

**RESOLUTION ESTABLISHING POLICIES WITH
RESPECT TO THE CRITICAL NEEDS AND FAILING
SYSTEMS SUB ACCOUNT**

WHEREAS, the West Virginia Infrastructure and Jobs Development Council (the “Council”) was created by Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (the “Council Act”);

WHEREAS, Section 9 of the Council Act creates the Infrastructure Fund;

WHEREAS, Section 17c(a), recently added to the Council Act, authorized the West Virginia Water Development Authority (the “Authority”) to establish the Critical Needs and Failing Systems Sub Account (the “Sub Account”) within the Infrastructure Fund;

WHEREAS, on July 1, 2020, the Council authorized the Authority to transfer funds into the Sub Account; and

WHEREAS, the Council hereby determines that policies and procedures must be adopted to provide guidance for the use of funds in the Sub Account.

NOW, THEREFORE, be it resolved by the West Virginia Infrastructure and Jobs Development Council as follows:

- 1) The Council hereby adopts the “Additional Policies Governing the Critical Needs and Failing Systems Sub Account” attached hereto as Exhibit A and incorporated herein by reference.
- 2) The Council hereby instructs the Executive Secretary to add the “Additional Policies Governing the Critical Needs and Failing Systems Sub Account” to the current policies on the Council’s website under Project Center – Operational Policies and Guidelines.
- 3) This Resolution shall be effective immediately upon adoption.

Adopted this 5th day of August, 2020.

Executive Secretary

Additional Polices Governing the Critical Needs and Failing Systems Sub Account

X. Critical Immediate Needs Project

a. The Council shall direct the Authority to make either a loan and/or a grant from the Critical Need and Failing Systems Sub Account (the “Sub Account”) when the Council, or the Funding Committee Chair as provided below, determines a proposed project will address a Critical Immediate Need.

b. (i) Critical Need Emergency Project

A Critical Immediate Need arises when an unforeseen event occurs that prevents a Project Sponsor from providing continuous water or wastewater service to its customers and the Project Sponsor does not have adequate funds in its revenue, renewal and replacement, depreciation or capital maintenance reserve accounts to pay the cost of restoring the service to customers (the “Critical Need”). The Council will consider the unforeseen event, the extent of the service disruption, the age of the failed facility, the public health risks, and the environmental risks when determining whether a proposal project is a Critical Need.

(ii) Critical Need Extension Project

A Critical Immediate Need with respect to a proposed extension project will be considered when a proposed project addresses the extension of service to customers that could not otherwise receive service (also a “Critical Need”). The Council shall consider public health issues, number of customers to be served, environmental issues, any economic development potential that would be provided by the project and why the Project Sponsor had not previously extended the service.

c. Application for Critical Need Emergency Project

1. If the request is for \$100,000 or less to address an existing loss of service to customers or an imminent environmental disaster, the Project Sponsor shall complete the Critical Need Emergency Project Application provided on the Council's webpage and email or fax it to the Executive Director. .

2. If the request is for more than \$100,000 or a request that does not address an existing loss of service to customers or an imminent environmental disaster, the Project Sponsor shall complete the Critical Need Emergency Project Application provided on the Council's webpage and email or fax it to the Executive Director until such time as the application is available to be completed online.

3. The Critical Need Emergency Project application shall include: (i) Description of the event causing the Critical Need; (ii) Total cost of addressing the Critical Need; (iii) Schedule to resolve the Critical Need; (iv) Outline of the action necessary to address the Critical Need; (v) Balances in the Project Sponsor's revenue, renewal and replacement, depreciation and capital maintenance reserve accounts; and (vi) Other information as needed.

d. (i) Critical Need/Emergency Procedure

Upon receipt of an application for a Critical Need Emergency Project, the Executive Director shall process the application as follows:

1. If the request is for a project with an estimated cost of \$100,000 or less to address an existing loss of service to customers or an imminent environmental disaster, the application shall be sent to the Chair of Funding Committee for review and consideration.
2. Upon the Chair's approval of the application, the Chair shall notify the Project Sponsor and the Executive Director so that the Project Sponsor can commence the repair or replacement required to restore service to the customers or avoid an environmental disaster . The Chair shall provide a report of the approval at the next Funding Committee meeting. Within one week of approval of the manual Critical Need Emergency Project application the Project Sponsor shall complete the Council's online application.

3. If the Chair denies the request, then the Chair shall notify the Project Sponsor and the Executive Director. The Project Sponsor may apply for regular funding using the Council's online application.
4. If the application for a Critical Need Emergency Project is for more than \$100,000 or to address a situation that does not involve an existing loss of service to customers or imminent environmental disaster, then the Executive Director shall place it on the agenda for the next Technical Review Committee meeting. Following review by the Technical Review Committee and Funding Committee, a recommendation shall be made to Council whether to fund the proposed project from the Sub Account, deny the application or recommend another funding scenario.
5. As a condition to the receipt of Critical Need Emergency Project funding, any Project Sponsor which has not funded its renewal and replacement account and capital maintenance reserve account shall be required to establish rates sufficient to fund these accounts at the required level within a time frame to be established Council.

e. **Application for Critical Needs Extension Project.**

The Project Sponsor shall apply by completing the Council's online application.

The preapplication information shall include the following: (i) Describe the Critical Need that the project will address; (ii) Number of customers that the project would add and status of the customer sign ups; (iii) Estimated cost of the project (should not exceed \$800,000 to allow for cost increase and bid overrun); (iv) Estimated time to complete the proposed project if funded; and (v) Whether the project has been part of a larger project previously submitted to Council. Note: The total project cost at construction must be less than one million dollars and the project is not eligible for a bid overrun grant.

f. Upon the completion of an application for a Critical Need Extension Project, the Executive Director shall process the application using the standard Council review procedure. The Funding Committee shall make recommendations to the Council on whether the

project should be funded with a loan and/or a grant from the Sub Account, denied or another funding scenario.

g. In order to have funds available to meet unforeseen Critical Need throughout the fiscal year, the Council shall restrict the availability of one-fourth of the funds transferred annually to the Sub Account for use in the fourth quarter and shall further restrict the availability of one-fourth of that amount to emergency applications.

West Virginia Infrastructure and Jobs Development Council

Critical Needs and Crisis Situation

Application Form

I. Describe the Critical Need

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II. Total Estimated Cost

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III. Schedule to Resolve Critical Need

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IV. Proposed Remedial Action

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V. Account Balances

Revenue Fund

Renewal and Replacement Fund

Capital Maintenance Reserve Fund

Sponsor Name: _____

Submitted by: _____

Title: _____

Date Submitted: _____