewer Authority.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

the attached Restated Requirements Water Supply Agreement and Standard Provisions for Water Supply Agreements as Amended 2013 between Pender County and the Lower Cape Fear Water and Sewer Authority is hereby approved and authorized. The Chairman/County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Brown ___ McCoy ___ Tate ___ Ward ___ Williams ___

George R. Brown, Chairman 04/15/13
Date

ATTEST 04/15/13
Date

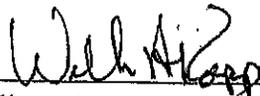
**Resolution Adopting Restated Requirements Water Supply Agreement (2013)
Between Lower Cape Fear Water & Sewer Authority and Pender County**

Whereas, the Authority and Pender County entered into a Water Supply Agreement dated September 1, 2006 which Agreement was subsequently amended on December 7, 2009 and September 10, 2012; and

Whereas, the Authority and Pender County wish to amend, restate and replace the existing Water Supply Agreement in order to address future requirements for raw water on the part of County and the construction of a new 60-inch raw water delivery line from the Kings Bluff facility owned by the Authority to the Authority Reservoir Site located in Brunswick County.

Now Therefore Be It Resolved, that the Chairman and Board of Directors for the Authority, authorize the Chairman and Secretary for the Authority to execute the Restated Requirements Water Supply Agreement (2013) between Lower Cape Fear Water & Sewer Authority and Pender County.

Adopted this 11th day of March, 2013



William A. Kopp, Jr., Chairman



Al J. Leonard, Secretary

STATE OF NORTH CAROLINA
COUNTY OF PENDER

RESTATED REQUIREMENTS WATER
SUPPLY AGREEMENT (2013)

This Restated Water Supply Agreement (the "Agreement") is made this ____ day of _____, 2013 by and between the LOWER CAPE FEAR WATER AND SEWER AUTHORITY, an authority created under the provisions of Chapter 162A of the North Carolina General Statutes (herein the "Authority") and PENDER COUNTY, NORTH CAROLINA, a political subdivision of the State of North Carolina (herein the "County").

WITNESSETH:

WHEREAS, the Authority and County entered into a Water Supply Agreement dated September 1, 2006 which Agreement was subsequently amended on December 7, 2009 and September 10, 2012; and

WHEREAS, the Authority and County wish to amend, restate and replace the existing Water Supply Agreement in order to address future requirements for raw water on the part of County and the construction of a new 60-inch raw water delivery line from the Kings Bluff facility owned by the Authority to the Authority Reservoir Site located in Brunswick County and defined hereinafter.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable considerations, the receipt of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

Definitions

Section 1.1 Definitions. The following words as used in this Agreement shall have the following meanings:

"Authority" shall mean the Lower Cape Fear Water and Sewer Authority.

"Availability Charge" shall mean a periodic payment charged by the Authority to the County for making expanded water service available to County through construction of the Project utilizing funds advanced by the Authority and bonds issued by the Authority.

"Bonds" shall mean any Bonds issued by the Authority and any Additional or Supplemental Bonds as defined, authorized and issued pursuant to a Bond Order.

"County" shall mean Pender County, North Carolina.

"Debt Service" shall mean the principal and interest payments to be made by the Authority on any Bonds or other debt obligations issued by the Authority to pay the cost of the Project as defined herein.

"Project" shall mean the new 60-inch diameter water line to be constructed by the Authority and running parallel with the Authority's existing 48-inch diameter water line from the Kings Bluff Raw Water Pump Station owned by the Authority and located immediately upstream of U.S. Lock & Dam No. 1 on the Cape Fear River to the Reservoir Site together with any additions and appurtenances thereto required for the operation of the Project to include, but not be limited to, permanent booster pumps and additional reservoirs.

"PSI" shall mean pounds per square inch.

"Reservoir Site" shall mean the tract of land in Brunswick County, N.C. approximately 2.87 acres in size on which is located the reservoir and related equipment owned by the Authority. This tract of land is described in that deed recorded in Book 509 at Page 261, Brunswick County Registry.

"Standard Provisions" shall mean the Authority Standard Provisions for Water Supply Agreements attached to this Agreement and incorporated herein by reference as set forth in Section 1.3 hereinafter.

