

**MARYLAND ENVIRONMENTAL SERVICE**

**BOARD OF DIRECTORS**

**RESOLUTION NO. 11-01-1R**

**A RESOLUTION AUTHORIZING**

the issuance, sale and delivery by the Maryland Environmental Service (the “Service”) of its Maryland Environmental Service Water Quality Bonds (Hobbs Road Landfill Cap and Closure Project) Series 2011A and Series 2011B (collectively, the “Bonds”) in an aggregate principal amount not to exceed \$3,500,000 pursuant to the authority of sections 9-1601 through 9-1622 inclusive of the Environment Article of the Annotated Code of Maryland (2007 Replacement Volume and 2010 Supplement) and sections 3-101 through 3-130 inclusive of the Natural Resources Article of the Annotated Code of Maryland (2005 Replacement Volume and 2010 Supplement) for the purpose of paying all or a part of the cost of a project of the Service consisting generally of the planning, design, permit acquisition, financing, and construction of a cap and closure for the Hobbs Road Landfill located in Caroline County, Maryland (the “Project”), together with related costs and costs of issuance; approving and adopting the form and tenor of the Bonds, the terms and conditions for the issuance and sale of the Bonds by private sale without competitive bidding to the Maryland Water Quality Financing Administration (the “Administration”) and all other details thereto; authorizing the Director of the Service to adjust and determine certain details of the Bonds, including determining the final principal amount of the Bonds and certain other

matters as provided herein; approving the execution and delivery of one or more loan agreements with the Administration pursuant to which advances will be made under the Bonds; providing for the Bonds to be obligations of the Service payable from a dedicated source; authorizing the Director and other officers of the Service to take all actions necessary to complete and close the sale and delivery of the Bonds; and providing generally for other matters necessary for the issuance, sale and delivery of the Bonds.

### **RECITALS**

The Service was created by, exists under, and exercises the powers contained in Sections 3-101 through 3-130 of the Natural Resources Article of the Annotated Code of Maryland (2005 Replacement Volume, 2010 Supplement), as amended to date (the “MES Act”), including, (among others) the powers (i) to borrow money for the purpose of paying all or any part of the cost of any one or more projects or for any other purpose of the Service, (ii) to enter into contracts with the Federal or any State government, or any unit, instrumentality or subdivision thereof, or with any municipality or person within or without the State of Maryland, providing for or relating to the furnishing of services to the facilities of any project of the Service, and (iii) to make any contract or agreement the Service determines to be necessary or incidental to the performance of its duties and to the execution of the purposes of and the powers granted by the MES Act, including contracts with any person, on terms and conditions the Service approves. The Service is further authorized and empowered pursuant to Sections 9-1601 through 9-1622, inclusive, of the Environment Article of the Annotated Code of Maryland (2007 Replacement Volume and 2010 Supplement)(the “WQFA Act”), to issue its revenue bond or bonds to be designated as “Maryland Environmental

Service Water Quality Bond (Hobbs Road Landfill Cap and Closure Project) Series 2011A (the “Series 2011A Bond”) and Maryland Environmental Service Water Quality Bond (Hobbs Road Landfill Cap and Closure Project) Series 2011B (the “Series 2011B Bond”, together with the Series 2011A Bond, collectively, the “Bonds”) in the aggregate principal amount not to exceed \$3,500,000 to finance the costs of planning, design, permit acquisition, financing, and construction of a cap and closure for the Hobbs Road Landfill located in Caroline County, Maryland (the “Project”). The public purposes for which the proceeds of the Bond are authorized to be spent, the amount (or maximum amount) authorized to be spent for such public purpose, are a portion of the cost for the Project.

Pursuant to a Memorandum of Understanding dated February 4, 2005 (the “MOU”), between the Service and the County Commissioners of Caroline County, County Commissioners of Queen Anne’s County, County Commissioners of Kent County, and Talbot County, Maryland (collectively, the “Mid-Shore Counties”), the Service agreed to proceed with the planning, design, permit acquisition, financing, construction, and operation of a new solid waste landfill to be known as the Mid-Shore II Regional Landfill located near Ridgely, Caroline County, Maryland (the “Mid-Shore Landfill Project”). In furtherance of the Mid-Shore Landfill Project, the Service and the Mid-Shore Counties have entered into waste disposal service agreements (the “Service Agreements”) under which the Mid-Shore Counties have made binding, long-term commitments to the Service for the disposal of solid waste generated within the boundaries of the Mid-Shore Counties. The Service Agreements provide that the Mid-Shore Counties and other users of the Mid-Shore Landfill Project will pay a tipping fee for each ton of acceptable waste that is delivered to the Mid-Shore Landfill Project. The tipping fees, plus certain other revenues of the Service, as defined in the Service

Agreements, constitute “Landfill Revenues.” The Service Agreements further provide that the Mid-Shore Counties will also pay a supplemental fee (the “Supplemental Fee”) in the event that the total costs of the Mid-Shore Landfill Project exceed the Landfill Revenues. For purposes of this Resolution and the Loan Agreements (as defined herein), the Landfill Revenues, the Supplemental Fee, and any moneys received from the State from the Comptroller of Maryland pursuant to the provisions of Section 3-108(b) of the MES Act constitute the “Revenues” for repayment of the principal and interest on the Bonds.

The Service Agreements further provide that the Service shall close the Hobbs Road Landfill and conduct post-closure activities. The total costs of the Mid-Shore Landfill Project include the costs of the Project, and the Revenues may be utilized for costs incurred in implementing the Project.

The WQFA Act, which established the Maryland Water Quality Financing Administration (the “Administration”) and authorized a state water pollution control revolving fund (“SRF”), authorizes the Administration to make a loan from the SRF to a “local government” (as defined in the WQFA Act) for the purpose of financing all or a portion of the costs of a “wastewater facility” (as defined in the WQFA Act). The Service is a “local government” with the meaning of the WQFA Act.

Pursuant to Section 9-1606(a) and (b) of the WQFA Act, the Service desires to issue and sell its Bonds to the Administration at private sale without public bidding and based on the findings set forth hereinabove, the Service has determined that it is in the best interest of the Service to authorize and execute two Loan Agreements (as defined below) and to sell the Bonds at private negotiated sale to the Administration. The Service has determined to adopt this Resolution in order to provide

for the issuance, sale, the designation, form, tenor, denomination, maturity or maturities, and the rate or rate of interest payable upon the Bonds, and to provide for the payment of the interest on and principal of the Bonds issued under this Resolution solely from the Revenues. The final aggregate principal amount of the Bonds together with certain details of the Bonds, including, but not limited to, the form of the Bonds, the form of various documents necessary to implement the financing authorized by this Resolution, maturity schedule, interest rate or rates, redemption provisions, date of sale, manner of sale (if different from private (negotiated) sale) and purchaser, and appointment of escrow deposit agent if necessary for the Bonds, shall be determined as provided herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE, that:**

1. Capitalized terms used and not defined herein shall have the meanings set forth in the title and the Recitals to this Resolution.

2. The issuance, sale and delivery of the Series 2011A Bond in a principal amount not to exceed \$2,000,000, to be designated “Maryland Environmental Service Water Quality Bond (Hobbs Road Landfill Cap and Closure Project) Series 2011A”, and the issuance, sale and delivery of the Series 2011B Bond in a principal amount not to exceed \$1,500,000, to be designated “Maryland Environmental Service Water Quality Bond (Hobbs Road Landfill Cap and Closure Project) Series 2011B”, shall be, and hereby are, authorized and directed pursuant to the provisions of the MES Act and the WQFA Act to provide funds for the payment of all or any part of the costs of the Project, each of which shall constitute a “loan obligation” within the meaning of the WQFA Act. It is the intent of the Service that a significant portion of the costs of the Project be reimbursed to the Service out of the proceeds of the Bonds comprising the loan obligation (the “Loan”) for

certain costs incurred by the Service prior to the adoption of this Resolution.

3. The Project shall constitute a “wastewater facility” within the meaning of Section 9-1601(ii) of the WQFA Act.

4. Such borrowing and indebtedness of the Service shall be made and incurred pursuant to Section 9-1606 and Section 9-1614(b) of the WQFA Act and in accordance with the provisions of one or more Loan Agreements between the Service, as the Borrower, and the Administration (the “Loan Agreements”), the substantially final form of which are attached hereto as Exhibit A (the “Series 2011A Loan Agreement”) and Exhibit B (the “Series 2011B Loan Agreement”), respectively, with such amendments, insertions, variations or revisions as may be deemed necessary or appropriate and acceptable to the Director of the Service (the “Director”) in accordance with the provisions of this Resolution. The Service hereby approves the form of and authorizes the execution and delivery by the Director of the Loan Agreements set forth in Exhibit A and Exhibit B attached hereto, including all covenants and conditions set forth therein, including the payment of Administrative Fees, with such amendments, insertions, variation or amendments as approved by the Director.

5. In accordance with the Series 2011A Loan Agreement, the aggregate indebtedness of the Series 2011A Bond shall be in an amount not to exceed Two Million Dollars (\$2,000,000) which shall be advanced in accordance with the provisions of the Series 2011A Loan Agreement between the Service and the Administration, substantially in the form attached hereto as Exhibit A and made a part hereof. The Series 2011A Bond shall be registered in the name of the Administration or its designee; shall be payable in principal sums and shall bear interest at such rate not to exceed Twenty-five Percent (“25%”) of the average of The Bond Buyer II-Bond Index for

the month proceeding the delivery date of the Series 2011A Bond. The maturity of the Series 2011A Bond and the date of final maturity shall appear in the executed Series 2011A Bond. In no event shall the final date of maturity of the Series 2011A Bond exceed Twenty (20) years from the date of issuance of the Series 2011A Bond.

The principal installments payable on the Series 2011A Bond, payment dates, the rate of interest to be born by the Series 2011A Bond (or the manner of determining the principal payments and rate of interest), final maturity of the Series 2011A Bond, shall be described in Exhibit C attached hereto as a part hereof , subject to insertions and changes, if any, as may be determined and approved by the Director, provided, however, in no event shall the principal amount of the Series 2011A Bond exceed \$2,000,000. Execution of the Series 2011A Bond by the Director shall constitute conclusive evidence of such approval. The Service hereby approves the form of the Series 2011A Bond and authorizes execution and delivery of the Series 2011A Bond in substantially the form set forth in Exhibit C, the maximum principal amount maturing and bearing interest as determined in the foregoing paragraph of this Section, including all covenants and conditions set forth in such form, and with such insertions, omission or variations as may be deemed necessary or appropriate and approved by officials of the Service executing the same.

**6.** The remaining portion of the loan and the maximum principal amount determined in accordance with the Series 2011B Loan Agreement between the Service and Administration, not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) shall be advanced in accordance with the terms and provisions of the Loan Agreement between the Service and the Administration, substantially in the form attached hereto as Exhibit B and made a part hereof (“Series 2011B Loan Agreement”). The Service hereby approves and authorizes the execution and delivery of the Series

2011B Loan Agreement substantially in the form set forth in Exhibit B and the Series 2011B Loan Agreement and all the covenants and conditions set forth therein are hereby approved and adopted as the obligation of the Service.

7. In accordance with the Series 2011B Loan Agreement, the aggregate indebtedness of the Series 2011B Bond shall be in an amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) which shall be advanced in accordance with the provisions of the Series 2011B Loan Agreement between the Service and the Administration, substantially in the form attached hereto as Exhibit B and made a part hereof. The Series 2011B Bond shall be registered in the name of the Administration or its designee; shall be payable in full on demand in principal sums and shall bear interest on demand at such default rate of interest as set forth on the Series 2011B Bond. The maturity of the Series 2011B Bond and the date of final maturity shall appear in the executed Series 2011B Bond. In no event shall the final date of maturity of the Series 2011B Bond exceed Twenty (20) years from the date of issuance of the Series 2011B Bond.

The principal installments payable on the Series 2011B Bond, payment dates, the rate of interest to be borne by the Series 2011B Bond (or the manner of determining the principal payments and rate of interest), and the final maturity of the Series 2011B Bond shall be described in the form of Series 2011B Bond, substantially in the form attached hereto as Exhibit D, subject to insertions and changes, if any, as may be determined and approved by the Director, provided, however, in no event shall the principal amount of the Series 2011B Bond exceed \$1,500,000. Execution of the Series 2011B Bond by the Director shall constitute conclusive evidence of such approval. The Service hereby approves the form of Series 2011B Bond and authorizes execution and delivery of the Series 2011B Bond in substantially the form set forth in Exhibit D attached hereto as a part



hereof, the maximum principal amount maturing and bearing interest as determined in the foregoing paragraph of this Section, including all covenants and conditions set forth in such form, and with such insertions, omissions or variations as may be deemed necessary or appropriate and approved by officials of the Service executing the same.

Pursuant to Title VI of the Federal Water Pollution Control Act of 1972 (the "Clean Water Act") P.L. 92-500, 33 U.S.C. Section 1251, et seq., as amended by the Water Quality Act of 1987, as further amended by H.R. 2996, 111<sup>TH</sup> CONG.. (2009-2010), PUB. L. NO. 111-88, and the rules and regulations promulgated thereunder, and Section 9-1605(d)(9) of the Environment Article of the WQFA Act, as amended, the Administration shall forgive repayment of the principal amount of the portion of the Loan evidenced by the Series 2011B Bond and the interest payable thereon under Article III of the Series 2011B Loan Agreement, and the Series 2011B Bond so long as the Service performs its other material obligations under the Series 2011B Loan Agreement. Upon determination by the Administration that any such other material obligations under the Series 2011B Loan Agreement have not been performed by the Service, payment of the principal of the portion of the loan evidenced by the Series 2011B Bond and the interest thereon from the date of demand as set forth in the foregoing paragraph above, will be due and payable on demand. If the Administration has not demanded payment of the principal of and interest on the Series 2011B Bond by that date, which is the ten year anniversary of the date of issuance thereof, then the Administration shall be deemed to have forgiven repayment of that portion of the Loan evidenced by the Series 2011B Bond and interest thereon, the Series 2011B Bond shall be deemed cancelled and that portion of the Loan evidenced by the Series 2011B Bond and the Series 2011B Loan Agreement shall be deemed terminated and of no further force and effect.

8. The Service will also execute and deliver in connection with the issuance of the Bond such other documents, agreements, instruments and certificates (the "Water Quality Documents") as the Director, upon advice of legal counsel, shall deem necessary or appropriate for the financing of the Project. The Loan Agreements, the Bonds and the Water Quality Documents are collectively referred to herein as the "Loan Documents". Because this Resolution is being adopted before all of the details of the sale of the Bonds have been determined, the Director, pursuant to the powers reserved unto him under this Resolution and the MES Act, is hereby authorized to make such changes to the form of the Loan Agreements and Bonds, including insertions therein or additions or deletions thereto, as he may deem necessary or appropriate to conform the terms of the Loan Agreements and Bonds to the terms of the financing to be provided to the Service by the Administration; provided, however, that such changes, additions, or deletions are not in substance inconsistent with or contrary to the requirements set forth in this Resolution, and the principal amount of the Bonds shall not exceed, in the aggregate, \$3,500,000.

9. The Loan Agreements and the Bonds shall be executed on behalf of and in the name of the Service by the Director, such execution to be made by the manual or facsimile signature of the Director. The seal of the Service may be affixed to the Loan Agreements and to the Bonds, and each shall be attested by the manual signature of the Secretary or Deputy Director of the Service. If any officer whose signature shall appear on the Loan Documents shall cease to be such officer before the delivery of such Loan Documents, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until such delivery. The Loan Documents, as executed by the Director, shall be valid and legally binding obligations of the Service in accordance with their terms.

10. Notwithstanding any section of the MES Act to the contrary, as authorized by Section 9-1606 of the WQFA Act, the Bonds may be sold at private sale to the Administration, public advertisement and sale of the Bonds not being required by the terms of the WQFA Act. Such private sale is determined to be in the best interests of the Service.

11. The Bonds shall not be payable from the general funds of the Service and shall not constitute a legal or equitable pledge of, or lien or encumbrance upon, any of the assets or property of the Service or upon any of its income, receipts or revenues, except as provided in this Resolution. The Bonds do not constitute a debt or liability of the State of Maryland, of any political subdivision thereof (including the Mid-Shore Counties) or of the Service, except as expressly provided in this Resolution and the Loan Agreements. Neither the State of Maryland nor any political subdivision thereof (including the Mid-Shore Counties) nor the Service shall be obligated to pay the principal of or interest on, or the purchase price of, the Bonds except from the Revenues. Neither the faith and credit nor the taxing power of the State of Maryland, of any political subdivision thereof (including the Mid-Shore Counties) or of the Service is pledged to the payment of the Bonds. The issuance of the Bonds is not directly or indirectly or contingently an obligation, moral or other, of the State of Maryland, of any political subdivision thereof (including the Mid-Shore Counties) or of the Service to levy any tax or take any appropriation for their payment. The Service has no taxing power.

The Bonds shall be payable solely from the Revenues. The Revenues shall consist, collectively, of the Landfill Revenues, the Supplemental Fee, and any moneys received from the State from the Comptroller of Maryland pursuant to the provisions of Section 3-108(b) of the MES

Act as a result of the one or more of the Mid-Shore Counties failing to make payments to the Service for which they are obligated under the Service Agreements.

**12.** Upon determination by the Administration that any material obligations under the Series 2011B Loan Agreement have not been performed by the Service, payment of the principal of the portion of the Loan evidenced by the Series 2011B Bond and the interest thereon from the date of demand at the rate as set forth in Section 7, will be due and payable on demand from the Revenues. The Service hereby covenants and agrees with the registered owner of the Series 2011B Bond that in such event and during the period that the Series 2011B Bond remains outstanding and unpaid to provide the funds necessary to pay promptly the principal and interest due thereon, solely from the Revenues.

**13.** The Bonds are being issued in connection with the Administration's Maryland Water Quality Revolving Loan Fund Program and will evidence the Service's obligation to repay the obligations under the Loan Agreements. The Loan Agreements limit the ability of the Service to prepay the Bonds in accordance with restrictions upon the ability of the Administration to redeem the Administration's revenue bonds if the loan is made from proceeds of the Administration's revenue bond issue. Accordingly, the Service may prepay the Bonds only in accordance with the provisions of the Loan Agreements and the terms governing prepayment as set forth in the Bonds

**14.** The Director shall be the certifying official for the Service responsible for the execution and delivery on the date of the issuance of the Series 2011A Bond of a tax certificate and compliance agreement of the Service that complies with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable regulations thereunder. The Director is hereby authorized and directed to execute and deliver the tax certificate

and compliance agreement to counsel rendering an opinion on the excludability from gross income of interest on the Series 2011A Bond for purposes of federal income taxation on the date of the issuance of the Series 2011A Bond. The tax certificate and compliance agreement shall set out the reasonable expectations of the Service as to relevant facts, estimate and circumstances relating to the use of proceeds of the Series 2011A Bond or of any moneys, securities or other obligations to the credit of any account of the Service which may be deemed to be bond proceeds under Section 148 or the arbitrage regulations. The Service covenants with the owner of the Series 2011A Bond that the facts, estimates and circumstances set forth in the tax certificate and compliance agreement will be based on the Service's reasonable expectations on the date of the issuance of the Series 2011A Bond and will be, to the best of the certifying officials' knowledge, true, correct and complete as of that date.

**15.** The Service covenants and agrees with the registered owner of the Series 2011A Bond that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the Series 2011A Bond proceeds that would cause the Series 2011A Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code and the regulations thereunder which are applicable to the Series 2011A Bond on the date of issuance of the Series 2011A Bond and which may subsequently lawfully be made applicable to the Series 2011A Bond. The Service further covenants that it shall make such use of the proceeds of the Series 2011A Bond, to the extent possible regulate the investment of the proceeds thereof, and take such other and further actions as may be required to maintain the excludability from gross income, for federal income tax purposes, of interest on the Series 2011A Bond. All officers, employees and agents of the Service are hereby authorized and directed to take such actions, and to provide such certificates of facts and estimates

regarding the amount and use of the proceeds of the Series 2011A Bond, as may be necessary or appropriate from time to time to comply with, or to evidence the Service's compliance with, the covenants set forth in this Section.

**16.** It is further enacted by the Service, that authority is hereby conferred respectively on the Director, Deputy Director, Secretary and Treasurer of the Service, or any of them, and they are hereby directed to take the following actions on behalf of the Service:

- (a) To execute, acknowledge, seal and deliver the Loan Documents substantially in the forms approved by this Resolution; and
- (b) To execute, acknowledge, seal and deliver such other and further certificates, certifications, agreements, documents and instruments and take such other actions as they or any one or more of them may deem necessary or appropriate to consummate the transactions contemplated by this Resolution.

