

WATER PURCHASE AGREEMENT

BETWEEN

NORTH NELSON WATER DISTRICT

AND

CITY OF BARDSTOWN, KENTUCKY

September 17, 2024

**KENTUCKY
PUBLIC SERVICE COMMISSION**

Linda C. Bridwell
Executive Director



EFFECTIVE

2/12/2025

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

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WATER PURCHASE AGREEMENT

This Water Purchase Agreement (the “Agreement”) is made and entered into as of the 17th day of September, 2024 by and between the **NORTH NELSON WATER DISTRICT**, 5555 Louisville Road, P.O. Box 25, Cox’s Creek, Kentucky 40013, hereinafter referred to as the “Seller,” and the **CITY OF BARDSTOWN, KENTUCKY**, 220 North Fifth Street, Bardstown, Kentucky 40004, hereinafter referred to as the “Purchaser.” The Seller and the Purchaser may be referred to collectively as “Parties” or individually as a “Party.”

WITNESSETH:

WHEREAS, the Seller is a water district organized under the provisions of KRS Chapter 74;

WHEREAS, the Purchaser is a duly organized and existing municipal corporation and city of the home rule class of the Commonwealth of Kentucky;

WHEREAS, the Seller currently owns and operates water distribution facilities;

WHEREAS, the Purchaser currently owns and operates water supply, treatment, and distribution facilities;




WHEREAS, the Purchaser desires to obtain a supplemental source of potable water from the Louisville Water Company (“Louisville Water”) via utilization of the Seller’s water system infrastructure;

WHEREAS, the Seller, the Purchaser, and the Nelson County Fiscal Court entered into a Memorandum of Agreement, effective December 21, 2021 (the “MOA”), whereby the Seller is obligated, pursuant to the provisions of the MOA, to construct a new large diameter water transmission main along Kentucky Highway 245 from Bardstown to the existing master meter between the Seller and Louisville Water;

WHEREAS, the MOA was modified by a Supplemental Memorandum of Agreement, effective July 19, 2022 (the “Supplemental MOA”);

WHEREAS, pursuant to the provisions of the MOA and the Supplemental MOA, the Seller intends to construct a new large diameter water transmission main along Kentucky Highway 245 to serve as a regional transmission water supply line as described in engineering reports prepared by the Kentucky Engineering Group, PLLC (the “Seller’s Project”) for the benefit of both Parties. The Seller’s Project will be completed in two phases. Phase 1, the construction of 7,750 feet of water transmission main, has already been completed and is ready to be placed into service

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(“Seller’s Phase 1 Project”). Construction of Phase 2 is scheduled to commence in the fall of 2024 (“Seller’s Phase 2 Project”);

WHEREAS, Louisville Water has agreed to construct a twenty-four-inch diameter transmission main along Kentucky Highway 245 from Interstate 65 to the Seller’s existing master meter located at the intersection of Kentucky Highway 245 and Kentucky Highway 1604. In addition, Louisville Water has agreed to replace and upsize the existing booster pump station and replace and upsize the Seller’s existing master meter. Together, these improvements will be identified as the “Louisville Water Hwy. 245 Improvements”;

WHEREAS, the Louisville Water Hwy. 245 Improvements and the Seller’s Project will increase the volume of water available to the Seller from Louisville Water, thereby increasing the volume of water available for the Seller to re-sell to the Purchaser;

WHEREAS, by a Resolution duly adopted on September 16, 2024 by the Seller’s Board of Commissioners, this Agreement was approved and the Seller’s Chairman was authorized to execute this Agreement for and on behalf of the Seller;

and

WHEREAS, the Purchaser’s Mayor has been authorized to execute this Agreement for and on behalf of the Purchaser.

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NOW THEREFORE, in consideration of the foregoing and the mutual terms and conditions contained herein, the Parties agree as follows:

1. Term of Agreement. This Agreement shall continue for a period of approximately fifty (50) years commencing on the Effective Date as provided in paragraph 16, and ending on June 30, 2074, unless extended or modified by written agreement of the Parties, or terminated pursuant to the terms of this Agreement.

