

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**ELECTRONIC APPLICATION OF)
NORTH WATER DISTRICT FOR A) CASE NO. 2024-00347
DECLARATORY ORDER)**

VERIFIED APPLICATION FOR DECLARATORY ORDER

Pursuant to 807 KAR 5:001, Section 19, North Nelson Water District (“North Nelson District” or the “District”) applies to the Public Service Commission (“Commission”) for an order declaring that the proposed water transmission main, known as **Phase 2 of the Nelson County Water Supply Project**, which is to be constructed pursuant to an agreement between the District, Nelson County Fiscal Court (“Nelson County”), and the City of Bardstown, Kentucky (“Bardstown”) to increase the supply of potable water available to Bardstown to meet an increased need for water due to growth in Nelson County and Bardstown does not require a certificate of public convenience and necessity (“Certificate”) as it is a water line extension project as described in KRS 278.020(1)(a)(3). North Nelson District respectfully requests a decision in this matter by **January 6, 2025**.

In support of its Application,¹ North Nelson District provides the following:

¹ To facilitate the Commission’s initial review of this Application, North Nelson District has attached as **Exhibit 1** to this Application a “Filings Requirements List” that consists of one page,

A. Background

1. The full name and mailing address of North Nelson Water District is:
North Nelson Water District, 5555 Louisville Road, Coxs Creek, Kentucky 40013.
Its e-mail address is northnelsonwaterdistrict@yahoo.com
2. North Nelson District is not a corporation, limited liability company or limited partnership. It has no articles of incorporation or partnership agreements.
3. North Nelson District is a water district created under the provisions of KRS Chapter 74.
4. Copies of all orders, pleadings and other communications related to this proceeding should be directed to:²

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Cox's Creek Kentucky 40013
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colennwd@gmail.com

Damon R. Talley
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lists each statutory and regulatory requirement for an application for a declaratory order, and identifies the exhibit or paragraph that satisfies the requirement.

² On October 25, 2024, pursuant to 807 KAR 5:001, Section 8, North Nelson District notified the Commission of its election of the use of electronic filing procedures for this proceeding and requested the establishment of an electronic docket.

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5. North Nelson District owns and operates facilities that are used for the distribution and furnishing of water to the public for compensation to portions of Bullitt, Nelson, and Spencer counties Kentucky. Pursuant to KRS 278.015 and KRS 278.040, these facilities are subject to the Commission’s jurisdiction and regulation.

6. As of December 31, 2023, North Nelson District provided water service to approximately 5,111 customers, including 4,949 residential customers, 67 commercial customers, and six (6) public authorities.³

7. North Nelson District does not own or operate any water treatment facility. It purchases its total water requirements from Bardstown and Louisville Water Company (“Louisville Water”). In calendar year 2023, North Nelson District purchased approximately 311 million gallons of water and sold approximately 273 million gallons of water.⁴

³ *Annual Report of North Nelson Water District to the Public Service Commission of the Commonwealth of Kentucky for Water Operations for the Year ended December 31, 2023*, (“2023 Annual Report”) at 49. (Ref Page 27).

⁴ *Id.* at 57 (Ref Page 30).

B. Nelson County Water Supply Project

8. **Need for Greater Volume of Finished Water.** Attached to this Application as **Exhibit 2** is “*Raw Water Supply Study-2022 Update*,” a study prepared for Bardstown by Kenvirons, Inc. Bardstown and Nelson County have a need for additional potable water to support new and expanded distilleries as well as other growth occurring in Bardstown and Nelson County.⁵ Because Louisville Water has an existing master meter near the intersection of Kentucky Highway 1604 and Kentucky Highway 245 (near the Nelson-Bullitt county line) that serves North Nelson District, it was decided that the most feasible and cost-effective means of securing a supplemental source of finished water to serve Bardstown and Nelson County would be to construct a large diameter water transmission main (the “Nelson County Water Supply Project” or the “Project”) along Kentucky Highway 245 from Bardstown to the existing master meter between North Nelson and Louisville Water.⁶

9. Attached to this Application as **Exhibit 3** is the Affidavit of Jessica Filiatreau, P. E. City Engineer for Bardstown. Ms. Filiatreau explains Bardstown’s immediate need for an additional source of potable water.

⁵ Exhibit 2 at 4.6. Table 4.3 Projected Industrial Usage was constructed using water demand numbers **provided by industrial users** and illustrates a significant usage increase is expected by 2027.

⁶ See Section 2.2 of Exhibit 2 at page 2.4. Constructing an intrconnection with Louisville Water Company is identified as “the most viable solution to increase the water supply capacity.”

a. The Project is needed to address Bardstown's increased water requirements.

10. Bardstown's demand for water is rapidly increasing primarily because of increased water demands from distilleries. Bardstown estimates that by 2030 the water demand from distilleries alone will be 2.0 million gallons per day ("MGD").

11. Recognizing the critical need for water to support Bardstown's bourbon producing industry, the leaders of Bardstown, all water utilities serving Nelson County, and the Nelson County Fiscal Court, ("Nelson Fiscal Court") sought a regional solution to the need for an additional water supply to serve industry demands in Bardstown.

12. On December 21, 2021, North Nelson District, Nelson Fiscal Court, and Bardstown entered into a Memorandum of Agreement (the "MOA"). The MOA provides that North Nelson District is responsible for overseeing the engineering design of the Project, bidding the Project, and overseeing the construction of the Project. Following the completion of the Project, North Nelson District will become the owner of the water transmission main and will maintain and operate the transmission line and any appurtenances. A copy of the MOA is attached to this Application as **Exhibit 4**.

13. On July 19, 2022, North Nelson District, Bardstown, and Nelson Fiscal Court executed a Supplemental Memorandum of Agreement (the "Supplemental MOA"). The Supplemental MOA is attached to this Application as **Exhibit 5**.

- b. Bardstown has invested in its water transmission and distribution system on North Nelson District's assurance that North Nelson District will deliver several million gallons of water per day to enable Bardstown to meet its current and increased water demand.**

14. Once the plans and funding for the Nelson County Water Supply Project, the MOA, and the Supplemental MOA were in place, Bardstown invested in its water transmission and distribution system to enable it to receive water from North Nelson District. Bardstown spent \$2,873,515 in constructing the North Nelson Interconnect Project (a large diameter waterline and a 1,600-gallon-per-minute pump station), which is currently complete. Bardstown is also currently constructing the East Bardstown Water Improvement Project (a large diameter waterline, 2,000 gallon per minute pump station, and a 1.5-million-gallon elevated water storage tank.