**17.** It is further enacted by the Service that the Service covenants and agrees with the registered owners from time to time of the Bonds as follows:

- (a) The Service covenants that it will not make any use of the proceeds of the Series 2011A Bond or any moneys, securities or other obligations on deposit to the credit of the Service or otherwise which may be deemed by the Internal Revenue Service to be proceeds of the Series 2011A Bond pursuant to the Code, and the regulations promulgated thereunder, which would cause any of the Series 2011A Bond to be an "arbitrage bond" or "private activity bond" within the meaning of the Code.
- (b) The Service further covenants that it will comply with those provisions of the Code which are applicable to the Bonds on the date of issuance of the Bonds and which may

subsequently lawfully be made applicable to the Bonds. To the extent that provisions of the Code apply to only a portion of the Bonds, proceeds of the Bonds or other moneys, securities or other obligations deemed to be proceeds, it is intended that the covenants of the Service contained in this Section be construed so as to require the Service to comply with the provisions of the Code only to the extent of such applicability.

- (c) The Service further covenants that it will not (i) take any action, (ii) fail to take any action, or (iii) make any use of the proceeds of the Series 2011A Bond which would cause the interest on the Series 2011A Bond to be or become subject to federal income taxes in the hands of the registered holders of the Series 2011A Bond.

**18.** It is further enacted by the Service, that the Treasurer of the Service is hereby designated and appointed as bond registrar, paying agent and authenticating agent for the Bonds (the “Bond Registrar”). The Bond Registrar shall maintain books of the Service for the registration and transfer of the Bonds.

The Service and the Bond Registrar may deem and treat the person in whose name any Bond shall be registered upon the books of the Service as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal or accreted amount of and premium, if any, and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or, upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Service nor the Bond Registrar shall be affected by any notice to the contrary.

The Bonds, upon surrender thereof at the principal office of the Bond Registrar with a

written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his duly authorized attorney, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bond of the same maturity and of any other authorized denominations.

**19.** In the event any Bond is mutilated, lost, stolen or destroyed, the Service may execute, and the Bond Registrar may authenticate, a new Bond of like date, maturity, interest rate and denomination as that of the Bond mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Bond Registrar, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Service and the Bond Registrar evidence of such loss, theft or destruction satisfactory to the Service and the Bond Registrar, together with indemnity satisfactory to them. In the event any such Bond shall be about to mature or have matured or been called for redemption, instead of issuing a duplicate Bond, the Bond Registrar may pay the same without surrender thereof. The Service and the Bond Registrar may charge the registered owner of such Bond their expenses and reasonable fees, if any, in this connection.

**20.** It is further enacted by the Service, that the provisions of this Resolution are severable, and if any provision, sentence, clause, section or part hereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Resolution or their application to other person or circumstances. It is hereby declared to be the legislative intent that this Resolution would have been passed if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not



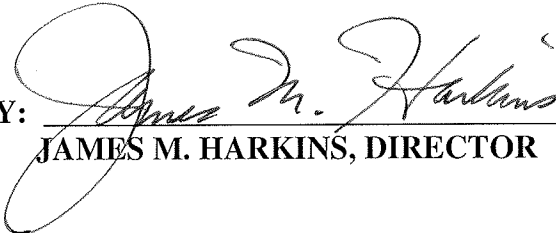
been included herein, as if the person or circumstances to which this Resolution or any part here are inapplicable had been specifically exempted therefrom.

21. This Resolution shall take effect immediately upon its adoption.

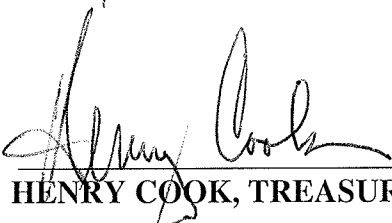
ADOPTED THIS 24<sup>th</sup> DAY OF JANUARY, 2011

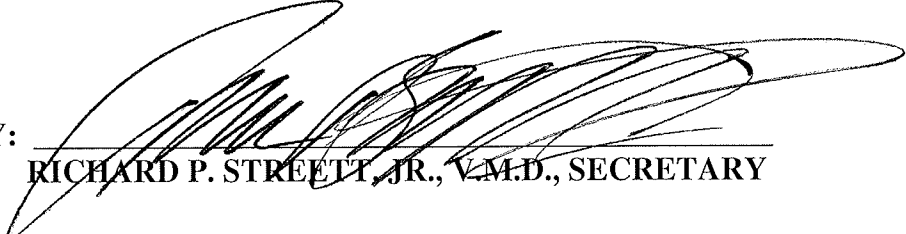
SEAL

MARYLAND ENVIRONMENTAL SERVICE

BY:   
\_\_\_\_\_  
JAMES M. HARKINS, DIRECTOR

BY:   
\_\_\_\_\_  
JOHN O'NEILL, DEPUTY DIRECTOR

BY:   
\_\_\_\_\_  
HENRY COOK, TREASURER

BY:   
\_\_\_\_\_  
RICHARD P. STREETT, JR., V.M.D., SECRETARY

Attest:   
\_\_\_\_\_  
John O'Neill, Deputy Director

**EXHIBIT A**

Form of Series 2011A Loan Agreement

**EXHIBIT B**

Form of Series 2011B Loan Agreement

**EXHIBIT C**

Form of Series 2011A Bond

**EXHIBIT D**

Form of Series 2011B Bond

**BOARD OF DIRECTORS  
MARYLAND ENVIRONMENTAL SERVICE**

**RESOLUTION**

**(11-03-01R)**

**A RESOLUTION DECLARING**

**THE OFFICIAL INTENT OF THE MARYLAND ENVIRONMENTAL SERVICE TO REIMBURSE EXPENDITURES TO BE INCURRED WITH RESPECT TO THE PLANNING, DEVELOPMENT, DESIGN, ENGINEERING, AND CONSTRUCTION OF THE GARNER/BRANDYWINE SCRAP TIRE CLEANUP PROJECT WITH THE PROCEEDS OF BONDS OR OTHER DEBT OBLIGATIONS TO BE ISSUED BY THE MARYLAND ENVIRONMENTAL SERVICE.**

**R E C I T A L S**

**WHEREAS**, to facilitate an efficient borrowing program the Maryland Environmental Service (the "Service") intends to expend money on the planning, development, design, engineering, and construction of the Garner/Brandywine Scrap Tire Cleanup Project in Prince George's County (the "Project"), prior to the issuance of bonds or other debt obligations by the Service for such project; and

**WHEREAS**, the Service intends to be reimbursed for such expenditures from the proceeds of debt to be issued by the Service; and

**WHEREAS**, to comply with applicable provisions of the Internal Revenue Code of 1986, as amended, and Section 1.150-2 of the Income Tax Regulations, it is necessary in order to reimburse such expenditures with the proceeds of tax-exempt debt, that the Board of Directors of the Service declare the official intent of the Service to make such a reimbursement of expenditures.

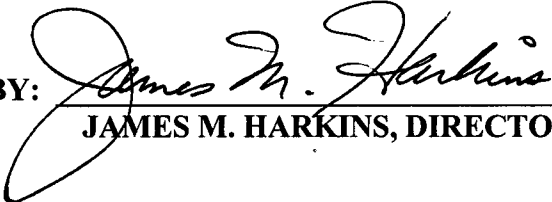
**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE THAT:**

1. The Service states its intention and reasonable expectation to use the proceeds of tax-exempt bonds or other debt obligations to reimburse itself for expenditures associated with the planning, development, design, engineering, and construction for the Project. The Service expects to issue or cause the issuance of bonds or other debt obligations in an amount not to exceed Seven Million Dollars (\$7,000,000.00) to finance the Project.
2. This Resolution shall take effect immediately.

**ADOPTED, this 21<sup>st</sup> day of March, 2011.**

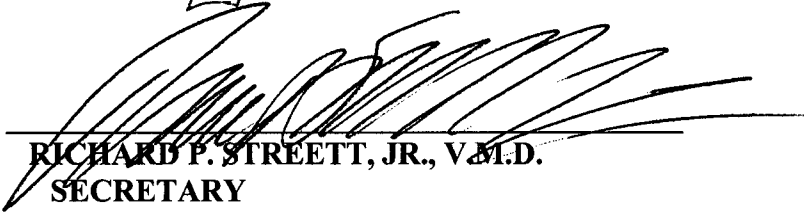
**SEAL**

**MARYLAND ENVIRONMENTAL SERVICE**

BY:   
\_\_\_\_\_  
**JAMES M. HARKINS, DIRECTOR**

BY:   
\_\_\_\_\_  
**JOHN O'NEILL, DEPUTY DIRECTOR**

BY:   
\_\_\_\_\_  
**HENRY I. COOK, TREASURER**

BY:   
\_\_\_\_\_  
**RICHARD P. STREETT, JR., V.M.D.  
SECRETARY**

**MARYLAND ENVIRONMENTAL SERVICE**

**BOARD OF DIRECTORS**

**RESOLUTION NO. 11-05-1R**

**A RESOLUTION AUTHORIZING**

the issuance, sale and delivery by the Maryland Environmental Service (the "Service") of its Maryland Environmental Service Water Quality Bonds (Garner/Brandywine Scrap Tire Cleanup Project) Series 2011A and Series 2011B (collectively, the "Bonds") in an aggregate principal amount not to exceed \$6,800,000 pursuant to the authority of sections 9-1601 through 9-1622 inclusive of the Environment Article of the Annotated Code of Maryland (2007 Replacement Volume and 2010 Supplement) and sections 3-101 through 3-130 inclusive of the Natural Resources Article of the Annotated Code of Maryland (2005 Replacement Volume and 2010 Supplement) for the purpose of paying all or a part of the cost of a project of the Service consisting generally of the planning, design, permit acquisition, financing, and remediation of the Garner/Brandywine Scrap Tire Cleanup Site located in Prince George's County, Maryland (the "Project"), together with related costs and costs of issuance; approving and adopting the form and tenor of the Bonds, the terms and conditions for the issuance and sale of the Bonds by private sale without competitive bidding to the Maryland Water Quality Financing Administration (the "Administration") and all other details thereto; authorizing the Director of the Service to adjust and determine certain details of the Bonds, including determining the final principal amount of the Bonds and certain other matters as provided herein; approving the execution and delivery of one or more



loan agreements with the Administration pursuant to which advances will be made under the Bonds; providing for the Bonds to be obligations of the Service payable from a dedicated source; authorizing the Director and other officers of the Service to take all actions necessary to complete and close the sale and delivery of the Bonds; and providing generally for other matters necessary for the issuance, sale and delivery of the Bonds.

### **RECITALS**

The Service was created by, exists under, and exercises the powers contained in Sections 3-101 through 3-130 of the Natural Resources Article of the Annotated Code of Maryland (2005 Replacement Volume, 2010 Supplement), as amended to date (the "MES Act"), including, (among others) the powers (i) to borrow money for the purpose of paying all or any part of the cost of any one or more projects or for any other purpose of the Service, (ii) to enter into contracts with the Federal or any State government, or any unit, instrumentality or subdivision thereof, or with any municipality or person within or without the State of Maryland, providing for or relating to the furnishing of services to the facilities of any project of the Service, and (iii) to make any contract or agreement the Service determines to be necessary or incidental to the performance of its duties and to the execution of the purposes of and the powers granted by the MES Act, including contracts with any person, on terms and conditions the Service approves. The Service is further authorized and empowered pursuant to Sections 9-1601 through 9-1622, inclusive, of the Environment Article of the Annotated Code of Maryland (2007 Replacement Volume and 2010 Supplement)(the "WQFA Act"), to issue its revenue bond or bonds to be designated as "Maryland Environmental Service Water Quality Bond (Garner/Brandywine Scrap Tire Cleanup Project) Series 2011A (the "Series 2011A Bond") and Maryland Environmental Service Water Quality Bond

(Garner/Brandywine Scrap Tire Cleanup Project) Series 2011B (the "Series 2011B Bond", together with the Series 2011A Bond, collectively, the "Bonds") in the aggregate principal amount not to exceed \$6,800,000 to finance the costs of planning, design, permit acquisition, financing, and remediation of the Garner/Brandywine Scrap Tire Cleanup Site located in Prince George's County, Maryland (the "Project"). The public purposes for which the proceeds of the Bond are authorized to be spent, and the amount (or maximum amount) authorized to be spent for such public purpose, are a portion of the cost for the Project.

Pursuant to a Memorandum of Agreement dated November 5, 2010 (the "MOA"), between the Service and the Maryland Department of the Environment, Land Management Administration, (the "Department"), the Service agreed to proceed with the planning, design, permit acquisition, financing, and remediation of the Garner/Brandywine Scrap Tire Site. The MOA provides that the Service shall accept a loan in an amount not to exceed \$7,000,000 from the Administration in order to complete the Project. The MOA further provides that the Department shall seek the approval of the Board of Public Works to allow funds from the Used Tire Cleanup and Recycling Fund (the "Tire Fund") established by Section 9-273 of the Environment Article of the Annotated Code of Maryland (2007 Repl. Vol., 2010 Sup.) to be applied to reimburse the Service for all loan payments to be made by the Service for the Loan (as defined below) from the Administration. The Board of Public Works has approved such use of funds from the Tire Fund.

The WQFA Act, which established the Administration and authorized a state water pollution control revolving fund ("SRF"), authorizes the Administration to make a loan from the SRF to a "local government" (as defined in the WQFA Act) for the purpose of financing all or a portion of the costs of a "wastewater facility" (as defined in the WQFA Act). The Service is a "local government" within the meaning of the WQFA Act.

Pursuant to Section 9-1606(a) and (b) of the WQFA Act, the Service desires to issue and sell its Bonds to the Administration at private sale without public bidding and based on the findings set forth hereinabove, the Service has determined that it is in the best interest of the Service to authorize and execute two Loan Agreements (as defined below) and to sell the Bonds at private negotiated sale to the Administration. The Service has determined to adopt this Resolution in order to provide for the issuance, sale, designation, form, tenor, denomination, maturity or maturities, and the rate or rate of interest payable upon the Bonds, and to provide for the payment of the interest on and principal of the Bonds issued under this Resolution solely from funds paid or reimbursed to MES from the Department from the Tire Fund, or any other authorized sources. The final aggregate principal amount of the Bonds together with certain details of the Bonds, including, but not limited to, the form of the Bonds, the form of various documents necessary to implement the financing authorized by this Resolution, maturity schedule, interest rate or rates, redemption provisions, date of sale, manner of sale (if different from private (negotiated) sale) and purchaser, and appointment of escrow deposit agent if necessary for the Bonds, shall be determined as provided herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE, that:**

1. Capitalized terms used and not defined herein shall have the meanings set forth in the title and the Recitals to this Resolution.
2. The issuance, sale and delivery of the Series 2011A Bond in a principal amount not to exceed \$6,000,000, to be designated "Maryland Environmental Service Water Quality Bond (Garner/Brandywine Scrap Tire Cleanup Project) Series 2011A", and the issuance, sale and delivery of the Series 2011B Bond in a principal amount not to exceed \$800,000, to be designated "Maryland Environmental Service Water Quality Bond (Garner/Brandywine Scrap Tire Cleanup

Project) Series 2011B”, shall be, and hereby are, authorized and directed pursuant to the provisions of the MES Act and the WQFA Act to provide funds for the payment of all or any part of the costs of the Project, each of which shall constitute a “loan obligation” within the meaning of the WQFA Act. It is the intent of the Service that a portion of the costs of the Project be reimbursed to the Service out of the proceeds of the Bonds comprising the loan obligation (the “Loan”) for certain costs incurred by the Service prior to the adoption of this Resolution.

3. The Project shall constitute a “wastewater facility” within the meaning of Section 9-1601(ii) of the WQFA Act.

4. Such borrowing and indebtedness of the Service shall be made and incurred pursuant to Section 9-1606 of the WQFA Act and in accordance with the provisions of one or more Loan Agreements between the Service, as the Borrower, and the Administration, as the Lender (the “Loan Agreements”), the substantially final form of which are attached hereto as Exhibit A (the “Series 2011A Loan Agreement”) and Exhibit B (the “Series 2011B Loan Agreement”), respectively, with such amendments, insertions, variations or revisions as may be deemed necessary or appropriate and acceptable to the Director of the Service (the “Director”) in accordance with the provisions of this Resolution. The Service hereby approves the form of and authorizes the execution and delivery by the Director of the Loan Agreements set forth in Exhibit A and Exhibit B attached hereto, including all covenants and conditions set forth therein, including the payment of Administrative Fees, with such amendments, insertions, variation or amendments as approved by the Director.

5. In accordance with the Series 2011A Loan Agreement, the aggregate indebtedness of the Series 2011A Bond shall be in an amount not to exceed Six Million Dollars (\$6,000,000) which shall be advanced in accordance with the provisions of the Series 2011A Loan Agreement

between the Service and the Administration, substantially in the form attached hereto as Exhibit A and made a part hereof. The Service hereby approves and authorizes the execution and delivery of the Series 2011A Loan Agreement substantially in the form set forth in Exhibit A, and the Series 2011A Loan Agreement and all the covenants and conditions set forth therein are hereby approved and adopted as the obligation of the Service. The Series 2011A Bond shall be registered in the name of the Administration or its designee; shall be payable in principal sums and shall bear interest at such rate not to exceed Fifty Percent ("50%") of the average of The Bond Buyer II-Bond Index for the month preceding the delivery date of the Series 2011A Bond. The maturity of the Series 2011A Bond and the date of final maturity shall appear in the executed Series 2011A Bond. In no event shall the final date of maturity of the Series 2011A Bond exceed Fifteen (15) years from the date of issuance of the Series 2011A Bond.

The principal installments payable on the Series 2011A Bond, payment dates, the rate of interest to be born by the Series 2011A Bond (or the manner of determining the principal payments and rate of interest), and the final maturity of the Series 2011A Bond shall be determined by the Administration to achieve, as nearly as possible, level debt service payments over a ten-year amortization period and to otherwise meet the program requirements of the Administration. The Director of the Service, on behalf of the Service, is hereby authorized to approve the dates and amounts of all principal installments on the Series 2011A Bond and to provide for the insertion of the same in the Series 2011A Bond prior to its execution and delivery, provided, however, in no event shall the principal amount of the Series 2011A Bond exceed \$6,000,000. Execution of the Series 2011A Bond by the Director shall constitute conclusive evidence of such approval. The Service hereby approves the form of the Series 2011A Bond and authorizes execution and delivery of the Series 2011A Bond in substantially the form set forth in Exhibit C, the maximum principal

amount maturing and bearing interest as determined above and in the foregoing paragraph of this Section, including all covenants and conditions set forth in such form, and with such insertions, omission or variations as may be deemed necessary or appropriate and approved by officials of the Service executing the same.

6. The remaining portion of the loan and the maximum principal amount determined in accordance with the Series 2011B Loan Agreement between the Service and Administration, not to exceed Eight Hundred Thousand Dollars (\$800,000) shall be advanced in accordance with the terms and provisions of the Series 2011B Loan Agreement between the Service and the Administration, substantially in the form attached hereto as Exhibit B and made a part hereof. The Service hereby approves and authorizes the execution and delivery of the Series 2011B Loan Agreement substantially in the form set forth in Exhibit B, and the Series 2011B Loan Agreement and all the covenants and conditions set forth therein are hereby approved and adopted as the obligation of the Service.

7. In accordance with the Series 2011B Loan Agreement, the aggregate indebtedness of the Series 2011B Bond shall be in an amount not to exceed Eight Hundred Thousand Dollars (\$800,000) which shall be advanced in accordance with the provisions of the Series 2011B Loan Agreement between the Service and the Administration, substantially in the form attached hereto as Exhibit B and made a part hereof. The Series 2011B Bond shall be registered in the name of the Administration or its designee. The principal of the Series 2011B Bond shall be payable on demand by the Administration in accordance with the Series 2011B Loan Agreement together with default interest at an annual rate of the average of the Bond Buyer II Bond Index for the month preceding the date of issuance of the Series 2011B Bond, accruing from the date on which such demand is made by the Administration. Demand may be made at any time prior to that date which is the ten

(10) year anniversary of the date of issuance of the Series 2011B Bond.

The rate of interest to be borne by the Series 2011B Bond (or the manner of determining the rate of interest), and the final maturity of the Series 2011B Bond shall be described in the Series 2011B Bond, substantially in the form attached hereto as Exhibit D, subject to insertions and changes, if any, as may be determined and approved by the Director, provided, however, in no event shall the principal amount of the Series 2011B Bond exceed \$800,000. The Director of the Service, on behalf of the Service, is hereby authorized to approve the interest rate and dates and provide for the insertion of the same in the Series 2011B Bond prior to its execution and delivery. Execution of the Series 2011B Bond by the Director shall constitute conclusive evidence of such approval. The Service hereby approves the form of Series 2011B Bond and authorizes execution and delivery of the Series 2011B Bond in substantially the form set forth in Exhibit D attached hereto as a part hereof, the maximum principal amount maturing and bearing interest as determined above and in the foregoing paragraph of this Section, including all covenants and conditions set forth in such form, and with such insertions, omissions or variations as may be deemed necessary or appropriate and approved by officials of the Service executing the same.

