

WATER SUPPLY AGREEMENT

This **Water Supply Agreement** ("Agreement"), dated as of the 14th day of September, 1999 is made and entered by and between the **Pendleton County Water District**, R.R. 5, Box 232, Falmouth, Kentucky ("Pendleton") and the **Northern Kentucky Water Service District**, 100 Aqua Drive, Cold Spring, Kentucky ("Northern"). Pendleton and Northern shall be collectively referred to herein as the "Parties."

WITNESSETH:

WHEREAS, Pendleton entered a Water Purchase Contract with the Campbell County Kentucky Water District ("Campbell") dated July 24, 1972, in which Pendleton agreed to purchase water furnished by Campbell pursuant to certain terms and conditions for a period of twenty years; and

WHEREAS, Pendleton and Campbell agreed to extend the length of the Water Purchase Contract for an additional twenty-five years by a Modification dated May 23, 1977; and

WHEREAS, Pendleton and Campbell agreed to further extend the length of the Water Purchase Contract to the year 2041 by a Modification dated November 30, 1995; and

WHEREAS, Northern is the successor to Campbell as the result of the merger of Campbell with Kenton County Water District No. 1 on or about January 1, 1997; and

WHEREAS, Pendleton and Northern are duly organized water districts pursuant to Chapter 74 of the Kentucky Revised Statutes and other applicable law; and

WHEREAS, Pendleton and Northern desire to terminate the Water Purchase Contract dated July 24, 1972, as amended by the Modification dated May 23, 1977 and the Modification dated November 30, 1995, and to set forth a new agreement for the continuing purchase and sale of water by and between Pendleton and Northern;



NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Parties hereby agree as follows:

ARTICLE I

NATURE OF AGREEMENT

This Agreement is a water supply agreement in which Northern agrees to supply water to Pendleton and Pendleton agrees to purchase water from Northern pursuant to the terms and conditions set forth herein.

ARTICLE II

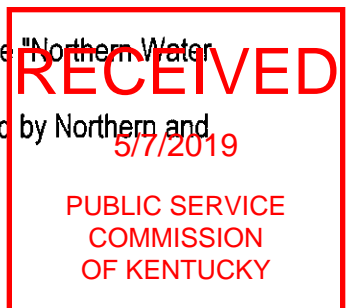
EFFECTIVE DATE AND TERM

This Agreement shall take effect when the rates and service set forth herein are approved by the Public Service Commission of the Commonwealth of Kentucky ("PSC") or when the PSC determines that it lacks jurisdiction over the rates and service set forth herein, whichever occurs first; provided that such approval or determination by the PSC is given or made on or before January 1, 2000. Once it takes effect, this Agreement shall continue in full force and effect until January 31, 2042.

ARTICLE III

CONSTRUCTION

Northern shall construct and install a 12" minimum diameter water main extending along Kentucky Route 17 from Piner, Kentucky to the Kenton County/Pendleton County line (the "Northern Water Main"). Such water main shall be installed at Northern's expense or with funding acquired by Northern and



shall be fully completed and operational no later than two hundred and seventy (270) days after the execution of this Agreement.

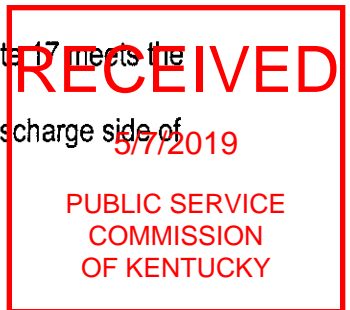
Simultaneous with the construction and installation of the Northern Water Main, Pendleton shall, at no cost to Northern, construct and install a water main to receive water from the Northern Water Main at the Kenton County/Pendleton County line (the "Pendleton Water Main"). Within one hundred and eighty (180) days of the Northern Water Main being fully completed and operational, but no sooner than January 1, 2001, Pendleton, at no cost to Northern, shall install a master meter and meter pit at the point where the Northern Water Main terminates at the Kenton County/Pendleton County line and shall complete a connection between the Northern Water Main and the Pendleton Water Main. Pendleton shall install the master meter and construct the meter pit in accordance with Northern's specifications and Rates, Rules and Regulations.

