

WATER PURCHASE CONTRACT

This contract for the sale and purchase of water is entered into as of the 8th day of June, 1992, between the **HARDIN COUNTY WATER DISTRICT #1**, Lincoln Trail Boulevard, Radcliff, Kentucky 40160, hereinafter referred to as "Seller" and the **CITY OF VINE GROVE**, Kentucky 40175 hereinafter referred to as "Purchaser."

WITNESSETH:

Whereas, the Purchaser is a fourth class incorporated municipality which currently provides water supply to its residents and desires to purchase a supply of potable water from the Seller, and

Whereas, the Seller owns and operates a water supply distribution system with a capacity currently capable of serving the present customers of the Seller's system and the estimated number of water users to be served by the Purchaser as shown in the plans of the system of the Purchaser now on file in the offices of the Purchaser, and

Whereas, the Resolution No. 6-1 enacted on the 1st day of June, 1992, by the Seller, the sale of water to Purchaser in accordance with the provisions of the said Resolution was approved, and the execution of this contract **PUBLIC SERVICE COMMISSION OF KENTUCKY SECRETARY** said Resolution by the Chairman, and attested by the Secretary, was duly authorized, and

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BY: Chas. D. Miller
PUBLIC SERVICE COMMISSION MANAGER

Whereas, by Resolution of the City Council of the Purchaser enacted on the 29th day of April, 1992, the purchase of water from the Seller in accordance with the terms set forth in the said Resolution was approved, and the execution of this contract by the City of Vine Grove and attested by the City Clerk was duly authorized;

Now Therefore, in consideration of the foregoing and the mutual agreements hereinafter set forth,

A. The Seller Agrees:

1. **Quality and Quantity.** To furnish the Purchaser at the points of delivery hereinafter specified, during the term of this contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the Kentucky Department for Natural Resources and Environmental Protection, Division of Water, pursuant to 401 KAR Chapter 8, in such quantity as may be required by Purchaser. Use by Purchaser shall be deemed to mean direct use by consumers of Purchaser and shall not include any consumers which may attempt to wholesale water from Purchaser for resale to any other consumers. There shall be no minimum requirements of quantities to be sold, but in no circumstances shall Seller be required to provide more than seven hundred fifty thousand (750,000) gallons per day under the terms of this Agreement.

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2. **Points of Delivery and Pressure.** That water will be furnished at a reasonably consistent pressure and in accordance with 807 KAR 5:066.6 at the herein specified points of delivery.

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If a greater pressure than the herein specified pressure at the points of delivery is required by Purchaser, the cost of providing such greater pressure shall be borne by Purchaser. No booster station, tank or other addition, except for main extensions and repairs, shall be added to the Buyer's system without the review of the Seller's engineer and prior approval of the Seller's Board of Commissioners. If the Seller's engineer determines that the addition to the Buyer's system will result in a reduction of the Seller's pressure to its customers to below 30 PSIG, then the addition shall not be constructed. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire and use of water to fight fire, earthquake or other catastrophe shall excuse the Seller from this provision for such reasonable time as may be necessary to restore service.

a. " Highway 144" Connection. That water will be furnished at a reasonably consistent pressure calculated at a minimum of 30 psig from an existing six (6) inch main supply at a point located on Highway 144.

b. "Highway 391" Connection. That water will be furnished at a reasonably consistent pressure calculated at a minimum of 30 psig from an existing six (6) inch main supply at a point located at Highway 391.

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c. **Sewer Plant Connection.** That water will be furnished at a reasonable consistent pressure calculated at a minimum of 30 psig from an existing six (6) inch main supply to a two (2) inch meter and a two (2) inch line at a point located at the Vine Grove Sewer Plant.