"System" shall mean the raw water delivery system currently owned by the Authority used in part for the delivery of raw water to County consisting of intake pipes and pumps and related facilities located at Kings Bluff in Bladen County, North Carolina, a 48-inch water line running from Kings Bluff to the Reservoir Site, a three million gallon storage tank and related facilities located at the Reservoir Site, a 48-inch line running from the reservoir site to the point on US Highway 421 where raw water is delivered to Cape Fear Public Utility Authority (the "Point of Delivery") and all appurtenances and ancillary or related improvements owned by the Authority located at the Point of Delivery and elsewhere within the System.

"System Development Charge" shall have that meaning set forth in the Standard Provisions. "System Development Charge" shall include the payment of the sum of \$935,082.00 by County to Authority under the provisions of the Water Supply Agreement between County and Authority dated September 1, 2006. In return for this payment, the Authority extended raw water service to the County's water treatment facility located on Highway 421.

"The Authority System Revenue Bonds, Series 2013" shall mean the Bonds issued by the Authority in order to finance construction of the Project, any bonds or indebtedness subsequently issued by the Authority in place of or to refinance the Bonds and any other long term or short term indebtedness required in order to finance construction of the Project. For purposes of this Agreement, such Bonds and indebtedness shall be referred to as "The Authority's 2013 System Revenue Bonds" or "the Bonds."

Section 1.2 Recitals. The recitals set forth herein the above are incorporated herein by reference.

Section 1.3 Standard Provisions. The Standard Provisions attached hereto are incorporated herein by reference and shall be binding on the parties hereto as if fully set forth herein.

ARTICLE II

Term of Agreement

Section 2.1 Initial Term. This Agreement shall be in full force and effect for a period of forty (40) years from the date of its execution or until such time as the Bonds, or any bonds or indebtedness subsequently issued by the Authority in place of or to refinance the Bonds, are paid in full, whichever event occurs last.

Section 2.2 Renewal of Agreement. This Agreement shall automatically continue in effect beyond the Initial Term for successive terms of ten (10) years each unless terminated by either party by giving to the other written notice of termination at least one (1) year prior to the expiration of the then current term.

ARTICLE III

Construction of Project and Delivery of Raw Water

Section 3.1 Delivery of Raw Water When the Project is Constructed. Once the Project is constructed, the Authority shall provide and deliver all of the County's daily requirements for raw water in an amount up to but not to exceed 12 million gallons per day.

Section 3.2 Construction. The Authority shall construct the Project consistent with plans and specifications to be developed by engineers and consultants hired by the Authority and consistent with existing engineering, design and industry standards. The Authority will use its best efforts to complete such construction on or before April 30, 2017.

Section 3.3 Revision of Construction Plans. The Authority may revise any plans and specifications developed for construction of the Project from time to time by change order or otherwise without the approval of County. Provided that the Authority will use its best efforts to provide County

with written notice of such change in the plans and specifications prior to undertaking any work pursuant to such changes.

Section 3.4 Ownership of Project. The Project shall be owned entirely by the Authority.

Section 3.5 Adoption and Enforcement of Rules and Regulations. The Authority shall have the authority to adopt and enforce such reasonable rules and regulations as may be necessary or desirable to ensure the efficient operation and maintenance of the System in compliance with existing laws, regulations and orders of State and Federal agencies carrying the force of law.

Section 3.6 Changes in the System. The Authority may make such additions or improvements to, or such replacements or alterations to, the System as it may deem desirable in order to accomplish the purposes contemplated by this Agreement or by the general purposes and objectives of the Authority. Provided that any such additions, improvements, replacements or alterations shall not reduce the ability of the Authority to deliver up to 12 million gallons per day of raw water to County.

ARTICLE IV

Payment of Availability Charge by County

Section 4.1 Availability Charge. The obligation of County to pay the Availability Charge as set forth in this Section 4.1 shall apply regardless of the amount of water purchased by County in any month. Beginning with the month in which the Authority is capable of delivering 12 million gallons per day of raw water to County, County agrees to pay to the Authority in equal monthly installments an Availability Charge equal to 14.4 % of (i) the annual Debt Service payments which the Authority is obligated to make in order to pay the amounts due on the Bonds and (ii) other costs related to the Project or the indebtedness arising from the Bonds. Such payments shall continue until such time as the Bonds, or any bonds or indebtedness subsequently issued by the Authority in place of or to

refinance the Bonds, are paid in full. Monthly installments shall be due on or before the 15th day of each month. If County fails to make the monthly payments as set forth herein, it shall be in default and the Authority may take those actions as set forth in the Standard Provisions.

