BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE: **COMPLAINT NO. VCRB 2013-101**

DINA B. FOSTER

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Dina B. Foster freely and voluntarily enter into the following Conciliation Agreement pursuant to W.Va. Code § 6B-2-4(s) to resolve all potential charges arising from allegations in the above-referenced Complaint.

FINDINGS OF FACT

1. Respondent Dina B. Foster ("Foster" or "Respondent") served, at all pertinent times herein, as the General Manager of the Pea Ridge Public Service District ("PSD"). Respondent continues to serve in that position.

2. Respondent is a public employee subject to the West Virginia Governmental Ethics Act § 6B-1-1 *et seq.*

3. The PSD is a public corporation established by the Cabell County Commission with approval of the West Virginia Public Service Commission. The PSD manages the development and maintenance of sewage systems in areas specified by the Cabell County Commission.

4. In connection with her employment, Foster was provided with a Visa credit card in which to conduct official business on behalf of the PSD. This credit card account was opened by the PSD, and was provided to her for use in her official capacity as General Manager. Foster was permitted to use this credit card for necessary and authorized purchases on behalf of the PSD.

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5. On April 19, 2012, Respondent used the PSD credit card to incur charges for hotel accommodations in Orlando, Florida, in the amount of $234.57. This charge appeared on the May 2012 credit card bill for the credit card provided to Respondent. This charge was a personal expenditure, was not related to the PSD and was not authorized.

6. On April 20, 2012, Respondent used the PSD credit card to incur charges for an airline flight in the amount of $296.60. This charge appeared on the May 2012 credit card statement, was not authorized and was a personal expenditure unrelated to the PSD.

7. Over the weekend of April 27, 2012, Respondent took a personal trip to Florida which was unrelated to any business of the PSD.

8. Respondent Foster has also used the PSD credit card for other miscellaneous personal expenditures totaling $1,348.21 which were not made on behalf of the PSD and were not authorized. These expenditures occurred sometime between October 1, 2011 and September 21, 2012.

9. The bank that issued the PSD credit card used by Respondent Foster called the PSD on May 1, 2012, to advise that recent activity on the account may be fraudulent.

10. On September 21, 2012, Respondent wrote a check from her personal bank account to Visa in the amount of $1,879.38 to pay for her personal expenditures using the PSD credit card.

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11. Respondent paid the $1,879.38 for personal charges on the credit card account only after the PSD and/or its board of directors discovered and reported her unauthorized personal use of the card.

RELEVANT LEGAL PROVISION

W.Va. Code § 6B-2-5(b) provides:

> (1) A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in *de minimis* private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

CONCILIATION OF VIOLATION

I, Dina B. Foster, admit that I violated the West Virginia Governmental Ethics Act. In order to resolve this matter, I enter into this Agreement. For this Conciliation Agreement to be finalized, the Commission must approve the Agreement and must further determine which sanctions to impose. In consideration for the settlement of this matter, I agree to the Commission's imposition of the following sanctions:

1. A public reprimand;
2. A fine of $2,000 to be paid by December 31, 2015; and
3. Training on the West Virginia Governmental Ethics Act either in person or by viewing the training provided on the Ethics Commission's website, at *www.ethics.wv.gov*, before January 1, 2016. Dina B. Foster shall provide written confirmation of the completion of this training to the Ethics Commission.

DBF DBF

I understand and agree that if the Ethics Commission fails to approve this Conciliation Agreement, then this Conciliation Agreement is null and void and the complaint will be referred back to the Probable Cause Review Board, where the Complaint will continue to be processed in accordance with the West Virginia Code and the Ethics Commission's Legislative Rules.

If the Ethics Commission approves this Agreement, it will enter an Order in which it approves the Agreement and sets forth the sanctions listed above.

Both parties understand that, pursuant to W.Va. Code § 6B-2-4(s), the Conciliation Agreement and Commission Order must be made available to the public.

11/5/15
Date

Robert J. Wolfe, Chairperson
W.Va. Ethics Commission

10/27/2015
Date

Dina B. Foster, Respondent

DBF

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE: **VCRB 2013-101**

DINA B. FOSTER
General Manager, Pea Ridge
Public Service District

COMMISSION'S ORDER

After considering the FINDINGS OF FACT, RELEVANT LEGAL PROVISION and CONCILIATION OF VIOLATION in the Conciliation Agreement, the West Virginia Ethics Commission finds that the Conciliation Agreement is in the best interest of the State and Dina B. Foster as required by W.Va. Code § 6B-2-4(s). In accordance with W.Va. Code § 6B-2-4(r), the Commission imposes the following sanctions:

1. A public reprimand;
2. A fine of $2,000 to be paid by December 31, 2015; and
3. Training on the West Virginia Governmental Ethics Act either in person or by viewing the training provided on the Ethics Commission's website, at www.ethics.wv.gov, before January 1, 2016. Dina B. Foster shall provide written confirmation of the completion of this training to the Ethics Commission.

11/5/15
Date

Robert J. Wolfe, Chairperson
WV Ethics Commission