After the master meter and the meter pit are installed and constructed, they shall become the property of Northern as soon as they are accepted by Northern. The ownership of the master meter and the meter pit shall be transferred from Pendleton to Northern at no cost or charge to Northern. Northern shall allow Pendleton reasonable access to the meter pit for the purpose of monitoring water flow and for the purpose of installing and maintaining telemetry equipment and valving.

ARTICLE IV

POINTS OF DELIVERY

Northern shall provide water to Pendleton at the following two points of delivery: 1) the discharge side of the master meter to be installed at or near a point where Kentucky Route 17 meets the Kenton County/Pendleton County line (the "Kentucky 17 Point of Delivery"); and 2) the discharge side of



the existing master meter located at the intersection of U.S. Route 27 and Old U.S. Route 27 at Grants Lick, Kentucky (the "U.S. 27 Point of Delivery").

ARTICLE V

VOLUME OF WATER

As soon as the construction set forth in Article III above is completed, Northern shall supply to Pendleton, and Pendleton shall accept and receive from Northern, a minimum volume of ninety thousand (90,000) gallons per day of water, averaged on a monthly basis, at the Kentucky 17 Point of Delivery. Northern shall not be required to supply to Pendleton a volume of more than four hundred (400) gallons per minute of water at the Kentucky 17 Point of Delivery.

As soon as this Agreement becomes effective as set forth in Article II, Northern shall supply to Pendleton, and Pendleton shall accept and receive from Northern, a minimum volume of sixty thousand (60,000) gallons per day of water, averaged on a monthly basis, at the U.S. 27 Point of Delivery. Northern shall not be required to supply to Pendleton a volume of more than three hundred (300) gallons per minute of water at the U.S. 27 Point of Delivery.

By a written addendum duly executed by the Parties and referencing this Agreement, the Parties may agree to increase the minimum and maximum volumes of water to be sold and purchased at either or both the Kentucky 17 Point of Delivery and the U.S. 27 Point of Delivery. In no event shall Northern be required to supply water at either point of delivery in excess of the maximum volumes set forth in this Article or in any duly executed addendum.

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ARTICLE VI

PRESSURE AND QUALITY OF WATER

Northern does not guarantee any specific water pressure at either the Kentucky 17 Point of Delivery or the U.S. 27 Point of Delivery but it intends to provide, absent unusual or unforeseen circumstances, a minimum hydraulic gradient of 1036 under Northern's maximum day demand conditions at the Kentucky 17 Point of Delivery at a maximum flow of 400 gallons per minute and a minimum hydraulic gradient of 930 under Northern's maximum day demand conditions at the U.S. 27 Point of Delivery at a maximum flow of 300 gallons per minute. Northern covenants to use reasonable care and diligence in the operation and maintenance of its water system to prevent and avoid abnormal interruptions and fluctuations of supply and pressure. Pendleton covenants to use reasonable care and diligence in the maintenance of its system to prevent and avoid abnormal interruptions and fluctuations in its acceptance of water under this Agreement.

All water supplied by Northern under this Agreement shall be potable, treated water meeting all applicable quality and purity standards of all appropriate state and federal regulatory agencies. The water shall be of the same quality as that furnished to Northern's retail customers.

ARTICLE VII

WATER RATES

The initial water rates to be paid to Northern for water supplied under this Agreement shall be \$1.44 per one thousand (1000) gallons for water supplied at the Kentucky 17 Point of Delivery and \$1.93 per one thousand (1000) gallons for water supplied at the U.S. 27 Point of Delivery.

