Water Supply Agreement

THIS AGREEMENT made and entered into on this 23rd day of October, 2012, by and between the Electric and Water Plant Board of the City of Frankfort, Kentucky, whose address is 317 West Second Street, P.O. Box 308, Frankfort, Kentucky 40602, having the powers granted by KRS 96.171 *et seq.*, ("Board"), and the South Anderson Water District, whose address is P.O. Box 17, Lawrenceburg, Kentucky 40342, a water district created and existing under the laws of the state of Kentucky ("District");

WHEREAS: The District currently purchases water on a wholesale basis from the Board at an existing point of delivery located on US 127 South near the Anderson County line;

WHEREAS, The District desires to increase the amount of water purchased from the Board;

WHEREAS, the Board must make improvements to its system to provide additional water to the District;

WHEREAS, the Board desires to continue as a supplier of water to the District for an additional forty-two (42) years;

WHEREAS, this Water Supply Agreement supersedes and replaces any other agreements for the purchase of water between the parties;

WITNESSETH: That the parties hereto in consideration of the mutual duties and obligations herein created, have, and do agree as follows:

1. **Quality:** During the term of this agreement and any renewal or extension thereof, the Board will furnish to the District at the point of delivery hereinafter specified, treated, potable water that complies with all applicable Kentucky Division of Water and U.S. Environmental Protection Agency standards for water quality. The Board is not responsible for any adverse chemical reactions with the District's water supply or incompatible facilities.

2. **Point of Delivery, Flow Rates, Minimum Quantities, and Pressure:** The Board will provide water to the District at the following point of delivery:

   Existing metering point on US 127 South near Anderson County line: The maximum flow rate shall be 500 gallons per minute; the minimum consumption shall be 5,000,000 gallons per month, computed on an annual basis. If the annual purchases are less than the minimum required purchases, the District will be billed the difference. The daily peaking factor (Qp/Qavg, otherwise stated as peak daily flow divided by average daily flow) shall be no greater than 2:1. If the maximum flow rate or the peak daily flow exceeds these standards, the Board may modify its facilities at District expense to meet the additional requirements. In order to provide the quantities of water defined herein, the Board must construct improvements within its system at the District's expense. The District will advance the Board $242,263.80 to aid in construction of said facilities. Upon completion of the project, actual cost will be determined and applied against the advance payment, which may result in either an additional charge or a refund. In any event, should the actual cost be greater than

the amount advanced, the District's additional charge will not exceed 25% of the original advance.

The parties, in writing, may agree to one or more additional points of delivery, subject to the force majeure events described herein. Adequate pressure normally provided from the Board's existing facilities will be supplied to the point of delivery. If a greater pressure than is normally available at the point of delivery is required by the District, the cost of providing such greater pressure shall be the sole responsibility of the District. Notwithstanding the foregoing, the Board under this Agreement assumes no obligation whatsoever to furnish satisfactory quantity or pressure for any particular service such as irrigation, fire protection, industrial, or commercial use.

The District shall immediately notify the Board of any line break, service interruption or other incident that might adversely affect the Board's facilities or ability to maintain service on its system. The District shall be responsible for any line break or other damage to its facilities or to its customers or the public after the water is delivered to the point(s) of delivery.

The District shall not resell water from the Board to other water sellers without the Board's permission.

3. **Term of Agreement and Effective Date:** This Agreement will take effect on the Effective Date and will continue for a term of forty-two (42) years thereafter. The Parties acknowledge that this Agreement will require submission to the Kentucky Public Service Commission ("PSC") for approval. The Board shall file an executed copy of this Agreement with the PSC. The

District pledges its assistance to help expedite the PSC review process. The Effective Date of this Agreement shall be the date the Agreement is deemed to be "filed" by the PSC. The Board shall give written notice of the Effective Date to the District. The Agreement may be amended from time to time upon agreement of the parties.