2. Quantity of Water.

A. Initial Water Availability. Upon completion of the Bardstown Interconnect and Pump Station Project, the Seller shall furnish to the Purchaser such quantities of water as the Purchaser may require at the point of delivery hereinafter specified, but not to exceed 400 gallons per minute or 500,000 gallons per day.

B. Seller's Phase 2 Project & Louisville Water Hwy. 245 Improvements. Once the Seller's Phase 2 Project and the Louisville Water Hwy. 245 Improvements are completed and placed in service, the Seller shall be obligated to provide the Purchaser two (2) million gallons per day at a rate of 1,000 gallons per minute. Water sales for this phase are anticipated to begin December 31, 2026.


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C. Louisville Water I-65 Improvements. Louisville Water is also in the process of making additional water infrastructure improvements along Interstate 65 north of the intersection of Kentucky Highway 245 and Interstate 65 (the “Louisville Water I-65 Improvements”). The Louisville Water I-65 Improvements are scheduled to be completed on or before December 31, 2029. Once the Louisville Water I-65 Improvements are completed and placed into service, the Seller shall be obligated to provide the Purchaser an additional one (1) million gallons per day for a total of three (3) million gallons per day at a rate of 2,083 gallons per minute.

3. Minimum Purchases. The minimum purchase amounts shall be measured by the metering equipment at the Point of Delivery as described in Paragraph 6.

A. Initial Minimum Purchase Amount. Initially, the Purchaser shall be obligated to purchase a minimum of 100,000 gallons per day for water quality purposes.

B. Seller’s Phase 2 Project & Louisville Water Hwy. 245 Improvements. Once the Seller’s

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Louisville Water Hwy. 245 Improvements have been completed and placed into service, the Purchaser shall be obligated to purchase a minimum of 22,500,000 gallons per month for water quality purposes. The total annual minimum purchase shall be no less than 365 million gallons per calendar year (the “Annual Minimum”). During the first calendar year, the Annual Minimum shall be pro-rated if the above Projects and Improvements are not in service for the entire calendar year. Within thirty (30) calendar days following the end of each calendar year, the Seller shall invoice the Purchaser for the difference between the Annual Minimum and the actual quantity purchased. The Purchaser shall pay this invoice within thirty (30) calendar days.

4. Quality of Water. The Seller shall furnish to the Purchaser, at the Point of Delivery hereinafter specified, during the term of this Agreement, or any renewal or extension thereof, potable, treated water meeting the applicable water quality standards of all appropriate state and federal regulatory agencies.

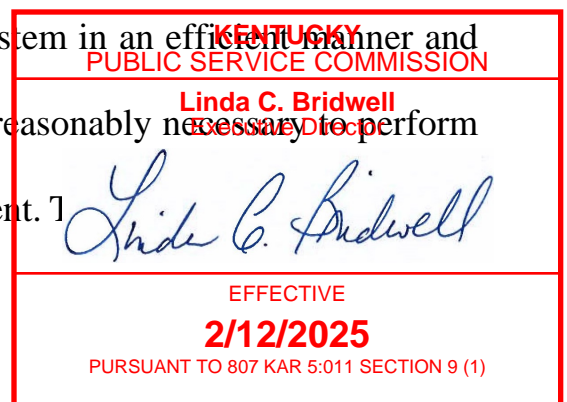
5. Operation of System.

A. Seller’s System. The Seller shall at all times operate and maintain its water system in an efficient manner



as may be reasonably necessary to perform its obligations under this Agreement. Temporary or partial failures to deliver water shall be remedied diligently with all practicable dispatch. The Seller shall immediately inform the Purchaser by telephone, by email, or by facsimile transmission of the nature and extent of such temporary or partial failures to deliver water. In the event of an extended shortage of water, or if the supply of water available to the Seller is otherwise diminished over an extended period of time, the supply of water to the Purchaser shall be reduced or diminished in the same proportion as the supply to the Seller's other customers is reduced or diminished. The Purchaser also agrees to take such steps as may be reasonably necessary to curtail water usage within its system in response to a shortage of water. During said circumstances, the Seller will not hold the Purchaser to its minimum daily take.

