

**WATER SUPPLY AGREEMENT**

This Water Supply Agreement (“Agreement”) dated as of the 18 day of September, 2019, is made and entered into by and between the **City of Williamstown, Kentucky, 400 North Main Street, P.O. Box 147, Williamstown, Kentucky 41097** (“City”) and the **Bullock Pen Water District, 1 Farrell Drive, P.O. Box 188, Crittenden, Kentucky 41030** (“BPWD”). City and BPWD will be collectively referred to herein as the “Parties”.

WITNESSETH:

WHEREAS, City and BPWD have previously entered into a Water Purchase Agreement dated May 3, 1994 (“1994 Agreement”) and,

WHEREAS, City and BPWD have previously entered into an Amended Water Supply Agreement dated December 6, 2013, as Amended (“2013 Amended Agreement”), and

WHEREAS, City and BPWD intend to terminate the 1994 Agreement and the 2013 Amended Agreement to reflect the Parties agreement relating to wholesale water rates.

NOW, THEREFORE, in consideration of the foregoing premises and mutual promises and undertakings hereinafter specified, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and BPWD agree as follows:

**ARTICLE I**

**EFFECTIVE DATE, TERM AND TERMINATION OF PRIOR AGREEMENT**

- A. This Agreement will take effect on the date this Agreement and the rates and service set forth herein are approved by the Kentucky Public Service Commission of the Commonwealth of Kentucky (hereinafter “PSC”) or the date that the PSC declares that its approval of this Agreement and the rates and services set forth herein is not required, whichever occurs first, (hereinafter the “effective date”) provided that such approval or declaration by the PSC is given or made on or before January 1, 2020.
- B. Once this Agreement takes effect on the effective date, this Agreement will continue in full force and effect until January 1, 2026.
- C. The 1994 Agreement; the 2013 Agreement; and the 2013 Amended Agreement entered into by and between City and BPWD will be automatically terminated on the effective date of this Agreement with no action being required by the parties to effectuate such termination.

**ARTICLE II**

**QUANTITY AND QUALITY OF WATER**

**KENTUCKY**  
**PUBLIC SERVICE COMMISSION**

**Gwen R. Pinson**  
Executive Director

*Gwen R. Pinson*

EFFECTIVE  
**10/23/2019**  
PURSUANT TO 807 KAR 6.011 SECTION 9.11

**EXHIBIT**

- A. During the term of this Agreement and any renewal or extension thereof, BPWD will purchase from City and City will supply to BPWD a minimum volume or flow rate of water of one hundred thousand (100,000) gallons per day averaged on a monthly basis at the point of delivery hereafter specified. If desired by BPWD, City will supply to BPWD a volume or flow of water up to two hundred thousand gallons (200,000) per day averaged on a monthly basis at the point of delivery. City will not be obligated to provide water to BPWD in excess of three hundred thousand gallons (300,000) per day averaged on a monthly basis. But if desired by BPWD, City will provide water to BPWD in excess of this volume or flow rate to the extent City determines in its sole discretion that it has excess water available.
- B. City will not be required, and will have no obligation to supply to BPWD a volume or flow rate of water in excess of five hundred (500) gallons per minute averaged on an hourly basis through the existing points of delivery located near the intersection of Baton Rouge Road with KY Highway 22; Fairview Road; and Heekin Road Pump Stations.
- C. BPWD reserves the right to service any of its customers within its system with water purchased from City.
- D. The water provided by City to BPWD will be potable, treated water meeting all applicable purity standards of all appropriate federal, state and local regulatory agencies. The water will be of the same quality as that furnished to City's retail and other wholesale customers. In the event City is unable to provide water that is potable, treated water meeting all applicable quality and purity standards of all federal, state and local regulatory agencies, BPWD's obligation to purchase a minimum volume or flow rate of one hundred thousand (100,000) gallons per day averaged on a monthly basis will be suspended during the period of time that BPWD discovers such failure to meet all federal, state and local applicable quality and purity standards and continue until such water quality and purity standards are met by City.