Pursuant to Title VI of the Federal Water Pollution Control Act of 1972 (the "Clean Water Act") P.L. 92-500, 33 U.S.C. Section 1251, et seq., as amended by the Water Quality Act of 1987, as further amended by H.R. 2996, 111<sup>TH</sup> CONG.. (2009-2010), PUB. L. NO. 111-88, and the rules and regulations promulgated thereunder, and Section 9-1605(d)(9) of the Environment Article of the WQFA Act, as amended, the Administration shall forgive repayment of the principal amount of the portion of the Loan evidenced by the Series 2011B Bond and the interest payable thereon under Article III of the Series 2011B Loan Agreement and the Series 2011B Bond so long as the Service performs its material obligations under the Series 2011B Loan Agreement. Upon determination by

the Administration that any such material obligations under the Series 2011B Loan Agreement have not been performed by the Service, payment of the principal of the portion of the Loan evidenced by the Series 2011B Bond and the interest thereon from the date of demand as set forth above, will be due and payable on demand. If the Administration has not demanded payment of the principal of and interest on the Series 2011B Bond by that date which is the ten year anniversary of the date of issuance thereof, then the Administration shall be deemed to have forgiven repayment of that portion of the Loan evidenced by the Series 2011B Bond and interest thereon, the Series 2011B Bond shall be deemed cancelled and that portion of the Loan evidenced by the Series 2011B Bond and the Series 2011B Loan Agreement shall be deemed terminated and of no further force and effect.

8. The Service will also execute and deliver in connection with the issuance of the Bonds such other documents, agreements, instruments and certificates (the "Water Quality Documents") as the Director, upon advice of legal counsel, shall deem necessary or appropriate for the financing of the Project. The Loan Agreements, the Bonds and the Water Quality Documents are collectively referred to herein as the "Loan Documents". Because this Resolution is being adopted before all of the details of the sale of the Bonds have been determined, the Director, pursuant to the powers reserved unto him under this Resolution and the MES Act, is hereby authorized to make such changes to the form of the Loan Agreements and Bonds, including insertions therein or additions or deletions thereto, as he may deem necessary or appropriate to conform the terms of the Loan Agreements and Bonds to the terms of the financing to be provided to the Service by the Administration; provided, however, that such changes, additions, or deletions are not in substance inconsistent with or contrary to the requirements set forth in this Resolution, and the principal amount of the Bonds shall not exceed, in the aggregate, \$6,800,000.



**9.** The Loan Agreements and the Bonds shall be executed on behalf of and in the name of the Service by the Director, such execution to be made by the manual signature of the Director. The seal of the Service shall be affixed to the Loan Agreements and to the Bonds, and each shall be attested by the manual signature of the Secretary or Deputy Director of the Service. If any officer whose signature shall appear on the Loan Documents shall cease to be such officer before the delivery of such Loan Documents, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until such delivery. The Loan Documents, as executed by the Director, shall be valid and legally binding obligations of the Service in accordance with their terms.

**10.** Notwithstanding any section of the MES Act to the contrary, as authorized by Section 9-1606 of the WQFA Act, the Bonds may be sold at private sale to the Administration, public advertisement and sale of the Bonds not being required by the terms of the WQFA Act. Such private sale is determined to be in the best interests of the Service.

**11.** The Bonds shall not be payable from the general funds of the Service and shall not constitute a legal or equitable pledge of, or lien or encumbrance upon, any of the assets or property of the Service or upon any of its income, receipts or revenues, except as provided in this Resolution. The Bonds do not constitute a debt or liability of the State of Maryland, of any political subdivision thereof or of the Service, except as expressly provided in this Resolution and the Loan Agreements. Neither the State of Maryland nor any political subdivision thereof nor the Service shall be obligated to pay the principal of or interest on, or the purchase price of, the Bonds except from funds received by the Service from the Department for repayment of the Loan. Neither the faith and credit nor the taxing power of the State of Maryland, of any political subdivision thereof or of the Service is pledged to the payment of the Bonds. The issuance of the

Bonds is not directly or indirectly or contingently an obligation, moral or other, of the State of Maryland, of any political subdivision thereof or of the Service to levy any tax or take any appropriation for their payment. The Service has no taxing power.

The Bonds shall be payable solely from funds received by the Service from the Department for repayment of the Loan.

**12.** Upon determination by the Administration that any material obligations under the Series 2011B Loan Agreement have not been performed by the Service, payment of the principal of the portion of the Loan evidenced by the Series 2011B Bond and the interest thereon from the date of demand at the rate as set forth in Section 7, will be due and payable on demand from funds paid or reimbursed to MES from the Department from the Tire Fund or any other authorized sources. The Service hereby covenants and agrees with the registered owner of the Series 2011B Bond that, in such event and during the period that the Series 2011B Bond remains outstanding and unpaid, it will provide the funds necessary to pay promptly the principal and interest due thereon, solely from funds paid or reimbursed to MES from the Department from the Tire Fund or any other authorized sources.

**13.** The Bonds are being issued in connection with the Administration's Maryland Water Quality Revolving Loan Fund Program and will evidence the Service's obligation to repay the obligations under the Loan Agreements. The Loan Agreements limit the ability of the Service to prepay the Bonds in accordance with restrictions upon the ability of the Administration to redeem the Administration's revenue bonds if the loan is made from proceeds of the Administration's revenue bond issue. Accordingly, the Service may prepay the Bonds only in accordance with the provisions of the Loan Agreements and the terms governing prepayment as set forth in the Bonds.

**14.** It is further enacted by the Service, that authority is hereby conferred respectively on

the Director, Deputy Director, Secretary and Treasurer of the Service, or any of them, and they are hereby directed to take the following actions on behalf of the Service:

- (a) To execute, acknowledge, seal and deliver the Loan Documents substantially in the forms approved by this Resolution; and
- (b) To execute, acknowledge, seal and deliver such other and further certificates, certifications, agreements, documents and instruments and take such other actions as they or any one or more of them may deem necessary or appropriate to consummate the transactions contemplated by this Resolution.

15. It is further enacted by the Service, that the Treasurer of the Service is hereby designated and appointed as bond registrar, paying agent and authenticating agent for the Bonds (the "Bond Registrar"). The Bond Registrar shall maintain books of the Service for the registration and transfer of the Bonds.

The Service and the Bond Registrar may deem and treat the person in whose name any Bond shall be registered upon the books of the Service as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal or accreted amount of and premium, if any, and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or, upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Service nor the Bond Registrar shall be affected by any notice to the contrary.

The Bonds, upon surrender thereof at the principal office of the Bond Registrar with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or his duly authorized attorney, may, at the option of the registered owner thereof, be

exchanged for an equal aggregate principal amount of Bond of the same maturity and of any other authorized denominations.

16. In the event any Bond is mutilated, lost, stolen or destroyed, the Service may execute, and the Bond Registrar may authenticate, a new Bond of like date, maturity, interest rate and denomination as that of the Bond mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Bond Registrar, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Service and the Bond Registrar evidence of such loss, theft or destruction satisfactory to the Service and the Bond Registrar, together with indemnity satisfactory to them. In the event any such Bond shall be about to mature or have matured or been called for redemption, instead of issuing a duplicate Bond, the Bond Registrar may pay the same without surrender thereof. The Service and the Bond Registrar may charge the registered owner of such Bond their expenses and reasonable fees, if any, in this connection.

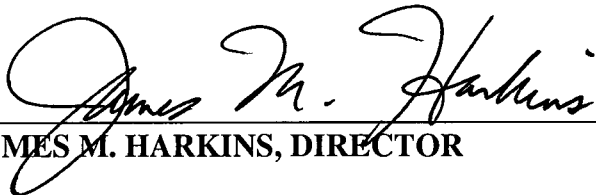
17. It is further enacted by the Service, that the provisions of this Resolution are severable, and if any provision, sentence, clause, section or part hereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Resolution or their application to other person or circumstances. It is hereby declared to be the legislative intent that this Resolution would have been passed if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included herein, as if the person or circumstances to which this Resolution or any part hereof are inapplicable had been specifically exempted therefrom.

18. This Resolution shall take effect immediately upon its adoption.

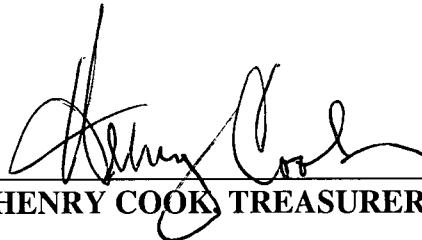
ADOPTED THIS 23<sup>rd</sup> DAY OF MAY, 2011

SEAL

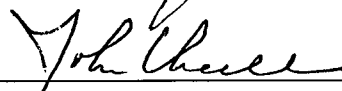
MARYLAND ENVIRONMENTAL SERVICE

BY:   
JAMES M. HARKINS, DIRECTOR

BY:   
JOHN O'NEILL, DEPUTY DIRECTOR

BY:   
HENRY COOK, TREASURER

BY:   
RICHARD P. STREETT, JR., V.M.D., SECRETARY

Attest:   
John O'Neill, Deputy Director

**EXHIBIT A**

Form of Series 2011A Loan Agreement

LOAN AGREEMENT

By and Between

MARYLAND WATER QUALITY  
FINANCING ADMINISTRATION

and

"Insert Name of Entity"

Dated as of , 2011

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## LOAN AGREEMENT

THIS LOAN AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2011 between the Maryland Water Quality Financing Administration (the "Administration"), a unit of the Department of the Environment (the "Department") of the State of Maryland (the "State"), and "Insert Name of Entity", a \_\_\_\_\_ of the State (the "Borrower").

### RECITALS

Title VI of the Federal Water Pollution Control Act (commonly known as the "Clean Water Act"), as amended by the Water Quality Act of 1987 ("Title VI"), authorizes the Environmental Protection Agency ("EPA") to award grants to qualifying States to establish and capitalize State water pollution control revolving funds ("SRFs") for the purpose of providing loans and certain other forms of financial assistance (but not grants) to finance, among other things, the construction and improvement of publicly-owned wastewater treatment facilities and the implementation of estuary conservation management plans and nonpoint source management programs.

As contemplated by Title VI, the General Assembly of the State at its 1988 session enacted the Maryland Water Quality Financing Administration Act, codified at Sections 9-1601 through 9-1622 of the Environment Article of the Annotated Code of Maryland, as amended (the "Act"), establishing an SRF designated the Maryland Water Quality Revolving Loan Fund (the "Fund") to be maintained and administered by the Administration. The Act authorizes the Administration, among other things, to make a loan from the Fund to a "local government" (as defined in the Act) for the purpose of financing all or a portion of the cost of a "wastewater facility" project (as defined in the Act).

The Borrower, which is a "local government" within the meaning of the Act, has applied to the Administration for a loan from the Fund to assist in the financing of a certain project or projects of the Borrower (the "Project," as defined herein) which constitutes a "wastewater facility" within the meaning of the Act. The Project is one designated for funding in an Intended Use Plan promulgated by the Administration in accordance with regulations issued by the EPA pursuant to Title VI, and the Project conforms to the applicable "county plan" adopted pursuant to the requirements of Subtitle 5 of Title 9 of the Environment Article of the Annotated Code of Maryland, as amended.

The Director of the Administration has determined that the making of a loan to the Borrower for the purpose of assisting the financing of the Project, on the terms and conditions hereinafter set forth, is necessary and desirable in the public interest, will promote the health, safety and welfare of the inhabitants of the State and the United States by assisting in the prevention of pollution of the environment, and will further the purposes of Title VI and the Act.

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which

are hereby acknowledged, the Borrower and the Administration, each intending to be legally bound, hereby agree as follows:

## ARTICLE I

### DEFINITIONS

Section 1.01. Definitions. Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement:

“Act” means the Maryland Water Quality Financing Administration Act, Sections 9-1601 through 9-1622 of the Environment Article, Annotated Code of Maryland, and all acts supplemental thereto or amendatory thereof.

“Administration” means the Maryland Water Quality Financing Administration, a unit of the Department of the Environment of the State, and its successors and assigns.

“Administrative Fee” means the fee payable by the Borrower pursuant to this Agreement for the general administrative services and other functions and expenses of the Administration.

“Agreement” means this Loan Agreement, including the Exhibits attached hereto and any amendments hereto.

“Application” means the application for the Loan submitted by the Borrower to the Administration, together with any amendments thereto.

“Authorized Officer” means, in the case of the Borrower, any person authorized by law or by a resolution of the governing body of the Borrower to perform any act or execute any document.

“Board” means the Board of Public Works of the State.

“Bonds” means any series of revenue bonds issued by the Administration under the Act.

“Borrower” means the local government (as defined in the Act) that is identified in the first paragraph of this Agreement, and its successors and assigns.

“Business Day” means a day other than a Saturday, Sunday, or day on which the offices of the Administration or commercial banks in the State are authorized or obligated to remain closed.

“Change Orders” means any amendments or modifications to any Plans and Specifications or any general construction contract for the Project.

“Clean Water Act” means the Water Pollution Control Act of 1972, PL 92-500, as amended, 33 U.S.C. §1251 et seq., and rules and regulations promulgated thereunder.

“Default” means an event or condition the occurrence of which would, with the lapse of time or the giving of notice or both, constitute an Event of Default.

“Department” means the Maryland Department of the Environment, and its successors.

“Director” means the Director of the Administration.

“Eligible Project Costs” means all those costs of the Project permitted by the Act to be funded by a loan from the Fund and which have been approved by the Director.

“EPA” means the United States Environmental Protection Agency, and its successors.

“Event of Default” means any occurrence or event specified in Section 4.01 hereof.

“Fiscal Year” means the period of 12 consecutive months commencing on July 1 in any calendar year and ending on June 30 of the succeeding calendar year.

“Fund” means the Maryland Water Quality Revolving Loan Fund.

“Governmental Authority” means the United States, the State of Maryland, or any of their political subdivisions, agencies, departments, commissions, boards, bureaus or instrumentalities, including any local authority having jurisdiction over the Project, and including EPA, the Department, the Board and the Administration.

“Independent Counsel” means any attorney or attorneys duly admitted to practice law before the highest court of any state who have regularly engaged in the practice of law as their primary occupation for at least five years. Independent Counsel may also serve as Bond Counsel if it qualifies as Bond Counsel.

“Independent Public Accountant” means an individual, partnership or corporation engaged in the accounting profession, either entitled to practice, or having members or officers entitled to practice, as a certified public accountant under the laws of the State of Maryland and in fact independent.

“Loan” means the aggregate amounts which are advanced from time to time by the Administration to the Borrower pursuant to the terms and provisions of this Agreement.

“Loan Closing Date” means the date on which the Note is executed and delivered to the Administration.

“Loan Commitment” means that amount which the Administration is obligated to lend to the Borrower pursuant to the terms and provisions of this Agreement and subject to the satisfaction of the conditions set forth in this Agreement, as such amount may be adjusted as provided in this Agreement.

“Loan Year” means the period beginning on the first February 1 on which principal of the Loan is payable and each February 1 thereafter and ending on the immediately succeeding January 31.

“Note” means the bond, note or other obligation executed and delivered by the Borrower to the Administration to evidence the Loan, such Note to be substantially in the form attached hereto as Exhibit F.

“Plans and Specifications” means the final plans and specifications for the construction of the Project prepared by the architect or engineer and approved by the Department.

“Project” means the project or projects of the Borrower described in Exhibit B to this Agreement.

“Project Budget” means the budget for the Project as set forth in Exhibit C to this Agreement, as revised in accordance with Section 2.02(d).

“Related Financing” means any bond, note, agreement or other instrument or transaction (other than this Agreement or the Note) pursuant to which the Borrower obtains any monies that may be expended to pay costs of the Project.

“Requirement” means any law, ordinance, code, order, rule or regulation of a Governmental Authority, including, without limitation, a condition set forth in a National Pollution Discharge Elimination System (“NPDES”) permit or in a construction permit issued by the Department.

“State” means the State of Maryland.

“Trustee” means the trustee for the Bonds.

Section 1.02. Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Agreement:

(a) words importing the singular number include the plural number and words importing the plural number include the singular number;

(b) words of the masculine gender include correlative words of the feminine and neuter genders;

(c) words importing persons include any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or agency or political subdivision thereof;

(d) the terms "agree" and "agreement" shall include and mean "covenant", and all agreements contained in this Agreement are intended to constitute covenants and shall be enforceable as such;

(e) the headings and the Table of Contents set forth in this Agreement are solely for convenience of reference and shall not constitute a part of this Agreement or affect its meaning, construction or effect; and

(f) any reference to a particular Article or Section shall be to such Article or Section of this Agreement unless the context shall otherwise require.

## ARTICLE II

### REPRESENTATIONS AND COVENANTS OF BORROWER

Section 2.01. Representations of Borrower. The Borrower represents for the benefit of the Administration as follows:

(a) Corporate Organization and Authority. The Borrower:

(i) is a "local government" as defined in the Act; and

(ii) has all requisite power and authority and all necessary licenses and permits required as of the date hereof to own and operate the Project, to enter into this Agreement, to execute and deliver the Note, and to carry out and consummate all transactions contemplated by this Agreement.

(b) Full Disclosure. There is no fact that the Borrower has not disclosed to the Administration in writing that materially adversely affects or (so far as the Borrower can now foresee) that will materially adversely affect the properties, activities, prospects or condition (financial or other) of the Borrower or the ability of the Borrower to make all payments due hereunder and otherwise perform its obligations under this Agreement and the Note.

(c) Pending Litigation. There are no proceedings pending, or to the knowledge of the Borrower threatened, against or affecting the Borrower in any court or before any Governmental Authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the properties, activities, prospects or condition (financial or other) of the Borrower, or the

ability of the Borrower to make all payments due hereunder and otherwise perform its obligations under this Agreement and the Note, and that have not been disclosed in writing to the Administration in the Application or otherwise.

(d) Borrowing Legal and Authorized. The consummation of the transactions provided for in this Agreement and the Note and compliance by the Borrower with the provisions of this Agreement and the Note:

(i) are within its powers and have been duly authorized by all necessary action on the part of the governing body of the Borrower; and

(ii) will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrances upon any property or assets of the Borrower pursuant to, any indenture, loan agreement or other instrument (other than this Agreement and the Note) to which the Borrower is a party or by which the Borrower may be bound, nor will such action result in any violation of the provisions of laws, ordinances, governmental rules, regulations or court orders to which the Borrower or its properties or operations is subject.

(e) No Defaults. No event has occurred and no condition exists that, upon execution of this Agreement and the Note or receipt of the Loan, would constitute a Default hereunder. The Borrower is not in violation, and has not received notice of any claimed violation, of any term of any agreement or other instrument to which it is a party or by which it or its property may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or other) of the Borrower or the ability of the Borrower to make all payments due hereunder and otherwise perform its obligations under this Agreement and the Note, and that have not been disclosed in writing to the Administration in the Application or otherwise.

(f) Governmental Consent; Project Consistency.

(i) The Borrower has obtained all permits and approvals required to date by any Governmental Authority for the making and performance by the Borrower of its obligations under this Agreement and the Note or for the Project and the financing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any Governmental Authority that has not been obtained is required on the part of the Borrower as a condition to the execution and delivery of this Agreement and the Note or the consummation of any transaction herein contemplated.

(ii) The Project is consistent with (A) the local plan of the Borrower as contemplated under Section 5-7A-02 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended; (B) the State Economic Growth, Resource Protection, and Planning Policy established in Section 5-7A-01 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended;

**BOARD OF DIRECTORS  
MARYLAND ENVIRONMENTAL SERVICE  
RESOLUTION 11-05-2R**

**A RESOLUTION**

**AMENDING MES RESOLUTIONS 03-09-2R AND 05-12-2R, CONFIRMING THE CREATION OF CERTAIN PROJECT RESERVE FUNDS, CREATING A CERTAIN NEW PROJECT RESERVE FUND, AUTHORIZING THE TRANSFER OF FUNDS TO THOSE PROJECT RESERVE FUNDS, AND AUTHORIZING THE USE OF SUCH FUNDS BY THE SERVICE.**

**R E C I T A L S**

The Service was created by, exists under, and exercises the powers contained in Sections 3-101 to 3-130, inclusive, of the Natural Resources Article of the Annotated Code of Maryland (the "Act") including (among others) the powers (i) to acquire, construct, reconstruct, rehabilitate, improve, maintain, and operate water, wastewater and solid waste projects within or without the State; (ii) to create and establish project reserve funds, and (iii) to pay into such project reserve funds moneys appropriated and made available by the State for the purposes of such funds, and any other moneys which may be received or otherwise made available to the Service from any other source or sources which the Service has designated for deposit into such funds.

By virtue of Executive Order 01.01.1971.11, and policy of the Board of Public Works of Maryland, the Service has been directed to operate and maintain solid waste, water and wastewater facilities owned by the State of Maryland, including facilities at properties managed by the Maryland Department of Natural Resources. The Service is reimbursed by the State, through the Department of Management and Budget, for the costs the Service incurs in providing these services. In order to have funds available for emergency or other repairs and improvements to these environmentally sensitive State-owned solid waste, water and wastewater facilities, the Board, in September 2003, authorized the creation of a Reimbursable Projects Contingency Fund. In authorizing the Reimbursable Projects Contingency Fund, the Board established limits on the amount of funds that could be retained by the Service, and further required that amounts to be deposited into or expended from that fund be approved by the Secretary of Budget and Management. In December 2005 the Board also authorized the creation of an ECI Co-Generation Facility Maintenance Fund.