B. Purchaser's System. The Purchaser shall at all times maintain and operate its water system in an efficient manner and shall take such action as may be reasonably necessary to perform its obligations under this Agreement. 7



to receive water shall be remedied diligently with all practicable dispatch. Emergency failures of the Purchaser's water system such as receiving transmission line breaks, power failure, flood, fire and use of water to fight fire, earthquake, or other catastrophe shall excuse the Purchaser of its water quantity minimum provisions for such reasonable period of time as may be necessary to restore service. The Purchaser shall immediately inform the Seller by telephone, email, or facsimile transmission of the nature and extent of such temporary or partial failures to receive water.

6. Delivery Point. The Seller shall deliver the water to the Purchaser at a point of delivery located near the Houghlin-Greenwell Funeral Home, approximately 1,250 feet northwest of the intersection of Wilson Parkway with Highway 245 (the "Point of Delivery").

Initially, the Seller shall deliver water to the Purchaser at the Point of Delivery with a maintained minimum hydraulic grade line ("HGL") of 810 feet mean sea level ("MSL"). Once the Seller's Phase 2 Project and the Louisville Water Hwy. 245 Improvements have been completed and placed into service, the Seller shall deliver water at the Point of Delivery with a minimum HGL of 886 feet MSL in order to fill the Purchaser's Withrow Court water storage tank, which

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of 882 feet MSL. The Seller shall 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.

Emergency failures of water 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 period of time as may be necessary to restore service. Failure of the Seller to provide water relieves the Purchaser of its minimum take requirement during such emergency failures.

7. Metering Equipment. The Seller shall furnish, install, own, operate and maintain at its own expense the necessary metering equipment to reliably measure the quantity of water delivered to the Purchaser and shall test such metering equipment once every year. The Seller shall provide a 24-hour notice to the Purchaser prior to conducting any meter tests, allow access to the metering site during testing, and submit test results to the appropriate official designated by the Purchaser. If the meter registers within the acceptable limits as identified by AWWA Standards, then it shall be deemed accurate. Previous readings of the meter deemed by test results to be inaccurate (registering outside of acceptable limits of AWWA Standards based upon type of meter) shall be adjusted for the six-month period previous to the test in accordance with the percent

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such test. Billings for the period shall be recalculated and the Purchaser's account credited or charged accordingly. If the meter fails to register usage for any period, the amount of water furnished during such period shall be estimated by any reasonable means agreeable to both Parties. The metering equipment shall be read on or about the 10th day of each month, or any other day mutually agreed upon. An appropriate official of the Purchaser shall have access to the master meter for the purpose of collecting usage data and verifying the master meter's readings.

8. Telemetry. In the event that the Purchaser desires to install, at its own expense, telemetry equipment at the Point of Delivery to enable it to remotely read the master meter, the Seller hereby consents to such installation where there is adequate space and where the telemetry equipment will not pose a safety hazard. The Purchaser is not obligated to install telemetry equipment, but if it elects to do so, the Purchaser shall be responsible for the payment of all costs associated therewith. In addition, the Purchaser shall operate and maintain, at its own expense, the telemetry equipment. Ownership of the telemetry equipment shall remain vested in the Purchaser. The Purchaser shall not install telemetry equipment however, without first presenting a drawing or illustration of the proposed telemetry equipment to the Seller. The Seller shall then promptly review the proposed


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installation and determine whether there is adequate space at the Point of Delivery or if the telemetry equipment is likely to pose a safety hazard.

9. Billing and Payment Procedure. No later than the **25th** day of each month, the Seller shall furnish to the Purchaser an itemized statement of the amount of water furnished to the Purchaser at the Point of Delivery during the preceding billing cycle and the cost thereof. The Purchaser shall pay those charges no later than the **20th** day of each month.

10. Initial Rate. Until such time as the actual cost of the Seller’s Project, including the annual principal and interest payments, is known, the Purchaser shall pay a wholesale rate equal to the wholesale rate which Louisville Water charges the Seller, plus a twenty-seven cent (\$0.27) transmission fee. The current Louisville Water wholesale rate is \$2.72 per 1,000 gallons. Thus, the wholesale rate shall be \$2.99 (\$2.72 + \$0.27 equals \$2.99) per 1,000 gallons for all water purchased through June 30, 2025. Historically, Louisville Water increases its wholesale rate on July 1 of each year. The Seller intends to “pass through” these wholesale rate increases to the Purchaser as permitted by the Kentucky Public Service Commission (the “PSC”).