It is acknowledged by City and BPWD that water quality and purity standards established by federal, state and/or local regulatory agencies may change from time to time during the term of this Agreement. City agrees that in the event any water quality and/or purity standards are changed by any federal, state or local regulatory agency, City will meet those new regulations.

- E. BPWD reserves the right to provide additional water treatment to the water supplied by City as may be reasonably necessary to insure the water supplied to BPWD meets all applicable quality and purity standards of all appropriate federal, state and local regulatory agencies. BPWD may commence such treatment until such time as the water supplied by City meets purity standards of all federal, state and local regulatory agencies. The cost of such treatment incurred by BPWD in re-treating water in order to bring it into compliance with applicable standards shall be borne by BPWD.

KENTUCKY  
PUBLIC SERVICE COMMISSION

Gwen R. Penson  
Executive Director

EFFECTIVE  
10/23/2019  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

minimum applicable quality and purity standards of all federal, state and local agencies shall be paid by City.

- F. BPWD's obligation to purchase from City a minimum volume of flow rate of water of 100,000 gallons per day averaged on a monthly basis will be automatically suspended during any period that City is not able to provide this volume or flow rate and/or quality of water to BPWD.

**ARTICLE III  
POINTS OF DELIVERY, METERTING EQUIPMENT AND PRESSURE**

- A. City will provide water to BPWD at the Point of Delivery where the current master meter is currently located at or near the intersection of Baton Rouge Road with KY Highway 22 ("Baton Rouge Point of Delivery"); Fairview Road ("Fairview Point of Delivery"); and Heekin Road ("Heekin Point of Delivery").
- B. City will own, operate and maintain the master meter and meter pit at all three (3) Points of Delivery at City's cost and expense. City will make annual tests and inspections of the meter and meter pit and perform such other tests and inspections as City may deem necessary. In any event, such inspection and tests shall be at a minimum of those required by any federal, state or local regulatory agencies. No correction will be made in the billing to City unless a test or inspection shows that the metering is more than one and one-half (1 ½) percent slow or fast. If any test or inspection shows that the metering is inaccurate by more than one and one-half (1 ½) percent, slow or fast, correction will be made to the billing to BPWD for the period during which City and BPWD agree that the inaccuracy existed. If no such agreement is reached, it will be assumed that the error developed progressively from the date of the last meter test or inspection and an appropriate adjustment to billings will be made. All costs of required metering testing and inspection shall be borne by City. BPWD reserves the right to test and/or inspect the meter at its own cost and expense. Any discrepancy in the metering of more than one and one-half percent (1 ½), slow or fast, shall result in an adjustment to the billing for water supply consistent with those terms set forth in this Article B.
- C. City will use its best reasonable efforts to provide an adequate delivery pressure at all three (3) Points of Delivery subject to the force majeure events described in Article IX of this Agreement. In the event City is unable to provide an adequate delivery pressure at the three (3) Points of Delivery and such failure to provide an adequate delivery pressure continues for a period in excess of ~~four (24) consecutive hours or seventy-two (72) accumulative hours in any calendar month,~~ BPWD may provide written notice to City of such failure and BPWD's obligation to purchase the minimum volume or flow rate of water (100,000) gallons average on a daily basis will be suspended ~~time commencing when BPWD provides such written notice to City and continuing until such time as City is again able to provide an adequate delivery~~

**KENTUCKY  
PUBLIC SERVICE COMMISSION**  
*Gwen R. Pinson*  
Executive Director

*Gwen R. Pinson*

**EFFECTIVE  
10/23/2019**

PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

pressure. For purposes of this Agreement "adequate delivery pressure" for each of the three (3) points of delivery shall be as follows:

- 1) **Baton Rouge Point of Delivery:** 160 PSI.
- 2) **Fairview Point of Delivery:** 135 PSI.
- 3) **Heekin Road Point of Delivery:** 70 PSI.