Section 4.2 Limitation on County's Obligation to Pay. The obligation of the County to pay the water rates of the Authority pursuant to Article III of the Standard Provisions and the Availability Charge as set forth hereinabove is limited to revenues received by the County from the charges to be paid by the users of the County's water system and available to it for such purposes, including availability, connection, consumption and service charges or fees and any other revenues of such system. The County covenants and agrees to fix and collect from the users of its water system rates and charges sufficient to make the payments required of the County under this Agreement. The taxing power of the County is not pledged directly or indirectly to secure any payments due under this Agreement.

Section 4.3 Payment of Charges for Raw Water. In addition to the payments specified in Section 4.1 above, County shall make payment to the Authority each month for the raw water purchased by County from the Authority at the rates as established by the Authority in its annually adopted budget and any amendments thereto.

Section 4.4 Calculation of Raw Water Rates. Raw water rates to be paid by County shall be established as set forth in the Standard Provisions. Provided, that for so long as County is obligated to make the payments described in Section 4.1 above, the water rates charged to County shall not include any charge or component for repayment of the Bonds.

ARTICLE V

Delivery of Raw Water Before Completion of the Project

Section 5.1 Delivery of Raw Water Before the Project is Completed. Until such time as the Authority is capable of delivering 12 million gallons per day to County, the Authority shall provide and deliver all of the County's daily requirements for raw water in an amount up to but not to exceed 6 million gallons per day.

Section 5.2 Raw Water Charges Before Completion of the Project. Raw water rates to be paid by the County before completion of the Project shall be established as set forth in the Standard Provisions.

ARTICLE VI

Miscellaneous

Section 6.1 Payment of System Development Charge.

(a) The Water Supply Agreement between the Authority and County dated September 1, 2006, as amended, requires the County to pay the Authority a System Development Charge. The parties hereto agree that nothing contained herein shall be construed to change or affect the County's obligation to pay the System Development Charge as described hereinabove. The obligation of the County to pay such System Development Charge is restated as follows: The County agrees to pay to the Authority a non-refundable System Development Charge of \$935,082.00. Such amount may be paid over a period of ten (10) years in semiannual installments of principal together with interest on the unpaid principal amount thereof at the rate of 1.95% per annum. The interest rate to be paid by the County as set forth herein shall adjust in the same manner as does the interest rate paid by the Authority on the Series 2007 Revenue Bonds issued to finance improvements to the King's Bluff facility, which bonds were replaced by the Series 2012 Refunding Revenue Bonds on which the rate is currently 1.95%. Payments shall be due on or before the first day of each July 1 and January 1 until

the first day of July, 2016, at which time the remaining principal amount of the System Development Charge plus all accrued interest shall be due and payable in full.

(b) The County will not be obligated to pay any additional System Development Charge unless the County requests delivery of more than 12 million gallons per day of raw water at some point in the future.

Section 6.2 Modifications. It is recognized by the parties hereto that this Agreement will constitute an essential part of the Authority's security for the payment of the Bonds. As such, this Agreement may only be modified and amended with the consent of the Authority and the County.

Section 6.3 Successors and Assigns. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective successors and assigns. Provided, however, that neither party hereto may assign its rights, liabilities, and obligations hereunder without the consent of the other party.

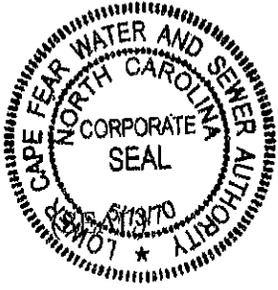
Section 6.4 Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not affect any other provision hereof.

Section 6.5 Counterparts. This Agreement may be executed in several counterparts, any of which shall be regarded for all purposes as one original.

Section 6.6 Controlling Law. This Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina.

Section 6.7 Effective Date. This Agreement shall become effective as of the date hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their duly authorized representatives the day and year first above written.