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Pendleton shall pay Northern for the minimum volumes set forth in Article V above or in any duly executed addendum if Pendleton's actual consumption does not reach such minimum volumes. With respect to the Kentucky 17 Point of Delivery, Pendleton's obligation to pay for the minimum volume shall commence one hundred and eighty (180) days after the Northern Water Main is fully completed and operational, but no sooner than January 1, 2001, regardless of whether Pendleton has completed the installation and construction of the master meter, the meter pit and the Pendleton Water Main. With respect to the U.S. 27 Point of Delivery, Pendleton's obligation to pay for the minimum volume shall commence on the effective date described in Article II above.

The Parties understand and agree that the rate of \$1.93 per one thousand (1000) gallons is the rate currently in effect for the sale and purchase of water at the U.S. 27 Point of Delivery and that by entering this Agreement Northern is agreeing to provide Pendleton a lower initial rate for water to be supplied at the Kentucky 17 Point of Delivery. The Parties further understand and agree that Northern intends to make application to the PSC for an adjustment in its retail and wholesale rates within three (3) years of the execution of this Agreement and that the rates for the Kentucky 17 Point of Delivery and the U.S. 27 Point of Delivery should be adjusted at that time.

The Parties further understand and agree that Northern may, from time to time, increase the water rates it charges Pendleton under this Agreement but that, as long as the PSC has jurisdiction over the rates Northern charges Pendleton, no rate increase shall take effect unless and until it has been reviewed and approved by the PSC.

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ARTICLE VIII

PAYMENT OF SURCHARGES

In addition to paying to Northern the water rates described in Article VII above, Pendleton shall pay to Northern an amount equal to ten (10) surcharges for Northern's Subdistrict C expansion project until the expiration of the forty (40) year surcharge term. The Parties understand and agree that the amount of each surcharge may vary over time but shall not exceed \$30.00 per month. The Parties further understand and agree that Pendleton's obligation under this Article may vary over time but shall not exceed \$300.00 per month.

Pendleton's obligation under this Article shall commence thirty (30) days after the Northern Water Main is fully completed and operational, regardless of whether Pendleton has completed the installation and construction of the master meter, meter pit and the Pendleton Water Main.

ARTICLE IX

FLOW MEASUREMENT

Northern shall own, operate and maintain the water meters at the Kentucky 17 Point of Delivery and the U.S. 27 Point of Delivery. Northern shall make annual tests and inspections of the meters and such other tests and inspections as Northern may deem necessary. No correction shall be made in the billing to Pendleton unless a test or inspection shows that the metering is more than two percent (2%) slow or fast. If any test or inspection shows that the metering is inaccurate by more than two percent (2%) slow or fast, correction shall be made in the billing to Pendleton for the period during which Northern and Pendleton agree that the inaccuracy existed. If no such agreement is reached, it shall be assumed that



the error developed progressively from the date of the last meter test and an appropriate adjustment to billings shall be made.

ARTICLE X

BILLING AND PAYMENT

Once each month, Northern shall submit to Pendleton an invoice for the amount due to Northern under the terms of this Agreement for the prior month. All such invoices shall be due and payable by Pendleton to Northern within twenty-one (21) days of receipt. A 10% penalty shall be added to each invoice that is not paid within twenty-one (21) days of its receipt by Pendleton.

ARTICLE XI

AUDITS

Northern shall cause its accounts to be audited by a firm of certified public accountants on an annual basis. A copy of the certified public accountants' audit report shall be supplied to Pendleton upon Pendleton's request. Pendleton may cause the accuracy of any cost charged to it to be verified, at Pendleton's own expense, by an examination of the accounts and records kept by Northern, and Northern shall make its accounts and records available to Pendleton at reasonable times and locations for such purposes.

