

WATER PURCHASE CONTRACT

This contract for the sale and purchase of water is entered into as of the _____ day of February,
19 82, between the City of Kenova, West Virginia

(Address)

hereinafter referred to as the "Seller" and the Big Sandy Water District

P. O. Box 636, Catlettsburg, Kentucky 41129

(Address)

hereinafter referred to as the "Purchaser",

WITNESSETH:

Whereas, the Purchaser is organized and established under the provisions of Chapter 74 of the
Code of Kentucky Revised Statutes, 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 said Purchaser as shown
in the plans of the system now on file in the office of the Purchaser, and

Whereas, by Resolution No. _____ enacted on the 22nd day
of February, 19 82, by the Seller, the sale of water to the Purchaser in accordance
with the provisions of the said Resolution was approved, and the execution of this contract

carrying out the said Resolution by the Mayor,
and attested by the clerk, was duly authorized, and

Whereas, by Resolution of the Board of Commissioners
of the Purchaser, enacted on the 4th day of August, 19 81,

the purchase of water from the Seller in accordance with the terms set forth in the said Resolution
was approved, and the execution of this contract by the Chairman, and
attested by the Secretary was duly authorized;

Now, therefore, in consideration of the foregoing and the mutual agreements hereinafter set forth,

A. The Seller Agrees:

1. (Quality and Quantity) To furnish the Purchaser at the point of delivery hereinafter specified, during the term of
this contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the _____
U.S. Environmental Protection Agency (Drinking Water Standards)
in such quantity as may be required by the Purchaser not to exceed 24,000,000 gallons per month.

C. It is further mutually agreed between the Seller and the Purchaser as follows:

1. (Term of Contract) That this contract shall extend for a term of 40 years from the date of the initial delivery of any water as shown by the first bill submitted by the Seller to the Purchaser and, thereafter may be renewed or extended for such term, or terms, as may be agreed upon by the Seller and Purchaser.
2. (Delivery of Water) That 30 days prior to the estimated date of completion of construction of the Purchaser's water supply distribution system, the Purchaser will notify the Seller in writing the date for the initial delivery of water.
3. (Water for Testing) When requested by the Purchaser the Seller will make available to the contractor at the point of delivery, or other point reasonably close thereto, water sufficient for testing, flushing, and trench filling the system of the Purchaser during construction, irrespective of whether the metering equipment has been installed at that time, at a flat charge of \$ 0.58/1,000 gal. which will be paid by the contractor or, on his failure to pay, by the Purchaser.
4. (Failure to Deliver) 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 the Purchaser. 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.
5. (Modification of Contract) That the provisions of this contract pertaining to the schedule of rates to be paid by the Purchaser for water delivered are subject to modification at the end of every 1(One) year period. Any increase or decrease in rates shall be based on a demonstrable increase or decrease in the costs of performance hereunder, but such costs shall not include increased capitalization of the Seller's system. Other provisions of this contract may be modified or altered by mutual agreement. See paragraph 13 for more details.
6. (Regulatory Agencies) That this contract is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the Seller and Purchaser will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.
7. (Miscellaneous) That the construction of the water supply distribution system by the Purchaser is being financed by a loan made or insured by, and/or a grant from, the United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture, and the provisions hereof pertaining to the undertakings of the Purchaser are conditioned upon the approval, in writing, of the State Director of the Farmers Home Administration.
8. (Successor to the Purchaser) That in the event of any occurrence rendering the Purchaser incapable of performing under this contract, any successor of the Purchaser, whether the result of legal process, assignment, or otherwise, shall succeed to the rights of the Purchaser hereunder.
9. (Pledge) This contract is hereby pledged to United States of America acting through the Administration of the Farmers Home Administration as part of security for loan from the United States of America.
10. Upon the failure of the Purchaser to pay the Seller's correct billing in accordance with the Seller's rules and regulations set out herein and applicable to other customers, the Purchaser will pay a 10% penalty if the correct billing is not paid by the 14th day of each month, and if the bill shall still remain unpaid at the end of the month the Seller shall be entitled to discontinue service to the Purchaser in the same manner as the Seller may be entitled to discontinue service to any other customer.
11. (Easement) The Seller Agrees to provide an easement to the Purchaser to construct, operate, maintain, repair, replace, etc. a water line on the Seller's property at no cost to the Purchaser.
12. (Taxes) The Purchaser shall be liable for the collection and payment of all taxes that are or may be levied on water purchases or sales within the State of Kentucky.

