

WATER PURCHASE CONTRACT

This Contract for the sale and purchase of water is entered into as of the 11th day of June, 1979, by and between The City of Morehead, Kentucky, and The Morehead Utility Plant Board, Morehead, Kentucky, hereinafter referred to as "First Party," and Rowan Water, Inc., a Kentucky Corporation with principal offices in Morehead, Kentucky, hereinafter referred to as "Second Party," and Bath County Water District, Salt Lick, Kentucky, hereinafter referred to as "Third Party,"

WITNESSETH: Whereas, The City of Morehead, Kentucky, is a duly incorporated City in the Commonwealth of Kentucky, and The Morehead Utility Plant Board is an agency of said City, and

Whereas, Rowan Water, Inc., is a Kentucky corporation, duly organized and established under the provisions of Chapter 273 of Kentucky Revised Statutes, for the purpose of constructing and operating a water supply distribution system serving users within the area described and designated by plans and approvals on file in the office of Commonwealth of Kentucky Utility Regulatory Commission (formerly Public Service Commission), and

Whereas, Third Party, Bath County Water District, is a duly organized Water District, pursuant to provisions of Chapter 74, Kentucky Revised Statutes, for the purpose of constructing and operating a water supply distribution system, serving water users within the area described in plans now on file in the office of the Commonwealth of Kentucky Utility Regulation Commission, and

Whereas, First Party, under existing contracts, presently sells purified water to Second Party and Third Party, a portion of which water Third Party supplies and sells to Menifee County Water District, and

Whereas, First Party, by and through The Morehead Utility Plant Board, in addition to operating its present water purification and treatment plant (hereinafter referred to as "plant"), also supplies purified water to its own water customers and users, and

Whereas, all parties hereto agree that the present Plant owned and operated by First Party is inadequate to supply present and future needs of the parties hereto, and

Whereas, First Party intends to construct an improved and enlarged water treatment and purification Plant (hereinafter referred to as "New Plant") to be financed by a loan made or insured by, and/or a grant from, The United States of America, acting through the Farmers Home Administration of The United States Department of

Agriculture, for the purpose of supplying increased amounts of purified water for use by the customers of all parties hereto, and

Whereas, it is the desire and intention of all parties to continue the present relationship as Seller and Purchaser and to share in the costs of constructing and operating said New Plant, and

Whereas, this can best be accomplished by the parties entering into this new Contract which shall supersede all previous contracts and agreements between the parties hereto;

Now, therefore, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto do hereby contract and agree as follows:

1. First Party shall, subject to obtaining financing satisfactory to First Party, construct, own, and operate said New Plant, along with other improvements to First Party's present water distribution system. Pursuant to the Variable Rate Schedule attached hereto and made a part hereof, a portion of said other improvements have been determined to be partially for the benefit of Second Party, and it has been determined that none of said other improvements are for the benefit of Third Party. Said New Plant and other improvements shall be constructed pursuant to plans and specifications prepared by Howard K. Bell, Consulting Engineers, Inc., for First Party.

2. First Party shall furnish to Second Party, at the same points and places where First Party is presently furnishing purified water to Second Party, during the term of this Contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the Kentucky Department of Health in such quantity as may be required by Second Party, not, however, to exceed the quota specified in Paragraph No. 7 hereof.

3. First Party shall furnish to Third Party, at the same points and places where First Party is presently furnishing purified water to Third Party, during the term of this Contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the Kentucky Department of Health in such quantity as may be required by Third Party, not, however, to exceed the quota specified in Paragraph No. 7 hereof.

4. First Party shall establish an accounting system, pursuant to generally accepted accounting procedures, which shall facilitate the identification of costs actually incurred in calculating the costs per One Thousand (1,000) gallons of producing and delivering water to Second Party and to Third Party and First Party shall be responsible for operation of said New Plant in accordance with all applicable laws and regulations.