In April, 2011, the General Assembly passed House Bill 72, the Budget Reconciliation and Financing Act. House Bill 72 amends Section 3-108(h) of the Natural Resources Article, Annotated Code of Maryland. The bill expressly authorizes the Service to create an Eastern Correctional Institution Steam Turbine Contingency Fund, a Department of Natural Resources Project Contingency Fund, and a Reimbursable Project Contingency Fund. The statute further provides that the Service may not retain more than \$1,500,000 in the Eastern Correctional Institution Turbine Project Contingency Fund, nor retain more than \$500,000 in the Department of Natural Resource Project Contingency Fund, nor retain more than \$1,000,000 in the Reimbursable Project Contingency Fund.

The Service intends that only unexpended monies that have previously been appropriated by the General Assembly and made available to the Service for the operation and maintenance of State-owned water and wastewater facilities shall be deposited into the three contingency funds. The Service considers the use of monies in the Funds to be in furtherance of the purposes of the Act and the Service.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE, THAT:**

1. The use and management of the Reimbursable Projects Contingency Fund established by MES Resolution 03-09-2R is hereby confirmed.
2. The last sentence of Section 2 of MES Resolution 03-09-2R is hereby amended to read as follows:  
  
“The total amount of the Fund may not exceed \$1,000,000 at the end of a fiscal year.”
3. Section 4 of MES Resolution 03-09-2R is hereby amended to read as follows:  
  
“In accordance with Section 3-103(h)(4), the Service shall expend monies in the Fund in accordance with the provisions of the Act.”
4. The “ECI Co-Generation Facility Maintenance Fund” established by MES Resolution 05-12-2R is hereby renamed the “Eastern Correctional Institution Turbine Project Contingency Fund.”

5. The last sentence of Section 2 of MES Resolution 05-12-2R is hereby amended to read as follows:

“The total amount of the Eastern Correctional Institution Turbine Project Contingency Fund may not exceed \$1,500,000 at the end of a fiscal year.”

6. Section 5 of MES Resolution 05-12-2R is hereby amended to read as follows:

“In accordance with Section 3-103(h)(4), the Service shall expend monies in the Fund in accordance with the provisions of the Act.”

7. There is a Department of Natural Resources Project Contingency Fund (the “DNR Contingency Fund”). The DNR Contingency Fund shall be a project reserve fund, as permitted pursuant to Section 3-103(h) of the Act.

8. Subject to the approval of the Secretary of Budget and Management, the Service shall transfer to the DNR Contingency Fund up to \$500,000 from FY 2010 State reimbursable unearned revenue derived from projects operated on behalf of the Department of Natural Resources and funded through the Forest or Park Reserve Fund or other special funds of the Department of Natural Resources (collectively, “DNR Special Funds”). In subsequent fiscal years the Service may, with the approval of the Secretary of Budget and Management, transfer to the DNR Contingency Fund additional State reimbursable unearned revenue derived from DNR Special Funds in amounts to be determined. The total amount of the Fund may not exceed \$500,000 at the end of a fiscal year.

9. Monies in the DNR Fund may only be expended for projects of the Service that serve programs, facilities or units of the Department of Natural Resources. Monies in the DNR Fund may not be expended without the prior approval of (a) the Board of Directors of the Service and (b) the Secretary of Budget and Management.

10. Except as otherwise expressly provided in this Resolution, all other terms and conditions of MES Resolutions 03-09-2R and 05-12-2R are not changed and continue in effect.

11. This Resolution shall take effect immediately.

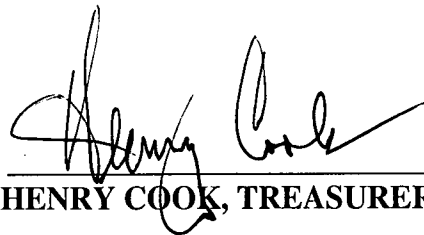
ADOPTED, this 23<sup>rd</sup> day of May, 2011.

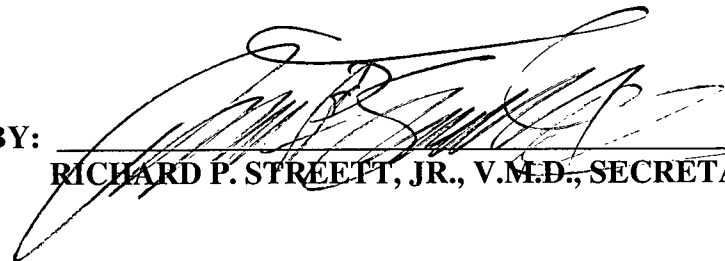
SEAL

MARYLAND ENVIRONMENTAL SERVICE

BY:   
JAMES M. HARKINS, DIRECTOR

BY:   
JOHN O'NEILL, DEPUTY DIRECTOR

BY:   
HENRY COOK, TREASURER

BY:   
RICHARD P. STREETT, JR., V.M.D., SECRETARY

**BOARD OF DIRECTORS  
MARYLAND ENVIRONMENTAL SERVICE  
RESOLUTION 11-05-3R**

**A RESOLUTION**

**AMENDING RESOLUTION 99-06-01R; RESCINDING RESOLUTION 04-05-5R, AND GENERALLY RELATING TO THE PAYMENT OF COMPENSATION TO CERTAIN EMPLOYEES OF THE SERVICE.**

**R E C I T A L S**

Pursuant to §3-103.1(b) of the Natural Resources Article of the Annotated Code of Maryland, the Maryland Environmental Service (“Service”) is directed and authorized to establish a personnel system that is based on merit and compensates employees based on performance. The Service, in accordance with Resolution 99-06-01R, and after it extensively studied and reviewed various compensation programs of the private sector, government agencies, and non-profit entities, developed and implemented an Executive Compensation Program for certain senior level employees of the Service.

On May 25, 2004, the Board approved Resolution 04-05-5R, which amended Resolution 99-06-01R to reflect changes in job titles and the minimum and maximum amounts to be paid to individuals in the Executive Compensation Program. Since Resolution 04-05-01R was adopted the Service has again reorganized and reassigned certain job duties. The job titles of certain individuals in the Executive Compensation Program have changed. Additionally, the minimum and maximum amounts to be paid to individuals in the Executive Compensation Program have not been modified since 2003. The purpose of this Resolution is to update the Executive Compensation Program to reflect these changes.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE THAT:**

1. Section 7 of Resolution 99-06-01R is hereby deleted and replaced with the following:

Effective the first full pay period of Fiscal Year 2012, the minimum and maximum annual salaries for Executive Employees listed below shall be as adopted by the Board by separate action.

Assistant Director  
Chief of Staff  
Chief Financial Officer  
Group Executive Director  
Director of Business Development  
Director of Communications

In accordance with the MES Act, the salaries of the Director, Deputy Director, Treasurer and Secretary shall be set by the Board of Directors.

2. All other provisions of Resolution 99-06-01R are not changed, and shall remain in effect.
3. Resolution 04-05-5R is rescinded, effective the first day of the first full pay period of Fiscal Year 2012.
4. This Resolution shall take effect immediately. This Resolution shall continue in effect for subsequent fiscal years unless modified or rescinded by action of the Board of the Directors.

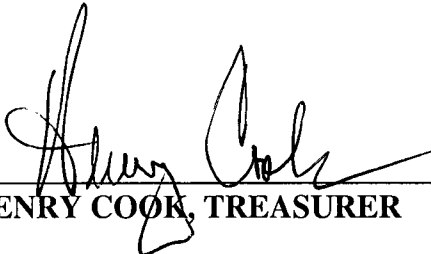
**ADOPTED, this 23<sup>rd</sup> day of May, 2011.**

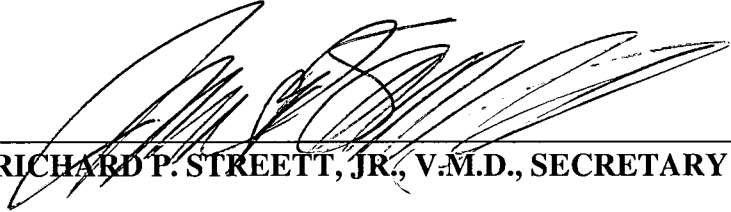
SEAL

MARYLAND ENVIRONMENTAL SERVICE

BY:   
\_\_\_\_\_  
JAMES M. HARKINS, DIRECTOR

BY:   
\_\_\_\_\_  
JOHN O'NEILL, DEPUTY DIRECTOR

BY:   
HENRY COOK, TREASURER

BY:   
RICHARD P. STREETT, JR., V.M.D., SECRETARY

**BOARD OF DIRECTORS  
MARYLAND ENVIRONMENTAL SERVICE  
RESOLUTION 11-05-4R**

**A RESOLUTION**

**AMENDING RESOLUTION 99-10-07R; RESCINDING RESOLUTION 04-05-4R, AND GENERALLY RELATING TO THE PAYMENT OF COMPENSATION TO A CERTAIN EMPLOYEE OF THE SERVICE.**

**R E C I T A L S**

Pursuant to §3-103.1(b) of the Natural Resources Article of the Annotated Code of Maryland, the Maryland Environmental Service ("Service") is directed and authorized to establish a personnel system that is based on merit and compensates employees based on performance. The Service, in accordance with Resolution 99-10-7R, and after it extensively studied and reviewed various compensation programs of the private sector, government agencies, and non-profit entities, developed and implemented an Executive Incentive Program for certain senior level employees of the Service.

On May 25, 2004, the Board approved Resolution 04-05-4R, which amended Resolution 99-10-07R to reflect changes in job titles and to identify certain individuals who would be eligible for the Executive Incentive Program. Since Resolution 04-05-04R was adopted the Service has again reorganized and reassigned certain job duties. The job titles of certain individuals in the Executive Incentive Program have changed. The purpose of this Resolution is to update the Executive Incentive Program to include those positions.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE THAT:**

1. Section 4 of Resolution 99-10-07R is hereby deleted and replaced with the following:

Only the following officers and employees of the Service are eligible for an Incentive Plan payment:

- (i) The Director and Deputy Director of the Service;
- (ii) The Chief of Staff and the Chief Financial Officer;
- (iii) The Assistant Director;
- (iv) The Group Executive Directors;
- (v) The Director of Communications
- (vi) The Director of Business Development.

- 2. All other provisions of Resolution 99-10-07R are not changed, and shall remain in effect.
- 3. Resolution 04-05-4R is rescinded.
- 4. This Resolution shall take effect immediately. This Resolution shall continue in effect for subsequent fiscal years unless modified or rescinded by action of the Board of the Directors. Except as expressly set forth herein, this Resolution does not create any rights, vested or contingent.

**ADOPTED, this 23<sup>rd</sup> day of May, 2011.**

SEAL

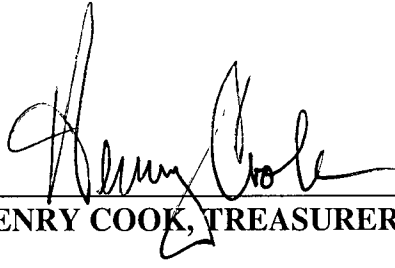
**MARYLAND ENVIRONMENTAL SERVICE**

BY:   
\_\_\_\_\_  
**JAMES M. HARKINS, DIRECTOR**

BY:   
\_\_\_\_\_  
**JOHN O'NEILL, DEPUTY DIRECTOR**

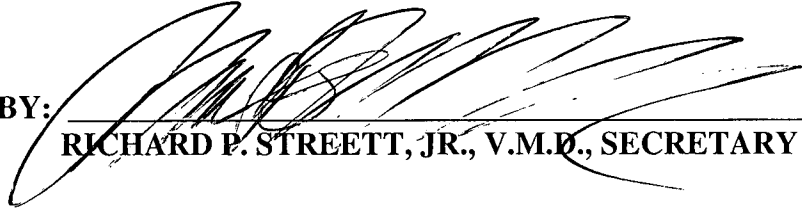


BY:

A handwritten signature in cursive script, appearing to read "Henry Cook", written over a horizontal line.

HENRY COOK, TREASURER

BY:

A large, stylized handwritten signature in cursive script, written over a horizontal line.

RICHARD P. STREETT, JR., V.M.D., SECRETARY

**BOARD OF DIRECTORS  
MARYLAND ENVIRONMENTAL SERVICE  
RESOLUTION  
11-05-5R**

**A RESOLUTION AUTHORIZING**

**THE SERVICE TO MAKE A DISCRETIONARY EMPLOYER PROFIT SHARING CONTRIBUTION TO ITS 401K RETIREMENT PLAN, AND GENERALLY RELATING TO THE RETIREMENT PROGRAM FOR CERTAIN EMPLOYEES OF THE SERVICE.**

**R E C I T A L S**

**WHEREAS**, pursuant to §3-103.1(b) of the Natural Resources Article of the Annotated Code of Maryland, the Maryland Environmental Service (“Service”) is directed and authorized to determine and establish compensation and benefits for its employees; and

**WHEREAS**, the Board of Directors of the Service (“Board”) has previously approved an Adoption Agreement (“Adoption Agreement”) establishing a 401(k) Savings Plan (“Plan”) for its employees and has adopted amendments to the Plan from time to time; and

**WHEREAS**, pursuant to the Plan the Service may make a discretionary Employer Profit Sharing Contribution to the Plan on behalf of Qualifying Participants.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE THAT:**


1. For Fiscal Year 2012, the Board hereby authorizes the Service to make a discretionary Employer Profit Sharing Contribution to the Plan on behalf of Qualifying Participants in the amount of Five percent ( 5 %) of the Qualifying Participants’ total compensation.
2. This Resolution shall be effective July 1, 2011.

**Resolution No. 11-05-5R**  
**Discretionary Contribution to 401(k) Plan**  
**Page 2**

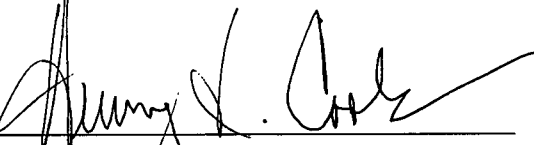
2. This Resolution shall be effective July 1, 2011.

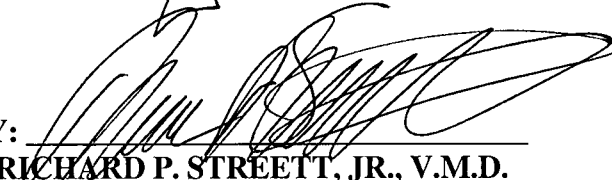
**ADOPTED this 23<sup>rd</sup> day of May, 2011.**

**MARYLAND ENVIRONMENTAL SERVICE**

BY:   
JAMES M. HARKINS, DIRECTOR

BY:   
JOHN O'NEILL, DEPUTY DIRECTOR

BY:   
HENRY I. COOK, TREASURER

BY:   
RICHARD P. STREETT, JR., V.M.D.  
SECRETARY

**BOARD OF DIRECTORS  
MARYLAND ENVIRONMENTAL SERVICE  
RESOLUTION  
11-06A-1R**

**A RESOLUTION**

Modifying the per diem compensation paid to certain members of the Board of Directors of the Maryland Environmental Service ("Service").

**R E C I T A L S**

Section 3-103(b) of the Natural Resources Article of the Annotated Code of Maryland (Maryland Environmental Service Act, or "Act") provides that there shall be nine members of the Board of Directors of the Service ("Board"). Four of the Board members are the officers of the Service. Three of the Board members must be from the public sector in the State in positions responsible for water, wastewater, or solid waste management. The remaining two members must be from the private sector in the State with technical, financial, development, or legal experience related to water, wastewater, or solid waste management. Section 3-103(b)(5)(i) provides that "those members of the Board not already holding public office shall receive from the Service (i) Per diem compensation as established by the Board." In recognition of the substantial time the Board members devote to the Service, the Board has determined that an increase in the per diem compensation should be made.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF  
THE MARYLAND ENVIRONMENTAL SERVICE, THAT:**

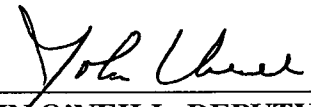
1. Pursuant to Md. Natural Resources Code Annotated Section 3-103(b)(5)(i), the per diem compensation to be paid to those members of the Board who do not hold a public office shall be \$750.00.
2. This Resolution shall take effect immediately. However, in accordance with Article III, Section 35 of the Constitution of Maryland, the per diem compensation established in this Resolution shall only be paid to those members of the Board who are appointed, qualify and begin a term after the effective date of this Resolution.

ADOPTED, this 30<sup>th</sup> day of June, 2011.

SEAL

MARYLAND ENVIRONMENTAL SERVICE

BY:   
JAMES M. HARKINS, DIRECTOR

BY:   
JOHN O'NEILL, DEPUTY DIRECTOR

**MARYLAND ENVIRONMENTAL SERVICE**

**BOARD OF DIRECTORS**

**RESOLUTION NO. 11-08A-1R**

**A RESOLUTION**

reaffirming the creation and the boundaries of the Darlington Water Supply Service District (the "Service District"); adopting the Sixth Biennial Update to the Five-Year plan for the Service District; reauthorizing the assessment of charges against certain real property in the Service District, and adjusting the amount of such charges; authorizing certain fees; and generally relating to the updating and revising of the Five-Year Plan for the Service District.

**RECITALS**

The Service is authorized under its enabling legislation, Sections 3-101 through 3-130 of the Natural Resources Article of the Annotated Code of Maryland, as amended to date (the "Act"), to, among other things, establish service districts for the provision of services, facilities or property used or useful in connection with the supply of water.

**Sixth Biennial Update**

In accordance with the Act, on October 23, 1997, this Board approved Resolution No. 97-10-1R. Resolution 97-10-1R provided for the creation of the Darlington Water Supply Service District (the "Service District"), the adoption of a Five-Year Plan, the acquisition, operation and maintenance of the Darlington Water System (the "System"), and the imposition upon each parcel of real property in the Service District of a charge to recover all costs incurred by the Service related to the Service District and the System (the "Charges"). On October 28, 1999, this Board approved Resolution No. 99-10-1R, which, among other things, reauthorized the assessment of Charges against certain real property in the service District, established the amount of such Charges for calendar years 2000 and 2001, and authorized and directed the Service to place Environmental Service Liens on any real property in the Service district for which a Charge is not paid when due, or to take any other action as is necessary to collect any moneys due to the Service related to the Service District.

Pursuant to section 3-106(i) of the Act, the Service is required to review, update, and readopt the Five-Year Plan for the Service District biennially after review by the municipalities and persons concerned. The Five-Year Plan may be updated and readopted by the Service only after at least one public hearing in each of the counties affected. The Service has previously adopted five biennial updates. In accordance with the Act, the Service drafted the Sixth Biennial Update to the Five-Year Plan for the Service District (the "Sixth Biennial Update") attached hereto as Exhibit A. On August 11, 2011, the Service conducted a public information hearing in the community of Darlington in Harford County on the proposed Sixth Biennial Update. A report of the comments

made at the public hearing has been presented to this Board. The Service also sent the Sixth Biennial Update to the Harford County Department of Public Works, the Harford County Council, the Maryland Department of the Environment, the Maryland Department of Natural Resources, and the Maryland Office of Planning for review and comment. None of these agencies commented on the content of the Sixth Biennial Update.

### **Adjustment of Charges**

The Service has funded the costs of establishing the Service District, operating and maintaining the System, conducting necessary capital improvements, and administering the Service District, by obtaining certain grants and loans, and by charging each of the lots and parcels of real property in the Service District. The Service currently charges each lot and parcel of real property in the Service District \$50.10 per calendar quarter for full water service plus a variable charge of \$6.78 for each 1000 gallons of water used. As required by applicable law, the Service also collects from each user \$7.50 per quarter for the Maryland Bay Restoration Fund.

In order to recover sufficient funds to pay for the expense of owning and maintaining the System, and retire existing debt, the Service must adjust the Charge imposed in the Service District. Implementation of the new Charges is scheduled for October 1, 2011, with the first bill due in January, 2012. Additionally, the Service must impose and collect reasonable fees to pay for the expense of disconnecting, reconnecting and servicing water lines to individual lots and parcels of real property in the Service District.

In accordance with the Act, the Service held a public information hearing on the proposed Charges on August 11, 2011 in the community of Darlington. Notice of the public information hearing was made by publication in the Aegis newspaper on July 27 and August 5, 2011, in the Bargainer Newspaper on July 18 and August 1, 2011, on the Service's website, and in direct mailings to the residents of the Service District.

The Service considers the adoption of the Sixth Biennial Update, and the adjustment of the Charges, to be in furtherance of the public purposes of the Act and the Service, and to be consistent with the Five-Year Plan.

### **NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE, that:**

1. Capitalized terms used and not defined herein shall have the meanings set forth in the title and the Recitals to this Resolution.
2. The creation of the Service District is hereby reaffirmed. The boundaries of the Service District shall remain the same as those set forth in the Five-Year Plan as is delineated in Attachment D of the First Biennial Update. The Service may permit a property within the boundaries of the Service District that is not currently connected to the System to connect to the System.