#### ARTICLE IV WATER RATES

A. BPWD shall pay City for all wholesale water purchases at the following rates:

<u>Period</u>	<u>Rate</u>
Year No. 1	\$3.29 per thousand gallons
Year No. 2	\$3.39 per thousand gallons
Year No. 3	\$3.49 per thousand gallons
Year No. 4	\$3.49 per thousand gallons
Year No. 5	\$3.49 per thousand gallons
Year No. 6	\$3.49 per thousand gallons

Year No. 1 rates will become effective on that date which the PSC approves this Agreement. City and BPWD agree to reasonably cooperate in order to obtain PSC approval as soon as practical. The Parties agree and acknowledge that BPWD has entered into this Agreement for the purpose of increasing wholesale water rates based upon the City's commitment not raise wholesale water rates in Years No. 4, 5, and 6. Accordingly, the Parties agree that wholesale water rates charged to BPWD during Year No. 4, 5, and 6 shall not be increased under any circumstance.

B. BPWD shall pay to City for the actual quantity of water purchased from City unless BPWD's actual consumption for any month does not exceed one hundred thousand (100,000) gallons per day averaged on a monthly basis, in which case BPWD shall pay to City for the minimum volume of flow rate it is required to purchase under this Agreement which is one hundred thousand (100,000) gallons per day average on a monthly basis.

#### ARTICLE V BILLING AND PAYMENT

A. City will read the meter on or about the 15<sup>th</sup> day of each month and will cause such reading to be entered into its permanent record and will ~~use such reading in preparing the statement for water purchased by BPWD as provided for herein.~~ **KENTUCKY PUBLIC SERVICE COMMISSION**

B. The City will furnish to BPWD at 1 Farrell Drive, Cri such other address as BPWD may designate in writing before the 1<sup>st</sup> day of each month following the meter reading a statement of charges showing the amount of water delivered by City to BPWD during the

**Gwen R. Pinson**  
Executive Director



**EFFECTIVE**  
**10/23/2019**

PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

preceding meter reading (15<sup>th</sup> day of each month to 15<sup>th</sup> day of each month) and the amount of payment due for water purchased by BPWD.

- C. BPWD shall pay to City no later than the 15<sup>th</sup> day of each month the amount of the statement received by BPWD. Such payment shall be delivered or mailed to City at 400 North Main Street, Williamstown, Kentucky 41097 or such other place as City may designate in writing.

**ARTICLE VI  
AGREEMENT EXTENSION**

The term of this Agreement may be extended at any time by written mutual agreement executed by duly authorized officers of each of the Parties hereto.

**ARTICLE VII  
AUDITS**

City 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 will be supplied to BPWD. BPWD may cause the accuracy of any cost charged to it to be verified at BPWD's own expense by an examination of the accounts and records kept by City. City agrees that it will make all of its accounts and records available to BPWD at any reasonable time and location for such purposes.

**ARTICLE VIII  
BEST REASONABLE EFFORTS**

City will endeavor at all times to the best of its ability to operate and maintain its water purification distribution system in an efficient manner and will take such action within its capability as may be reasonably necessary to furnish BPWD with the quantities of potable water required by this Agreement. Temporary or partial failures to deliver water shall be remedied by City as promptly as reasonably possible. In the event of an extended shortage of water or the supply or water available to City is otherwise diminished over an extended period of time, the supply of water to BPWD shall be reduced or diminished in the same ratio or proportion as the water supply to City's customers is reduced or diminished.

**ARTICLE IX  
FORCE MAJEUR**

Either party may suspend (but not terminate) 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. Such causes may include but are not limited to acts of God, acts of lockouts or other labor disturbances, breakage or damage of machinery or equipment, or the party's entire failure of water system. The party asserting a right to suspend performance, within a reasonable time of acquiring knowledge of the cause requiring the suspension, notify the

KENTUCKY  
PUBLIC SERVICE COMMISSION  
Gwen R. Pinson  
Executive Director  
EFFECTIVE  
10/23/2019  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

other party in writing of the cause of suspension, the performance suspended, and the anticipated duration of the suspension. Performance shall be suspended only the time it is prevented or delayed by the type of 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. Should City suspend its performance in supplying water, BPWD's obligations to pay for the water rates and charges specified herein shall be suspended for the duration of City's intended performance.