5. Second Party and Third Party shall continue to own and operate, at said points of delivery, the necessary metering equipment, including meter houses or pits, and required devices of standard type for properly measuring the quantity of water furnished by First Party to Second Party and Third Party. Said meters shall be checked and calibrated at the expenses of the owner of said meters, by a qualified agent, satisfactory to all parties hereto, at least once every twelve (12) months. A meter registering not more than two (2%) percent above or below the test results shall be deemed to be accurate. The previous reading of any meter disclosed by the test to be inaccurate shall be corrected for the six (6) months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount delivered in the corresponding period immediately prior to the failure, unless First Party and the owner of said meter shall agree upon a different amount. The metering equipment shall be read by First Party and the owner of said meter on or about the 15th day of each month.

6. First Party shall furnish to Second Party and Third Party not later than the 5th day of each month an itemized statement of the amount of water furnished during the preceding month. Second Party and Third Party shall pay to First Party, not later than the 15th day of each

month for water delivered by First Party during the preceding month. The rate at which Second Party and Third Party shall pay First Party for said water is to be determined pursuant to the Variable Rate Schedule, attached hereto and made a part hereof.

7. First Party will, at all times, operate and maintain in an efficient manner and will take such action as may be necessary to furnish to Second Party and Third Party the quantities of water required by them, not, however, to exceed the following quotas:

(A) For Second Party, an amount not to exceed thirty (30%) percent of the 5,000,000 gallon per day design capacity of said New Plant or of the actual production capacity of said New Plant, whichever is less.

(B) For Third Party, an amount not to exceed twenty (20%) percent of the 5,000,000 gallon per day design capacity of said New Plant or of the actual production capacity of said New Plant, whichever is less. 10000'

First Party shall be entitled to the remainder of the production of said New Plant.

Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event the supply of raw water available to said New Plant is deminished over an extended period of time or in the event that production capacity of said New Plant is substantially deminished or reduced over an extended period of time resulting in inability of said New Plant to produce the quantity of

purified water required by all parties hereto, the supply of water to each party hereto shall be reduced or deminished in the same ratio or proportion as the supply to all other parties hereto. In the event said New Plant is operating at normal capacity and a sufficient supply of raw water is available to operate said New Plant at normal capacity, no party hereto shall exceed its allocated capacity or quota if such excess shall result in a reduction of supply of the actual amount of purified water required by any other party hereto. Failure of pressure to the main supply, line breaks, power failure, flood, fire, earthquake, or other catastrophes shall excuse First Party from complying with those terms of this Agreement for supply of water or pressure until such time as the cause of the reduction of pressure or supply or water has been removed or remedied; provided, however, that such purified water, if any, as is produced and/or available for distribution during such emergencies or catastrophes shall be made available to each party hereto in the same percentage or proportion as water is normally supplied to each party. In the event that the customers of any party hereto require unusually large quantities of water for a period of time not to exceed Twenty-four (24) hours, for the purpose of extinguishing unusual and extreme fires, First Party shall have the right, but not the obligation, to supply said water to the party whose customers so require said water, even though the same may result in diminished or terminated service of water to all parties hereto.

8. This Contract and Agreement shall become effective upon the date of delivery of the bonds financing the New Plant

to the purchaser of said bonds, and shall continue for a term of Forty (40) years from said date and, thereafter, may be renewed or extended for such term or terms as may be agreed upon by the parties hereto. Until said effective date, existing Contracts and Agreements between the parties hereto shall remain effective, and said presently existing Contracts and Agreements shall, on the effective date of this document, be superseded and replaced by this document.

9. This Contract and Agreement is subject to such rules, regulations, or laws, as may be or become applicable to similar agreements in the Commonwealth of Kentucky, and the parties hereto will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

10. The construction of the New Plant by First Party is being financed by a loan made or insured by, and/or a grant from The United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture, and this Contract and Agreement shall not be legally binding upon any party hereto until approved, in writing, by the appropriate officers or employees of the said Farmers Home Administration.