LOWER CAPE FEAR WATER AND SEWER
AUTHORITY

By: Will H. King
Chairman



ATTEST:

Al Leonard
Secretary

APPROVED AS TO FORM:

John C. Wessell, III, Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Jim Cee
Finance Officer, Lower Cape Fear Water and Sewer Authority

PENDER COUNTY, NORTH CAROLINA

(SEAL)

By: _____ (SEAL)
Chairman

ATTEST:

Clerk

APPROVED AS TO FORM:

County Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Officer, Pender County

NORTH CAROLINA
New Hanover COUNTY

I, DONALD H. BETZ, a Notary Public, certify that
AL LEONARD personally appeared before me this day and
acknowledged that (s)he is Secretary of LOWER CAPE FEAR WATER AND SEWER AUTHORITY,
an authority created under the provisions of Chapter 162A of the North Carolina General Statutes, and
that by the Authority duly given and as the act of the Authority, the foregoing instrument was signed in its
name by its Chairman, sealed with its seal and attested by herself/himself as its Secretary.

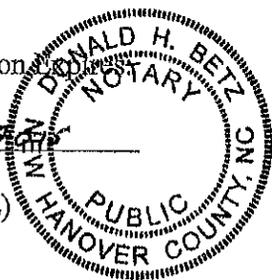
WITNESS my hand and notarial seal, this 11 day of March, 2013.

Donald H. Betz
Notary Public

My Commission Expires

October 3, 2015

(SEAL)



NORTH CAROLINA

COUNTY

I, _____, a Notary Public, certify that _____ personally appeared before me this day and acknowledged that (s)he is the Clerk of PENDER COUNTY, NORTH CAROLINA, a political subdivision of the State of North Carolina, and that by the authority duly given and as the act of the County, the foregoing instrument was signed in its name by its Chairman, sealed with its seal and attested by herself/himself as its Clerk.

WITNESS my hand and notarial seal, this _____ day of _____, 2013.

Notary Public

My Commission Expires:

(SEAL)

JCW\efwsa\restated agreement

STANDARD PROVISIONS FOR
WATER SUPPLY AGREEMENTS
AS AMENDED 2013

The following are Standard Provisions to Water Supply Agreements of the Lower Cape Fear Water and Sewer Authority for the supply of raw or finished water within its service area.

ARTICLE I

Definitions and Warranties

Section 1.1 Definitions. The following words as used in these Standard Provisions and in any other parts of Water Supply Agreements shall have the following meanings:

"Act" shall mean The State and Local Government Revenue Bond Act, constituting Article 5 of Chapter 159 of the General Statutes of North Carolina, as amended.

"Advance for Construction" shall mean the funds advanced to the Authority by or on behalf of a User to pay a portion of the Cost of construction of the Water System which are to be refunded either wholly or in part.

"Annual Budget" shall mean any budget or amended budget of the Authority for each Fiscal Year.

"Authority" shall mean the Lower Cape Fear Water and Sewer Authority, a body politic and corporate created pursuant to Article 1, Chapter 162A of the General Statutes of North Carolina.

"Availability Charge" shall mean a periodic payment charged by the Authority to a User for making water service available in those cases where the Authority has advanced its own funds or issued revenue bonds to pay for Improvements needed to make such water service available.

"Bond Order" shall mean any bond order or resolution adopted by the Authority authorizing issuance of Bonds, together with all orders, resolutions and any action taken by the Authority's Board of Directors amendatory thereof and supplemental thereto.

"Bonds" shall mean any outstanding Bonds issued by the Authority and any Additional or Supplemental Bonds as defined, authorized and issued pursuant to a Bond Order.

"Connection Charge" shall mean a connection charge as defined in the Rules and Regulations.

“Contribution in Aid of Construction” shall mean a non-refundable contribution of funds to the Authority to pay all or part of the Cost of a Project or any Improvements.

"Cost" shall mean cost as defined in North Carolina General Statutes 159-81(3) and 162A-2(3).

"Current Expenses" shall mean the Authority's ongoing and recurring expenses during each Fiscal Year for operation and maintenance of the Water System as determined in accordance with generally accepted accounting principles including, but not limited to, all administrative, general and commercial expenses, insurance and surety bond premiums, payments for the billing and collection of rents, rates, fees or other charges imposed or charged by the Authority for the use of the Water System, legal expenses, any taxes which may be lawfully imposed on the water System or the income or operations thereof or the property forming a part thereof, usual expenses of maintenance, repair and operation, including cost of power and administrative expenses and salaries, refunds (unless otherwise provided in a Water Supply Agreement), any other current expenses required to be paid by the Authority under the provisions of the Bond Order or by law, all to the extent properly and directly attributable to the Water System, and the expenses, liabilities and compensation of the Trustee. "Current Expenses" does not include any reserves for operation, maintenance or repair, any allowance for depreciation, amortization, interest on Bonds or other long term indebtedness or similar charges, any expenditure for which the Authority has made Connection Charges or any reimbursement of Advances for Construction.