ARTICLE XII

FORCE MAJEURE

Except for the payments required of Pendleton under Articles VII and VIII above, either Party may suspend its performance under this Agreement if such Party's performance is prevented or



delayed by a cause or causes beyond the reasonable control of such party which could not have been avoided by the exercise of reasonable diligence by such Party. Such causes may include, but shall not be limited to, acts of God, acts of war, riot, fire, explosion, lockouts or other labor disturbances, breakage or damage to machinery or pipelines, or partial or entire failure of water system. The performance of Northern may also be suspended if circumstances cause Northern's system-wide demand to exceed Northern's production and distribution capability. The Party asserting a right to suspend performance must, within a reasonable time of acquiring knowledge of the cause requiring the suspension, notify the other Party in writing of the cause of suspension, the performance suspended, and the anticipated duration of the suspension. Performance shall be suspended only during the time that it is prevented or delayed by the type of cause or causes described in this Article, and the Party whose performance is prevented or delayed shall endeavor to remove or overcome the cause or causes with all reasonable dispatch.

In the event of a system-wide shortage of water in Northern's system, Pendleton's supply of water under this Agreement shall be reduced in the same ratio or proportion that the supply to Northern's retail customers is reduced. Northern will endeavor to include a provision similar to the one immediately above in the other wholesale water supply agreements it is currently negotiating.

ARTICLE XIII

RESPONSIBILITY AND INDEMNIFICATION

Northern and Pendleton shall be solely responsible for the construction, operation and maintenance of their respective water systems. Northern and Pendleton, to the extent permitted by law, expressly agree to defend, indemnify and save harmless the other against all claims, demands, costs, or

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expenses asserted by third parties and proximately caused by their negligence or willful misconduct in connection with the construction, operation and maintenance of their respective water systems.

ARTICLE XIV

APPROVAL OF AGREEMENT

The Parties understand and agree that the rates and service set forth in this Agreement must be submitted to and approved by the PSC.

ARTICLE XV

TERMINATION OF PRIOR CONTRACT

Northern and Pendleton agree that the Water Purchase Contract between Pendleton and Campbell dated July 24, 1972, as amended by the Modification dated May 23, 1977 and the Modification dated November 30, 1995, shall be terminated and cease to be in effect when this Agreement becomes effective as set forth in Article II above.

ARTICLE XVI

NOTICES

Any notices allowed or required under this Agreement shall be in writing and shall be hand-delivered or mailed by certified mail, return receipt requested. Notice shall be effective upon receipt. Notices shall be given to the Parties at the following addresses or such other addresses as may be designated by the Parties:

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As to Northern:

General Manager
Northern Kentucky Water Service District
100 Aqua Drive
P.O. Box 220
Cold Spring, KY 41076

As to Pendleton:

General Manager
Pendleton County Water District
R. 5, Box 14
P.O. Box 232
Falmouth, KY 41040

ARTICLE XVII

ENTIRE AGREEMENT

This Agreement constitutes the entire understanding and agreement between the Parties and supersedes all other understandings and agreements between the Parties with respect to the subject matter of this Agreement. There are no understandings, representations, or warranties of any kind, express or implied, not expressly set forth in this Agreement. No modification of this Agreement shall be effective unless in writing and signed by both Parties.

ARTICLE XVIII

WAIVERS

The failure of any Party at any time to enforce any provision of this Agreement, to exercise its rights under any provision, or to require a certain performance of any provision, shall in no way be construed as a waiver of such provision, nor in any way affect the validity of this Agreement or the right of the Party thereafter to enforce each and every provision.



ARTICLE XIX

ASSIGNMENT

This Agreement shall not be assigned by either Party without the written consent of the other Party.

IN WITNESS WHEREOF, the Parties hereto, acting under the authority of their respective governing bodies, have caused this Agreement to be duly executed in duplicate, each of which shall constitute an original.

PENDLETON COUNTY WATER DISTRICT

By: Louis McClanahan

Printed Name: Louis McClanahan

Title: Treasurer

NORTHERN KENTUCKY WATER SERVICE DISTRICT

By: Patricia J. Sommerkamp

Printed Name: PATRICIA J. SOMMERKAMP

Title: Chair

water supply agr