11. Beginning on the effective date of this Contract, Rowan Water, Inc., shall pay to First Party monthly capital costs of Forty Two Hundred Eighty Four Dollars Seventy Five

Cents (\$4,284.75)* per month and Bath County Water District shall pay to First Party monthly capital costs of Twenty Four Hundred Twenty Six Dollars Twenty Five Cents (\$2,426.25)* per month, in addition to the "cash operation and maintenance expense," "the capital cost replacement factor," and the "meter and billing charge," specified in the Variable Rate Schedule attached hereto and made a part hereof. Said monthly payments, as the same may be modified pursuant to the terms of the Variable Rate Schedule, shall continue throughout the term of this Contract.

12. The "wholesale billing year rate" charges, included in the Variable Rate Schedule provides for variable charges based on demonstrable costs to First Party for providing purified treated water to Second Party and Third Party, during First Party's "operating year," which should provide sufficient time to obtain the annual audit of First Party's financial records by a Certified Public Accountant. The "wholesale billing year rate" charges to Second Party and Third Party will remain fixed during each "wholesale billing year," and until modified pursuant to the Variable Rate Schedule attached hereto.

13. Any successor to any party hereto shall succeed to the obligations, rights and duties of its predecessor as set forth in this Contract or any amendments.

14. In the event that any party hereto shall increase its requirements for purified water to the extent that its water

* To be adjusted based on actual sale of the bonds of the New Plant and subsequently adjusted to reflect the retirement of the 1966 bonds.

requirements exceed its quotas established herein, or in the event that any party hereto requires or desires additional capacity for production of purified water, the party hereto requiring or desiring said additional capacity shall have the right to:

- (a) Pay all costs of expansion of the capacity of said New Plant, in which case the party paying said expansion costs shall be entitled to the benefit of all increased production capacity resulting from said expansion; and/or
- (b) Continue to purchase water under this Contract to its allocated capacity and obtain additional purified water from other sources.

15. In the event that said New Plant shall become inadequate to serve the needs of the parties hereto due to government regulations, technological or physical obsolescence, or because all parties hereto require purified water in excess of their allotted capacities established in Paragraph No. 7 hereof, the parties hereto agree that said Plant shall be improved, expanded or replaced, and that all parties hereto shall participate in the cost thereof and that this Contract shall then be renegotiated, so that all parties shall share in the capital costs involved in said improvement, expansion, or replacement in addition to continuing to pay their proportional parts of the capital costs of the said New Plant until the bonds sold to finance the same are paid in full.

In witness whereof, the parties hereto, acting under authority of their respective governing bodies, have caused this Contract to be duly executed in ten (10) counterparts, each of which shall constitute an original.

CITY OF MOREHEAD, KENTUCKY
FIRST PARTY

BY: Crayton Jackson
CRAYTON JACKSON, MAYOR

ATTEST:

Lella Mays
CITY CLERK

MOREHEAD UTILITY PLANT BOARD
FIRST PARTY

BY: C.M. Perkins
C.M. PERKINS, CHAIRMAN

ATTEST:

Warren Cooper
SECRETARY

ROWAN WATER, INC.
SECOND PARTY

BY: Sheenan R. Annett
PRESIDENT

ATTEST:

Henry B. Christ
SECRETARY

BATH COUNTY WATER DISTRICT
THIRD PARTY

BY: *R. H. Higzell*

ATTEST:

C. H. Sullivan, Clerk

This Contract is approved on behalf of the Farmers
Home Administration, this 4th day of September, 1979.

BY: *David R. King*
TITLE: *Community Program Specialist*

VARIABLE RATE SCHEDULE

Section 1. General.