3. The Sixth Biennial Update in substantially the form presented to this meeting is hereby approved, and the Director of the Service shall be, and hereby is, authorized to execute and deliver such Sixth Biennial Update substantially in the form approved hereby with such changes, omissions, insertions, and revisions as shall be deemed advisable by the Director, provided, however, that such changes, omissions, insertions and revisions shall not alter the substance of the actions authorized and approved by this Resolution. The Service is hereby directed to file such Sixth Biennial Update among the permanent records of the Service.

4. In accordance with the provisions of the Sixth Biennial Update, the Service District is hereby updated, revised, and adopted. The Director shall be, and hereby is, authorized to take any and all such actions as are necessary to implement the provisions of the Sixth Biennial Update.

5. The Service is hereby authorized to adjust the Charges for services and projects provided by the Service in the Service District, including without limitation, charges for all costs incurred by the Service in replacing the System. Such Charges shall be imposed against each lot and parcel of real property located in the Service District in the amount of (i) a fixed quarterly charge and (ii) a variable charge per 1000 gallons of water used, as set forth below. In accordance with the Act, the Service is hereby authorized and directed to impose an Environmental Service Lien on any real property in the Service District for which the Charge is not paid when due, and to take any other action as is necessary to collect any moneys due the Service in relation to the Service District.

|                                |             |             |             |             |             |
|--------------------------------|-------------|-------------|-------------|-------------|-------------|
|                                | <u>2012</u> | <u>2013</u> | <u>2014</u> | <u>2015</u> | <u>2016</u> |
| <u>Fixed Quarterly Charge:</u> | \$56.10     | \$62.10     | \$68.10     | \$74.10     | \$80.10     |

The updated fixed quarterly charge provided for in this Resolution shall be effective October 1, 2011, and shall be reflected in water bills distributed to users in January 2012. Thereafter the Service shall adjust the fixed quarterly charge annually on October 1, as provided in this Resolution. Additionally, starting on July 1, 2012, and annually thereafter each July 1, the Service shall further adjust the Fixed Quarterly Charge based on the Consumer Price Index – All urban consumers, Washington-Baltimore area, Series Id: CUURA311SAO.

Variable Charge: \$6.78 for each 1000 gallons of water used.

6. The Service is hereby authorized to impose and collect reasonable fees for disconnecting, reconnecting, or servicing a water line to a lot or parcel of real property located in the Service District, and to impose and collect any fees, charges, taxes or assessments required by applicable law.

7. The Director and other officers and employees of the Service shall be, and hereby are, authorized to take such other steps and to execute and deliver such other documents and certificates as the Director shall deem desirable to effect to implement the provisions of the Sixth Biennial Update, to continue to manage the Service's activities with respect to the Service District, and to accomplish all other matters contemplated by this Resolution.



8. The execution by the Director of the Service of any document authorized herein to be executed by the Director shall constitute conclusive evidence of approval by the Service of such document, and any and all changes thereto from the form presented to the Board herewith, by the Service.

9. This Resolution shall take effect immediately upon its adoption.

10. The provisions of this Resolution are severable, and if any provision, sentence, clause, section or part hereof is held or determined to be illegal, invalid, unconstitutional or inapplicable to any person, property or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Resolution or their application to other persons, property or circumstances. It is hereby declared to be the intent of the Board of Directors of the Maryland Environmental Service that this Resolution would have been passed if such illegal, invalid, unconstitutional or inapplicable provision, sentence, clause, section or part had not been included herein, and as if the person, property or circumstances to which this Resolution or any part hereof are inapplicable had been specifically exempted.

**ADOPTED THIS 25<sup>th</sup> DAY OF AUGUST 2011.**

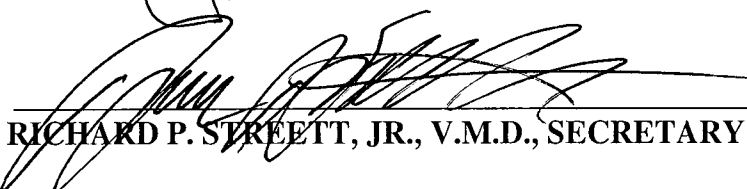
**SEAL**

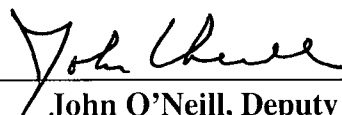
**MARYLAND ENVIRONMENTAL SERVICE**

BY:   
\_\_\_\_\_  
**JAMES M. HARKINS, DIRECTOR**

BY:   
\_\_\_\_\_  
**JOHN O'NEILL, DEPUTY DIRECTOR**

BY:   
\_\_\_\_\_  
**HENRY COOK, TREASURER**

BY:   
\_\_\_\_\_  
**RICHARD P. STREETT, JR., V.M.D., SECRETARY**

Attest:   
\_\_\_\_\_  
**John O'Neill, Deputy Director**

**THE SIXTH BIENNIAL UPDATE TO THE FIVE YEAR PLAN  
And  
NOTICE OF RATE INCREASE  
For  
THE DARLINGTON WATER SUPPLY SERVICE DISTRICT  
HARFORD COUNTY, MARYLAND**

**Prepared by  
MARYLAND ENVIRONMENTAL SERVICE**

**July 2011**

**I. BACKGROUND**

**A. The Darlington Water System**

The Darlington Water Supply System (the System) serves the community of Darlington, located in northeastern Harford County, Maryland. The System consists of a water treatment plant and distribution system that was upgraded in 2003 to replace an outdated system that had been operating since the early 1950's. The system provides potable water to parts of the Darlington community that were serviced by the old system as well as some new users. In 1997 the Company's owners, at the request of Harford County, approached the Maryland Environmental Service (MES), and asked MES to form a Service District to provide continuing operation of the System. In 1997 MES formed the Darlington Water Supply Service District (the Service District). The Service District is discussed below in Section II.

The System presently has 105 customer connections including residential units, a school, churches, businesses, fire department, and a post office. The System's main infrastructure includes two wells; one pump house, one hydropneumatic tank, several thousand linear feet of pipe, and water meters for each connection.

The System is described in the Harford County Water and Sewerage Master Plan (the Master Plan) as a community water system lying outside of the Harford County Development Envelope. As such, the Master Plan states that the Darlington water system is "expected to maintain economically viable and physically reliable resources to serve the existing customers," and that "extensive

expansion of these systems is not encouraged; however, minor additions to the customer base may be logical and appropriate." The Master Plan also notes that the System does not provide fire flow protection.

#### **B. The Maryland Environmental Service**

The Maryland Environmental Service (MES) is an Independent State agency created by the Maryland General Assembly to provide, among other things, dependable, effective, and efficient water supply services to public and private instrumentalities in compliance with State laws, regulations, and policies governing air, land, and water pollution. The Act giving MES its powers is set forth in the Annotated Code of Maryland, Natural Resources Article, Section 3-101, and subsequent sections.

### **II. THE SERVICE DISTRICT**

On October 23, 1997, MES created the Service District pursuant to its legal authority set forth in the Annotated Code of Maryland, Natural Resources Article, Section 3-106 (see Attachment A) and MES Board of Directors Resolution No. 97-10-1R (see Attachment B). Pursuant to its authority and the Resolution, MES purchased the assets of the Darlington Water Company.

The physical boundaries of the Service District include all properties that were served by the original water system and any individual piece of property, which is within 50 feet of an existing water main. The Service District may over time be modified and enlarged with the appropriate review and approval, but no alteration to the Service District may diminish the level of service rendered to the Service District. MES' goal in establishing the Service District was to maintain the current distribution system configuration and make necessary improvements to allow providing reliable water service to the system customers.

### **III. THE FIVE YEAR PLAN**

Integral to the establishment of the Service District was the preparation of a Five Year Plan. The original Five Year Plan prepared in September, 1997 is available for review at the Darlington branch of the Harford County Library and at MES headquarters in Millersville, Maryland. MES is required to review, update, and readopt the Five Year Plan for the Service District biennially. The Five Year Plan may be updated and readopted by MES only after at least one public hearing, at which time MES shall take the actions necessary to implement the revised Plan.

This document is the Sixth Biennial Revision of the Five Year Plan (the Revised Plan) for the Service District. The Revised Plan describes current status along with any proposed changes needed to continue providing potable water within

the Service District while maintaining consistency with Harford County's Water and Sewer Master Plan.

Specifically, the Revised Plan addresses the following:

- The current status of expenditures, revenues and charges for the System
- Proposed user fee increase and special assessment
- Creation of a Capital Improvement Reserve Fund
- Increase in connection fee for new customers

#### **IV. IMPROVEMENTS**

##### **A. Completed Improvements to the System**

Upon establishment of the Service District in 1997, MES commenced necessary capital improvements to the System as outlined in the original Five Year Plan. The initial improvements that were completed in 1998 and 1999 increased overall reliability and performance of the system and included, but not limited to, the following items:

1. The elimination of confined-space entryways at two well houses to allow safe access to subsurface confined areas.
2. The installation of an emergency alarm system for 24-hour notification to reduce operator response time.
3. Installation of mechanical and electrical equipment, such as compressors, motors, pressure switches, and flow meters.
4. The relocation of a curbside shut-off valve that was located in an abandoned pit.

In addition to making needed repairs, the routine operation and maintenance of the System involves servicing equipment, checking the System components, keeping records and field logs, sampling and analyzing the water, and generating reports for submission to the Maryland Department of the Environment (MDE).

##### **B. Distribution System Replacement**

The water system was originally constructed in the 1950's and as a result was experiencing frequent water main breaks and equipment malfunctions. Utilizing funding from the Maryland Department of the Environment, the entire water system was replaced with new pipes, valves, and other appurtenances in 2003.

The new distribution system provides improved water pressure and supply and eliminated the problem of "red water" stains caused by deteriorated old

distribution system piping. Control and flushing valves were installed to allow isolating sections during flushing operations or when repairs have to be made. Air-relief and pressure-reducing valves were also installed to better regulate the pressure throughout the System.

A hydropneumatic tank was installed that holds a full day supply of water along with an emergency generator to provide backup power during outages. Each customer has a water meter and curb-stop valve.

The total capital cost for the 2003 water treatment plant and distribution system improvements was \$1.5 million.

## **V. EXPENDITURES, REVENUES, AND CHARGES**

The Maryland Environmental Service (MES) purchased the assets of the Darlington Water Company in 1997. The system was established as a separate enterprise fund of the Service, with the acquisition cost being funded through a loan of \$74,500 from other MES resources. The loan was to be repaid in semi-annual installments over a twenty-year period at an interest rate of 6.85%. To date the revenues from the project have been insufficient to repay the loan. As of December 31, 2010 the principal balance of the loan remains at \$74,500 with over \$50,000 in accrued interest.

In addition to the original loan debt, as noted in prior Biennial reports, the Darlington Water System has operated at a loss since its acquisition by MES in 1997. The revenue from user fees has been insufficient to pay for operating expenses. In spite of MES' best efforts, the cumulative cash loss has grown and is projected to reach \$220,000 by end of June 2011. Combining the cumulative cash debt of \$220,000 plus the original \$74,500 loan brings the total debt amount to \$295,000.

Customers are currently invoiced on a quarterly basis using the rate established in 2004 which charges a fixed amount of \$50.10 per user plus a variable charge of \$6.78 per 1,000 gallons of water used.

The user fee also includes \$2.00 for the Sinking Fund reserve which pays for needed repairs or replacement of equipment, wells, water lines, and meters. The fund is not intended to be used for larger capital improvement projects. As of December 31, 2010, there was \$10,402 in the Sinking Fund reserve account.

In addition, a separate fee of a \$7.50 is charged quarterly for the Bay Restoration Fund. The Bay Restoration Fund fee is a mandatory State imposed fee paid by all Maryland residents that are connected to a sewer system or served by a septic system.

As part of a special assessment, a rate increase is needed to pay for the following:

- Original system acquisition cost
- pay off the balance of the cumulative cash operating deficit going back to 1998

As shown in Table I, the total amount of debt is \$295,000. MES is forgiving the original purchase acquisition debt of \$74,500. Harford County is providing an additional \$75,000 in assistance to further reduce the amount of the special assessment. These contributions reduce the total debt amount of \$295,000 down to \$150,000 (rounded).

**TABLE I**  
**Summary of Outstanding Debt and Proposed Actions**

| Item   | Amount                     | Proposed Action                    |
|--|----------------------------|------------------------------------|
| 1. Original Purchase Debt  | \$ 74,500                  | MES to forgive \$74,500 debt       |
| 2. Cumulative Operating Loss<br>(recovered via a Special Assessment) | \$220,500                  | \$75,000 to be paid by Harford Co. |
| 3. Depreciation Charges  | <u>NA</u>                  | Payments to start in year 2025     |
| Total  | \$295,000                  |                                    |
| <b>Reduced Total</b>   | <b>\$150,000 (rounded)</b> |                                    |

A rate increase is proposed that will pay off the \$150,000 in 14 years. The increase or special assessment will be phased in such that the current fixed quarterly amount of \$50.10 will be increased \$24 each year (or \$6 per quarter) for the first five years to bring the new fixed amount to \$137 per quarter per user (in year 2016). The new rate will continue to pay for the annual operating costs and will retire the debt in 14 years. The 14 year debt retirement schedule and payment plan out to year 2025 is shown in Table II. It is anticipated that the new rate will be effective starting in October 2011 and be reflected in water bills sent out in January 2012.

The rate increase is applied to the "Fixed Base" component of the user rate and will therefore be paid by all users. However, the user fee also has a variable charge component which is the amount charged per 1000 gallons of water used. Table II shows the estimated user fee amount based on an "average" amount of water used. Those users that use less water will see user fees lower than what is shown in Table II. This is illustrated in Tables IIIA and IIIB which show the current and increased user fees for customers with minimum water use and for those with average amount of use, respectively. As shown in the tables, customers with minimal water use will see their monthly bill go from \$22 up to \$32 in five years. The customers that use an average amount of water will have their monthly bill go from \$35 to \$45 in five years.

**TABLE II**  
**Darlington Water System**

**Debt Retirement Plan with Five Year Phase In and Reduced Debt\***

| Year         | Year (1)     | Net Debt Amount at end of Year (2) | No. of Users | Total Debt Payment per Year | Debt Payment per User per Year | Debt Payment per User per Quarter | Total User Fee per Quarter (3) | Estimated Total Annual Revenue |
|--------------|--------------|------------------------------------|--------------|-----------------------------|--------------------------------|-----------------------------------|--------------------------------|--------------------------------|
| 0            | 2011         | \$150,000                          | 105          | 0                           | \$0                            | \$0                               | <b>\$107</b>                   | \$45,000                       |
| 1            | 2012         | \$147,500                          | 105          | \$2,500                     | \$24                           | \$6                               | <b>\$113</b>                   | \$47,500                       |
| 2            | 2013         | \$142,500                          | 105          | \$5,000                     | \$48                           | \$12                              | <b>\$119</b>                   | \$50,000                       |
| 3            | 2014         | \$135,000                          | 105          | \$7,500                     | \$71                           | \$18                              | <b>\$125</b>                   | \$52,500                       |
| 4            | 2015         | \$125,000                          | 105          | \$10,000                    | \$95                           | \$24                              | <b>\$131</b>                   | \$55,000                       |
| 5            | 2016         | \$112,500                          | 105          | \$12,500                    | \$119                          | \$30                              | <b>\$137</b>                   | \$57,500                       |
| 6            | 2017         | \$100,000                          | 105          | \$12,500                    | \$119                          | \$30                              | <b>\$137</b>                   | \$57,500                       |
| 7            | 2018         | \$87,500                           | 105          | \$12,500                    | \$119                          | \$30                              | <b>\$137</b>                   | \$57,500                       |
| 8            | 2019         | \$75,000                           | 105          | \$12,500                    | \$119                          | \$30                              | <b>\$137</b>                   | \$57,500                       |
| 9            | 2020         | \$62,500                           | 105          | \$12,500                    | \$119                          | \$30                              | <b>\$137</b>                   | \$57,500                       |
| 10           | 2021         | \$50,000                           | 105          | \$12,500                    | \$119                          | \$30                              | <b>\$137</b>                   | \$57,500                       |
| 11           | 2022         | \$37,500                           | 105          | \$12,500                    | \$119                          | \$30                              | <b>\$137</b>                   | \$57,500                       |
| 12           | 2023         | \$25,000                           | 105          | \$12,500                    | \$119                          | \$30                              | <b>\$137</b>                   | \$57,500                       |
| 13           | 2024         | \$12,500                           | 105          | \$12,500                    | \$119                          | \$30                              | <b>\$137</b>                   | \$57,500                       |
| 14           | 2025         | \$0                                | 105          | \$12,500                    | \$119                          | \$30                              | <b>\$137</b>                   | \$57,500                       |
| (see note 4) |              |                                    |              |                             |                                |                                   |                                |                                |
|              | <b>TOTAL</b> |                                    |              | <b>\$150,000</b>            |                                |                                   |                                |                                |

\* The increase in user fee will be applied to the Quarterly Fixed Charge. This analysis assumes the debt is reduced as per notes below.

**Notes:**

1. Debt retirement period based on paying off debt in 14 years.
2. Total debt amount equals the June 2011 projected \$220,500 cash loss plus the \$74,500 used to purchase the water system for a total debt of \$300,000 less \$150,000 contributions from MES and Harford County to bring the net amount of debt to retire of **\$150,000**. This amount does not include the additional debt incurred due to uncollected system depreciation charges.
3. Current average quarterly user fee is obtained by taking average annual revenues of \$45,000 and dividing by 105 users and 4 to express as per quarter which equals = **\$107**
4. After the \$150,000 debt is fully retired, the debt payments will be put into an escrow account and used to recover the depreciation costs and fund the CIP Reserve Fund. This amount ( \$12,500 per year) after 20 years (year 2045) will amount to \$250,000 which is still far less than the actual amount needed for system replacement.

7/1/11

**Table III A- Current and Proposed User Fee - Minimum Use**

Assumes \$150,000 in Reduced Debt - Showing Minimum Use Amount

| Bill Component<br>(Amounts per Quarter)                 | Current<br>Year<br>2011 | Five Year Phase in Period |                |                |                |                |
|---|-------------------------|---------------------------|----------------|----------------|----------------|----------------|
|   |                         | Year 1<br>2012            | Year 2<br>2013 | Year 3<br>2014 | Year 4<br>2015 | Year 5<br>2016 |
| Fixed Base Amount                                       | \$50.10                 | \$56.10                   | \$62.10        | \$68.10        | \$74.10        | \$80.10        |
| Average User Variable Charge Amount (per 1000 gallons)* | \$6.78                  | \$6.78                    | \$6.78         | \$6.78         | \$6.78         | \$6.78         |
| Sinking Fund  | \$2.00                  | \$2.00                    | \$2.00         | \$2.00         | \$2.00         | \$2.00         |
| Bay Restoration Fee**                                   | \$7.50                  | \$7.50                    | \$7.50         | \$7.50         | \$7.50         | \$7.50         |
| Quarterly Total   | \$66.38                 | \$72.38                   | \$78.38        | \$84.38        | \$90.38        | \$96.38        |
| <b>Monthly Amount</b>                                   | <b>\$22.13</b>          | <b>\$24.13</b>            | <b>\$26.13</b> | <b>\$28.13</b> | <b>\$30.13</b> | <b>\$32.13</b> |
| Annual % Increase                                       | -                       | 9.0%                      | 8.3%           | 7.7%           | 7.1%           | 6.6%           |

\* This amount is the minimal amount of usage of 1000 gallons per quarter.

\*\* This is a fee assessed by the State of Maryland and not under MES control.

**Table III B- Current and Proposed User Fee - Average Use**

Assumes \$150,000 in Reduced Debt - Showing Average Use Amount

| Bill Component<br>(Amounts per Quarter)                 | Current<br>Year<br>2011 | Five Year Phase in Period |                |                |                |                |
|---|-------------------------|---------------------------|----------------|----------------|----------------|----------------|
|   |                         | Year 1<br>2012            | Year 2<br>2013 | Year 3<br>2014 | Year 4<br>2015 | Year 5<br>2016 |
| Fixed Base Amount                                       | \$50.10                 | \$56.10                   | \$62.10        | \$68.10        | \$74.10        | \$80.10        |
| Average User Variable Charge Amount (per 1000 gallons)* | \$47.10                 | \$47.10                   | \$47.10        | \$47.10        | \$47.10        | \$47.10        |
| Sinking Fund  | \$2.00                  | \$2.00                    | \$2.00         | \$2.00         | \$2.00         | \$2.00         |
| Bay Restoration Fee**                                   | \$7.50                  | \$7.50                    | \$7.50         | \$7.50         | \$7.50         | \$7.50         |
| Quarterly Total   | \$106.70                | \$112.70                  | \$118.70       | \$124.70       | \$130.70       | \$136.70       |
| <b>Monthly Amount</b>                                   | <b>\$35.57</b>          | <b>\$37.57</b>            | <b>\$39.57</b> | <b>\$41.57</b> | <b>\$43.57</b> | <b>\$45.57</b> |
| Annual % Increase                                       | -                       | 5.6%                      | 5.3%           | 5.1%           | 4.8%           | 4.6%           |

\* This amount is an average across all users. The amount is estimated by taking taking 2010's total revenues of \$46,279 and dividing by 105 users and 4 to express as per quarter. This gives \$107 per user per quarter. Subtracted from this figure is \$59.60 (sum of base amounts 50.10+2.00+7.50) which gives the average Variable charge per user per quarter of \$47.40.