3. **Metering Equipment.** To furnish, install, operate and maintain at its own expense at point of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type of properly measuring the quantity of water delivered to the Purchaser. To calibrate and test such metering equipment every twelve months and the cost to be borne equally by the Seller and the Purchaser. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by the test to be inaccurate shall be corrected for the three (3) 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 of water delivered in the corresponding period immediately prior to the failure, unless Seller and Purchaser shall agree upon a different amount. The metering equipment shall be read on the 20th day of each month. An appropriate official of the Purchaser reasonable times shall have access to the meter for the purpose of verifying its readings.

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4. **Billing Procedure.** To furnish the Purchaser at the above address not later than the 10th day of each month, with an itemized statement of the amount of water furnished to the Purchaser during the preceding month by point of delivery.

B. The Purchaser Agrees.

1. **Rates and Payment Date.** To pay the Seller, not later than the 15th day of each month following the month of delivery, for water delivered under the terms of this Contract at a rate of \$.95 per 1,000 gallons; subject to the modification terms as set forth in Section C-4 of this Contract. The minimum rate shall be \$.95 per 1,000 gallons of water regardless of what the modification formula might otherwise indicate.

2. **Connection Fee.** To pay as an agreed cost, a connection fee to connect Sellers system with the system of Purchaser an amount equal to the actual cost of such connection borne by the Seller should additional points of delivery be specified at a later date which are not at that time connected to the Seller's system.

3. **Exclusive Supplier.** To use the Seller as its exclusive supplier for potable water, neither using its own resources nor purchasing water from any other source except in circumstances when Seller is unable to provide water as required under the terms of this Agreement.

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C. **It is further mutually agreed between the Seller and the Purchaser as follows:**

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1. **Term of Contract.** That this contract shall be for an original term of five (5) years from its execution. Purchaser shall hold three (3) exclusive options to renew for additional terms of five (5) years. Such options cannot be defeated by Seller. Said options shall be exercised by notifying Seller in writing at least two (2) years in advance of the expiration of the then current term of Purchasers' desire to exercise such option. Following the first twenty years of this contractual agreement, Purchaser shall have four (4) options to renew the contract for five (5) year terms. These options shall be exercised by notifying Seller in writing at least two (2) years in advance of the expiration of the then current term of Purchaser's desire to exercise such option. Such options may be defeated by Seller election within thirty (30) days of notice of exercise of option by Purchaser and shall be in writing delivered to Purchaser.

2. **Capital Improvement Expenditures.** At the time of termination of this Agreement if any significant capital improvement expenditures exist which were made at the written request of Purchaser within five years of termination, the Purchaser and the Seller shall negotiate an appropriate termination cost based on the benefit incurred from the said capital improvements. For purposes of this Agreement, significant capital improvement expenditure shall be any expenditure of at least \$25,000 which has been requested in writing by Purchaser. The termination cost

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shall take into account the actual cost of capital improvement less a depreciation of 2.5% per annum as well as the benefit incurred by each party.

If at termination such capital improvement expenditures exist and the parties are unable to agree upon a termination cost, the parties hereby agree to enter into binding arbitration conducted by a tribunal. Both Seller and Purchaser shall each appoint one individual to serve on the arbitration tribunal. The third member of the tribunal shall be selected by the first two members of the tribunal. The tribunal shall hold such hearings and allow such evidence to be presented as it deems necessary to facilitate it in reaching a decision concerning apportionment of capital expenditures. The Rules of Civil Procedure shall not be binding on the tribunal in conducting a hearing.

3. **Failure to Deliver.** That the Seller will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with quantities of water required by Purchaser in accordance with the terms of this Agreement. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of a shortage of the supply of water available to Seller, Seller's Water Shortage Plan as on file with the state regulatory agency shall apply to the amounts of water to be supplied; however, in the event of reduction, the supply of water

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to the Purchaser's customers shall only be reduced or diminished in the same ratio or proportion as the supply to the Seller's customers is reduced or diminished.