13. (Modification of Contract) The rate charged for potable water delivered under this contract may be renegotiated if requested by either party, one year after the initial delivery of potable water, or one year after the last renegotiation. The new negotiated rate shall be the actual cost of production for the Purchaser plus 15% profit. The actual cost of production shall be based on the last published audit of the Seller's system. The method of actual cost determination shall be calculated and based on the methods set out in "City of Kenova, Water Production Rate Analysis", dated February 18, 1982, and marked as Exhibit "A" and made a part of this Agreement. The increase or decrease of costs shall not include increased capitalization of the Seller's system other than the plant, nor shall it include transmission, distribution or storage costs. The percent of Depreciation, Debt Service, O&M cost, etc., allocated to the Purchaser shall be based on the preceding average monthly consumption of the Purchaser for the preceding year per the Purchaser's meter reading divided by the preceding average monthly plant production for the preceding year per the plant's master meter, or 18,000,000 divided by the Kenova Water Treatment Plant's rated 24-hour capacity (which is now 120,000,000 gallons per month), whichever is less. Should mutual agreement of rates not be obtainable, then both parties agree to binding arbitration with both parties sharing the cost of same. See Paragraph 5 above for other details.

14. This agreement supercedes and replaces the "Water Purchase Contract" previously executed by both parties, dated August 14, 1981.

In witness whereof, the parties hereto, acting under authority of their respective governing bodies, have caused this contract to be duly executed in 6 counterparts, each of which shall constitute an original.

Seller: City of Kenova, West Virginia
J. E. Spaulding

By Leonard E. Hampton

Title Mayor

Purchaser: Big Sandy Water District
David Salisbury

By David Salisbury

Title Chairman

Attest: *Leslie Spaulding*
clerk
Leslie Spaulding

Attest: *J. C. Pritchard*
Secretary
J. C. Pritchard

This contract is approved on behalf of the Farmers Home Administration this 5th day of April, 1982.

19 82

By *David Salisbury*
Title Chief Community Relations

J. E. Spaulding

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AMENDMENT TO WATER PURCHASE CONTRACT

This Amendment to Water Purchase Contract, effective April 13, 2012, is entered into by and between the City of Kenova, West Virginia, a municipal corporation ("Kenova"), and the Big Sandy Water District ("Big Sandy").

1. **WHEREAS**, Kenova and Big Sandy entered into a Water Purchase Contract on or about February 22, 1982, which Contract has subsequently been amended from time to time;

2. **WHEREAS**, pursuant to Commission Order dated December 4, 2009, the West Virginia Public Service Commission required Kenova and Big Sandy to amend certain terms of that Water Purchase Contract and directed that these amendments supercede and replace all conflicting provisions of the original Water Purchase Contract and the subsequent amendments and addendums thereto;

3. **WHEREAS**, paragraph 5 of the Water Purchase Contract provides that the schedule of rates is subject to modification at the end of every one (1) year period;

NOW THEREFORE, in consideration of the foregoing, the parties agree to amend the said Water Purchase Contract as follows:

1. Kenova agrees to supply the water required by Big Sandy for which Kenova will charge a flat rate of \$2.55 per 1,000 gallons of water, which Big Sandy agrees to pay until changed by agreement of the parties with approval by the Public Service Commission;

2. Big Sandy further agrees to purchase a minimum of 8 million gallons per month or make minimum payments based upon such minimum value at the rate of \$2.55 per 1,000 gallons of water;

3. Paragraph 13 is stricken from the Water Purchase Contract; and

All remaining terms and provisions of the original Water Purchase Contract and its subsequent addendums and amendments shall remain in full force and effect.

IN WITNESS WHEREOF, the parties, acting under authority of their respective governing bodies, have caused this Amendment to be duly executed this 23rd day of April, 2012.

Attest:

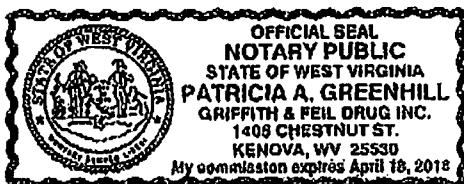
Seller: City of Kenova

Patricia A. Greenhill

By:

Rickey W. Griffith

Rickey W. Griffith
Its Mayor



Attest:

Lisa Brown

Buyer: Big Sandy Water District

By: James H. Blanton

James H. Blanton

Its: Manager