\*\* This is a fee assessed by the State of Maryland and not under MES control.

After the cash debt is paid off in year 14 (see Table II), the increased fee amount of \$30 per quarter will be placed into a Capital Improvement Reserve Fund. This reserve fund will be used to pay for major capital improvements that will be needed in the next 20 to 50 years. The cost to replace the existing system is estimated to be \$1.5 to \$2 million. By applying the \$30 per user per quarter fee,



it will accrue \$12,500 per year, \$250,000 in 20 years, and \$625,000 in 50 years. This amount is still inadequate to allow complete replacement of the System in 50 years, but should allow all or partial replacement of the most critical System components.

The previously described user rate increase is intended to pay off the current debt. However, the largest part of the user rate is the "base amount" which pays for the annual operations and maintenance costs. Since these costs increase over time due to inflation and consumer price increases, it is also proposed that the user rate be adjusted annually to account for such increases. The rate will be increased each July in accordance with the change in the Consumer Price Index (CPI)\* from July of the previous year to July of the current year. For example, in the last 10 years the CPI has increased annually from 0.2% to 4.5%. The increase will be applied to the "Fixed Base Amount" component of the user rate.

*\*Consumer Price Index – All urban consumers, Washington-Baltimore area, Series Id: CUURA311SAO as can be found at the following web address: [http://data.bls.gov/pdq/SurveyOutputServlet?data\\_tool=dropmap&series\\_id=CUURA311SAO,CUUSA311SAO](http://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUURA311SAO,CUUSA311SAO). A copy of the CPI table as of July 1, 2011 is also attached for reference.*

## **VI. ADDITIONAL CONSIDERATIONS**

### **A. Fire Suppression Service**

The existing System does not include enough storage or large enough pipes to provide for fire protection.

### **B. Responsibilities of the Customer**

The System customers receive quarterly invoices based on water usage. Each customer is responsible for remittance of invoice payment within 30 calendar days of the invoice date. Late payment charges will be assessed in accordance with Maryland Law. It should also be noted that failure to pay water bills could result in service being shut off to the delinquent account, pending receipt of the payment. As stated in the Annotated Code of Maryland, Natural Resources Article, Section 3-108, if a customer has not paid an invoice in full within 60 days of the due date of the invoice, the unpaid bill becomes a lien against the property served. Each customer is responsible for maintenance of the lateral water line serving his or her property. This lateral line includes the length of pipe immediately following the water meter vault up to, and entering, the property being served.

### C. New Service Connections

All requested and proposed, connections to the System must be approved by MES. If a property owner wishes to be connected to the System, the owner will be responsible for paying, (1) purchase and installation of a lateral line, shut-off (curb stop) valve, all appurtenances necessary for connection to the main line including a water meter vault and meter, (2) the cost of having a MES Construction Inspector present during the installation of the lateral line and the actual connection to the water system, and (3) a service connection fee for each connection.

MES is now proposing to increase the connection charge to \$2,000. This connection fee is in line with current service connection fees charged by other county and municipal jurisdictions. The connection fee will be used to pay off existing debt and/or to pay into the sinking fund.

Requests for connections will be reviewed based on the location of the property with respect to the System, the additional demand on the System, and the ability of the System (piping size and capacity) to deliver the requested amount of water.

A request for connection to the Water System may be made by submission of a written request to MES at the following address:

Water and Wastewater Group  
Maryland Environmental Service  
259 Najoles Road  
Millersville, Maryland 21108

Attn: Northern Regional Engineer, Harford County  
Darlington Water System connection request

### D. Water Quality

The plant continues to produce water that complies with all State and Federal water quality regulations. In 2009 in response to customer complaints related to water hardness, MES installed a chemical feed system to add orthophosphosphate to the water to prevent scaling and related problems associated with hardness. This has alleviated most of the complaints. A more effective strategy could be implemented but it was determined that the costs were too great. It is important to note that since the Darlington Water System only has 105 customers, it does not allow spreading the cost of improvements over a large customer base. Therefore, as a result MES is trying to be more aggressive with future planning and generating revenue to cover needed improvements before the systems break down.

E. Water Audit

The MES performed a water audit in the 1<sup>st</sup> quarter of 2008 to verify the integrity of the new distribution system. The results of the audit were favorable and indicated that there were no leaks in the distribution system. It is anticipated that another water audit will be done in 2012.

F. Setting Customer Rates and the Appeal Process

The current user rate was adopted in 2004. Sections 3-108 and 3-128 of the Annotated Code of Maryland, Natural Resources Article, outlines the procedure for setting customer rates and the opportunity for appeal. Section 3-108 (a) specifically discusses the determination of charges and costs, and states that before establishing or adjusting charges in a service district, MES shall publish a notice of the proposed charges and hold a public hearing on the proposed charges. Therefore, customers will receive advance notice of the proposed rate increase and an opportunity to voice their opinions and concerns.

Section 3-128 describes the appeal process which entails arbitration provided by the Public Service Commission.



Annotated Code of Maryland  
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\*\*\* Current through chapters of the 2011 Regular Session of the General Assembly that took effect through May 19, 2011 \*\*\*

\*\*\* Annotations through April 29, 2011 \*\*\*

NATURAL RESOURCES  
TITLE 3. ENVIRONMENTAL PROGRAMS  
SUBTITLE 1. MARYLAND ENVIRONMENTAL SERVICE

**GO TO MARYLAND STATUTES ARCHIVE DIRECTORY**

*Md. NATURAL RESOURCES Code Ann. § 3-106 (2011)*

§ 3-106. Creation and continuation of wastewater purification and solid waste disposal service regions and districts; five-year plans

(a) Determination of region boundaries; bases. -- The Director, after consultation with the Secretary of Natural Resources, the Secretary of the Environment, the Director of Planning, and the municipalities affected, shall determine appropriate boundaries for water supply service regions, wastewater purification service regions, and solid waste disposal service regions. Service regions shall be based upon needs set forth in, and provide integration of, approved State-county master plans for water and sewerage or solid waste disposal, adopted pursuant to the Environment Article, but also may take account of other plans and studies.

(b) Establishment of priorities and formal designation of regions. -- As soon as possible after the determination of appropriate boundaries, the Director, after consultation with the municipalities affected, shall establish priorities for designating water supply service regions, wastewater purification service regions, and solid waste disposal service regions and formally designate the regions.

(c) Designation of identical regions; inclusion of any part of State in only one of each class of region. -- Identical service regions need not be designated for water supply, wastewater purification and solid waste disposal projects. No part of the State may be included in more than one of these service regions.

(d) Surveys, plans, studies and estimates; preparation and content of five-year plans. -- As soon as possible after designation of a service region, the Service shall cause surveys, plans, studies, and estimates to be made, and after consultation with the municipalities located within the service region, prepare a five-year plan for each service region for the most effective and economical means of providing water supply, wastewater purification and solid waste disposal projects. In preparing a five-year plan, the Service shall consider the effects of public versus private ownership of water and wastewater facilities upon the provision of dependable, effective, and efficient water and wastewater services. Except as required by an order of the Secretary of the Environment under § 3-109 or § 3-110 of this subtitle, the five-year plans shall be consistent with the approved county water and sewerage plans adopted in compliance with Title 9 of the Environment Article. The five-year plans shall designate the existing facilities or portions that are to be transferred to the jurisdiction of the Service; improvements to and extension of existing facilities; construction of new water supply, wastewater purification, and solid waste disposal projects; proposed methods of acquisition, ownership, and operation, by the Service or by affected municipalities and persons, or both together with anticipated expenditures, sources of revenue, and charges for projects to be levied against municipalities, persons, and property; and related matters the Service finds necessary or convenient.

(e) Adoption of five-year plans; prerequisites thereto; outstanding bonds or notes. --

(1) The Service may adopt a five-year plan only after at least one public hearing in each of the counties affected. At least 60 days before a hearing, the proposed five-year plan shall be submitted for review and comment to each county, to each municipality which owns or operates a public facility affected by the plan, and to the Secretaries of Natural Resources and the Environment and the Director of Planning. A five-year plan can be adopted by the Service only after it is submitted to and approved by resolution of the governing body of each county and after consultation with the governing body of each municipality which owns or operates a public facility affected by the plan, or if the plan is not approved by each of the appropriate governing bodies within 120 days following submission of the plan for approval of the governing bodies, after the plan is approved by joint resolution of the General Assembly. If a joint resolution of the General Assembly approving a five-year plan contains any amendments or modifications to the plan, those amendments and modifications repeal the plan to the extent of any inconsistency. The provisions of this subtitle do not authorize the Service to take any action which would be inconsistent with the amendments or modifications without the approval of the governing body of each county and after consultation with the governing body of each municipality which owns or operates a public facility included within the plan.

(2) Notwithstanding any other provision of this subtitle, if any bonds or notes issued by the Service with respect to a project in a service area are outstanding and unpaid, any 5-year plan, contract, or charges relating to a service district or project may not be amended, terminated, or reduced, as the case may be, without the written consent of the Service, and any 5-year plan, contract, or charges to the service district remain in full force and effect so long as any such bonds or notes remain outstanding and unpaid.

(f) Establishment of service districts; acquisition of facilities and maintenance and operation of projects. -- Upon adoption of a five-year plan by the Service, service districts shall be established in the manner and following the schedule set forth in the plan. Immediately thereafter, the Service shall proceed with the acquisition, extension, and construction of facilities set forth in the plan and assume jurisdiction over and provide for the maintenance and operation of water supply, wastewater purification and solid waste disposal projects included in the plan, for those projects within the service region and districts placed under the jurisdiction of the Service by the plan.

(g) Contracts with municipalities and persons within districts; stipulations. -- The Service may enter into contracts with municipalities and persons within a service district and stipulate the projects to be provided, the amount of compensation for acquiring existing projects, the charges to be apportioned to the municipalities and persons, the manner of repaying the Service for these charges, and the effective date or dates the Service will initiate the provision of projects.

(h) Transfer of existing projects to Service; compensation for projects. -- Existing projects providing water supply, wastewater purification and solid waste disposal services, including all rights, easements, laboratory facilities, vehicles, records and all other property, equipment, and furnishings necessary and normally associated with the operation of the facility, shall be transferred to the sole ownership of the Service at the time designated in the five-year plan. Compensation for existing projects may be based on the original cost of the project minus an allowance for depreciation, or on other terms and conditions satisfactory to the municipality or person transferring the project. All costs and obligations assumed by the Service incidental to the transfer of ownership of an existing project shall be included in the charges apportioned to the service district.

(i) Biennial revision and re adoption of five-year plans. -- The Service shall review, update, and readopt the five-year plan for each service region biennially after review by the municipalities and persons concerned. The five-year plan may be updated and readopted by the Service only after at least one public hearing in each of the counties affected. Upon updating and readopting, the Service shall take the actions necessary to implement the revised plan.

(j) Extension of service region or district boundaries; combining regions or districts; combining, abandoning, and modifying projects. -- The Service by formal action, and after consultation with the municipalities affected, may extend the boundaries of service regions or districts, combine two or more service regions or districts or parts thereof and combine, abandon, extend, enlarge, improve, or make any other modification of projects serving one or more service districts, but no change may diminish any existing level of service rendered to the district or districts concerned.

(k) Responsibilities of Service -- Special provisions as to wastewater purification service districts. -- Within a wastewater purification service district, the Service is responsible for the purification and disposal of liquid waste as set forth in the five-year plan, including the residue resulting from purification, that is delivered to the Service projects through the sewer pipes of any municipality or person in the service district, except that the Service may exclude or require preconditioning of any waste that might otherwise be harmful to structures or purification processes or endanger

the health or safety of workers. Within the service district no municipality or person may discharge liquid waste onto the surface of the ground or into the waterways of the State except through the projects of the Service or of a municipality or person designated by the plan or under reasonable conditions the Service stipulates.

(l) Same -- Solid waste disposal service districts. -- Within a solid waste disposal service district the Service is responsible for the disposal of solid wastes as set forth in the five-year plan. Within the service district no municipality or person may dispose of solid wastes except through the projects of the Service or of a municipality or person designated by the plan, or under reasonable conditions the Service stipulates.

(m) Same -- Supply and distribution of water under five-year plan. -- Within a water supply service district, the Service shall be responsible for supply and distribution of water as set forth in the five-year plan.

(n) Projects not within five-year plan. -- With the consent of the county or municipal corporation in which a project is to be located, the Service may implement a project not provided for in the five-year plan adopted under this subtitle, service region, or service district established under this section or if no five-year plan, service region, or service district has been established.

**HISTORY:** An. Code 1957, art. 33B, § 5; 1973, 1st Sp. Sess., ch. 4, § 1; 1976, ch. 643; 1982, ch. 770, § 4; 1987, ch. 306, § 3; 1989, ch. 540, § 1; ch. 815; 1993, ch. 196, § 1; 1995, ch. 407.

**NOTES:**

**LexisNexis 50 State Surveys, Legislation & Regulations**

**Solid Waste Management**

*STATED IN Northwest Land Corp. v. Maryland Dep't of Env't, 104 Md. App. 471, 656 A.2d 804 (1995).*

*CITED IN Chesapeake Bay Village, Inc. v. Costle, 502 F. Supp. 213 (D. Md. 1980); Howard County v. Davidsonville Area Civic & Potomac River Ass'ns, 72 Md. App. 19, 527 A.2d 772, cert. denied, 311 Md. 286 (1987).*

**USER NOTE:** For more generally applicable notes, see notes under the first section of this part, subtitle, title, division or article.

**Attachment B**

Maryland Environmental Service  
Board of Directors  
Resolution No 97-10-1R

**MARYLAND ENVIRONMENTAL SERVICE**

**BOARD OF DIRECTORS**

**RESOLUTION NO. 97-10-1R**

**A RESOLUTION APPROVING**

the boundaries of the Darlington Water Supply Service Region (the "Service Region") and the Darlington Water Supply Service District (the "Service District"); authorizing the creation of the Service Region and the Service District; approving and adopting a Five-Year plan for the Service District; authorizing the assessment of charges against real property in the Service District, and establishing the amount of such charges; authorizing the purchase of the assets of the Darlington Water Company; authorizing the acquisition of certain real property in the community of Darlington, as well as the acquisition of certain easements necessary for the construction, reconstruction, improvement, operation, maintenance, repair, and rehabilitation of the water supply system, and providing generally for other matters necessary to the establishment of the Service Region and Service District.

**RECITALS**

The Service was created by, exists under, and exercises the powers contained in Sections 3-101 through 3-130 of the Natural Resources Article of the Annotated Code of Maryland (1997 Replacement Volume) as amended to date (the "Act"), including (among others) the powers (i) to establish service districts for the provision of services, facilities or property used or useful or having present capacity for future use in connection with the supply of water; and (ii) to enter into contracts with the Federal or any State government, or any unit, instrumentality or subdivision thereof, or with any municipality or person within or without the State of Maryland, providing for or relating to the furnishing of services to the facilities of any project of the Service, and (iii) to acquire by gift, purchase or the exercise of eminent domain in the manner described by law lands, structures, real or personal property rights, rights-of-way, franchises, easements and other interests in lands it considers necessary or convenient for the construction or operation of the project, upon terms and prices considered by the Service to be reasonable and can be agreed upon by the Service and the owner of the interest, and to take title in the name of the Service.

The Darlington Water System (the "System") is currently a privately-owned and operated water supply system located in the community of Darlington, which is a postal route in northeastern Harford County, northwest of Susquehanna State Park, on State Route 161. The System consists of a well water distribution system that was created in the late 1950's to supply parts of the Darlington



community with potable water. The System presently serves approximately 99 customers including residential units, churches, businesses, and various government institutions.

The System is owned and operated by Frank and Joan Garrett doing business as the Darlington Water Company (the Company). The Garretts are the only employees of the Company, and are residents of the Darlington community. In the early 1990's, the Garretts decided they wanted to retire, and attempted to sell the Company to other private entities, and Harford County. They were unsuccessful, and Harford County recommended that the Garretts contact the Maryland Environmental Service (MES). Subsequently, the Garretts requested that MES create a Service District to encompass the Darlington community, and purchase the assets of the Darlington Water Company.

In accordance with the Act, the Director of the Service has determined that the physical boundaries of the Service Region shall include all properties currently served by the Company, and any individual lot or parcel of property which is within 50 feet of an existing water main. The 50 foot envelope was suggested by the Harford County Department of Public Works, Water and Sewer Division, as being an appropriate boundary to allow for reasonable and controlled expansion of service to the community in accordance with the County's Master Plan. The proposed boundary for the Service District is shown in Attachment D of the Five-Year Plan. The Service has also designated the boundaries of the Service District to be the same as the Service Region.

Pursuant to Section 3-106(d) of the Act, the Service drafted a Five-Year Plan for the Service Region and Service District ("the Five-Year Plan") attached hereto as Exhibit A. On August 6, 1997, the Service conducted a public information hearing in the community of Darlington in Harford County on the proposed Five-Year Plan. Comments on the Five-Year Plan were solicited and incorporated into that document. On September 2, 1997, the County Council of Harford County, by Resolution No. 22-97 attached hereto as Exhibit B, approved the Service's Five-Year Plan.

The services to be provided by the Service in the Service Region and the Service District will be limited to the Water Supply Project as defined in the Act ("Project"). The Service will not provide, wastewater treatment, or solid waste disposal services within the Service Region or Service District, except as may be directly or indirectly related to the Project.

The Service intends to purchase certain assets of the Company necessary for the supply of water within the Service District for the purchase price of \$45,000. These assets shall include the real property, fixtures, improvements, equipment, machinery, and inventory as set forth in the Deed attached hereto as Exhibit C, and the Asset Purchase Agreement attached hereto as Exhibit D.

The Service also plans to acquire all necessary easements to enable it to provide an adequate, safe, and environmentally sound water supply to those properties served by the System. In connection with the process of acquiring these easements, the Service has executed four Letters of Intent to enter into Easement Agreements with private property owners. These Letters of Intent are attached to this Resolution as Exhibit E.

The Service intends to finance internally (i) the purchase of the assets of the Company, (ii) the immediate capital improvements for the System, (iii) the initial contribution necessary to start a Sinking Fund for the System, and (iv) all costs incurred in transferring the assets of the Company. The Service intends to recoup these costs by charging each of the lots and parcels of land in the Service District. Upon establishment of the Service District, MES intends to charge each parcel of property connected to the System a quarterly rate of \$79.50. Thereafter, the charges will be based upon the costs associated with operation and maintenance of the System, as well as the financial performance of the Sinking Fund. In accordance with the Act, the Service held a public information hearing on these charges on September 23, 1997 in the community of Darlington in Harford County, Maryland. Only those properties currently serviced by the System will be invoiced. However, if a property within the boundaries of the Service District is subsequently connected to the System, then that property, individually, will be responsible for all costs associated with connection as set forth the Five-Year Plan, including a reasonable connection fee, and will be invoiced for the costs of service thereafter.

The Service considers the establishment of the Service Region and Service District, the adoption of the Five-Year Plan, and the implementation of the Project to be in furtherance of the public purposes of the Act and the Service.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE, that:**

1. Capitalized terms used and not defined herein shall have the meanings set forth in the title and the Recitals to this Resolution.
2. The boundaries of the Service Region shall be all properties currently served by the Company, and any individual lot or parcel of real property that is within 50 feet of an existing water main as is delineated in Attachment D of the Five-Year Plan. The Service may permit a property within the boundaries of the Service Region that is not currently connected to the System to connect to the System in accordance with the Five-Year Plan herein adopted and this Resolution.
3. The Five-Year Plan in substantially the form presented to this meeting is hereby approved, and the Director of the Service shall be, and hereby is, authorized to execute and deliver such Five-Year Plan substantially in the form approved hereby with such changes, omissions, insertions, and revisions as shall be deemed advisable by the Director, provided, however, that such changes, omissions, insertions and revisions shall not alter the substance of the actions authorized and approved by this Resolution. The Service is hereby directed to file such Five-Year Plan among the permanent records of the Service.
4. In accordance with the provisions of the Five-Year Plan, the Service District is hereby established. The Director shall be, and hereby is, authorized to take any and all such actions as are necessary to implement the provisions of the Five-Year Plan.

5. The Service is hereby authorized to establish charges for services and projects provided by the Service in the Service District, including, without limitation, charges for all costs incurred by the Service in providing the Project. Such charges shall be imposed equally against each parcel or lot of real property located in the Service District connected to the Project in an amount not to exceed the quarterly rate of \$79.50. In the event that the Service approves a new connection of a lot or parcel of real property located within boundaries of the Service District to the System in accordance with the Five-Year Plan, the Service is hereby authorized to charge such lot or parcel of real property all costs associated with the connection as set forth in the Five-Year Plan, including a reasonable connection fee. In accordance with the Act, the Service is hereby authorized and directed to impose an Environmental Service Lien on any real property in the Service District for which the quarterly rate is not paid, and to take any other action as is necessary to collect any moneys due the Service in relation to the Service District.