15. **Added Advantages of the Project for North Nelson District.** Of course, North Nelson District could not justify constructing a 24-inch water main **but for** Bardstown's immediate need for a supplemental supply of water. Thankfully, the construction of the Project is a "win – win." Not only will Bardstown obtain a reliable and adequate supply of potable water, but North Nelson District will also reap the following benefits from this Project:

a. Strategically Located Water Main

16. The route of the proposed water main goes through the “heart” of the District’s service area in the Deatsville and Rooster Run communities. This is the high growth area of the District. This is the only portion of the District’s service area which is served by sanitary sewers (Bardstown owns and operates the sewer system). Consequently, the corridor along Kentucky Highway 245, which leads from Interstate 65 to Bardstown, is the growth area of the District. The hospital, numerous medical offices, several apartment buildings, Thomas Nelson High School, dozens of commercial properties, and too many residential subdivisions to count are located along this corridor.

b. Redundancy

17. Currently, this area along Kentucky Highway 245 is served by the District’s 12-inch water line starting at Louisville Water’s master meter serving the District and extending to Bardstown. This is the sole supply of water to this corridor. If there is a major line break on the existing 12-inch line, the hospital, high school, medical offices, and dozens of businesses, as well as hundreds of residential users, could potentially be out of water, depending on the location of the line break. The installation of the 24-inch main to serve Bardstown will provide a redundant supply of water to this area in the event of a major line break.

c. Transfer Water to Other Parts of Its System

18. Louisville Water sells water to the District at two (2) delivery points: (i) Kentucky Highway 245 near its intersection with Kentucky Highway 1604 (the “Highway 245 Master Meter”); and (ii) in southeastern Bullitt County on Kentucky Highway 480 (Cedar Grove Road) at its intersection with Browington Road (the “Cedar Grove Master Meter”). Louisville Water can only provide 300 gallons per minute at the Cedar Grove Master Meter and has informed the District that it will not be able to supply any additional water at this master meter in the foreseeable future. The District is already “maxed-out” at the Cedar Grove Master Meter. The 24-inch water main will provide an opportunity for the District to transfer large volumes of water to the portion of its distribution system currently served by the Cedar Grove Master Meter as the need arises.

d. No Additional Minimum Purchase Obligation by the District

19. The water system improvements currently under construction by Louisville Water will guarantee the District at least 4 MGD by December 31, 2026 and 5 MGD by December 31, 2029. In return, the District is only obligated to purchase 1.59 MGD from Louisville Water once the Nelson County Water Supply Project has been completed. Pursuant to paragraph 3B of the Water Purchase Agreement dated September 17, 2024, between the District and Bardstown, which is currently under review by the Commission, Bardstown will be obligated to

purchase 1.0 MGD from the District. Hence, the District will only be obligated to purchase 0.59 MGD (1.59 MGD minus 1.0 MGD = 0.59 MGD) from Louisville Water. The District is already purchasing considerably more than 0.59 MGD from Louisville Water. Consequently, the District will receive the benefits of having a new 24-inch water main constructed through the “heart” of its service area without having to increase its minimum purchases from Louisville Water since this obligation will be assumed by Bardstown.

e. Capacity for Growth

20. The District will also reap the benefits of having an **extra capacity of 2.0 MGD** available to purchase from Louisville Water when the need arises. Initially, the District will have the opportunity to purchase 4.0 MGD from Louisville Water, but will only be obligated to sell Bardstown 2.0 MGD. This leaves 2.0 MGD extra capacity available for the District. The same will be true after December 31, 2029. At that time, the District will have the opportunity to purchase 5.0 MGD from Louisville Water, but will only be obligated to sell Bardstown 3.0 MGD. This means the District will still have an extra capacity of 2.0 MGD that it can purchase from Louisville Water when the need arises.

C. Project Description

21. Phase 1 of the Nelson County Water Supply Project, the construction of 7,730 feet of water transmission main along Kentucky Highway 245 adjacent to Bardstown, has been completed and is ready to be placed into service.

22. The cost to construct Phase 1 was funded by Nelson Fiscal Court using \$3,300,000 allocated to Nelson County by the American Rescue Plan Act of 2021 (“ARPA”) and a portion of the 21CWW168 grant.

23. The subject of this proceeding is Phase 2 of the Nelson County Water Supply Project (“Phase 2” or the “Project”). Phase 2 was designed by Kentucky Engineering Group, LLC and consists of constructing approximately **38,500 linear feet of 24-inch water transmission main** and all necessary appurtenances along Kentucky Highway 245 in Nelson County.

24. Dirt Works Unlimited, LLC from Brandenburg, Kentucky submitted the low bid of **\$10,653,157** and was awarded the contract to construct Phase 2.

25. A copy of the Resolution awarding the contract for Phase 2 is attached to this Application as **Exhibit 6**.

26. A map of the proposed route of the transmission main is attached to this Application as **Exhibit 7** of this Application. A description of the transmission main’s route is attached as **Exhibit 8** of this Application.

27. Copies of the plans and specifications for the proposed facilities are attached as **Exhibits 9 and 10** to this Application.

28. The District currently plans to commence construction of the proposed facilities in late November 2024. The proposed facilities are estimated to be substantially completed on or before September 1, 2026. Final completion of the proposed facilities is expected to occur no later than October 31, 2026.

D. Financing the Project's Cost

29. The total estimated cost to construct the Nelson County Water Supply Project (Phase 1 and Phase 2 combined), including planning, engineering design, easements, construction, engineering inspection, legal, and a 10 percent contingency is **\$16.6 million**.

30. The Nelson County Water Supply Project will be constructed using **only grant funding**. Funding includes funds directly allocated to Nelson Fiscal Court by the American Rescue Plan Act of 2021 ("ARPA"). North Nelson District did not borrow any funds nor use any of its own funds to construct Phase 1 and **will not** be borrowing any funds nor using any of its own funds to construct Phase 2. As shown below, grant funds total **\$17,837,040**. This leaves a **surplus** of grant funds of over **\$1.2 million**, as shown on the following page.

Nelson Fiscal Court (ARPA Funds)	\$ 3,300,000
21CWW168	\$ 1,697,955
22CWW203	\$ 2,839,085
22KFW006	\$10,000.000
Total Grant Funds:	\$17,837,040
<u>Estimated Cost to Construct Phase 2</u>	<u>\$16,600,000</u>
Surplus of Grant Funds	\$ 1,237,040

Attached to this Application as **Exhibit 11** are the Grant Assistance Agreements for grants 21CWW168, 22CWW203, and 22KFW006.

31. North Nelson District will not issue any evidence of indebtedness to fund the Project or adjust its rates for water service to fund the Project.

E. The Project Is A Water Line Extension and Improvement Project as Defined by KRS 278.020(1)(a)(3) and Does Not Require A Certificate of Public Convenience and Necessity.

32. KRS 278.020(1)(a)(3) states:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, **except:**

...

3. A water district created under KRS Chapter 74 or a water association formed under KRS Chapter 273 that undertakes a waterline extension or improvement project if the water district or water association is a Class A or B utility as defined in the uniform system of accounts established by the commission according to KRS 278.220 and:

a. The water line extension or improvement project will not cost more than five hundred thousand dollars (\$500,000); **or**

- b. **The water district or water association will not, as a result of the water line extension or improvement project, incur obligations requiring commission approval as required by KRS 278.300.**

In either case, the water district or water association shall not, as a result of the water line extension or improvement project, increase rates to its customers (emphasis added)

33. The Project qualifies for the exception set forth in KRS 278.020(1)(a)3 and does not require a Certificate.

a. As it involves the extension of 38,500 linear feet of 24-inch ductile iron water transmission main along Kentucky Highway 245 in Nelson County and is intended to provide North Nelson District with a supply of potable water to furnish to Bardstown to support development and industrial demand, as well as to provide redundancy and additional capacity to North Nelson District’s system, **the Project is a water main extension and improvement project.**

b. North Nelson District is a Class A water utility. The Commission’s Uniform System of Accounts defines a Class A water utility as a utility “having annual water operating revenues of \$750,000 or more.”⁷ The average of North Nelson District’s annual operating revenues for the last three years for which an annual report has been filed with the Kentucky Public Service Commission

⁷ Uniform System of Accounts for Class A and B Water Districts and Associations at 14 (2002) (found at <http://psc.ky.gov/agencies/psc/forms/usoa/0700ab02.pdf>).

