

COPY

AMENDED AND RESTATED AGREEMENT

This amended and restated agreement ("Agreement") is made and entered into on this the 21st day of September, 2015, by and between the **CITY OF HENDERSON ACTING BY AND THROUGH ITS MUNICIPAL WATER AND SEWER COMMISSION** (hereinafter "HWU"), 111 Fifth Street, Henderson, Kentucky 42420, doing business as the **HENDERSON WATER UTILITY** (hereinafter "HWU"), the **CITY OF HENDERSON, KENTUCKY**, 222 First Street, Henderson, Kentucky 42420 (hereinafter "City," and together with HWU, the "Commission") and **BIG RIVERS ELECTRIC CORPORATION**, a rural electric cooperative corporation organized under Kentucky Revised Statutes Chapter 279, P. O. Box 24, 201 Third street, Henderson, Kentucky 42420 (hereinafter "Big Rivers"). Big Rivers and the Commission are sometimes collectively referred to herein as "the Parties".

WITNESSETH:

Whereas, Commission owns and operates its South Water and Wastewater Treatment Plants on property located near the Big Rivers Reid/Green generating station complex to service industrial, municipal and residential customers in the surrounding area; and

Whereas, Commission and Big Rivers previously entered into an Agreement dated 14 March 1995 (the "1995 Agreement"), in which the parties agreed that economic development and the local economy would benefit from Big Rivers allowing the Commission to utilize the existing Reid/Green water intake and discharge facilities rather than constructing new facilities for water intake and discharge; and

Whereas, Commission and Western Kentucky Energy Corp., acting as Big Rivers' assignee, agreed to an Amendment to Agreement, dated 30 October 2000, whereby some aspects of the 1995 Agreement were modified; and

Whereas, Commission now desires to make modifications to raw water supply and wastewater Effluent lines within the Reid/Green complex, to reduce risks and allow for emergency bypass connection of raw water feed to Commission's South Water Treatment Plant; and,

Whereas, The Parties now desire to amend and restate the 1995 Agreement, as amended in 2000.

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

DEFINITIONS

Capitalized terms when used in this Agreement have the meanings specified herein, unless stated otherwise or the context requires otherwise.

Applicable Law: All laws, statutes, codes, treaties, ordinances, judgments, decrees, injunctions, writs, orders, rules, regulations, interpretations, issuances, enactments, decisions, authorizations, licenses, permits or directives of any Governmental Authority having jurisdiction over the matter in question.

Big Rivers' Discharge Permit: Big Rivers' Sebree Station Kentucky Pollution Discharge Elimination System Permit, as amended and updated from time to time.

Commission's Discharge Permit: The Commission's South Water and Wastewater Treatment Plants Kentucky Pollution Discharge Elimination System Permit, as amended and updated from time to time.

Combined Effluent: The intermingled discharge from Big Rivers' circulating water discharge line and the Commission's waste water treatment plant immediately after the Commission's discharge enters Big Rivers' 84" circulating water discharge line.

Effluent: The discharge from the Commission's waste water treatment plant after final treatment but immediately before entering the Big Rivers 84" circulating water discharge line.

Governmental Authority: Any national, federal, state, territorial, local or other government, or any political subdivision thereof, and any governmental, judicial, public or statutory instrumentality, tribunal, agency, authority, body or entity having legal jurisdiction over the matter or person in question.

1. RAW WATER FOR COMMISSION'S USE

A. Big Rivers shall make available to the Commission at the point where the Commission's raw water supply line ties into the Big Rivers Reid unit 84" circulating water inlet line, to the extent it is legally permitted to do so, up to ten million gallons per day of raw water.

B. The Commission shall locate its raw water transfer pumps off-site from Big Rivers' property. Big Rivers does not guarantee any minimum line pressure will be available to Commission at the point of connection to the circulating water line.

C. Big Rivers shall promptly notify the Commission by telephone of any loss or derate of a Reid circulating water pump.

2. WASTEWATER EFFLUENT FROM COMMISSION'S TREATMENT FACILITY

A. Big Rivers agrees, subject to the terms of this Agreement and current and future requirements and limits set forth in Big Rivers' Discharge Permit and Applicable Law, to accept from the Commission at the point where the Commission's wastewater treatment plant Effluent line ties into the Big Rivers Reid unit 84" circulating water discharge line, up to ten

million gallons per day of Effluent from the Commission's South Wastewater Treatment Plant. Big Rivers will provide the Commission the KPDES monthly discharge monitoring report for Big Rivers' Discharge Permit 001.