"Fiscal Year" shall mean the period commencing on July 1 of any year and ending on June 30 of the following year, or such other fiscal year which the Authority may adopt.

"Improvements" shall mean any additions, enlargements, improvements, extensions, alterations, fixtures, equipment, land, appurtenances or other facilities to or for the Water System.

"Point of Delivery" shall mean the point mutually agreeable to the Authority and a User where the Authority shall deliver raw water to the User.

"Political Subdivision" shall mean a municipal corporation, county or other political subdivision of the state.

“Project” shall mean those capital improvements as defined by a Bond Order.

"Rules and Regulations" shall mean the rules and regulations adopted from time to time by the Authority.

"Service Area" shall mean the geographic area within which the Authority is authorized to sell and deliver raw or finished water.

"State" shall mean the State of North Carolina.

"System Development Charge" shall mean the System Development Charge as defined in the Rules and Regulations, as amended from time to time.

"Take or Pay Requirement" shall mean the unconditional periodic payment a User must pay to the Authority to preserve its right to take a certain amount of water whether or not the amount of water is actually taken.

"Trustee" shall mean the Trustee at the time serving as such under the Bond Order.

"User" shall mean a person, firm, corporation or other legal entity who enters into a Water Supply Agreement with the Authority whether or not the User takes water from the Water System.

"Water Rate(s)" shall mean the rates of charge for water established pursuant to Section 3.1 of these Standard Provisions and the Rules and Regulations.

"Water Supply Agreement" shall mean the agreement, as amended, between the Authority and a User for the purchase and sale of water, such agreement to incorporate by reference these Standard Provisions.

"Water System" shall mean the water system or facilities owned by the Authority at any time.

Section 1.2 Warranties. The Authority and each User represents and warrants that each has full power and authority to enter into and perform these Standard Provisions and any other provisions of the Water Supply Agreement between the Authority and the User.

ARTICLE II

Water Service

Section 2.1 Delivery of Water. Subject to the terms of Article IV of these Standard Provisions, the Authority will furnish raw or finished water to each User in accordance with the User's Water Supply Agreement. Raw or finished water will be delivered at a mutually agreeable Point of Delivery through a meter(s) in accordance with the Rules and Regulations.

Section 2.2 The Authority To Provide And Deliver All Raw Water.

(a) The Authority shall provide and deliver all raw water requirements and needs to all Users within its Service Area and in accordance with the Water Supply Agreements with each User.

(b) So long as the Authority is or can be capable of delivering to a User its raw water

requirements or needs, a User shall not acquire or produce raw water from any source other than the Authority without the express written consent of the Authority, which consent shall not be unreasonably withheld; provided that such consent shall take into consideration the Authority's current and future capacity and capability to provide and deliver raw water to the User.

(c) Provided, however, a User may, at any time and without the Authority's consent, obtain raw water from and maintain, repair and replace any raw water system in existence and owned and operated by the User at the time the User first purchased raw water from the Authority and any raw water system that a User which is a municipality acquires by annexation.

(d) At the time of entering into Water Supply Agreements with Users, the Authority shall acknowledge such pre-existing and acquired by annexation raw water systems as part of such Agreement.

Section 2.3 Meters. Procedures for the installation, operation, maintenance, calibration, and reading of meters and adjustment of meter readings shall be set forth in the Rules and Regulations.

Section 2.4 Operation of Water System. The Authority shall operate and maintain, or cause to be operated and maintained, the Water System in a safe, efficient and economical manner, making all necessary and proper repairs, replacements and renewals, consistent with good business and operating practices for comparable facilities and in accordance with applicable standards of regulatory bodies. Current Expenses in any Fiscal Year shall not exceed an amount that is reasonable and necessary and that is designated as Current Expenses in the Authority's Annual Budget for such Fiscal Year.