is \$1,688,783. **Therefore, the Project is an undertaking of a water district that is a Class A utility.**

c. **North Nelson District will not incur any obligations requiring Commission approval.** All funds for the proposed facility are being provided by various grants as summarized below:

Nelson Fiscal Court (ARPA Funds)	\$ 3,300,000
21CWW168	\$ 1,697,955
22CWW203	\$ 2,839,085
22KFW006	<u>\$10,000.000</u>
Total:	\$17,837,040

North Nelson District will **not** borrow any funds to construct the Project. Therefore, North Nelson District will not incur obligations requiring Commission approval as required by KRS 278.300.

d. **North Nelson District will not, as a result of the Project, increase its water service rates to its customers.** As noted above, North Nelson District will not incur any debt to finance the Project. The total grant funds exceed the estimated cost to complete the Project. There will be **no need to increase rates to address any debt service.**⁸ There will also be **no need to increase rates to address additional operating and maintenance expense** because Louisville Water will pump water from its infrastructure system through the approximately 8.75 miles

⁸ See North Nelson District's *2023 Annual Report* at 40-43 (Ref. Pages 22-24), North Nelson District is **debt free**.

of North Nelson District's new Water Transmission Main directly to Bardstown. The water will **not** flow through any of North Nelson District's existing water lines **nor** through its water storage tanks. North Nelson District will **not** provide any booster pumping of the water. It will simply "wheel" the water through its new Water Transmission Main from Louisville to Bardstown. Attached to this Application as **Exhibit 12** is the Water Purchase Agreement (the "Bardstown Agreement") executed by North Nelson District and Bardstown. The Bardstown Agreement provides that Bardstown will purchase a minimum of 365 million gallons per calendar year,

e. Moreover, the District fully expects that net annual revenues from wholesale water sales to Bardstown will offset the increased depreciation expense that will result from the Project. Once the final cost to construct the North Nelson Water Supply Project is known, North Nelson District will engage the services of a qualified rate consultant to perform a Cost-of-Service Study ("COSS") to determine the wholesale rate to charge Bardstown after December 31, 2026.⁹ In performing the COSS North Nelson District will include the **actual costs** associated with those portions of North Nelson District's system that are used to serve water to Bardstown. Because the Bardstown Agreement provides for cost-based rates to be

⁹ See Exhibit 12, paragraph 11, at 12.

charged to Bardstown, **there will be no need to increase rates to current customers to fund the additional depreciation expense.**

f. The language of KRS 278.020(1)(a)(3) clearly states that the exception to the CPCN requirement set forth in the statute applies only if the water district or association does not, as a result of the waterline extension or improvement project, increase rates to its customers. The statute does not require that a water district or association *demonstrate* to the Commission that no rate increase will be required as a result of the project prior to determining that the statutory exception applies, nor does the statute provide any guidance on what constitutes sufficient evidence that a rate increase will not be sought as a result of a project.

g. However, in this instance the Bardstown Agreement provides reasonable assurance that no increase to North Nelson District's rates to its current customers will be necessary as a result of the Project. The Bardstown Agreement specifically requires that the wholesale rate charged to Bardstown will be cost-based and will include the actual costs of depreciation and water loss. The Bardstown Agreement is for a term of 50 years, which provides that North Nelson District will receive revenues from wholesale sales of water to Bardstown for a period of time sufficient to significantly contribute to the depreciation expense associated with the Project.

h. North Nelson District has stated it will not increase its water service rates to its current customers to pay the expense of constructing or operating the Project or to fund the additional depreciation expense associated with the Project. Further, North Nelson District has provided substantial evidence to demonstrate why no rate increase to current customers will be necessary due to the Project.

34. The Project satisfies **all elements** of the statutory exception to the CPCN requirement as set forth in KRS 278.020(1)(a)(3) in that: (1) it is a waterline extension or improvement project; (2) it is being undertaken by a water district that is a Class A utility; (3) the utility is not incurring any obligations requiring Commission approval pursuant to KRS 278.300; and (4) the utility is not seeking to increase its rates as a result of the project.

35. The Commission has found that the exception to the CPCN requirement set forth in KRS 278.020(1)(a)(3) applies to projects when: (1) the project is a waterline extension or improvement project; (2) it is being undertaken by a water district that is a Class A utility; (3) the utility is not incurring any obligations requiring Commission approval pursuant to KRS 278.300; and (4) the utility is not seeking to increase its rates as a result of the project.¹⁰

¹⁰ *Electronic Application of the Breathitt County Water District for the Issuance of a Certificate of Public Convenience and Necessity to Construct a Water System Improvement Project Pursuant to the Provisions of KRS 278.020 and 807 KAR 5:001 or Alternatively a Declaratory Order Establishing That a Certificate of Public Convenience is Not Necessary as to a Waterline Extension, Case No. 2023-00417 (Ky. PSC Mar. 13, 2024), and Application of Breathitt County Water District for Deviation from a Certification of Public Convenience and Necessity, Case No.*

F. Requested Relief

WHEREFORE, North Nelson Water District requests that the Commission:

1. Place this Application at the head of the Public Service Commission's docket and enter a decision on this Application by **January 6, 2024**;
2. Enter an Order declaring that the proposed water transmission facilities do **not** require a certificate of public convenience and necessity as they are a water main extension or improvement project exempted from the requirement for a certificate pursuant to KRS 278.020(1)(a)3 and;
3. Grant the requested relief without holding an evidentiary hearing in this matter; and,
4. Grant any and all such other relief to which North Nelson Water District may be entitled.

2018-00355 (Ky. PSC Nov. 29, 2018). In both cases the Commission found that waterline extension projects undertaken by Breathitt County Water District that did not involve the district incurring obligations requiring Commission approval under KRS 278.300 and did not result in the district increasing rates to current customers were exempt from any requirement to obtain a CPCN, pursuant to the exception found in KRS 278.020(1)(a)(3).

Dated: November 8, 2024

Respectfully submitted,



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Counsel for North Nelson Water District

SWORN CERTIFICATION AND VERIFICATION

COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF NELSON)

The undersigned, Colin S. Cissell, being duly sworn, deposes and states that he is the General Manager of North Nelson Water District, the Applicant in the above proceedings; that he has read this Application and has noted its contents; that the same is true of his own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, he believes same to be true.

IN TESTIMONY WHEREOF, witness the signature of the undersigned on this November 8th, 2024.



Colin S. Cissell
General Manager
North Nelson Water District

Subscribed and sworn to before me by Colin S. Cissell, General Manager, North Nelson Water District, on this November 8th, 2024.



Notary Public

Notary ID: KYNP52228

My Commission Expires: 05/23/2026

CERTIFICATE OF SERVICE

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on November 8, 2024; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.