**ARTICLE X  
RESPONSIBILITY AND INDEMNIFICATION**

City and BPWD shall be solely responsible for the construction, operation and maintenance of their respective water systems. City and BPWD, to the extent permitted by law, expressly agree to defend, indemnify and hold harmless the other against all claims, demands, damages, costs or expenses incurred by third parties proximately caused by either party's negligence or willful misconduct in connection with the construction, operation or maintenance of their respective water systems.

**ARTICLE XI  
COOPERATION BETWEEN CITY AND BPWD**

City and BPWD agree to work together cooperatively to insure that the purposes of this Agreement are achieved for the benefit of their respective customers and their respective water systems.

**ARTICLE XII  
WATER QUALITY VIOLATIONS**

City, at its sole cost and expense, insures that all water supplied to BPWD shall meet all federal, state and local water quality standards and regulations. If for any reason City is unable or fails to supply water to BPWD that does not meet any and all water quality standards imposed by any federal, state or local governmental agency, the following provisions shall apply:

- A. Any cost or expenses incurred by BPWD in the notification of its customers of any water quality or standard issue which is incurred by BPWD as a result of City's failure to provide quality water, including but not limited to total trihalomethanes (TTHM) and/or halo acidic acids (HAA), shall be reimbursed by City to BPWD.
- B. In the event City should determine that the water supplied to BPWD under the terms of this Agreement are or will fail to meet any and all water quality standards imposed by any federal, state and local governmental agency, City shall forthwith notify BPWD of such water quality violation
- C. Any water that must be discharged by BPWD and then its customers as a result of City's failure to insure that water supplied does not

KENTUCKY  
PUBLIC SERVICE COMMISSION  
**Gwen R. Pinson**  
Executive Director

*Gwen R. Pinson*

EFFECTIVE  
**10/23/2019**

PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

meet all water quality standards imposed by and federal, state or local governmental agency, City shall reimburse BPWD for all such water discharged by BPWD. Reimbursement shall be made on a one thousand (1,000) gallon basis at the same rates charged by City to BPWD.

- D. BPWD reserves the right to take any and all measures, including but not limited to re-treatment, to insure that water supplied by City to BPWD that does not meet all water quality standards imposed by any federal, state or local governmental agency will be brought to all minimum water quality standards. All cost of re-treatment of water by BPWD shall be reimbursed by City.

### ARTICLE XIII TASTE AND ODOR ISSUES

In the event City supplies water to BPWD that does not meet minimum BPWD standards as to taste and odor, BPWD reserves the right to discharge such water. In the event that any water is discharged by BPWD and, therefore, not made available for resale to BPWD's customers, BPWD shall be reimbursed by City for all such water discharged. It shall be the responsibility of BPWD to notify City within thirty (30) days of such discharge of the amount of water so discharged and the amount which BPWD seeks as reimbursement.

### ARTICLE XIV NOTICES

Any notices allowed or required under this Agreement shall be in writing and shall be delivered to the other party by United States mail, postage prepaid; or email. Notice shall be effective upon receipt by the party to whom such notice is being delivered. Notices given by the Parties shall be done at the following addresses:

TO CITY: City of Williamstown  
Attn: Mr. Josh Stinson  
400 North Main Street  
P.O. Box 147  
Williamstown, KY 41097  
[jstinson@wtown.ky.org](mailto:jstinson@wtown.ky.org)

COPY TO: Jeffrey C. Shipp, City Attorney  
Wallace Boggs, PLLC  
300 Buttermilk Pike, Suite 100  
Ft. Mitchell, KY 41017  
[jshipp@wallaceboggs.com](mailto:jshipp@wallaceboggs.com)

**KENTUCKY  
PUBLIC SERVICE COMMISSION**

**Gwen R. Pinson**  
Executive Director



EFFECTIVE

**10/23/2019**

PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

TO BPWD: Bullock Pen Water District  
Attn: Superintendent William Catlett  
1 Farrell Drive  
P.O. Box 188  
Crittenden, KY 41030  
[bcatlett@bpwd.org](mailto:bcatlett@bpwd.org)

COPY TO: Thomas R. Nienaber  
Skees, Wilson & Nienaber, PLLC  
7699 Ewing Blvd., PO Box 756  
Florence, KY 41022-0756

### ARTICLE XV 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 and representations and warranties of any kind, express or implied, not expressly set forth in this Agreement. This Agreement shall not be modified unless it be done in writing and signed by all parties.