4. **Metering Equipment and Flow Measurement:** The Board will own, operate and maintain the metering equipment located at the point of delivery. The Board shall make annual tests and inspections of the master meter; and additional testing may be performed by the Board at its sole discretion at any time. The Board will provide a twenty-four (24) hour notice to the District prior to conducting any meter test, allow District personnel to witness the test, and submit test results to the appropriate official or agent designated by the District upon request. A meter registering within the acceptable limits as defined by American Water Works Association (AWWA) standards shall be deemed to be accurate. A reading of the meter determined by the test results to be inaccurate (registering outside of acceptable limits of AWWA standards based upon type of meter) shall cause billings for at least one (1) month, and up to three (3) months, previous to such test to be adjusted by the percentage of inaccuracy found by such test. If any meter should fail to register usage for any regular billing period, the amount of water furnished during such billing period shall be determined based on historical consumption for three (3) consecutive billing periods.

5. **Billing and Payment:** The District shall at all times pay the rates and charges for water that exist at the time of delivery under the existing published rates, rules and regulations of the Board.

   The District and the Board acknowledge the Board's wholesale water rate is determined by the Board's rate-making methodology, and agree that the Board's rate making methodology as filed with the Public Service Commission and as may be modified to conform to regulatory requirements is a reasonable basis for the rate adjustments under the Water Supply Agreement. That methodology requires that the wholesale rate be determined by considering the following components of the Board's total water service operations including but not limited to:

   A. Operation and maintenance expenses
   B. Depreciation expenses
   C. Debt service and coverage on debt service

   The initial rate under this contract is established by the Board's most recent tariff establishing rates for the wholesale non-water producer (i.e. water district) class currently on file with the Commission. Thereafter, the rates established shall be submitted to and approved by the Commission.

6. **Force Majeure:** Emergency failures due to main supply line breaks, power failure, flood, fire, act of God, war, riot, earthquake, explosion, or other catastrophic events shall excuse the Board from its performance under this Agreement for such reasonable period of time as may be necessary to restore service.

7. **Proportionate Reduction:** In the event any occurrence, condition, or circumstance leads the Board to request voluntary curtailment of water consumption or to impose mandatory curtailment of water consumption with respect to the Board's own water users, the District will make the same request for voluntary curtailment of consumption or will impose the same mandatory curtailment of water consumption, upon its water users, to the end that District water users will be treated alike with respect to curtailment of water consumption, and the District will cooperate fully in taking the same character of enforcement action as the Board takes with respect to any such request or mandate.

8. **Assignment:** This Agreement shall be binding on all successors and assigns of the Parties but shall not be assigned by either Party without the written consent of the other.

9. **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 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.

10. **Authority to Execute Agreement:** The Board warrants that it possesses full authority to enter into this Agreement. The District warrants that it possesses full authority to enter into this Agreement.

11. **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, expressed or implied, not expressly set forth in this Agreement. No modifications or amendment of this Agreement shall be effective unless in writing and executed on behalf of both Parties.

12. **Termination of Prior Agreements:** Any and all prior Agreements between the Board and the District relating to the supply of water and all other matters relating thereto will automatically be terminated on the effective date of this Agreement; provided, however, that such prior Agreements will immediately and automatically be revived and considered to be in full force and effect if the PSC does not approve this Agreement.

13. **Termination:** This Agreement may be terminated by the Board on sixty (60) days' notice for failure of the District to timely pay for service or continued violation of the Board's tariffs. The District may terminate on sixty (60) days' notice for failure of the Board to deliver the quality and quantity of water prescribed in the Agreement, and such failure is not cured within a reasonable time period after being provided written notice by the District. The parties will cooperate to the fullest extent possible to resolve any disputes prior to providing notice of termination.

14. Notices: Any notice required of this Agreement shall be delivered via certified mail to:

Board: FPB General Manager
317 West Second Street
Frankfort, Kentucky 40601

District: SAWD Board Chair
P.O. Box 17
Lawrenceburg, Kentucky 40342

IN TESTIMONY WHEREOF, the parties hereto have caused this Agreement to be executed by its duly authorized officers, on this date and year first above written.

Electric and Water Plant Board
of the City of Frankfort,
Kentucky

By: _____
Board Chair

Attest: _____

South Anderson Water District

By: _____
Board Chair

Attest: _____