Section 2.5 Inspection of the System. As required by any applicable Bond Order, the Authority shall cause a consulting engineer to inspect the System at least once every 12 months and to submit to the Authority a report identifying any operational, maintenance, or repair problems of the Water System and setting forth for the next ensuing 12-month period (a) his recommendations as to any revisions that should be made in the methods of operation or maintenance of the Water system and any repairs that must be made to maintain the Water system in such period and his estimate of the cost of such repairs and methods, (b) his estimate as to the amount of adequate reserves for extraordinary repairs, renewals and replacements to the system in such period, (c) his estimate as to the staffing requirements of the Authority for such period, and (d) his estimate as to any additional insurance that may be needed to insure the Authority against loss due to casualty loss or damage to the Water System. The Authority shall be obligated to undertake any action recommended in the engineer's report which the Authority would be required to take to comply with Section 2.4 of these Standard Provisions. If there is no existing debt and accompanying Bond Order, inspections shall be as directed by the Board of Directors of the Authority.

Section 2.6 Insurance. The Authority shall carry at all times insurance covering all properties belonging to the Water system as are customarily insured, against loss or damage from such causes as are customarily insured against by enterprises of a similar nature and of a type and form as may be required by the Bond Order. The Authority also shall carry workers' compensation insurance, use and occupancy insurance, employers liability insurance, boiler and machinery insurance, public officials liability insurance, automobile liability insurance, and

commercial general liability insurance insuring against bodily injury and property damage arising out of the operations of the Authority. Such insurance shall be maintained with a financially responsible insurance company or companies, authorized and qualified under the laws of the State to assume the risk thereof. The proceeds of insurance shall first be applied as required by any outstanding and applicable Bond Order.

Section 2.7 Observance of Regulations. Each User covenants and agrees to observe the Rules and Regulations which have been adopted by the Authority (and as they may be amended) respecting the use of and services furnished by the Water system or legally required by any other authorized regulatory body.

ARTICLE III

Water Rates and Other Charges

Section 3.1 Water Rates. The Authority shall fix and determine from time to time Water Rates for raw or finished water furnished to all Users. Water rates shall be established by the Authority at such levels as may be necessary to provide funds, together with other available funds, at least sufficient in the aggregate at all times to pay (a) Current Expenses, (b) the principal of, premium, if any, and interest on bond obligations of the Authority and Nonparity Debt as defined in a Bond Order, as the same become due, including all debt service reserves and other funds, accounts and reserves as may be required by any order or resolution authorizing the issuance of bonds, including any Bond Order, and (c) reimbursement of Advances for Construction of Projects and Improvements and expenses associated therewith. The Authority shall be entitled to revise its Water Rates as often as necessary to comply with this section. Water charges shall be determined by applying the rates determined pursuant to this Section to the total amount of raw or finished water delivered to each User as obtained from the Authority's meter readings. The Authority may present charges based on budget estimates, subject to adjustment based on actual meter readings.

Section 3.2 Payment. Each User covenants and agrees to pay promptly when due the Authority's Water Rates as determined in accordance with this Article and billed to the User from time to time. Payment for water delivered to a User during any month is due in full on or before the fifteenth (15th) day of the month immediately following the month during which such water is delivered and shall be made as directed by the Authority. Payment of Water Rates shall be due notwithstanding that a User disputes the accuracy or legality of the water Rates or notwithstanding that the Authority curtails or interrupts service to the User pursuant to Article IV of these Standard Provisions. There shall be no free water service rendered by the Authority. Nothing contained herein shall require a User to pay for water the Authority is incapable of delivering.

Section 3.3 Limitation. Nothing herein shall prevent the Authority from limiting the obligation of any Political Subdivision to pay Water Rates to non-tax revenues of the Political Subdivision so that a Water Supply Agreement with such Political Subdivision will not constitute a debt secured by a pledge of the Political Subdivision's faith and credit which has not been approved in accordance with the provisions of Article V, Section 4 of the Constitution of North Carolina.

Section 3.4. Bills. As a convenience to its customers, the Authority will deliver each User a bill not later than the fifth (5th) day of the month covering water delivered during the previous month. All bills shall be sent to the User at the address of the User or as otherwise directed by the User. Failure to receive bills will not be considered justification for non-payment of amounts due, nor permit an extension of the date when the account will be considered delinquent. The Authority may, at any time, correct any bills for service which may be in error.

Section 3.5 Interest. Interest on delinquent Water Rates shall accrue during the period of non-payment at the rate of eighteen per cent (18%) per annum.

Section 3.6 Refunds. The Authority will by lump sum payment within 90 days of the determination refund any Water Rates or other charges or parts thereof that the Authority or a court of competent jurisdiction by final judgment determines were inaccurate, illegal or otherwise not entitled to be collected. Rather than making a refund by lump sum payment, the Authority may at its option make refunds in successive monthly installments over such period as the Authority deems appropriate, not exceeding 24 months from the last date a lump sum refund would have been due.