B. If discharge of the Commission's Effluent results in noncompliance by Big Rivers with the requirements of Applicable Law, Commission shall immediately take any and all measures reasonably necessary to correct that noncompliance, and provide Big Rivers a written plan for curing and preventing reoccurrence of that noncompliance. Big Rivers reserves the right to limit its acceptance of Effluent unless and until it is reasonably satisfied that the Commission has proposed or made improvements that will likely result in Big Rivers' timely compliance with Applicable Law. In any event, if Big Rivers is subject to a notice of violation or other enforcement action due to noncompliance with Applicable Law resulting from acceptance of the Commission's Effluent, the Commission shall take any and all measures reasonably necessary to ensure Big Rivers' compliance with any administrative or judicial order or other regulatory directive as said violation relates to Commission's Effluent.

C. For purposes of this Agreement, the Commission's Effluent shall comply at all times with the limits defined in Big Rivers Discharge Permit, the latest version of which is attached as Exhibit A, and Applicable Law. The results of any analysis performed for purposes of compliance with the Commission's Discharge Permit shall be provided to Big Rivers upon receipt by the Commission, including but not limited to the KPDES monthly discharge monitoring report. Any change in analysis methods, frequency, or quality limits in Big Rivers' Discharge Permit or Applicable Law will automatically constitute a like change in this contract (i.e. the Commission shall always be responsible for causing its Effluent to meet the same parameters and limits to which Big Rivers is subject in accordance with Applicable Law in addition to meeting the parameters and limits in in the Commission's Discharge Permit). Changes in Big Rivers' Discharge Permit shall not render this contract invalid, or entitle the Commission to any additional compensation or reimbursement. If said change takes place, Big Rivers shall notify Commission within 30 days of said changes, or Commission shall be relieved of responsibility for violations resulting from said change during the period prior to receipt by the Commission of notification from Big Rivers of said change. Big Rivers shall notify the Commission of any proposed or potential changes to Big Rivers' Discharge Permit that Big Rivers reasonably believes may negatively impact the Commission's operation of its South Water and Wastewater Treatment Plants, and keep the Commission informed of the progress of any negotiations respecting those proposed or potential changes. Big Rivers will work with the Commission in a commercially reasonable manner to limit the negative impact on the Commission of any changes in Big Rivers' Discharge Permit, provided that in doing so Big Rivers shall not be required to pursue or accept changes to the Big Rivers Discharge Permit that will have a negative impact on Big Rivers.

D. Commission shall install and maintain a sampling port in its Effluent line immediately prior to the tie-in with Big Rivers 84" circulating water discharge line (subject to accessibility and Big Rivers' approval of location). This port will serve as a method of Big Rivers analyzing the quality of the incoming Effluent. The sampling ports from which the Commission shall take all of

the samples required in this Agreement may be either the port on Big Rivers' property, or a separate port located at the nearest accessible point after final treatment but prior to actual discharge into the receiving waters.

E. Commission shall be responsible for any increased monitoring costs incurred by Big Rivers associated with the Combined Effluent, should such costs be incurred.

F. Big Rivers reserves the right to refuse acceptance of any Effluent from the Commission that Big Rivers knows to be non-compliant with the requirements of this Agreement, and to continue to refuse acceptance of Effluent from the Commission until the Commission demonstrates, to the satisfaction of Big Rivers, that the Effluent complies with the requirements of this Agreement. If compliance problems persist for a period of six consecutive months, Big Rivers may terminate this agreement upon twelve (12) months written notice.

G. The Commission shall immediately notify Big Rivers by telephone and electronic mail, at the address or addresses provided by Big Rivers from time to time, of any upset or other condition in its wastewater treatment plant that (i) the Commission is required to report to state regulators, (ii) would cause the Effluent to violate Big Rivers' Discharge Permit, or (iii) is ultimately discharged into Big Rivers' circulating water discharge line. In the event of such upset or other condition, the Commission shall exercise its best efforts to correct or terminate the condition as soon as possible.

3. AVAILABILITY

A. Big Rivers shall have the right to take both the circulating water inlet and discharge lines out of service for periods of up to 24 hours at a time to perform maintenance and inspection. The frequency and timing of these 24 hour periods shall be at Big Rivers' discretion, provided that Big Rivers shall give the Commission a minimum of forty-eight (48) hours advance notice of its plans. This paragraph shall not apply to a forced outage of the circulating water system.

