

WATER PURCHASE CONTRACT

THIS CONTRACT, for the sale and purchase of water is entered into as of the 17 day of July, 1975, by and between the City of Central City, Kentucky, a municipal corporation of the fourth class, hereinafter referred to as the seller, and Muhlenberg County Water District, a district organized and existing under the provisions of Chapter 74 of the Kentucky Revised Statutes, hereinafter referred to as the purchaser,

WITNESSETH: Whereas the purchaser has been organized and established under the provisions of Chapter 74 of the Kentucky Revised Statutes, Commonwealth of Kentucky, 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 purchaser, and to accomplish this purpose, the purchaser will require a supply of treated water, 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 this system now on file in the office of the purchaser, and,

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WHEREAS, by resolution No. PURSH enacted on the 15 day of July, 1975, by the seller, the sale of water to the purchaser in accordance with the following terms was approved, and the execution of this Contract by the Mayor and attestation by the City Clerk were duly authorized, and,

WHEREAS, by resolution of the purchaser enacted on the 17<sup>th</sup> day of July, 1975, the purchase of water from the seller in accordance with the terms hereinafter set forth was approved, and the execution of this

Contract by the Chairman of the Muhlenberg County Water District and attestation by the Secretary were duly authorized, and

WHEREAS, the seller has been and is currently supplying water to the purchaser for the use of the purchaser's customers, and,

WHEREAS, certain interpretation problems have arisen under the Contract between the seller and purchaser dated May, 1965, specifically concerning the quantity of water to be supplied by the seller to the purchaser, and the price to be paid by the purchaser to the seller therefor, and,

WHEREAS, the above mentioned interpretation difficulties have resulted in litigation now pending in the Muhlenberg Circuit Court, Civil Action No. 7479, styled Muhlenberg County Water District, Plaintiff, vs. City of Central City, Defendant, and,

WHEREAS, the parties, after careful negotiations, have agreed to a settlement of said controversy as hereinafter set forth with this contract to be the entire Contract between the parties, with no modifications hereto allowed, except those in writing, signed by both parties hereto;

NOW, THEREFORE, for and in mutual consideration of the compromises and settlement of the Muhlenberg Circuit Court Civil Action No. 7479, and of the promises, covenants, and agreements hereinafter set forth and other good and valuable considerations, the receipt of which both parties mutually acknowledge:

THE SELLER AGREES:

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1. 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 of the same quality furnished to the resident customers of the seller in such quantity as may be required by the purchaser, not to exceed 35 million gallons per month. Seller further agrees that if the

purchaser's consumer needs exceed 35 million gallons per month, the purchaser shall give to the seller written notice of its anticipated needs in excess of 35 million gallons per month at least two (2) years prior to such time as the purchaser's demand will exceed 35 million gallons per month.

If the seller has adequate water available in excess of the then present and future needs of its other customers, including reserves for expansion of the other customers' needs, the seller will furnish such additional water in excess of 35 million gallons per month as the seller has in excess of its then present and future needs at the water rate then in effect. As to the availability of the then present needs and future needs of the customers of Central City and the inadequacy of the seller's facilities to furnish water in excess of 35 million gallons per month, the seller shall have the sole absolute discretion in determining said availability and needs.

If, in the opinion of the seller, the present and future needs of the City's customers and the availability of such additional water is insufficient to permit the purchaser to use or purchase more than 35 million gallons per month, the seller agrees to expand its facilities and provide the purchaser with such additional water as required by the purchaser.

If the seller is required to expand its facilities to meet the purchaser's needs, the water rate shall be increased to the purchaser in an amount sufficient to amortize the cost of such expansion. No expansion will be commenced until the purchaser and seller agree as to the amount of increase necessary to amortize the cost of expansion.

2. To furnish water at a reasonably constant pressure to the following metering points at the following specified pressures:

a. An existing metering point near the residence of Roland Morris on U. S. Highway 431 at a pressure sufficient to provide water at a peak instantaneous rate of 200 gallons per minute.

b. An existing metering point on West State Route 70 at a pressure sufficient to provide water at a peak instantaneous rate of 200 gallons per minute.

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SECTION 9/11

BY: *George H. Miller*

c. An existing metering point on U. S. Route 62 south of Central City, with the present requirement of a pressure sufficient to supply water at the present rate of delivery until completion of the 16 inch water line hereinafter mentioned in Article 5 and then at a peak instantaneous rate of 1,200 gallons per minute.

d. At a new point East U. S. Route 62 at a pressure sufficient to supply water at a peak instantaneous rate of 100 gallons per minute, with this point to be near the closest point of a six (6) inch water line on U. S. Route 62.

3. To furnish, install, operate, and maintain at its own expense at the aforementioned points of delivery, the necessary metering equipment, including a meterhouse or pit and required devices of standard type for properly measuring the quantity of water delivered to the purchaser, and to calibrate such metering equipment whenever requested by the purchaser, but not more frequently than once every twelve (12) months. A meter registering not more than two (2) percent above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by tests to be inaccurate shall be corrected for the three (3) months immediately preceding such tests 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 the seller and purchaser shall agree upon a different amount. The metering equipment shall be read on the last working date of the month. An appropriate official of the purchaser shall have access at all reasonable times to the meter for the purpose of verifying these readings.