Section 3.7 System Development Charges; Connection Charges. The Authority shall, in accordance with the Rules and Regulations, collect from Users who apply for new or expanded service a System Development Charge and such Connection Charges as are appropriate to the service being provided by the Authority.

ARTICLE IV

Reductions, Interruptions and Discontinuance

Section 4.1 Limitations on Service; Curtailment. Any duty or obligation of the Authority to meet a User's raw or finished water needs is subject to limitations upon the Authority's ability to do so caused by (a) the amount of raw water available to the Authority from the Cape Fear River, (b) obligations of the Authority pursuant to Water Supply Agreements to deliver raw or finished water to other Users, (c) the capacity of the Water System and (d) completion of any Improvements the Authority elects to make to enable it to provide raw or finished water to a User. If the Authority reduces the amount of raw or finished water delivered to its Users, it will reduce or diminish the supply of raw or finished water to each User in the same proportion or ratio as the supply to other Users is reduced.

Section 4.2 Temporary Interruptions. The Authority may at any time shut off the water in the Water System in case of an accident, or for the purpose of making connections, alterations, repairs, changes or for any other lawful reasons. The Authority will use its best efforts to give notice in advance of any interruption of the water supply. It is the obligation of Users and not the Authority to protect the Users facilities connected with the Water system so that damage will not occur if water is shut off without notice.

Section 4.3 Shut Off for Default and Notices. If payment of Water Rates due from a User remains delinquent for a period of more than thirty (30) days, service may be terminated by the Authority. The Authority will give each User twenty-four (24) hours notice prior to terminating service on account of non-payment of Water Rates. The Authority may also discontinue service after thirty (30) days notice when a User violates any terms of a Water Supply Agreement with the Authority or any Rule or Regulation and fails to remedy or cure such violation within the thirty (30) day notice period.

ARTICLE V

Miscellaneous

Section 5.1 Water Service to New Customers. The Authority shall only provide water service to new Users pursuant to a Water Supply Agreement.

Section 5.2 Amendments and Termination. It is recognized by the Authority and each User that the User's Water Supply Agreement will constitute an essential part of the Authority's financing plan and that after any Bonds have been sold, and notwithstanding a breach thereof by the Authority or the User, each Water Supply Agreement cannot be terminated before the end of its original term or any extended term, amended, modified, or otherwise altered in any manner that will impair or adversely affect the security afforded thereby for the payment of the principal of, premium, if any, and interest on the Bonds, but that each Water Supply Agreement can be terminated, modified or amended only with the consent of the parties thereto and the Trustee given in accordance with any Bond Order. The amendment of a User's Water Supply Agreement shall not amend the terms of any other Water Supply Agreement. Nothing herein shall be construed to prevent the Authority or a User in the event of the breach of a Water Supply Agreement from seeking injunctions, money damages or other relief which does not seek to terminate or alter the Water Supply Agreement.

Section 5.3 Books and Records. The Authority shall keep proper books and records in accordance with generally accepted accounting principles which shall be available for inspection at all reasonable times by each User. The Authority shall cause an annual audit of its books and records to be made by an independent certified public accountant at the end of each Fiscal Year.

Section 5.4 Successors and Assigns. Each Water Supply Agreement, including these Standard Provisions, shall be binding upon, inure to the benefit of, and be enforceable by the parties thereto and their respective successors and assigns; provided, however, that neither a User nor the Authority may assign their rights, liabilities and obligations hereunder without the consent of the other party except that the Authority may assign all Water Supply Agreements to the Trustee without the consent of any User.

Section 5.5 Severability. If any provision of any Water Supply Agreement, including these Standard Provisions, shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not affect any other provision thereof.

Section 5.6 Waiver. Any party's failure to insist upon the strict performance of any

provision of a Water Supply Agreement or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any rights under the Water Supply Agreement.

Section 5.7 Counterparts. Water Supply Agreements may be executed in several counterparts, any of which shall be regarded for all purposes as one original.

Section 5.8 Controlling Law. Water Supply Agreements shall be construed and enforced in accordance with the laws of the State of North Carolina.

Section 5.9 Effective Date. Water Supply Agreements and amendments to Water Supply Agreements shall become effective as of the date of their execution by all parties thereto unless otherwise specified by the parties.