B. Big Rivers shall also have the right to take the circulating water inlet line out of service for a period of more than 24 hours by giving the Commission a minimum of seven days advance notice of its plans. Big Rivers shall use commercially reasonable efforts to limit the time of such outages.

4. FACILITIES TO BE PROVIDED BY THE COMMISSION

A. In order to remove raw water supply and Effluent discharge lines presently in service from a switchyard, Commission will construct a new 24" diameter Raw Water supply line and a 30" wastewater Effluent line, approximately as shown on the attached Exhibit B, including Connections 1, 2 & 3 as shown thereon. Also included in this construction shall be fittings for emergency connections that will allow Commission to pump raw water from the Green River into the raw water piping, bypassing Big Rivers' intake structure.

B. Commission shall furnish all design services, permits, materials, labor, supervision and testing required to construct these line extensions, which shall remain the sole property of Commission upon completion of construction. The Commission and each of its contractors and subcontractors shall be responsible for the means, methods and techniques employed to cause that compliance, and Big Rivers shall have no responsibility for such means, methods and techniques.

C. The Commission shall have sole responsibility for the design, construction, operation, and maintenance of its proposed raw water supply and Effluent lines, including all costs associated with those tasks. The design and location of those facilities shall be subject to approval by Big Rivers. The Commission shall also pay or reimburse Big Rivers for any costs incurred by Big Rivers related to tying the Commission's lines to Big Rivers' circulating water lines.

D. Big Rivers agrees to grant to the Commission: (i) permanent easements as provided in the "Easement Agreement" attached to this Agreement as Exhibit C, and (ii) mooring rights and related easements and rights as provided in the "Easement and Mooring Rights Agreement" attached to this Agreement as Exhibit D.

E. The Commission shall comply with the insurance, safety and other requirements described in Exhibit E, attached hereto and incorporated herein by reference.

F. The Commission or its contractors and employees shall be responsible for the location and avoidance of all existing underground facilities (e.g. power and control cables, piping, duct banks, foundations, etc.). Big Rivers will provide the Commission with available drawings, but the Commission will be financially responsible to Big Rivers for any facilities owned by Big Rivers that are damaged during construction or repair conducted under the Commission's supervision or by Commission's contractor. The Commission agrees that where underground facilities are identified by Big Rivers, Commission will utilize "soft dig" excavation techniques and contractors.

G. All underground piping installed by the Commission shall be detectable by means of a tracer cable for the full length of any piping installed on Big Rivers' property. The tracer cable shall be insulated, un-shielded, 12 gauge copper wire. The tracer cable shall be stubbed up at both ends of the line on Big Rivers' property, and at intermediate points spaced no greater than 2500 feet. The tracer cable shall be detectable by a location device. Detectable metallic burial tape shall be installed above each line at a depth of no more than three feet. Tape shall be a minimum of 2-inches wide, with the words "Caution Water (or Sewer) Line Below" repetitively printed along the length of the tape at not less than five foot intervals.

H. Commission shall provide Big Rivers with "As-Built" drawings of all lines and facilities installed by it on Big Rivers' property within one month after receipt of the drawings following completion of such installation.

I. Big Rivers shall be responsible for maintenance of its pump station and force main delivering wastewater to the Commission's wastewater treatment plant.

5. WATER/SEWAGE SERVICE TO BIG RIVERS

A. The Commission shall provide potable water service to the Big Rivers Reid/Green/HMP&L complex free of charge during the term of this Agreement during any calendar month when the metered usage averages 75,000 GPD or less. Any water metered during any calendar month in excess of the 75,000 GPD average shall be billed at the rate in effect for commercial customers served by the South Water Treatment Facility. Commission may elect at its discretion to forego billing of *de minimus* amounts under this provision.

B. The commission shall provide wastewater service to the Big Rivers Reid/Green/HMP&L complex free of charge during the term of this Agreement

6. PUMPING COSTS

A. Big Rivers shall provide pumping of circulating water through Big Rivers' 84" circulating water line at no charge to Commission when the Reid/Green plant is operating normally.