Damon R. Talley

EXHIBITS

TABLE OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Filing Requirements for Application for Declaratory Order
2	<i>Raw Water Supply Study-2022 Update</i>
3	Affidavit of Jessica Filiatreau, P. E.
4	Memorandum of Agreement
5	Supplemental Memorandum of Agreement
6	Resolution Awarding Bid for Phase 2
7	Map of Route
8	Description of Route
9	Project Plans
10	Project Specifications
11	Grant Assistance Agreements
12	Bardstown Agreement

EXHIBIT 1

FILING REQUIREMENTS

FILING REQUIREMENTS FOR AN APPLICATION FOR A DECLARATORY ORDER

Source Authority	Requirement	Location
807 KAR 5:001, § 14(1)	Applicant's name, mailing address and e-mail address	Page 2, Para 1
807 KAR 5:001, § 14(1)	Statutory Reference – 807 KAR 5:001, §19	Page 1
807 KAR 5:001, § 4(3)	Signature of Applicant's Attorney	Page 19
807 KAR 5:001, § 4(3)	Name, Address, Telephone Number, Fax Number, and e-mail address of Applicant's Attorney	Page 2-3, Para 4
807 KAR 5:001, § 14(2)	If Applicant is corporation: State and date of incorporation, attestation of good standing in state of incorporation, statement regarding authorization to	Page 2, Para 2 Not Applicable
807 KAR 5:001, § 14(3)	If Applicant is a limited liability company: State and date of organization, attestation of good standing in state of incorporation, statement regarding authorization to transact business in	Page 2, Para 2 Not Applicable
807 KAR 5:001, § 14(4)	If the Applicant is a limited partnership: a certified copy of limited partnership agreement and all amendments or statement identifying prior Commission proceedings in which limited partnership	Page 2, Para 2 Not Applicable
807 KAR 5:001, § 19(2)(a)	An Application for declaratory order shall be in writing	Page 1-18, Para 1-35 Exhibits 4, 5, 12
807 KAR 5:001, § 19(2)(b)	Contain a complete, accurate, and concise statement of the facts upon which the application is based	Page 12-17, Para 31-35
807 KAR 5:001, § 19(2)(c)	Fully disclose the Applicant's Interest	Page 5&6, Para 12&13 Exhibits 4, 5, 11, 12
807 KAR 5:001, § 19(2)(d)	Identify all statutes, administrative regulations, and orders to which the Application relates	Page 1, 12 & 17, Para 32 & 35
807 KAR 5:001, § 19(2)(e)	States the Applicant's proposed resolution or conclusion	Page 18, Para 1-4

EXHIBIT 2

RAW WATER SUPPLY STUDY

PREPARED FOR

CITY OF BARDSTOWN



PREPARED BY:

***KENVIRONS, INC.
770 WILKINSON BOULEVARD
FRANKFORT, KY 40601***

PROJECT No. 2021035

JANUARY 2022

TABLE OF CONTENTS

SECTION 1: INTRODUCTION AND BACKGROUND1.1

SECTION 2: SUMMARY OF PREVIOUS STUDIES AND ALTERNATIVES.....2.1

 2.1 PROCTOR/DAVIS/RAY ENGINEERS, INC. (PDR), *RAW WATER SOURCE STUDY FOR THE CITY OF BARDSTOWN, KENTUCKY, MARCH 1989* 2.1

 2.1.1 Alternative No. 1 - Buffalo Creek Reservoir 2.1

 2.1.2 Alternative No. 2 - Beech Fork Reservoir2.1

 2.1.3 Alternative No. 3 - Cedar Creek Reservoir2.1

 2.1.4 Alternative No. 4 - Tewel Creek Reservoir.....2.1

 2.1.5 Alternative No. 5 - Louisville Water Company (LWC).....2.2

 2.1.6 Alternative No. 6 - Taylorsville Reservoir (Lake)2.2

 2.1.7 Alternative No. 7 - Direct Pumping from Beech Fork.....2.2

 2.1.8 Alternative No. 8 - Campground Reservoir.....2.3

 2.1.9 Alternative No. 9 - Groundwater Sources2.3

 2.1.10 Alternatives Rankings2.3

 2.2 PDR ENGINEERS, INC. (PDR)/TETRA TECH, *RAW WATER SOURCE STUDY UPDATE PREPARED FOR CITY OF BARDSTOWN, KENTUCKY, MAY 17, 2002*2.3

SECTION 3: POPULATION GROWTH AND PROJECTIONS3.1

 3.1 BARDSTOWN WATER DEPARTMENT SERVICE AREA3.1

 3.2 CITY OF BLOOMFIELD3.1

 3.3 NORTH NELSON WATER DISTRICT3.2

 3.4 LARUE COUNTY WATER DISTRICT NO. 1.....3.2

 3.5 LEBANON JUNCTION3.2

 3.6 NEW HAVEN3.3

 3.7 SUMMARY OF PROJECTED SERVICE AREA POPULATIONS.....3.3

SECTION 4: WATER SUPPLY NEEDS ANALYSIS4.1

 4.1 WHOLESALE CUSTOMER PLANS AND CURRENT WATER USE4.1

 4.1.1 City of Bloomfield4.1

 4.1.2 North Nelson Water District4.1

 4.1.3 LaRue County Water District #14.1

 4.1.4 Lebanon Junction4.2

 4.1.5 New Haven4.2

 4.2 PROJECTED WATER NEEDS.....4.2

 4.2.1 Bardstown Water Department Service Area.....4.3

 4.2.2 City of Bloomfield.....4.3

 4.2.3 North Nelson Water District.....4.3

 4.2.4 LaRue County Water District No. 14.3

 4.2.5 Lebanon Junction.....4.4

 4.2.6 New Haven4.4

 4.2.7 Summary of Projected Water Supply Needs4.4

SECTION 5: ALTERNATIVES EVALUATION5.1

 5.1 METHODOLOGY5.1

 5.1.1 Reservoir Evaluations.....5.1

 5.1.2 Stream Withdrawal Evaluations.....5.2

 5.2 EXISTING WATER SUPPLY FACILITIES.....5.2

 5.2.1 Sympson Lake5.2

 5.2.2 Beech Fork Intake5.4

 5.3 WATER SUPPLY ALTERNATIVES.....5.6

 5.3.1 North Nelson Water District Interconnect5.6

1 INTRODUCTION and BACKGROUND

Historically, the City of Bardstown has experienced periods of dry weather, or droughts, which have progressively taxed the existing raw water supply, Sympson Lake and the Beech Fork Intake. To date, the existing raw water supply facilities have been adequate to sustain the community through drought periods, but the City is concerned about its long-term drought vulnerability. The City has periodically commissioned studies to address its concerns with the water supply. The studies have typically evaluated the capacity of the current water supply facilities, projected the long-term water supply need, and developed alternatives to improve the supply capacity.

Raw water supply studies were conducted and updated by Proctor/Davis/Ray Engineers (PDR now Tetra Tech) in 1989 and 2002. The PDR studies developed population and water demand projections to year 2040, and discussed alternatives and cost estimates for additional impoundments or sources of raw water. Subsequent to the 1989 PDR report, a variation of one of the suggested alternatives from the study was implemented to pump raw water from Beech Fork to pre-sedimentation basins that discharge into Sympson Lake. The 2002 study update by PDR noted that the drainage area for Beech Fork was adequate to sustain Bardstown to year 2040 with an anticipated consumption rate of 6.86 million gallons per day (mgd).

In 2000, FMSM Engineers performed a bathymetric survey of Sympson Lake to determine what percentage of the available volume of the lake had been lost to siltation. The study concluded that approximately 26% of the original lake volume of 4,050 acre-feet has been lost to siltation and the remaining volume was 2,997 acre-feet. A summary of the past water supply studies, options and conclusions are contained in Section 2 of this report.