The “pass through” rate increases shall only apply to the base wholesale rate. These “pass through” rate increases shall not be applied to the transmission fee.

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11. Cost Based Rates. Once the actual cost of the Seller’s Project, including the annual principal and interest payments, is known, the Seller shall utilize the services of a qualified rate consultant to perform a Cost-of-Service Study (the “COSS”) to determine the wholesale rate to be charged to the Purchaser. In performing the COSS, the Seller will only include the actual costs, including, but not limited to, depreciation, debt service, and water loss, associated with those portions of the Seller’s system that are used to serve water to the Purchaser (the “Bardstown Service Assets”). Each Party shall pay its proportional share of the expenses associated with the Bardstown Service Assets. In addition, if the Seller installs any branch-line meters along the large diameter water transmission main that will be constructed as part of the Seller’s Project, then the Seller’s COSS shall allocate water loss costs so that each Party pays its proportional share of the water loss, which will be calculated using actual meter readings of any master meters and branch-line meters.

The wholesale rate determined by the COSS shall not become effective until the Seller’s Project has been completed and placed into service, and the PSC has approved the wholesale rate. Thereafter, the Seller shall establish and adjust, from time to time, the wholesale rate based upon the Seller’s actual cost of providing water service to the Point of Delivery described in paragraph

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12. Advance Notice of Rate Modification. The Seller shall notify the Purchaser in writing of any proposed rate adjustment or modification at least thirty (30) calendar days before it is to be adopted as the actual rate. This will enable the Purchaser to review and comment on the proposed rate before it is actually adopted by the Seller.

13. Effective Date of Rate Modification. The effective date of any new wholesale rate shall be at least sixty (60) calendar days after the Seller adopts the new rate. This will provide the Purchaser sufficient time to adjust its retail rates accordingly.

14. Financial and Operational Information. Commencing with the 2025 calendar year, and continuing annually thereafter during the term of this Agreement, the Seller shall provide the Purchaser with a copy of the Seller's Independent Auditor's Report within thirty (30) calendar days after it has been released. In addition, the Purchaser, its auditor, or other designated representative shall have the right, at its own expense, to examine, upon reasonable notice and during regular business hours, the Seller's financial records and operating reports concerning water sales, water expenditures, and line loss. Such examination shall be conducted in such a manner that it does not unduly disrupt the Seller's normal office routine. The Seller reserves the right to limit such examination to

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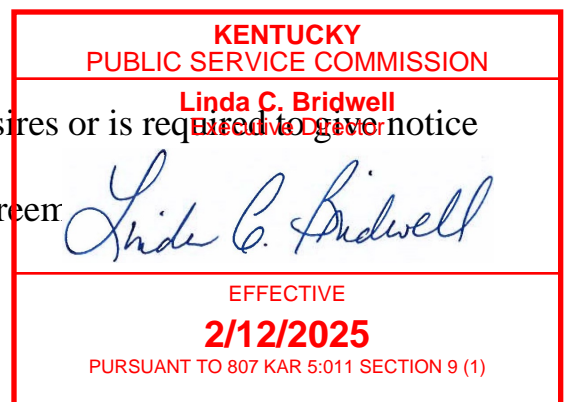
calendar year. The Seller's breach of the provisions of this paragraph shall be deemed to be a material breach of this Agreement.

15. PSC Review. The Parties acknowledge that this Agreement cannot become effective until it has been reviewed and accepted for filing by the PSC. The Seller shall file an executed copy of this Agreement with the PSC. The Purchaser pledges its assistance to help expedite the PSC review process.

16. Effective Date. The Parties acknowledge that, in order for this Agreement to become effective, the PSC must review this Agreement and accept it for filing. The Seller shall give written notice of the Effective Date to the Purchaser promptly after the PSC accepts the Agreement for filing.

17. Indemnification. Each Party shall be solely responsible for the construction, operation, and maintenance of its respective water system. Each Party, to the extent permitted by law, expressly agrees to indemnify, save harmless and defend the other Party against all claims, demands, costs, or expenses asserted by third parties and proximately caused by the negligence or willful misconduct of such indemnifying Party in connection with the construction, operation, and maintenance of its respective water system.