B. If the Reid/Green plant is not operating and supplying all power necessary for the circulating water pump or pumps, the Commission shall be charged for pumping costs necessary to supply the pumping needs of the Commission, at an hourly production cost rate adjusted annually using the following formula, and based on Big Rivers' prior year unit production cost for power:

$$\begin{aligned} &\text{Power consumption for one circulating water pump would be calculated as follows:} \\ &\frac{(1.73 - \text{three phase conversion factor}) \times (198.3 \text{ A} - \text{Pump Motor Amperage}) \times (4160 \text{ V} - \text{Motor Voltage}) \times (0.8 \text{ power factor})}{1000\text{watts} / \text{kWh}} \\ &= 1141.7 \text{ kWh} / \text{h} \end{aligned}$$

Using the 2014 production cost of \$0.0412 per kWh, Big Rivers' annually adjusted hourly pumping costs would therefore be calculated as follows for the year 2015:
1141.7 kWh / hr x \$ 0.0421 / kWh = \$ 47.04 / hour

C. Annual adjustments to the hourly production cost rate in accordance with the formula in paragraph 6 (B) above shall be made by acknowledgement letter between the Commission and Big Rivers, executed by authorized representatives of the Parties.

7. INDEMNIFICATION

A. The Commission agrees, to the maximum extent permitted by Applicable Law, to defend, indemnify and save harmless Big Rivers, its employees, agents, successors and assigns of and from any and all damages, losses, claims, demands, suits, liabilities, fines, penalties or forfeitures of every kind and nature, including, but not limited to, costs and expenses, including professional fees and court costs of defending against the same and payment of any settlement or judgment therefore, that Big Rivers or such others persons may suffer or incur resulting from, arising out of or in any manner relating to Commission's or its employee's, agent's, representative's or invitee's activities, actions or omissions in the exercise of the Commission's rights or performance of its obligations under this Agreement, the Easement Agreement or the Easement and Mooring Rights Agreement, either solely or in concurrence with any alleged joint negligence of Big Rivers, including but not limited to (1) injuries or deaths to persons, (2) damages to or destruction of real, personal or intangible properties, (3) violations of any other rights asserted against Big Rivers, including patents, trademarks, trade names, copyrights, contract rights, and easements, or (4) violations of governmental laws, regulations or orders whether suffered directly by Big Rivers itself, or indirectly by reason of such claims, demands or suits against it. Big Rivers shall be liable for its negligence.

B. The Commission shall be responsible for all property damage, fines, penalties and costs of corrective action resulting from non-compliance by the Commission's Effluent with Big Rivers' Discharge Permit, paragraph 2 of this Agreement, and other Applicable Law. Without limiting the foregoing, if it is shown that but for the addition of the Commission's Effluent, the Combined Effluent would comply with the parameters and limits in Big Rivers' Discharge Permit, the Commission's obligation to indemnify Big Rivers shall apply without regard to whether the Commission's Effluent complies in all respects with this Agreement, the limits and parameters of the Big Rivers Discharge Permit and the Commission's Discharge Permit, or Applicable Law.

C. Big Rivers shall be responsible for and shall defend, indemnify and save harmless the City and HWU, and their respective elected and appointed officials, employees and agents, from any and all damage, loss, claim, demand, suit, liability, fine, penalty or forfeiture of every kind and nature, including, but not limited to, costs and expenses, including professional fees and court costs of defending against the same and payment of any settlement or judgment therefore, by reason of (1) injuries or deaths to persons; (2) damages to or destruction of real, personal or intangible properties; (3) violations of any other rights asserted against the Commission, including patents, trademarks, trade names, copyrights, contract rights, and easements; or (4) violations of governmental laws, regulations or orders whether suffered directly by the Commission itself, or indirectly by reason of claims, demands or suits against it, resulting or alleged to have resulted from acts or omissions of Big Rivers, its employees, agents, business invitees, or other representatives or from their presence on the premises of the Commission, either solely or in concurrence with any alleged joint negligence of the Commission. The Commission shall be liable for its negligence. Indemnification by Big Rivers

includes the City and the City's Board of Commissioners, appointed officials, employees and agents.

8. TERM AND EARLY TERMINATION

A. This Agreement shall remain in effect for a period of twenty-five (25) years from the date first hereinabove written, and shall automatically renew for successive five (5) year terms until terminated by either party upon twenty-four (24) months written notice.

B. If Big Rivers makes a business decision to decommission the 84" circulating water line, the associated circulating water pumps or the Reid I Unit Big Rivers may terminate this Agreement by giving Commission twenty-four (24) months advance written notice. In that event, the parties agree promptly to meet to seek amendments to this Agreement that will accommodate the needs of each party going forward.