Wholesale customers currently served by the City of Bardstown's water supply, treatment, and distribution systems include the North Nelson Water District, City of Bloomfield, City of New Haven, and LaRue County Water District #1. In recent years, the Louisville Water Company (LWC) has made significant efforts to supply water along the Interstate-65 corridor and adjacent areas and has made connections to both North Nelson Water District and Lebanon Junction Water Company. As of 2015, Lebanon Junction Water Company stopped purchasing wholesale water from Bardstown and started purchasing all its water from LWC. It is expected that the same will be true for North Nelson Water District in the coming years. The LaRue County Water District No. 1 has historically purchased water from several water suppliers, and appears to have stabilized in recent years at purchasing approximately 25% of their total volume from Bardstown. The imminent decline in water sales to the North Nelson Water District and Lebanon Junction Water Company and the decline in sales to LaRue County Water District #1 will have a negative impact on revenues; however, the City also

forgoes the costs associated with supplying, treating, and pumping water to these wholesale customers and the need to develop additional infrastructure for their future growth.

Kenvirons, Inc., was engaged to review the previous studies, assess the viability of options previously examined in the context of the current conditions, and explore alternatives that have not been considered to date.

2 Summary of Previous Studies and Alternatives

2.1 PROCTOR/DAVIS/RAY ENGINEERS, INC. (PDR), RAW WATER SOURCE STUDY FOR THE CITY OF BARDSTOWN, KENTUCKY, MARCH 1989

This study's alternatives and recommendations were based on a projected population for Bardstown of 13,500, and a population of Nelson County of 50,250 by year 2040. The average per capita consumption was estimated to be approximately 150 gallons per day (gpd) by year 2040 during the maximum month. Therefore, the projected raw water demand for year 2040 was estimated to be 7.2 million gallons per day (mgd) during the maximum month.

2.1.1 Alternative No. 1 – Buffalo Creek Reservoir

This alternative included a reservoir on a tributary into Sympson Lake, and was determined to be inadequate in drought conditions that would simultaneously affect Sympson Lake. Additionally, the 60 foot high dam for the Buffalo Creek Reservoir would be classified as "high hazard". This alternative has not been pursued to date, and did not appear to be a viable option.

2.1.2 Alternative No. 2 – Beech Fork Reservoir

The Beech Fork Reservoir alternative was deemed viable, despite some perceived difficulties with ongoing pumping and operations costs, and the probable need to relocate a portion of Burba Road. The principle benefit of this alternative is a watershed area of 657 square miles that provides an adequate supplemental supply of surface water with a dam height of only approximately 25 feet. To date, no action has been taken relative to this alternative.

2.1.3 Alternative No. 3 – Cedar Creek Reservoir

This reservoir alternative would require an 80 foot tall dam ("high hazard"); has a drainage area of only 3.7 square miles; and has a landfill located within the watershed. Due to the risk of contamination, the Cedar Creek Reservoir option was eliminated from further consideration as a viable alternative water supply. No future action on this alternative is likely.

2.1.4 Alternative No. 4 – Tewell Creek Reservoir

A reservoir on Tewell Creek near the confluence with Lick Creek was considered. There were some positives to this location, but the supply capacity was determined to be insufficient to meet projected future demands. Additionally, the

reservoir would require relocation of a residence and two roads, which made it a low ranked option with no future action likely or warranted.

2.1.5 Alternative No. 5 – Louisville Water Company (LWC)

This alternative entailed purchasing treated water from LWC. An agreement would be signed between LWC and Bardstown to establish the purchase conditions such as cost per gallon, minimum purchase volumes, and guaranteed long-term supply volume. While this alternative had the potential benefit of a reducing treatment costs, economic analysis revealed this alternative was not competitive among the available alternatives due to the high construction cost, operation and maintenance cost, and water purchase price. No action was taken on this alternative.

2.1.6 Alternative No. 6 – Taylorsville Reservoir (Lake)

The Taylorsville Lake alternative was examined knowing that the reservoir has ample storage capacity to provide raw water to supplement Sympson Lake through year 2040. The project would involve construction, operation, and maintenance of a raw water intake, pump station(s), and approximately 15 miles of transmission line. Additionally, the U.S. Army Corps of Engineers (USACE) would expect the City to pay a proportional volume share of raw water storage costs, as well as potential future undefined assessments for maintenance and improvements to the lake facilities. For these reasons, and with potential for significant undetermined future costs to be paid by the City to the USACE, Taylorsville Lake was not selected as the preferred alternative.

2.1.7 Alternative No. 7 – Direct Pumping from Beech Fork

Alternative No. 7 was examined as a supplemental source for Sympson Lake, but was determined to be insufficient during times of low flow and drought. In concert with one of the reservoir alternatives, direct pumping from Beech Fork could sustain a continuous flow of water during drought periods.

Subsequent to the completion of the 1989 study, the City implemented a variation of Alternative No. 7 utilizing an existing low-level dam on Beech Fork as a location for the withdrawals when sufficient flow exists. The pumps discharge to pre-sedimentation basins that drain into Sympson Lake.

2.1.8 Alternative No. 8 – Campground Reservoir

A proposed reservoir in the far eastern portion of Nelson County has been considered by the USACE, but has never progressed beyond the preliminary stage. Alternative No. 8 involves using this potential future reservoir as a raw water source and would require construction of an intake, pumping station, and transmission line over 15 miles long. At a cost of over \$100 million for the dam and reservoir alone, and with the additional cost of constructing, operating, and maintaining the intake, pumping station and transmission line, this alternative proved to be too expensive for further consideration.

2.1.9 Alternative No. 9 – Groundwater Sources

The potential for developing groundwater sources to supplement Simpson Lake was investigated. It was determined that sufficient flow was not attainable from the groundwater aquifers in the Bardstown area. Therefore, this alternative was eliminated from further consideration.

2.1.10 Alternatives Rankings

The alternatives developed in the 1989 study were entered in a weighted matrix that determined the ranking of each of the nine alternatives. After those alternatives deemed non-viable were eliminated, the following rankings were presented in the report:

1. Alternative No. 2 – Beech Fork Reservoir
2. Alternative No. 1 – Buffalo Creek Reservoir
3. Alternative No. 4 – Tewel Creek Reservoir
4. Alternative No. 6 – Taylorsville Reservoir
5. Alternative No. 3 – Cedar Creek Reservoir
6. Alternative No. 5 – Louisville Water Company

2.2 PDR ENGINEERS, INC. (PDR)/TETRA TECH, RAW WATER SOURCE STUDY UPDATE PREPARED FOR CITY OF BARDSTOWN, KENTUCKY, MAY 17, 2002

This study was conducted in 2002 to update and recognize new information available from the Census of 2000, and to correlate that information to revised projections of water use and demand. Significant changes in population from the 1990 projection included a population for the City of Bardstown that increased 17% beyond the projected growth, and Nelson County at 7% more than the projected population growth. This translated to a projected population for served customers in Nelson County, including Bardstown, of 60,000 people in year 2040

at a capita per household of 2.64. The study assumed that 90% of the Nelson County population and the current wholesale customers (Bloomfield, Lebanon Junction, North Nelson WD, New Haven, and LaRue County WD #1) would be served with water from the Bardstown system. Based on 127 gallons per day per capita water use, the 2040 projected raw water demand was estimated to be 6.86 mgd.

At the time of the 2002 PDR/Tetra Tech study, approximately 39% of the City's 4.5 mgd water production was being sold to water districts and adjacent communities for resale. Since that time, the trend in sales volume to the bulk customers has been slowly but steadily decreasing, particularly from North Nelson Water District and LaRue County Water District No. 1, and that trend may continue and spread to other wholesale customers as the Louisville Water Company continues its growth along and adjacent to the Interstate 65 corridor.