This variable rate schedule attachment is a part of and incorporated into the Water Purchase Contract made and entered into as of the 1/23 day of June, 1979, by and between the City of Morehead, Kentucky, and the Morehead Utility Plant Board, as First Party ("Seller" and Rowan Water, Inc., as Second Party ("Rowan"), and Bath County Water District, as Third Party ("Bath").

Section 2. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this rate schedule attachment (Section 4 (b)) shall be as follows:

- (a) "Seller" shall mean the City of Morehead and the Morehead Utility Plant Board.
- (b) "Purchaser" shall mean Rowan Water, Inc., and/or Bath County Water District.
- (c) "Seller's operating year" shall mean the twelve months of July 1, through June 30.
- (d) "Wholesale billing rate year" shall mean a twelve (12) month period commencing January 1 and ending the following December 31.

- (e) "Cash operation and maintenance expense" shall mean all operating expenses, excluding depreciation expenses, excluding capital costs of improvements, betterments, replacements, etc., and excluding debt service costs (principal and interest, paying agent's fees, sinking fund reserves, etc.) for the Seller's operating year as identified and recognized in the annual examination of the Seller's financial records, by the firm of Certified Public Accountants conducting the examination of the Seller's financial records for the most recent fiscal year. The rate shall be based on demonstrable costs to the Seller for providing treated water. The rate will be computed on the basis of the Seller's costs for the Seller's most recent fiscal year. The rate may vary from year to year depending upon demonstrable costs and an adjustment to the previous year's billings shall be made by the Seller to reflect actual costs within thirty (30) days of the receipt of the Audit report of the Seller's financial records.
- (f) "Monthly payment date" shall mean a date established by the Seller whereby the Purchaser agrees to pay not later than the established date the charges for water furnished during the preceding month.

- (g) "Capital cost replacement factor" shall mean the actual cost of replacements, additions and betterments paid by the Seller for the portions of the water plant set forth in the rate schedule attachment (Section 4 (b)).
- (h) "Capital cost" shall mean the portion of the actual average annual principal and interest payments of the Seller as specified in the rate schedule attachment as well as the debt service reserve payments specified in the rate schedule attachment (Section 4 (b)).
- (i) "Cost review formula for revising wholesale rate charges" shall mean the formula, which appears in Section 4 of this rate schedule attachment. The formula was developed on the basis of a special accounting study by H.J. Umbaugh & Associates, Certified Public Accountants, Indianapolis, Indiana, which study is by reference made a part of this Water Purchase Agreement the same as if the study were incorporated herein.
- (j) "Total billed gallons" shall mean the total billed water consumption for all users serviced by the Seller during the Seller's most recent fiscal year.

Section 3.

Initial wholesale billing rate for the Purchasers.

- (a) The initial calendar year billing rate or wholesale charge to Rowan Water, Inc., for treated water shall be \$4,284.75 per month in capital costs, plus 34.1 cents per 1,000 gallons.
- (b) The initial calendar year billing rate or wholesale charge to Bath County Water District for treated water shall be \$2,426.25 per month in capital costs, plus 34.1 cents per 1,000 gallons.
- (c) It is agreed by and between the parties hereto that after the close of the initial calendar year, the actual rate to be charged by the Seller to the Purchasers for water purchased by the Purchasers during the initial calendar year shall be determined pursuant to the terms of this Variable Rate Schedule and any differences between said actual rate and the initial calendar year billing rate shall be rebated by the Seller to the Purchaser or paid to the Seller by the Purchasers, as the case may be, without interest, within sixty (60) days of said determination.

Section 4.

Cost review formula for revising fiscal year wholesale rate charges.

- (a) Each calendar year commencing on and after January 1, 1982 the Seller shall prior to January 1 of that year determine the rate or charges for wholesale water purchases for the next wholesale billing rate year based upon a calculation of the following demonstrable costs. Such costs shall be taken from the annual financial report of the Seller for

the preceding operating year which has been examined by a firm of Certified Public Accountants.

- (b) Cost review formula for revising fiscal year wholesale rate charges.