4. To furnish the Chairman of the District, not later than the 10th day of each month, with an itemized statement of the amount of water furnished the purchaser during the preceding month. The amount due the seller pursuant to said statement shall be paid by the purchaser by the 10th day of the month following the date rendered. If not paid by the 10th of the month following the

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provided, however, that if the 10th day shall fall upon a Sunday or legal holiday, then the face amount of the bill may be paid on the next secular day which is not a holiday. If the statement shall remain unpaid for a period of 30 days after the date the penalty is added, then pursuant to the authority of KRS 96.934, the water service connection may be disconnected, and prior to any reconnections, the District shall be required to pay the delinquent bill, the ten (10) percent penalty, and a \$100.00 charge for each reconnection. Whether or not any disconnections are made because of such delinquency, the City Attorney or any attorney duly authorized to act for it by the seller, is hereby authorized and directed to enforce and collect the amount of any bills remaining delinquent for 30 days after penalty is added (including the penalty, interest of six (6) percent from date penalty is added, and Court costs), by a suit in any Court of competent jurisdiction, it being specifically understood that the City will give reasonable notice of any proposed rate increase.

5. To cause to be installed, at the seller's expense, a 16-inch transmission line from River Road to connect with the 12 - inch line at Second Street which the seller agrees to promptly institute said project immediately after the execution of this Contract and to have said installation completed on or before December 1, 1976. The cost of engineering and the cost of labor, materials, and all other costs for the installation shall be financed and/or paid for by the seller.

THE PURCHASER AGREES:

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1. To pay the seller for water delivered at the rate of 41.7 cents per 1,000 gallons for the first 2 million gallons per month; at the rate of 37.7 cents per 1,000 gallons for the next 2 million gallons per month up to a quantity of 4 million gallons per month; and then at the rate of 39.7 cents per 1,000 gallons for all water delivered in excess of 4 million gallons per month, said rates to become effective January 1, 1976.

2. To purchase from the City not less than three (3) million gallons of water per month or pay a minimum of \$1,200.00 per month.

3. To pay the seller, not later than the 10th day of the month following the date the statement is rendered to the purchaser.

4. To pay as an agreed cost, a connection fee to connect the seller's system with the purchaser's system at each new metering point, the connection fee to be an amount equal to the cost to the seller of the installation of the meter and equipment, complete with metering pits. The payment of these costs shall be made to the seller within 30 days following submission to the Chairman of the District of an itemized statement following completion.

5. To relinquish all right, title and interest in and control over all meters and metering pits at the existing metering points and over all meters and metering pits hereafter installed by seller.

IT IS FURTHER MUTUALLY AGREED BETWEEN THE SELLER AND THE PURCHASER AS FOLLOWS:

1. That this Contract shall extend for a term of 40 years from the date bonds are issued to finance the purchaser's proposed expansion, and for such renewed or extended terms thereafter as may be agreed upon in writing between the seller and the purchaser.

2. That the purchaser has the right to purchase water in a quantity of 35 million gallons per month, with the right of the purchaser to purchase additional water at the rates in effect pursuant to this contract so long as the additional water requested does not, in the seller's sole and absolute discretion diminish the ability of the seller to supply its other consumers or otherwise exceed the capacity of seller's facilities. In the event the purchaser's estimated or projected water quantity needs exceed the amount of water seller is able to provide, the purchaser may, with two (2) years' notice to the seller,

require the seller to expand its facilities to accomodate purchaser's needs, it being specifically understood that the purchaser is to pay for only that additional expansion required by them, or the purchaser may build and design its own plant, solely at the purchaser's discretion, subject to its continuing obligation to purchase a minimum of 3 million gallons per month or to pay \$1,200.00 per month for the life of this contract.

3. 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 this contract. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the seller is otherwise diminished over an extended period of time, the supply of water to purchaser's consumers shall be reduced or diminished in the same ratio or proportion as the supply to seller's consumers is reduced or diminished.

4. That the provisions of this Contract pertaining to the schedule of rates to be paid for water delivered are subject to modifications only as follows:

a. The seller shall increase the rate charged to the purchaser only if the seller increases the rate charged to its inside water customers for the first 4,000 gallons of water per month, and the rates shall be increased only in the same proportionate ratio as those to the inside water customers.

b. Any rate increase necessary to amortize any plant expansion or additions to facilities requested by purchaser.

5. That this Contract is subject to such rules, regulations, or laws as may be applicable to similar agreements in the State of Kentucky, and the City and District will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

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OFFICE OF THE  
SECRETARY  
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CUBBERLY, ST. RAP. 6011,  
SECTION 511,  
BY: *[Signature]*  
PUBLIC SERVICE COMMISSION MANAGER

6. That the construction of the water supply distribution system by the District is being financed by a loan from (or a loan insured by) the United States of America, acting through the Farmers' Home Administration, United States Department of Agriculture, and revisions hereof pertaining to the undertakings of the District are conditioned upon the approval, in writing, of the State Director of the Farmers' Home Administration.

7. This Contract is hereby pledged to the United States of America, acting through the Farmers' Home Administration, as a part of the security for a loan from the United States of America.

8. The City will not, during the terms of this Contract, extend its lines into the District without the written permission of the District, and the District will not attempt to serve any customers now being served by the City without regard to whether these customers lie within the bounds of the District.

9. That in the event of any occurrence rendering the District incapable of performing under this Contract, any successors of the District, whether the result of legal process, assignment, or otherwise, shall succeed to the rights of the District hereunder.

10. The Muhlenberg County Civil Action #7479 is hereby, by agreement, requested to be dismissed with the court costs to be divided one-half to each party.

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11. IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this Contract to be duly executed this 17 day of July, 1975.

  
CITY OF CENTRAL CITY, KENTUCKY  
By: \_\_\_\_\_, Mayor



ATTESTED:

Mildred Eades Tucker  
CLERK OF CENTRAL CITY, KENTUCKY

Roy Key  
Roy Key, Chairman

ATTEST:

Jewell Earle  
Jewell Earle, Secretary

Neville H. Rust

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
MEMPHIS

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PURSUANT TO 1907 KAN 5-011,  
SECTION 9(1),

W. H. H. H.  
PUBLIC SERVICE COMMISSION