The 2002 PDR/Tetra Tech study also acknowledged that pumping from Beech Fork to recharge Sympson Lake had been implemented since 1989, and that Fuller, Mossbarger, Scott, and May (FMSM) Engineers had surveyed Sympson Lake in March 2000 and determined that approximately 26% of the lake's volume had been lost to siltation. Despite the loss in lake volume, the conclusion of the study was that the existing supplemental intake on Beech Fork and Sympson Lake system had adequate capacity to sustain Bardstown's water needs through year 2040.

The 2002 PDR/Tetra Tech study made the following recommendations:

1. An annual review of average daily and peak daily demands.
2. Expansion of the treatment plant to an 8.0 mgd capacity.
3. Addition of treated water storage capacity.
4. Begin dialogue with LWC relative to water service in the Bardstown / Nelson County area.
5. Consideration of reclaiming storage capacity within Sympson Lake through dredging.
6. Develop Raw Water Contamination Plan and Watershed Protection Plan.

As of 2021, the expansion of the water plant and construction of additional finished water storage is complete. Improved utilization of overhead storage at the Nelson County Industrial Park was implemented through the upgrade of the Mago Booster Pump Station and a new water transmission line from the Mago Booster Pump Station to the Industrial Park Water Tank was constructed in 2012. Dialogue between Bardstown, LWC, and NNWD began in 2021 concerning Bardstown's and Nelson County's long-term water supply and all parties agree that an interconnect with LWC is the most viable solution to increase the water supply capacity.

3 Population Growth and Projections

Bardstown and Nelson County have had steady and consistent growth over the past 100 years, and that moderate rate of growth is anticipated to continue through the next 50-year period. Population growth projections from the previous studies performed in 1989 and 2002 slightly underestimated the actual growth when compared to the US Census data. The projections of the **2011 Bardstown Water Supply Study** prepared by Kenvirons were based on 2010 Census data and was broken down by Census tracts that were correlated to service areas. The same approach and methodology will be used in this report, with the projections updated to include data from the recently released 2020 Census. The 2011 study also used an exponential growth analysis to project the future population growth. However, the new 2020 Census data shows that the population is growing at more of a linear pace, therefore a linear regression analysis will be used.

For purposes of this study, Kenvirons has used Census data from 1970 through 2020 to project population growth for each area served by the Bardstown Water Department. The historical Census tract data from the past 50 years was utilized to develop the population projection for the coming 50 years. Population projections were developed for each water utility currently purchasing water from the Bardstown Water Department, as well as for Bardstown and areas of Nelson County served directly by the Bardstown municipal water distribution system.

Preliminary information from the 2020 Census became available during August 2021 and has been utilized to develop the population projections for this study.

3.1 BARDSTOWN WATER DEPARTMENT SERVICE AREA

The population served directly by the Bardstown Water Department is projected to be 53,153 people in year 2070. The average rate of growth from 2020 to 2070 is estimated to be approximately 9.6% per decade. The population projected for the Bardstown Water Department Service Area for each 10-year period is provided in Table 3.1 below.

Year	2020	2030	2040	2050	2060	2070
Population	33,666	37,989	41,780	45,571	49,362	53,153

TABLE 3.1 – Bardstown Water Department Service Area Population

3.2 CITY OF BLOOMFIELD

The service area for Bloomfield Water encompasses the City of Bloomfield, and the northeast corner of Nelson County. The population projection of this service area in year 2070 is 4,439 people. The average rate of growth from 2020 to 2070 is estimated to be approximately 3.6% per decade. Table 3.2 contains the projected population for Bloomfield over the next 50-year period.

Year	2020	2030	2040	2050	2060	2070
Population	3,726	3,828	3,981	4,133	4,286	4,439

TABLE 3.2 – City of Bloomfield Population

3.3 NORTH NELSON WATER DISTRICT

North Nelson Water District (NNWD) provides water service to the northern portion of Nelson County as well as small bordering areas in Bullitt and Spencer Counties. The year 2070 projected population in the area served by NNWD is 13,283 people. The average rate of growth from 2020 to 2070 is estimated to be approximately 9.2% per decade. Table 3.3 contains the projected population for the NNWD service area over the next 50-year period.

Year	2020	2030	2040	2050	2060	2070
Population	8,548	9,321	10,311	11,302	12,293	13,283

TABLE 3.3 – North Nelson Water District Population

3.4 LARUE COUNTY WATER DISTRICT No. 1

The LaRue County Water District No.1 (LCWD1) serves virtually all of LaRue County, excluding the City of Hodgenville. The projected population for the area served by LCWD1 in year 2070 is 15,059 people. The average rate of growth from 2020 to 2070 is estimated to be approximately 5.3% per decade. Table 3.4 contains the projected population for the LCWD1 service area over the next 50-year period.

Year	2020	2030	2040	2050	2060	2070
Population	11,632	12,323	13,007	13,691	14,375	15,059

TABLE 3.4 – LaRue County Water District No.1 Population

3.5 LEBANON JUNCTION

The Lebanon Junction Water Company (LJWC) serves the City of Lebanon Junction with no significant service area beyond the city limits. The year 2070 population projection is 2,287 people and the average rate of growth from 2020 to 2070 is estimated to be approximately 3.4% per decade. Table 3.5 contains the projected population for the LJWC service area over the next 50-year period. In 2015 LJWC quit buying water from Bardstown and now buys all their water from LWC. The projected population growth for LJWC is shown below, however they will not be included in the water supply needs analysis in this report.

Year	2020	2030	2040	2050	2060	2070
Population	1,931	1,995	2,068	2,141	2,214	2,287

TABLE 3.5 – Lebanon Junction Population

3.6 NEW HAVEN

The City of New Haven water system serves the area within the city limits and a limited number of customers along US31E to the northeast for a distance of approximately 5 miles. In contrast to other areas served by the Bardstown Water Department, the population of New Haven is projected to decline slightly in coming years. The projected population for year 2070 is 641 people. The average rate of decline in population from 2020 to 2070 is estimated to be approximately -4.3% per decade. Table 3.6 contains the projected population for the New Haven service area over the next 50-year period.

Year	2020	2030	2040	2050	2060	2070
Population	798	761	731	701	671	641

TABLE 3.6 – New Haven Population

3.7 SUMMARY OF PROJECTED POPULATIONS BY WATER SERVICE AREAS

Table 3.7 and Figure 3.7 on the next page contain a summary of the population projections for the Bardstown Water Department’s service area and its wholesale customers. The general population growth rate for the area served by the Bardstown Water Department over the 50-year period is projected to average approximately 8.0% per decade. Individual service area average growth rates vary from -4.3% per decade to approximately 9.6% per decade.