4. **Modification of Contract.** For purposes of this Contract the rate year shall be from November 20 - November 19 of the following calendar year, except that the initial rate year shall be from May 20, 1992 through November 19, 1993. The cost year shall be the cost determined by the Seller's last fiscal year audit preceding November 20th of the rate year in question. The provisions of this Contract pertaining to the schedule of rates to be paid by the Purchaser for water delivered are subject to modification at the end of each rate year. Any increase or decrease in rates shall be based on a demonstrable increase or decrease in the cost of performance hereunder, but such cost shall not include increased capitalization of the Seller's system unrelated to performance hereunder. The attached formula shall be used to demonstrate the Seller's cost of performance hereunder.

Items 1 through 11 of the attached formula shall be based upon the actual cost of performance as determined by the cost year. Item 12, debt service, shall not increase or decrease without a written agreement between these parties. The figure as calculated in the formula for total gallons produced per year shall be at least 1,109,000,000 gallons (or 1,109,000,000 ^{PUBLIC SERVICE COMMISSION} ~~gallons~~ ^{EFFECTIVE} ~~RENTUCKTS~~) regardless of what the actual gallons produced may be. Said formula is to be incorporated herein as if fully set out. JUL 8 1992

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5. **Regulatory Agencies.** That this contract is subject to the regulatory authority and such rules, regulations, or laws as may be applicable to similar agreements in this Commonwealth and the Seller and the Purchaser will collaborate in obtaining such permits, certificates, or the like as may be required to comply therewith.

6. **Miscellaneous.** Purchaser may pledge this Contract to Farmers Home Administration to further secure any loan made to improve the water distribution system of the Purchaser.

7. This Contract is the entire agreement between the parties and may not be modified except by written agreement of the parties by appropriate Resolution.

IN WITNESS WHEREOF, the parties have hereto, acting authority of their respective governing bodies, have caused this contract to be duly executed in four (4) counterparts, each of which shall constitute an original.

SELLER:

HARDIN COUNTY WATER DISTRICT #1

ATTEST

William Cecil
SECRETARY

BY: Howard Shively
CHAIRMAN

PURCHASER:

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CITY OF VINE GROVE, KENTUCKY EFFECTIVE

ATTEST

Samuel J. Peterman
CITY CLERK/TREASURER

BY: Richard Brandenburg
MAYOR
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BY: Howard Shively

wsd1.HCWD.1

MODIFICATION FORMULA

Item Line Numbers from Hardin County Water District #1 Annual Report to PSC as used for year ending 12/31/91:

1. Power purchased (total of line 615)
2. Pumping and treatment labor (line 601, columns D, E, and F only)
3. Well field and water plant treatment plant repairs and supplies (line 620, columns D, E, F, and G)
4. Purification supplies and expense (total of line 618)
5. Truck expense (fixed mileage of 37,280 at IRS Mileage Allowance)
6. Manager salary (one-third of actual salary)
7. Insurance (23% of line 657)
8. Retirement fund expense (line 604 columns D and F, less social security charges)
9. Payroll taxes (line 601, columns D, E, and F x (employer's social security rate) plus line 658)
10. Other employee benefits (line 659, columns D and F)
11. General and administrative (5% of the following items in Column K:
 - 601 (Admin. salary)
 - 601 x (employer's social security rate)
 - 603 (Commission expenses)
 - 604 (Pension)
 - 620 (Materials and Supplies)
 - 630 (Engineering)
 - 632 (Accounting)
 - 633 (Legal)
 - 635 (Other Contractual Services)
 - 650 (Transportation)
 - 658 (Workers Compensation)
 - 659 (Insurance, Other)
 - 660 (Advertising)
 - 666 (Rate Case Amortization)
 - 675 (Miscellaneous Expense)

12. Debt service (per contract at \$333,800) unless increased by Purchaser request

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divided by	All Items (1-12)	(COST)
	Total units* of water	
	sold per year	<u>(minimum 1,109,000)</u>
equals	Cost per unit*	(RATE) (minimum .95)

*(Unit equals 1,000 gallons of water)

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BY: *Clayton Haller*
PUBLIC SERVICE COMMISSION MANAGER