6. The Service is hereby authorized to execute the Deed between the Service and Frank E. and Joan J. Garrett, doing business as the Company, for the purchase of certain real property of the Company necessary for the construction, reconstruction, operation, maintenance, improvement, repair, and rehabilitation of the System. The Deed, in substantially the form presented to this meeting is hereby approved, and the Director of the Service shall be, and hereby is, authorized to execute and deliver such Deed substantially in the form approved hereby with such changes, omissions, insertions, and revisions as shall be deemed advisable by the Director, provided, however, that such changes, omissions, insertions and revisions shall not alter the substance of the actions authorized and approved by this Resolution. The Service is hereby directed to file such Agreement among the permanent Land Records of Harford County and the Service.

7. The Service is hereby authorized to execute the Asset Purchase Agreement between the Service and Frank E. and Joan J. Garrett, doing business as the Company, for the purchase of certain assets of the Company, including that personal property necessary for the construction, reconstruction, operation, maintenance, improvement, repair, and rehabilitation of the System. The Asset Purchase Agreement, in substantially the form presented to this meeting is hereby approved, and the Director of the Service shall be, and hereby is, authorized to execute and deliver such Asset Purchase Agreement substantially in the form approved hereby with such changes, omissions, insertions, and revisions as shall be deemed advisable by the Director, provided, however, that such changes, omissions, insertions and revisions shall not alter the substance of the actions authorized and approved by this Resolution. The Service is hereby directed to file such Agreement among the permanent records of the Service.

8. The Director and other officers and employees of the Service shall be, and hereby are, authorized to take such other steps and to execute and deliver such other documents and certificates, including Easement Agreements, as the Director shall deem desirable to effect the establishment of the Five-Year Plan and the other matters contemplated by this Resolution.

9. The execution by the Director of the Service of any document authorized herein to be executed by the Director shall constitute conclusive evidence of approval of such document, and any and all changes thereto from the form presented to the Service herewith, by the Service.

10. This Resolution shall take effect immediately upon its adoption.

11. ALL APPROVALS, AUTHORIZATIONS, AND DELEGATIONS RESOLVED BY THIS BOARD IN PARAGRAPHS 1 THROUGH 10 OF THIS RESOLUTION ARE EXPRESSLY SUBJECT TO, AND CONTINGENT UPON, THE SATISFACTION OF THE FOLLOWING CONDITIONS PRECEDENT:

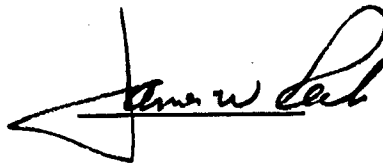
- A. The execution and recording of the Deed in substantially the form presented to this meeting;
  - B. The execution by the Company and the Service of the Asset Purchase Agreement in substantially the form presented to this meeting;
  - C. The execution of all necessary Easement Agreements and other property rights documents deemed by the Director of the Service to be necessary for the construction, installation, operation, maintenance, repair, and reconstruction of the Project; and
  - D. The approval by the Public Service Commission of the Company's Application for Transfer of the Assets pursuant to Maryland Annotated Code, Article 78, §24.
12. The Director of the Service is authorized to determine that the conditions precedent set forth herein are satisfied.

ADOPTED THIS 23rd DAY OF OCTOBER, 1997.

MARYLAND ENVIRONMENTAL SERVICE

SEAL


James W. Peck  
Director



Catherine Pieper Stevenson  
Deputy Director




**Kenneth Howarth**  
**Treasurer**



**Carolyn D. Davis**  
**Secretary**

Absent

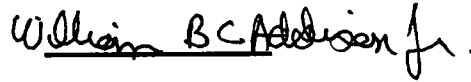
**Edwin G. Richards**  
**Member**



**Lawrence D. Shubnell**  
**Member**



**William B.C. Addison, Jr.**  
**Member**



**Daniel F. McMullen, III**  
**Member**

\_\_\_\_\_

**Joseph F. Snee, Jr.**  
**Member**

Absent

Attest:   
**Carolyn D. Davis, Secretary**

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## Consumer Price Index - All Urban Consumers

**Series Id:** CUURA311SA0, CUUSA311SA0

Not Seasonally Adjusted

**Area:** Washington-Baltimore, DC-MD-VA-WV

**Item:** All items

**Base Period:** NOVEMBER, 1996=100

**Download:** .xls

| Year | Jan     | Feb | Mar     | Apr | May     | Jun | Jul     | Aug | Sep     | Oct | Nov     | Dec | Annual  | HALF1   | HALF2   |
|------|---------|-----|---------|-----|---------|-----|---------|-----|---------|-----|---------|-----|---------|---------|---------|
| 2001 | 108.9   |     | 109.7   |     | 110.1   |     | 110.8   |     | 111.7   |     | 110.9   |     | 110.4   | 109.7   | 111.1   |
| 2002 | 110.9   |     | 111.9   |     | 112.8   |     | 113.4   |     | 114.0   |     | 114.0   |     | 113.0   | 112.1   | 113.9   |
| 2003 | 114.6   |     | 115.9   |     | 115.7   |     | 116.8   |     | 117.2   |     | 116.7   |     | 116.2   | 115.6   | 116.9   |
| 2004 | 117.1   |     | 118.1   |     | 118.9   |     | 120.2   |     | 120.8   |     | 120.9   |     | 119.5   | 118.3   | 120.7   |
| 2005 | 121.3   |     | 122.7   |     | 123.6   |     | 125.0   |     | 126.7   |     | 125.4   |     | 124.3   | 122.8   | 125.8   |
| 2006 | 126.3   |     | 126.8   |     | 128.8   |     | 130.7   |     | 130.2   |     | 129.3   |     | 128.8   | 127.7   | 130.0   |
| 2007 | 129.956 |     | 131.945 |     | 132.982 |     | 134.442 |     | 134.678 |     | 135.151 |     | 133.464 | 132.000 | 134.927 |
| 2008 | 136.293 |     | 138.090 |     | 139.649 |     | 142.065 |     | 142.036 |     | 138.547 |     | 139.499 | 138.490 | 140.509 |
| 2009 | 137.598 |     | 138.620 |     | 139.311 |     | 140.810 |     | 140.945 |     | 140.718 |     | 139.814 | 138.777 | 140.850 |
| 2010 | 141.124 |     | 141.741 |     | 142.025 |     | 141.966 |     | 142.738 |     | 142.915 |     | 142.218 | 141.700 | 142.736 |
| 2011 | 144.327 |     | 146.044 |     | 147.554 |     |         |     |         |     |         |     |         |         |         |

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## Workers, Retiree and Employer Recovery Act of 2008 (WRERA) Adoption Agreement Amendment

This amendment of the Plan (hereinafter referred to as "the Amendment") is comprised of this Workers, Retiree and Employer Recovery Act of 2008 (WRERA) Adoption Agreement Amendment (the "Adoption Agreement Amendment") and the corresponding Basic Plan Document Amendment. The Amendment is adopted to reflect the provisions of WRERA. The Amendment is intended to provide good faith compliance with WRERA and related guidance until the Plan is formally restated to incorporate such guidance. The Amendment is effective January 1, 2009, and such provisions apply to Plan operations during that period beginning on December 1, 2009, and ending on December 31, 2009. The IRS will not consider the Plan to have failed to operate in accordance with its terms merely because during the period beginning on January 1, 2009 and ending on November 30, 2009, the Plan's operation conflicted with the provisions of the Amendment pertaining to required minimum distributions (RMD) for 2009. The Amendment supersedes the existing provisions of the Plan to the extent that those provisions are inconsistent with the provisions of the Amendment. The Amendment will not cause the Plan to become an individually designed plan.

### EMPLOYER INFORMATION

Name of Plan: Maryland Environmental Service 401(k) Savings Plan

Plan Sequence Number: \_\_\_\_\_ Trust Identification Number (if applicable) \_\_\_\_\_ Account Number: 090963

### DISTRIBUTIONS AND LOANS Complete Parts A through C

#### Part A. 2009 RMD Payment Election

May Participants and Beneficiaries who would have otherwise been required to receive RMDs for 2009 but for the enactment of code Section 401(a)(9)(H) choose whether to remove their 2009 RMD or Extended 2009 RMD from the Plan (*select one*)?

**Option 1:**  Yes. (*Complete the following*)

If a participant or Beneficiary who had reached their Required Beginning Date on or before December 31, 2008, does not choose whether to remove their 2009 RMD or Extended 2009 RMD, the Employer will (*select one*):

**Suboption (a):**  retain such amount within the Plan.

**Suboption (b):**  distribute such amount to the Participant or Beneficiary.

**NOTE:** *If no suboption is selected, Suboption (b) will apply.*

If a Participant or Beneficiary who reached their Required Beginning Date on or between January 1, 2009, and December 31, 2009, does not choose whether to remove their 2009 RMD or Extended 2009 RMD, the Employer will (*select one*):

**Suboption (a):**  retain such amount within the Plan.

**Suboption (b):**  distribute such amount to the Participant or Beneficiary.

**NOTE:** *If no suboption is selected, Suboption (a) will apply.*

**Option 2.**  No. (*Complete the following*)

The employer will (*select one*):

**Suboption (a):**  retain such amount within the Plan.

**Suboption (b):**  distribute such amount to the Participant or Beneficiary.

**NOTE:** *If no suboption is selected, Suboption (a) will apply.*

**NOTE:** *If no option is selected, Option 1 will apply. If Option 2, Suboption (a) is selected, code Section 411(d) (6) may be violated if no other distribution event is available to a Participant or Beneficiary under the Plan. Generally, Code Section 411(d) (6) prohibits the elimination of protected benefits and protected benefits include the timing of payout options. Refer to Code Section 411(d) (6) and the corresponding Treasury regulation for details pertaining to the elimination of an otherwise protected benefit.*

#### Part B. Annuity Starting Dates

If a 2009 RMD or extended 2009 RMD is not removed from the Plan, there will be (*select one*):

**Option 1:**  a new Annuity Starting Date upon recommencement.

**Option 2.**  No new Annuity Starting Date upon recommencement.

**NOTE:** *If no option is selected, Option 2 will apply. A Plan subject to the Qualified Joint and Survivor Annuity provisions in Code Sections 401(a)(11) and 417 (e.g., money purchase pension plans, target benefit plans, etc.) must follow the procedures described in IRS Notice 97-75, Q&A-8 regarding Annuity Starting Dates.*

**Part C. Definition of Eligible Rollover Distribution**

For purposes of the Direct Rollover distribution provisions of the Plan, the following will also be treated as Eligible rollover Distributions (select one):

**Option 1:**  2009 RMDs and Extended 2009 RMDs.

**Option 2.**  2009 RMDs.

**Option 3.**  Neither 2009 RMDs nor Extended 2009 RMDs.

**NOTE:** If no option is selected, Option 1 will apply.

EMPLOYER SIGNATURE

**Signature of Employer**

- 1. I acknowledge that I have relied upon my own advisers regarding the completion of the Amendment and the legal and tax implications of amending this Plan;
- 2. I understand that my failure to properly complete the Amendment may result in disqualification of the Plan; and
- 3. I have received a copy of the Amendment.

Signature of Adopting Employer \_\_\_\_\_ Date Signed \_\_\_\_\_

Type Name \_\_\_\_\_ Title \_\_\_\_\_



## Workers, Retiree and Employer Recovery Act of 2008 (WRERA) Basic Plan Document Amendment

The Amendment of the Plan (hereinafter referred to as "the Amendment") is comprised of this Workers, Retiree and Employer Recovery Act of 2008 (WRERA) Based Plan Document Amendment (the "Basic Plan Document Amendment") and the corresponding Adoption Agreement Amendment. The Amendment is intended to provide good faith compliance with WRERA and related guidance until the Plan is formally restated to incorporate such guidance. The Amendment is effective January 1, 2009, and such provisions apply to Plan operations during the period beginning on December 1, 2009, and ending on December 31, 2009. The IRS will not consider the Plan to have failed to operate in accordance with its terms merely because during the period beginning on January 1, 2009, and ending on November 30, 2009, the Plan's operation conflicted with the provisions of the Amendment pertaining to required minimum distributions (RMDs) for 2009. The Amendment will not cause the Plan to become an individually designed plan.

### DEFINITIONS

#### **2009 RMD**

Means a required minimum distribution that would have been distributed to a Participant or Beneficiary for 2009 but for enactment of Code Section 401(a)(9)(H).

#### **EXTENDED 2009 RMD**

Means one or more payments in a series of substantially equal distributions (that include the 2009 RMD) made at least annually and expected to last for the life (or life expectancy) of the Participant and the Participant's designated Beneficiary, for a period of at least 10 years.

#### **ELIGIBLE ROLLOVER DISTRIBUTION**

*The Plan's definition of Eligible Rollover Distribution is modified by adding the following as a new paragraph to the end.*

Notwithstanding the foregoing, solely for purposes of applying the Direct Rollover distribution provisions of the Plan, 2009 RMDs and Extended 2009 RMDs distributed for 2009 will be treated as Eligible Rollover Distributions, unless otherwise elected in the Adoption Agreement Amendment.

#### **REQUIRED BEGINNING DATE**

*The Plan's definition of Required Beginning Date is modified by adding the following as a new paragraph to the end.*

If a 2009 RMD or Extended 2009 RMD is not removed from the Plan for any Participant according to Section 401(a)(9)(H) and the Plan is subject to the Qualified Joint and Survivor Annuity provisions of the Basic Plan Document, the requirements of IRS Notice 97-75, Q&A-8, must be satisfied.

No new Annuity Starting Date will apply upon recommencement of RMDs for 2010, unless otherwise elected in the Adoption Agreement Amendment.

### CONTRIBUTIONS

*The Basic Plan Document Section titled Rollover Contributions is modified by adding the following to the end:*

If the Plan allows rollover contributions, 2009 RMDs and Extended 2009 RMDs distributed for 2009 will be considered Eligible Rollover Distributions and may be rolled over to the Plan in accordance with this section and the Plan's existing rollover contribution elections.

*The Basic Plan Document Section titled Deemed IRAs is modified by adding the following, as the next alphabetically ordered paragraph, to the end. Temporary Waiver of Required Minimum Distribution Requirements*

Notwithstanding anything in the Plan to the contrary, IRA Holders and their beneficiaries who would have been required to receive a 2009 RMD but for the enactment of Code Section 401(a)(9)(H) will be given the choice to receive such distributions for 2009.

If an IRA Holder or beneficiary described above does not elect to receive such amount, the 2009 RMD may be either retained or distributed according to the terms of the IRA's governing document.

In addition, notwithstanding anything in the Plan to the contrary, if an IRA beneficiary's balance is required to be distributed under Code Section 401(a)(9)(B)(ii), the five year period described in such section shall be determined without regard to calendar year 2009.

*The Basic Plan Document Section titled Conversion Contribution Limit, and discussing contribution limits for a Deemed IRA designated by the IRA Holder as a Roth IRA, if applicable, is modified by and replaced with the following:*

(4) A SIMPLE IRA may only be converted to a Roth IRA if two years have passed since the SIMPLE IRA Holder first participated in the SIMPLE IRA plan.

*The Basic Plan Document Section titled Base Integrated Allocation Formula is modified by adding the following to the end:*

During a Plan Year in which the Plan is top heavy, the excess integrated allocation formula must be used. No amendment of the Plan is required to move between the base and excess integration formulas merely on account of the Plan's change in top heavy status.

### DISTRIBUTIONS AND LOANS

*The Basic Plan Document Section titled Required Minimum Distribution Requirements is modified by adding the following, as the next alphabetically ordered paragraph, to the end.*

**Temporary Waiver of Required Minimum Distribution Requirements**

Notwithstanding anything in the Plan or the definition of Distribution Calendar year to the contrary, Participants and Beneficiaries who would have been required to receive a 2990 RMD or Extended 2009 RMD but for the enactment of Code Section 401(a)(9)(H) will be given the choice to receive such distribution for 2009 unless otherwise in the Adoption Agreement Amendment.

If a participant or Beneficiary described above is allowed to remove their 2009 RMD or Extended 2009 RMD but does not elect to receive such amount, the 2009 RMD or Extended 2009 RMD will be distributed from the plan for those who had reached their Required Beginning Date on or before December 31, 2008, unless otherwise indicated in the Adoption Agreement Amendment. The plan will retain the 2009 RMD or Extended 2009 RMD within the plan if the Participant or Beneficiary reached their Required Beginning Date on or between January 1, 2009 and December 31, 2009 unless otherwise indicated in the Adoption Agreement Amendment.

In addition, notwithstanding anything in the Plan to the contrary, if a Beneficiary's balance is required to be distributed under Code Section 401(a)(9)(B)(ii), the five-year period described in such section shall be determined without regard to calendar year 2009.

**BOARD OF DIRECTORS  
MARYLAND ENVIRONMENTAL SERVICE  
RESOLUTION  
11-09-1R**

**A RESOLUTION AUTHORIZING**

**THE SERVICE TO AMEND ITS 401K RETIREMENT PLAN AGREEMENT, AND GENERALLY RELATING TO THE RETIREMENT PROGRAM FOR CERTAIN EMPLOYEES OF THE SERVICE.**

**R E C I T A L S**

**WHEREAS**, pursuant to §3-103.1(b) of the Natural Resources Article of the Annotated Code of Maryland, the Maryland Environmental Service (“Service”) is directed and authorized to determine and establish compensation and benefits for its employees; and

**WHEREAS**, the Board of Directors of the Service (“Board”) has previously approved an Adoption Agreement (“Adoption Agreement”) establishing a 401(k) Savings Plan (“Plan”) for its employees and has adopted amendments to the Plan from time to time; and

**WHEREAS**, the Board desires to further amend the Adoption Agreement in order to bring the Adoption Agreement into compliance with the Workers, Retiree and Employer Recovery Act of 2008 (WRERA).

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE THAT:**

1. The Comprehensive 401(k) Profit Sharing Plan Nonstandardized Adoption Agreement which was previously approved by the Board is hereby amended in accordance with the attached Exhibit “A”, “Workers, Retiree and Employer Recovery Act of 2008 (WRERA) Adoption Agreement Amendment.”

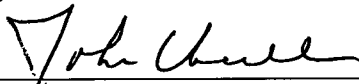
**Resolution No. 11-09-1R  
Amendment to 401(k) Plan - WRERA  
Page 2**

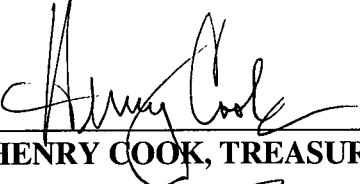
2. This Resolution shall be effective immediately.

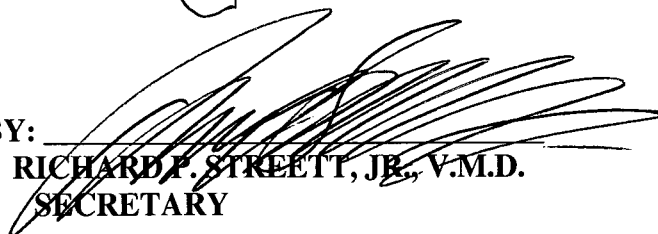
**ADOPTED this 26<sup>th</sup> day of September, 2011.**

**MARYLAND ENVIRONMENTAL SERVICE**

BY:   
\_\_\_\_\_  
**JAMES M. HARKINS, DIRECTOR**

BY:   
\_\_\_\_\_  
**JOHN O'NEILL, DEPUTY DIRECTOR**

BY:   
\_\_\_\_\_  
**HENRY COOK, TREASURER**

BY:   
\_\_\_\_\_  
**RICHARD P. STREETT, JR., V.M.D.  
SECRETARY**

## Workers, Retiree and Employer Recovery Act of 2008 (WRERA) Adoption Agreement Amendment

This amendment of the Plan (hereinafter referred to as "the Amendment") is comprised of this Workers, Retiree and Employer Recovery Act of 2008 (WRERA) Adoption Agreement Amendment (the "Adoption Agreement Amendment") and the corresponding Basic Plan Document Amendment. The Amendment is adopted to reflect the provisions of WRERA. The Amendment is intended to provide good faith compliance with WRERA and related guidance until the Plan is formally restated to incorporate such guidance. The Amendment is effective January 1, 2009, and such provisions apply to Plan operations during that period beginning on December 1, 2009, and ending on December 31, 2009. The IRS will not consider the Plan to have failed to operate in accordance with its terms merely because during the period beginning on January 1, 2009 and ending on November 30, 2009, the Plan's operation conflicted with the provisions of the Amendment pertaining to required minimum distributions (RMD) for 2009. The Amendment supersedes the existing provisions of the Plan to the extent that those provisions are inconsistent with the provisions of the Amendment. The Amendment will not cause the Plan to become an individually designed plan.