Utility/Year	2020	2030	2040	2050	2060	2070
Bardstown	33,666	37,989	41,780	45,571	49,362	53,153
Bloomfield	3,726	3,828	3,981	4,133	4,286	4,439
Larue Co. WD1	11,632	12,323	13,007	13,691	14,375	15,059
New Haven	798	761	731	701	671	641
North Nelson WD	8,548	9,321	10,312	11,302	12,293	13,283
TOTAL W/ NN	58,370	64,224	69,811	75,399	80,987	86,575

TABLE 3.7 – Population Summary

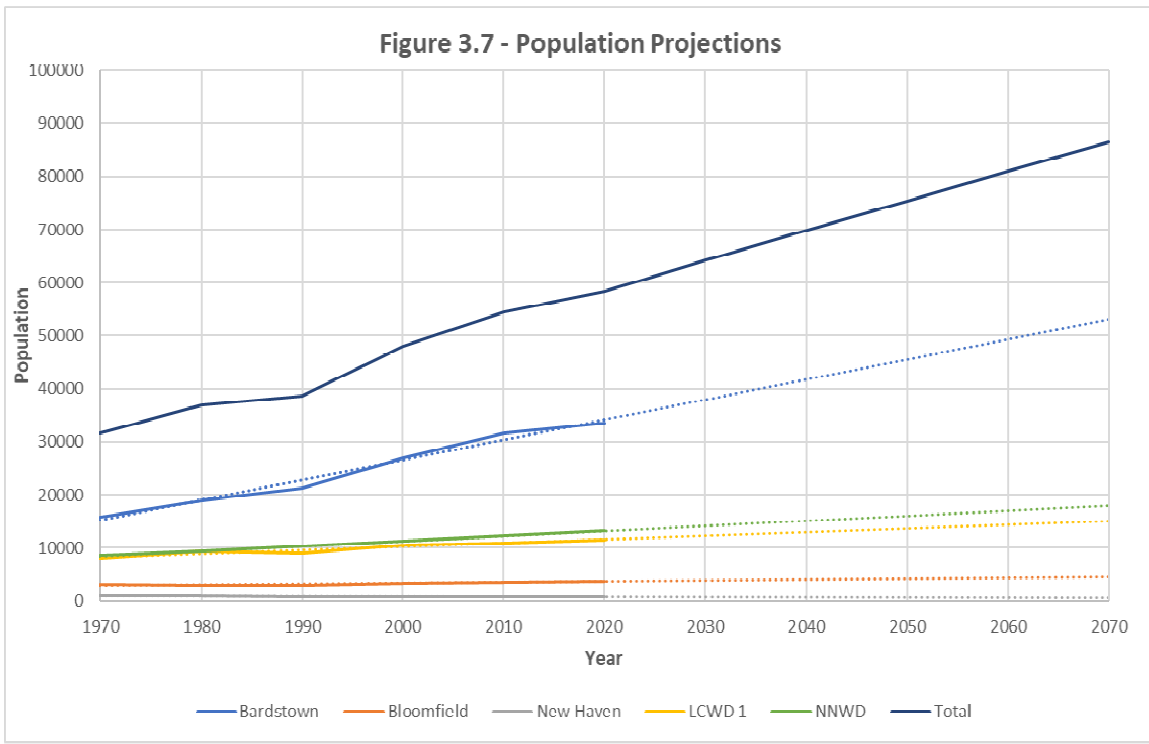


FIGURE 3.7 – Population Projections

4 Water Supply Needs Analysis

4.1 WHOLESALE CUSTOMER PLANS AND CURRENT WATER USE

4.1.1 City of Bloomfield

The City of Bloomfield has had a longstanding working relationship with the City of Bardstown and it is expected that they continue to purchase their water from Bardstown. Bloomfield does have an emergency connection to the Taylorsville system but purchases no water from Taylorsville. The current agreement between Bardstown and Bloomfield stipulates a minimum of 6.0 million gallons per month and maximum purchase volume of 12.0 million gallons per month through the end of the agreement in 2030. During 2020 the average water purchase by the City of Bloomfield was approximately 0.42 mgd. Bloomfield's water use has increased marginally over the most recent five-year period.

4.1.2 North Nelson Water District

The North Nelson Water District currently purchases water from Louisville Water Company and Bardstown. The 2009 agreement between NNWD and LWC stipulated that NNWD shall purchase a minimum volume of 500,000 gallons per day during 2011 and the minimum purchase volume shall increase by 50,000 gpd each year thereafter until 2016. After year 2016, the minimum purchase volume was set at 750,000 gpd until the contract terminates in 2054. The agreement does not specify a maximum purchase volume but limits NNWD to a maximum rate of 2,100 gallons per minute.

The current agreement between Bardstown and NNWD stipulates a minimum of 6.0 million gallons per month and a maximum purchase volume of 30.0 million gallons per month through the end of the agreement in 2038. During 2020, the NNWD average water purchase from Bardstown was approximately 0.23 million gallons per day (mgd), which is about 28% of the District's total water purchases, with the rest of their water being supplied by LWC. NNWD has already begun to purchase most of its water from LWC and it's expected that this trend will continue. Therefore, for the purposes of this report we will assume that NNWD will continue to purchase 28% of its water from Bardstown and any growth in the projected water demand for NNWD from the City of Bardstown will be due to the growth in population.

4.1.3 Larue County Water District #1

It is anticipated that Larue County Water District No.1 will continue to purchase a portion of its water from Bardstown and increases in that number will be attributed to normal growth in population. The percentage of which has historically hovered around 25% of the total volume among the six suppliers currently supplying LCWD1, which will be the percentage assumed in this report.

The water purchase agreement specifies minimum and maximum monthly volumes of 1.0 million gallons and 3.0 million gallons, respectively. The contract term ends in 2045. During 2020, LCWD1 average water purchase from Bardstown was approximately 0.10 mgd and has trended upward over the past five-year period.

4.1.4 Lebanon Junction

The Lebanon Junction Water Company has recently entered an agreement to purchase all of their water from Louisville Water Company. As of 2015, LJWC no longer purchases water from Bardstown. For the purposes of this report, LJWC will not be included in any water needs projection or analysis.

4.1.5 New Haven

It is anticipated that there will be no significant changes in the immediate or foreseeable future relative to water purchases for the City of New Haven from the City of Bardstown. The only change that is anticipated is the normal changes in population that occur over time. The water purchase agreement specifies minimum and maximum monthly volumes of 1.0 million gallons and 6.0 million gallons, respectively. The contract term ends in 2038. The 2020 average consumption for the City of New Haven was approximately 0.10 mgd and usage has steadily decreased over the past five years.

4.2 Projected Water Needs

Water supply volumes, or water needs, were projected for years 2030, 2040, 2050, 2060, and 2070. The projected water supply needs were determined based on the current water withdrawals made from Sympson Lake for treatment at the City of Bardstown’s Water Plant and the current population served. The average daily withdrawal from Sympson Lake during 2020 was 4.25 million gallons per day. The estimated population served by Bardstown and its wholesale purchaser is indicated in Table 4.2.

Water Utility	2020 Population	Percent Served by Bardstown	Population Served by Bardstown
Bardstown	33,666	100%	33,666
Bloomfield	3,726	100%	3,726
Larue Co. WD1	11,632	25%	2,908
New Haven	798	100%	798
NNWD	8,548	28%	2,393
TOTALS	58,370		43,491

TABLE 4.2 – Population Served by Bardstown

Therefore, the average per capita water need was calculated by dividing the average water withdrawals from Sympson Lake by the population served (4,256,199 gpd / 43,491 people) which equates to an 100-gallon per capita day water supply need. The calculated value includes allowance for normal system leaks, water system flushing, and other operational demands required at the treatment plant and in the distribution system. Average daily withdrawal volumes were developed for each wholesale utility and the City based on the average gallons per capita per day water need multiplied by the projected population to be served. The summation of these individual utility demands provides the total volume needed for future planning purposes.

The methodology used to forecast the future water needs is similar to that used in the past studies conducted for the City, and has yielded reasonably accurate estimates to date. Kenvirons adopted this approach to be consistent with the prior studies. This method of projecting future water needs assumes that commercial and industrial growth will parallel the general growth in population, and that the relative percentages of residential to commercial and industrial water use will remain consistent with current trend.