9. SUCCESSORS AND ASSIGNMENT

This Agreement shall be binding upon the parties hereto, their successors and assigns and may not be assigned by any party without the consent and writing of each of the other parties. Notwithstanding any other provision of this Agreement to the contrary, Big Rivers may, without the written consent of the Commission and without relieving itself from liability hereunder, assign, transfer, mortgage or pledge this Agreement to create a security interest for the benefit of the United States of America, acting through the Rural Utilities Service ("RUS"), or other secured party (directly or through an indenture trustee or other collateral agent; collectively, including such indenture trustee or other collateral agent, a "Secured Party"). Thereafter, a Secured Party, without the written consent of the Commission, may (i) cause this Agreement (and all obligations hereunder) to be sold, assigned, transferred or otherwise disposed of to a third party pursuant to the terms governing such security interest, or (ii) if RUS first acquires this Agreement pursuant to 7 U.S.C. § 907 or if any other Secured Party otherwise first acquires this Agreement, sell, assign, transfer or otherwise dispose of this Agreement (and all obligations hereunder) to a third party; provided, however, that in either case (A) Big Rivers is in default of its obligations that are secured by such security interest and that the applicable Secured Party has given the Commission written notice of such default; and (B) the applicable Secured Party has given the Commission not less than thirty (30) days' prior written notice of its intention to sell, assign, transfer or otherwise dispose of this Agreement (and all obligations hereunder) indicating the identity of the intended third-party assignee or purchaser.

10. SURVIVAL

The invalidity of any provision or provisions in this Agreement shall not affect the validity of the remaining provisions.

11. APPROVALS

Each party represents that it has obtained all prior approvals and authority required to enter into this Agreement.

12. FORCE MAJEURE

If Big Rivers is rendered unable, wholly or in part, by force majeure or other forces beyond its control to carry out its obligations under this Agreement, upon Big Rivers giving the Commission notice and reasonably full particulars of such force majeure or force beyond its control, in writing, within a reasonable time after the occurrence of the cause relied on, then the obligations of Big Rivers under this Agreement, so far into the extent they are affected by such force majeure, or force beyond the control of Big Rivers, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall, so far as is practicable, be remedied with all reasonable dispatch. The term "force majeure", as used herein, shall mean an act of God, strikes, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of government, either federal or state, civil or military, civil disturbances, explosions, breakage of or accident to machinery or other facilities, inability to obtain necessary materials, supplies or permits, due to existing or future rules, regulations, orders, laws or proclamations of government authorities, either federal or state, or any other cause that is not reasonably within the control of Big Rivers.

13. OBLIGATIONS OF COMMISSION

Commission shall furnish, install, maintain and operate such facilities and equipment as may be necessary to enable it to receive raw water at the delivery point, to deliver Effluent at the delivery point, and to afford reasonable protection to the facilities of Big Rivers and the Commission. All activities and operations of the Commission, its employees, contractors, agents and invitees on the Subject Lands pursuant to this Agreement, the Easement Agreement and the Mooring Rights Agreement shall comply with Applicable Law.

14. RIGHT OF ACCESS

A. Big Rivers grants to the Commission the right of access to property owned by Big Rivers to access easements, to perform wastewater Effluent testing, and to install, maintain, operate, repair, and renew any and all equipment, apparatus, and devices owned by the Commission and necessary in the performance of this Agreement, provided that Big Rivers shall have the right to approve the location of all such facilities and access routes, and subject to the terms of the Easement Agreement and Easement and Mooring Rights Agreement granted by Big Rivers to the Commission pursuant to paragraph 4.D of this Agreement.

B. In the event that Commission's water supply is interrupted by equipment failure or other unplanned event, and such interruption may be remedied by undertaking temporary

emergency measures at the Reid/Green generating station, Big Rivers grants the Commission the right of access to the Reid/Green generating station site pursuant to the Easement and Mooring Rights Agreement for the purpose of undertaking such temporary emergency measures, including but not limited to the installation of temporary pumps or other work at the water intake. Notwithstanding the foregoing, in no event shall the Commission undertake any activity that interrupts or interferes with Big Rivers' facilities or operations at the Reid/Green generating station as determined in the sole judgment of Big Rivers. The Commission shall submit a written description of the proposed temporary emergency measures and shall obtain Big Rivers' approval prior to undertaking such measures. All temporary emergency measures at the Reid/Green generating station shall be completed within seven (7) days unless Big Rivers provides written approval of a longer period. Any temporary emergency measures shall be conducted at the sole cost of the Commission and without cost to Big River. All activity by the Commission, its agents, employees or contractors on the Big Rivers Sebree Station site in connection with such emergency measures shall comply with all requirements of the Easement Agreement, the Easement and Mooring Rights Agreement, the Agreement, including but not limited to paragraph 4, and Applicable Law.