### ARTICLE XVI 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 considered as a waiver of such provision nor in any way affect the validity of this Agreement or the right of a party thereafter to enforce each and every other provision herein.

### ARTICLE XVII BINDING NATURE; CONSENT REQUIRED FOR ASSIGNMENT

This Agreement shall binding upon the parties and their successors and assigns. This Agreement shall not be assigned by either parity without the written consent of the other.

<b>KENTUCKY PUBLIC SERVICE COMMISSION</b>
<b>Gwen R. Pinson</b> Executive Director 
EFFECTIVE <b>10/23/2019</b> PURSUANT TO 807 KAR 5:011 SECTION 9 (1)



**ARTICLE XVIII  
AUTHORITY TO EXECUTE AGREEMENT**

City represents that it possesses full authority to enter into this Agreement as indicated by the lawful resolution of its City Council attached hereto as Exhibit "A". BPWD possesses full authority to enter into this Agreement by lawful resolution of BPWD's Board of Commissioners attached hereto as Exhibit "B".

**ARTICLE XIX  
MISCELLANEOUS PROVISIONS**

- A. Nothing herein contained shall limit or otherwise restrict BPWD's right to purchase water from any third party supplier or to produce water for sale to its customers at any point in its service area.
- B. This Agreement may not be changed, modified, or altered, except that it be done in writing, signed by all Parties and properly approved through the respective Party's legislative body.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed.

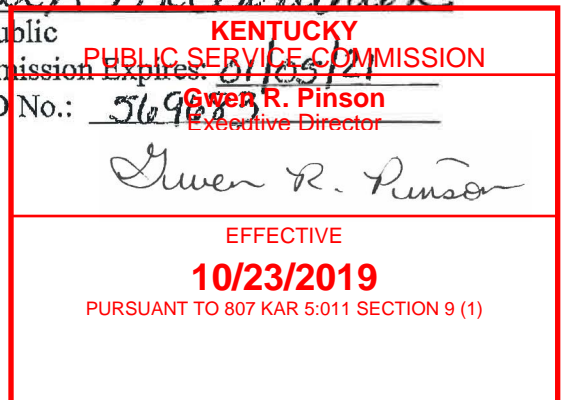
CITY OF WILLIAMSTOWN

BY: *Rick Skinner*  
RICK SKINNER  
TITLE: MAYOR

COMMONWEALTH OF KENTUCKY  
COUNTY OF GRANT

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by the City of Williamstown by and through RICK SKINNER, its MAYOR this 17<sup>th</sup> day of September 2019.

*Laura L. McCarahan*  
Notary Public  
My Commission Expires: 07/05/21  
Notary ID No.: 569885



BULLOCK PEN WATER DISTRICT

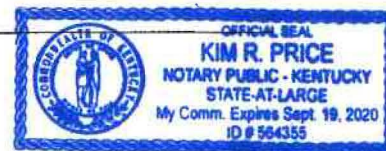
BY: *Bobby Burgess*  
BOBBY BURGESS, CHAIRMAN

COMMONWEALTH OF KENTUCKY  
COUNTY OF GRANT

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by the Bullock Pen Water District, by and through Bobby Burgess, its Chairman, this 18 day of September, 2019.

*Kim R. Price*

Notary Public  
My Commission Expires: \_\_\_\_\_  
Notary ID No.: \_\_\_\_\_



<b>KENTUCKY PUBLIC SERVICE COMMISSION</b>
<b>Gwen R. Pinson</b> Executive Director
<i>Gwen R. Pinson</i>
EFFECTIVE <b>10/23/2019</b> PURSUANT TO 807 KAR 5:011 SECTION 9 (1)