### EMPLOYER INFORMATION

Name of Plan: Maryland Environmental Service 401(k) Savings Plan

Plan Sequence Number: \_\_\_\_\_ Trust Identification Number (if applicable) \_\_\_\_\_ Account Number: 090963

### DISTRIBUTIONS AND LOANS Complete Parts A through C

#### Part A. 2009 RMD Payment Election

May Participants and Beneficiaries who would have otherwise been required to receive RMDs for 2009 but for the enactment of code Section 401(a)(9)(H) choose whether to remove their 2009 RMD or Extended 2009 RMD from the Plan (*select one*)?

**Option 1:**  Yes. (*Complete the following*)

If a participant or Beneficiary who had reached their Required Beginning Date on or before December 31, 2008, does not choose whether to remove their 2009 RMD or Extended 2009 RMD, the Employer will (*select one*):

**Suboption (a):**  retain such amount within the Plan.

**Suboption (b):**  distribute such amount to the Participant or Beneficiary.

**NOTE:** *If no suboption is selected, Suboption (b) will apply.*

If a Participant or Beneficiary who reached their Required Beginning Date on or between January 1, 2009, and December 31, 2009, does not choose whether to remove their 2009 RMD or Extended 2009 RMD, the Employer will (*select one*):

**Suboption (a):**  retain such amount within the Plan.

**Suboption (b):**  distribute such amount to the Participant or Beneficiary.

**NOTE:** *If no suboption is selected, Suboption (a) will apply.*

**Option 2.**  No. (*Complete the following*)

The employer will (*select one*):

**Suboption (a):**  retain such amount within the Plan.

**Suboption (b):**  distribute such amount to the Participant or Beneficiary.

**NOTE:** *If no suboption is selected, Suboption (a) will apply.*

**NOTE:** *If no option is selected, Option 1 will apply. If Option 2, Suboption (a) is selected, code Section 411(d) (6) may be violated if no other distribution event is available to a Participant or Beneficiary under the Plan. Generally, Code Section 411(d) (6) prohibits the elimination of protected benefits and protected benefits include the timing of payout options. Refer to Code Section 411(d) (6) and the corresponding Treasury regulation for details pertaining to the elimination of an otherwise protected benefit.*

#### Part B. Annuity Starting Dates

If a 2009 RMD or extended 2009 RMD is not removed from the Plan, there will be (*select one*):

**Option 1:**  a new Annuity Starting Date upon recommencement.

**Option 2.**  No new Annuity Starting Date upon recommencement.

**NOTE:** *If no option is selected, Option 2 will apply. A Plan subject to the Qualified Joint and Survivor Annuity provisions in Code Sections 401(a)(11) and 417 (e.g., money purchase pension plans, target benefit plans, etc.) must follow the procedures described in IRS Notice 97-75, Q&A-8 regarding Annuity Starting Dates.*

**Part C. Definition of Eligible Rollover Distribution**

For purposes of the Direct Rollover distribution provisions of the Plan, the following will also be treated as Eligible rollover Distributions (select one):

**Option 1:**  2009 RMDs and Extended 2009 RMDs.

**Option 2.**  2009 RMDs.

**Option 3.**  Neither 2009 RMDs nor Extended 2009 RMDs.

**NOTE:** If no option is selected, Option 1 will apply.

**EMPLOYER SIGNATURE**

**Signature of Employer**

- 1. I acknowledge that I have relied upon my own advisers regarding the completion of the Amendment and the legal and tax implications of amending this Plan;**
- 2. I understand that my failure to properly complete the Amendment may result in disqualification of the Plan; and**
- 3. I have received a copy of the Amendment.**

Signature of Adopting Employer \_\_\_\_\_ Date Signed \_\_\_\_\_

Type Name \_\_\_\_\_ Title \_\_\_\_\_

## Workers, Retiree and Employer Recovery Act of 2008 (WRERA) Basic Plan Document Amendment

The Amendment of the Plan (hereinafter referred to as "the Amendment") is comprised of this Workers, Retiree and Employer Recovery Act of 2008 (WRERA) Based Plan Document Amendment (the "Basic Plan Document Amendment") and the corresponding Adoption Agreement Amendment. The Amendment is intended to provide good faith compliance with WRERA and related guidance until the Plan is formally restated to incorporate such guidance. The Amendment is effective January 1, 2009, and such provisions apply to Plan operations during the period beginning on December 1, 2009, and ending on December 31, 2009. The IRS will not consider the Plan to have failed to operate in accordance with its terms merely because during the period beginning on January 1, 2009, and ending on November 30, 2009, the Plan's operation conflicted with the provisions of the Amendment pertaining to required minimum distributions (RMDs) for 2009. The Amendment will not cause the Plan to become an individually designed plan.

### DEFINITIONS

#### **2009 RMD**

Means a required minimum distribution that would have been distributed to a Participant or Beneficiary for 2009 but for enactment of Code Section 401(a)(9)(H).

#### **EXTENDED 2009 RMD**

Means one or more payments in a series of substantially equal distributions (that include the 2009 RMD) made at least annually and expected to last for the life (or life expectancy) of the Participant and the Participant's designated Beneficiary, for a period of at least 10 years.

#### **ELIGIBLE ROLLOVER DISTRIBUTION**

*The Plan's definition of Eligible Rollover Distribution is modified by adding the following as a new paragraph to the end.*

Notwithstanding the foregoing, solely for purposes of applying the Direct Rollover distribution provisions of the Plan, 2009 RMDs and Extended 2009 RMDs distributed for 2009 will be treated as Eligible Rollover Distributions, unless otherwise elected in the Adoption Agreement Amendment.

#### **REQUIRED BEGINNING DATE**

*The Plan's definition of Required Beginning Date is modified by adding the following as a new paragraph to the end.*

If a 2009 RMD or Extended 2009 RMD is not removed from the Plan for any Participant according to Section 401(a)(9)(H) and the Plan is subject to the Qualified Joint and Survivor Annuity provisions of the Basic Plan Document, the requirements of IRS Notice 97-75, Q&A-8, must be satisfied.

No new Annuity Starting Date will apply upon recommencement of RMDs for 2010, unless otherwise elected in the Adoption Agreement Amendment.

### CONTRIBUTIONS

*The Basic Plan Document Section titled Rollover Contributions is modified by adding the following to the end:*

If the Plan allows rollover contributions, 2009 RMDs and Extended 2009 RMDs distributed for 2009 will be considered Eligible Rollover Distributions and may be rolled over to the Plan in accordance with this section and the Plan's existing rollover contribution elections.

*The Basic Plan Document Section titled Deemed IRAs is modified by adding the following, as the next alphabetically ordered paragraph, to the end. Temporary Waiver of Required Minimum Distribution Requirements*

Notwithstanding anything in the Plan to the contrary, IRA Holders and their beneficiaries who would have been required to receive a 2009 RMD but for the enactment of Code Section 401(a)(9)(H) will be given the choice to receive such distributions for 2009.

If an IRA Holder or beneficiary described above does not elect to receive such amount, the 2009 RMD may be either retained or distributed according to the terms of the IRA's governing document.

In addition, notwithstanding anything in the Plan to the contrary, if an IRA beneficiary's balance is required to be distributed under Code Section 401(a)(9)(B)(ii), the five year period described in such section shall be determined without regard to calendar year 2009.

*The Basic Plan Document Section titled Conversion Contribution Limit, and discussing contribution limits for a Deemed IRA designated by the IRA Holder as a Roth IRA, if applicable, is modified by and replaced with the following:*

(4) A SIMPLE IRA may only be converted to a Roth IRA if two years have passed since the SIMPLE IRA Holder first participated in the SIMPLE IRA plan.

*The Basic Plan Document Section titled Base Integrated Allocation Formula is modified by adding the following to the end:*

During a Plan Year in which the Plan is top heavy, the excess integrated allocation formula must be used. No amendment of the Plan is required to move between the base and excess integration formulas merely on account of the Plan's change in top heavy status.

### DISTRIBUTIONS AND LOANS

*The Basic Plan Document Section titled Required Minimum Distribution Requirements is modified by adding the following, as the next alphabetically ordered paragraph, to the end.*

**Temporary Waiver of Required Minimum Distribution Requirements**

Notwithstanding anything in the Plan or the definition of Distribution Calendar year to the contrary, Participants and Beneficiaries who would have been required to receive a 2990 RMD or Extended 2009 RMD but for the enactment of Code Section 401(a)(9)(H) will be given the choice to receive such distribution for 2009 unless otherwise in the Adoption Agreement Amendment.

If a participant or Beneficiary described above is allowed to remove their 2009 RMD or Extended 2009 RMD but does not elect to receive such amount, the 2009 RMD or Extended 2009 RMD will be distributed from the plan for those who had reached their Required Beginning Date on or before December 31, 2008, unless otherwise indicated in the Adoption Agreement Amendment. The plan will retain the 2009 RMD or Extended 2009 RMD within the plan if the Participant or Beneficiary reached their Required Beginning Date on or between January 1, 2009 and December 31, 2009 unless otherwise indicated in the Adoption Agreement Amendment.

In addition, notwithstanding anything in the Plan to the contrary, if a Beneficiary's balance is required to be distributed under Code Section 401(a)(9)(B)(ii), the five-year period described in such section shall be determined without regard to calendar year 2009.



**BOARD OF DIRECTORS  
MARYLAND ENVIRONMENTAL SERVICE**

**RESOLUTION**

**11-10-1R**

**A RESOLUTION**

**AUTHORIZING THE DIRECTOR OF THE MARYLAND ENVIRONMENTAL SERVICE (“SERVICE”) TO CLOSE CERTAIN OFFICES AND FACILITIES OF THE SERVICE ON FRIDAY, NOVEMBER 25, 2011, AND FURTHER AUTHORIZING CERTAIN PAYMENTS TO EMPLOYEES OF THE SERVICE.**

**R E C I T A L S**

**WHEREAS**, pursuant to §3-103.1(b)(4) of the Natural Resources Article, Annotated Code of Maryland, the Service may determine the terms of employment of its employees, including compensation, benefits, holiday schedules, and leave policies; and

**WHEREAS**, the employees of the Service are dedicated, resourceful and hard-working; and

**WHEREAS**, by law, the offices of most State agencies will be closed on Friday, November 25, 2011.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE THAT:**


1. The Director may close the offices and facilities of the Service on Friday, November 25, 2011, except for those offices and facilities which the Service is obligated by law or agreement to operate and have open for business on that day.
2. All employees of the Service shall be granted paid leave on Friday, November 25, 2011, in the same manner as if that day were a Holiday under COMAR 14.27.02.15.A.

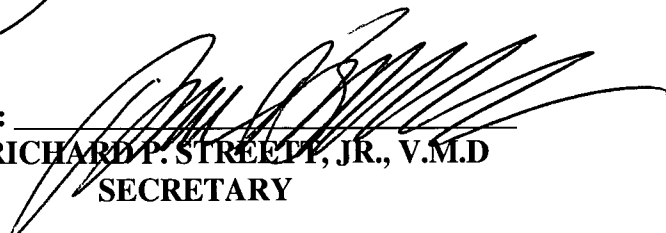
Resolution No. 11-10-1R  
Authorization to Close MES Offices on 11/25/11  
Page 2

ADOPTED, this 24<sup>th</sup> day of October, 2011.

SEAL

MARYLAND ENVIRONMENTAL SERVICE

BY:   
JAMES M. HARKINS, DIRECTOR

BY:   
RICHARD P. STREETT, JR., V.M.D  
SECRETARY

**BOARD OF DIRECTORS  
MARYLAND ENVIRONMENTAL SERVICE  
RESOLUTION  
11-12-1R**

**A RESOLUTION AUTHORIZING**

**THE SERVICE TO AMEND ITS 401K RETIREMENT PLAN AGREEMENT, AND GENERALLY RELATING TO THE RETIREMENT PROGRAM FOR CERTAIN EMPLOYEES OF THE SERVICE.**

**R E C I T A L S**

**WHEREAS**, pursuant to §3-103.1(b) of the Natural Resources Article of the Annotated Code of Maryland, the Maryland Environmental Service (“Service”) is directed and authorized to determine and establish compensation and benefits for its employees; and

**WHEREAS**, the Board of Directors of the Service (“Board”) has previously approved an Adoption Agreement (“Adoption Agreement”) establishing a 401(k) Savings Plan (“Plan”) for its employees and has adopted amendments to the Plan from time to time; and

**WHEREAS**, the Board desires to further amend the Adoption Agreement in order to modify the interest rate charged by the Plan for the purpose of a participant loan.

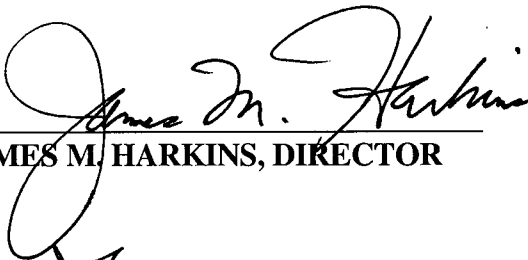
**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE THAT:**

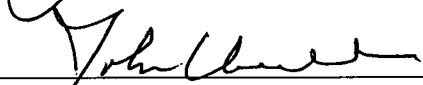
1. The Comprehensive 401(k) Profit Sharing Plan Nonstandardized Adoption Agreement which was previously approved by the Board is hereby amended in accordance with the attached Exhibit “A”, “Loan Interest Rate Administrative Services Authorization.”
2. This Resolution shall be effective immediately.

Resolution No. 11-12-1R  
Amendment to 401(k) Plan – Loan Interest Rate  
Page 2

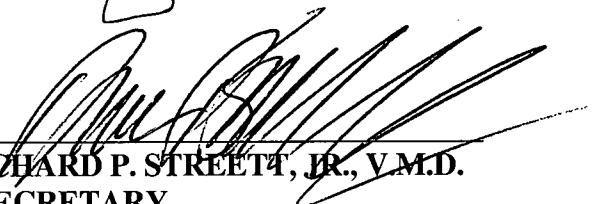
ADOPTED this 12<sup>th</sup> day of December, 2011.

MARYLAND ENVIRONMENTAL SERVICE

BY:   
JAMES M. HARKINS, DIRECTOR

BY:   
JOHN O'NEILL, DEPUTY DIRECTOR

BY:   
HENRY COOK, TREASURER

BY:   
RICHARD P. STREETT, JR., V.M.D.  
SECRETARY



# Loan Interest Rate Administrative Services Authorization

Effective as of 01/01/2012

Henry Cook

as plan administrator of

Maryland Environmental Service 401(k) Savings Plan

authorizes the following loan interest rate administrative services for the Plan.

Please choose option A or B

- A. The plan administrator directs The Vanguard Group, Inc., (Vanguard) to monitor the interest rate charged by the Plan for the purpose of a participant loan. When the selected interest rate changes, Vanguard will implement such a change in the system used to perform recordkeeping services for the Plan in accordance with the frequency selected below. The selected interest rate will be based on the prime rate as received by Vanguard from Reuters. (Reuters calculates their prime rate through a formula, which includes the average lending rates of the top 30 banks in the United States.)

Please specify the interest rate to be used for each loan type:

- Principal residence Prime lending rate plus 2.0%  
 Other Prime lending rate plus 2.0%

Please select one of the following frequencies for adjusting the interest rate:

- First business day after the date the prime rate changes.  
 First business day of the week after the prime rate changes.  
 First business day of the month after the prime rate changes.  
 First business day of the quarter after the prime rate changes.

Note: Divisions within the Plan that use a different interest rate or frequency than the Plan itself must complete and sign a separate Loan Interest Rate Administrative Services Authorization form

If the Plan's loan policy and/or plan document references the use of a specific prime rate (e.g., the prime rate as published in *The Wall Street Journal*), the loan policy and/or plan document should be changed to reference the rate set by Reuters

- B. The plan administrator assumes sole responsibility for monitoring the interest rate charged by the Plan for the purpose of a participant loan. The plan administrator, or an authorized representative thereof, will use the Vanguard Plan Sponsor Bridge® website to initiate the interest rate change in the system Vanguard uses to perform recordkeeping services for the Plan, based on the rate and effective date of their choosing.

To establish secure access to the Vanguard Plan Sponsor Bridge, please complete a Designation of Authorized Individuals—Bridge Security form.

The plan administrator certifies that the above-selected interest rate and/or frequency of adjustment is a reasonable rate of interest and/or frequency of adjustment that provides the Plan with a return commensurate with the interest rate charged by persons in the business of making loans under similar circumstances in accordance with the Department of Labor Regulation 2550.408b-1(e).

Authorization

Vanguard does not make any representations that the interest rate or frequency of adjustment selected by the Plan, and monitored by Vanguard at the discretion of the Plan, is a reasonable rate of interest as required by the Department of Labor.

This document shall remain in effect until it is replaced with an updated version that is signed and dated by the plan administrator.

Authorized by:

---

Plan administrator signature

Date

Henry Cook Treasurer and Chief Financial Officer

---

Print plan administrator name and title

**BOARD OF DIRECTORS  
MARYLAND ENVIRONMENTAL SERVICE  
RESOLUTION  
(11-12-2R)**

**A RESOLUTION**

**DECLARING THE OFFICIAL INTENT OF THE MARYLAND ENVIRONMENTAL SERVICE TO REIMBURSE EXPENDITURES TO BE INCURRED WITH RESPECT TO THE ACQUISITION, DEVELOPMENT, DESIGN, ENGINEERING, PERMITTING, CONSTRUCTION, EQUIPPING, INSPECTION AND FINANCING OF A SOLID WASTE DISPOSAL AND PROCESSING FACILITY PROJECT, AND RELATED FACILITIES, TO BE LOCATED IN HARFORD COUNTY, MARYLAND, WITH THE PROCEEDS OF DEBT TO BE ISSUED BY THE MARYLAND ENVIRONMENTAL SERVICE.**

**R E C I T A L S**

**WHEREAS**, to facilitate an efficient borrowing program the Maryland Environmental Service (the "Service") intends to expend money on some or all of the acquisition, development, design, engineering, permitting, construction, equipping, inspection and financing of a solid waste disposal and processing facility project, and related facilities, to be located in Harford County, Maryland (the "Project"), prior to the issuance of debt by the Service for such Project; and

**WHEREAS**, the Service intends to reimburse such expenditures from the proceeds of debt to be issued by the Service; and

**WHEREAS**, to comply with applicable provisions of the Internal Revenue Code of 1986, as amended, and Section 1.150-2 of the Income Tax Regulations (the "Reimbursement Regulations"), it is necessary in order to reimburse such expenditures with the proceeds of tax-exempt debt, that the Board of Directors of the Service declare the official intent of the Service to make such a reimbursement of expenditures.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF**

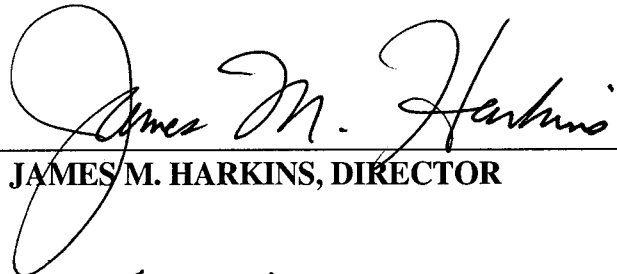
**DIRECTORS OF THE MARYLAND ENVIRONMENTAL SERVICE THAT:**

1. The Service intends to expend money for all or part of the acquisition, development, design, engineering, permitting, construction, equipping, inspection and financing of the Project prior to the issuance of tax-exempt bonds or other debt obligations to reimburse such expenditures, provided that, other than certain "preliminary expenditures" (including architectural, engineering, surveying, soil testing and other similar costs as described in the Reimbursement Regulations), the expenditures to be reimbursed with such tax-exempt debt shall not be incurred more than 60 days prior to the date of adoption of this Resolution. The Service expects to reimburse itself with the proceeds of bonds or other debt obligations in an amount not to exceed Seventeen Million Dollars (\$17,000,000.00).
2. This Resolution shall take effect immediately.

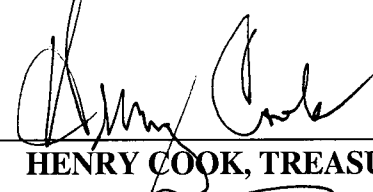
**ADOPTED this 12<sup>th</sup> day of December, 2011.**

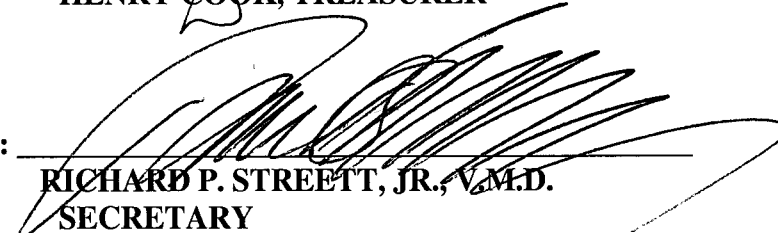
**SEAL**

**MARYLAND ENVIRONMENTAL SERVICE**

BY:   
JAMES M. HARKINS, DIRECTOR

BY:   
JOHN O'NEILL, DEPUTY DIRECTOR

BY:   
HENRY COOK, TREASURER

BY:   
RICHARD P. STREETT, JR., V.M.D.  
SECRETARY