15. COMMISSION'S FACILITIES

Any and all equipment, apparatus, devices or facilities placed or installed, or caused to be placed or installed by the Commission on the premises of Big Rivers shall be and remain the property of the Commission during the terms of the Easement Agreement and the Easement and Mooring Rights Agreement, and thereafter if removed by the Commission from Big Rivers' premises. Upon the termination of the Easement Agreement, the Easement and Mooring Rights Agreement, or either of them, the disposition of the Commission's facilities shall be as provided in those agreements. The rights granted Commission under paragraphs 4D and 14, above, shall expire upon the removal, decommissioning or abandonment of such facilities. With respect to the raw water and Effluent lines installed by the Commission in 1995 on Big Rivers' property that the Commission intends to abandon upon completion of the project contemplated in this Agreement, the parties agree that those lines shall remain in place and shall be decommissioned in accordance with Big Rivers' reasonable requirements.

16. REMEDIES OF PARTIES

Waiver at any time by either party of rights with respect to a default or any other matter arising in connection with this Agreement shall not be deemed to be a waiver with respect to any subsequent default or matter.

17. NOTICES

Any written notice, demand or request required or authorized under this Agreement shall be deemed properly given to or served upon a party if mailed, delivered, or otherwise transmitted to a party at the following address:

For the Commission:

Henderson Water Utility
c/o General Manager
111 Fifth Street
Henderson, Kentucky 42420
(270) 826-2421

For Big Rivers:

Big Rivers Electric Corporation
201 Third Street
P.O. Box 24
Henderson, Kentucky 42420
Attention: President and CEO

And

Big Rivers Electric Corporation
Green Station Production Supervisor
9000 Hwy. 2096
Robards, Kentucky
(270) 844-5538 or (270) 844-5539

18. REPORTS AND INFORMATION

A party hereto shall furnish to the other, upon request, such reports and information as are reasonably related to the performance by the party of its obligations under this agreement.

19. PRIOR AGREEMENTS

This Agreement, the Easement Agreement attached hereto as Exhibit C, and the Easement and Mooring Rights Agreement attached hereto as Exhibit D, constitute the entire agreement between the parties regarding the matters set forth herein and supersede all prior written and verbal agreements, representations, promises or understanding between the parties regarding same. Any amendments to this Agreement must be in writing and executed by both parties.

20. CHOICE OF LAW AND VENUE

If there is any dispute about or involving this Agreement, or the services provided hereunder, both parties agree that the dispute shall be governed by the laws of the State of Kentucky, without regard to conflict of law provisions, and each agrees to exclusive personal jurisdiction and venue in the State of Kentucky, County of Henderson.

21. **JOINT AND SEVERAL.** The obligations of HWU and the City pursuant to this Agreement are joint and several.

22. **SURVIVAL.** Each provision of this Agreement providing for payment of amounts due hereunder, related to remedies for default, damage claims, indemnification or payment of other liabilities, or that arise upon the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement to the full extent necessary for their enforcement and the protection of the party in whose favor they run.

23. **REPRESENTATIONS AND WARRANTIES.** Each party hereto represents and warrants that the execution, delivery and performance of this Agreement by it has been duly authorized, and this Agreement constitutes a legal, valid and binding obligation of such party, enforceable against it in accordance with the terms hereof, except as enforceability may be limited by bankruptcy, insolvency, reorganization, arrangement, moratorium or other laws relating to or affecting the rights of creditors generally and by general principles of equity.

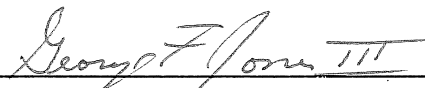
24. **WAIVER.** The waiver by any party of any breach of any term, covenant or condition contained herein will not be deemed a waiver of any other term, covenant or condition, nor will it be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be subscribed by their duly authorized representatives as of the day and year first hereinabove written.


WATER AND SEWER COMMISSION OF THE CITY OF HENDERSON, KENTUCKY

By: 
R. Paul Bird, Jr., Commission Chairman

ATTEST:

By: 
George Jones, III, Secretary

CITY OF HENDERSON, KENTUCKY

By: 
Title: Mayor

**BIG RIVERS ELECTRIC CORPORATION
HENDERSON, KENTUCKY**

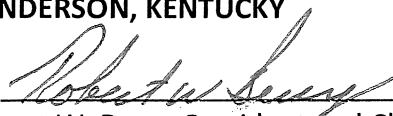
By: 
Robert W. Berry, President and Chief Executive Officer

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