18. Notices. If at any time either Party desires or is required to give notice to the other Party pursuant to the terms of this Agreement



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 place or other person as each Party shall designate by similar notice:

A. As to the Seller:
North Nelson Water District
5555 Louisville Road
P.O. Box 25
Cox's Creek, KY 40013
Attention: Chairman


B. As to the Purchaser:
City of Bardstown
220 North Fifth Street
Bardstown, KY 40004
Attention: Mayor

19. Response to Notices. At any time either Party desires or is required to respond to any notice given pursuant to paragraph 18 of this Agreement, such response shall be made in the same manner as prescribed by for notices in this Agreement and shall be given within thirty (30) calendar days after receipt of the notice unless otherwise provided in this Agreement.

20. Termination. Either Party may terminate this Agreement with twelve (12) months advance written notice to the other Party in the event of any of the following:

A. For the Purchaser to terminate:

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- A. Repeated failure of the Seller to meet water delivery requirements stated herein, except for failures related to the temporary interruptions described in paragraphs 5 and 6 of this Agreement; or
 - B. Repeated failure of the Seller to meet the water quality requirements of the Kentucky Energy and Environment Cabinet, except for failures related to the temporary interruptions described in paragraphs 5 and 6 of this Agreement; or
 - C. Final revocation of the Seller’s authority to operate a water distribution system by one or more governmental agencies having jurisdiction over such matters.
- B.** For the Seller to terminate:
- A. Final revocation of the Purchaser’s authority to operate a water distribution system by one or more governmental agencies having jurisdiction over such matters; or
 - B. Multiple findings against the Purchaser by the Kentucky Energy and Environment Cabinet that the Purchaser has been classified as a significant non-complier resulting in the Seller being in violation of any drinking water regul

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21. Regulatory Agencies. This Agreement is subject to such rules, regulations, or laws as may be applicable to similar agreements in the Commonwealth of Kentucky. The Parties shall collaborate in obtaining such permits, approvals, certificates or the like as may be required to comply therewith. Nothing in this Agreement, however, shall limit the Purchaser's right to contest future rate increases by the Seller at the PSC or court of competent jurisdiction.

22. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors. This Agreement shall not be assigned by either Party without the written consent of the other Party, which consent shall not be unreasonably withheld, unless such assignment or transfer is to a successor in the operation of its properties by reason of a merger, consolidation, sale or foreclosure where substantially all such properties are acquired by such a successor empowered by law and financially able to effect the purposes of this Agreement which it must assume and, thereafter, be exclusively responsible for the performance of the terms of this Agreement to be performed by either Party hereunder.

23. Paragraph Headings. The descriptive headings of the various paragraphs of this Agreement have been inserted for convenience of reference only and shall in no way bind, modify, or restrict any of the t

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24. Entire Agreement; Severability. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter contained herein. Except as otherwise provided herein, no subsequent alteration, amendment, change, or addition to this Agreement shall be binding upon either Party unless and until it is reduced to writing and signed by both Parties. Should any provision of this Agreement be declared to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect unless such invalid or unenforceable provisions substantially alter the benefits of the Agreement for either Party.

25. Interpretation. The Parties agree that both Parties have participated in the drafting and negotiation of this Agreement and this Agreement shall not be interpreted against either Party by virtue of having participated in such drafting and negotiation.

26. Non-Waiver. Any waiver at any time by any Party hereto of its rights with respect to the other Party or with respect to any matter arising in connection with this Agreement shall not be considered a waiver of any such rights or matters at any subsequent time.

27. No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer upon any person other than



respective successors and assigns any rights or remedies under or by reason of this Agreement.

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

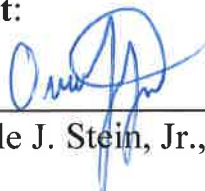
SELLER:

North Nelson Water District



Robert Cecil, Chairman


Attest:



Orville J. Stein, Jr., Secretary

PURCHASER:

City of Bardstown, Kentucky



J. Richard Heaton, Mayor

Attest:



Gary Little, City Clerk