4.2.1 Bardstown Water Department Service Area

The projected water supply need for the Bardstown Water Department was evaluated based on the projected population and the average per capita per day consumption rate. The projections for the Bardstown Water Department assume that 100% of the population will be served.

4.2.2 City of Bloomfield

The Bloomfield water supply projections were calculated similar to the Bardstown Water Departments. The projections for Bloomfield assumed that 100% of the population will be connected to the water system.

4.2.3 North Nelson Water District

As stated previously, the North Nelson Water District has developed another interconnect with the Louisville Water Company and has entered into a long-term agreement with LWC to purchase water. It is assumed that in the coming years NNWD will continue to purchase most if not all of its water from LWC. Therefore, NNWD usage will be assumed to be 28% of its total usage, as this was the percentage of total water purchased by NNWD from the City of Bardstown in 2020.

4.2.4 Larue County Water District No.1

The projected water supply need for the LaRue County Water District No.1 was calculated based on the projected population of their service area and the

average per capita per day consumption rate. The projections for LCWD1 assume that 25% of the population will be served through the connection with Bardstown.

4.2.5 Lebanon Junction

As of 2015 The Lebanon Junction Water Company (LJWC) entered into a water purchase agreement with LWC, and LJWC now purchases all of their water from LWC. Again, due to this LJWC will not be considered in the water supply needs projection and analysis in this report.

4.2.6 New Haven

The projected water supply need for New Haven was estimated based on the projected population of their service area and the average per capita per day consumption rate. The projections assume that 100% of the population will be served through the connection with Bardstown.

4.2.7 Summary of Projected Water Supply Needs

The Bardstown Water Department has experienced a modest decline in water supply needs over the past few years as the North Nelson Water District and the Lebanon Junction Water Company have developed their interconnect with the Louisville Water Company as their primary source or exclusive supplier of finished water. It is expected that both entities will maintain a connection to the Bardstown water system as a back-up or emergency source of water. The population in the area hasn't grown at quite the rapid pace as projected in the 2011 version of this report, and therefore the population and usage projections presented here are less in magnitude. However, the population is still growing at a steady rate and a significant increase in demand can still be expected. Other variables to consider is the growing industrial demand in the area, specifically for bourbon production. If there is a new bourbon facility constructed or an existing one expands, these numbers for demand can increase dramatically. Table 4.2.7 and Figure 4.2.7 contains the water supply projections to year 2070.

Utility/Year	2020 (mgd)	2030 (mgd)	2040 (mgd)	2050 (mgd)	2060 (mgd)	2070 (mgd)
Bardstown	3.37	3.80	4.18	4.56	4.94	5.32
Bloomfield	0.37	0.38	0.40	0.41	0.43	0.44
Larue Co. WD1	0.29	0.31	0.33	0.34	0.36	0.38
New Haven	0.08	0.08	0.07	0.07	0.07	0.06
NNWD	0.23	0.26	0.29	0.32	0.34	0.37
TOTAL	4.34	4.83	5.26	5.70	6.14	6.57

TABLE 4.2.7 – Water Supply Needs (mgd)

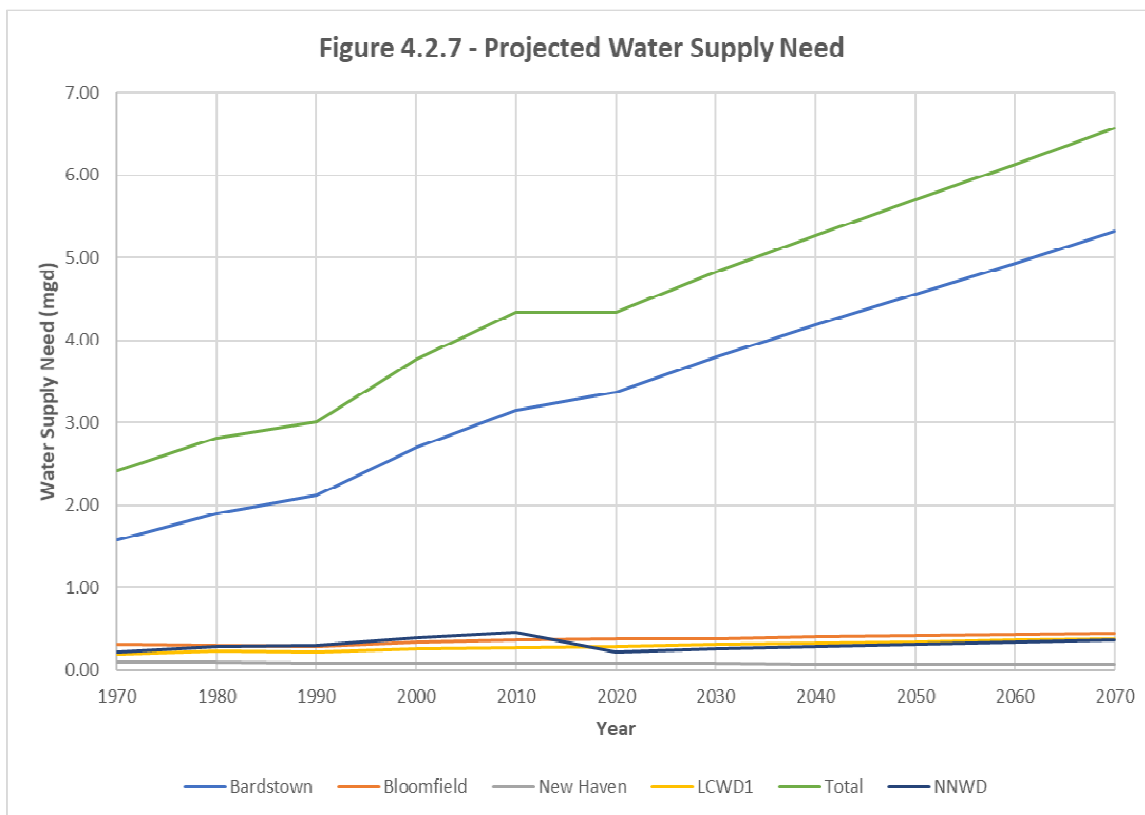


FIGURE 4.2.7 – Water Supply Need

4.3 Industrial Customer Plans and Water Use

Bardstown has seen growth over the years in the demand for water from its industrial customers, specifically for distilleries in the area. The water purchased by industrial customers in 2020 was 269,556,000 gallons or 0.739 mgd. It is hard to predict exactly how much this number will grow over the coming years, however, when it does it will result in a spike in the water demand (when a distiller or other industrial user expands or is established) with the same overall trend continuing after.

Using water demand numbers provided by industrial users who are evaluating the possibility of expanding or establishing new facilities in the area in the coming years, we have estimated what the addition of more industry may look like for the projected water supply need for the City of Bardstow. As you can see in Table 4.3 and Figure 4.3 shown below, there could be spikes in demand in the area in the years 2023, 2025, and 2027 due to the expansion or construction of new industry. However, these numbers are rough estimates in an attempt to foreshadow what the water demand may look like for the City of Bardstow if more industry did decide to develop in the area.

Table 4.3 - Projected Industrial Usage (mgd)									
	2020	2023	2025	2027	2030	2040	2050	2060	2070
Base Usage Projection	4.34	4.41	4.49	4.58	4.83	5.26	5.70	6.14	6.57
Usage Projection W/ Added Industry	4.34	4.86	5.53	6.05	6.19	6.63	7.07	7.52	7.96

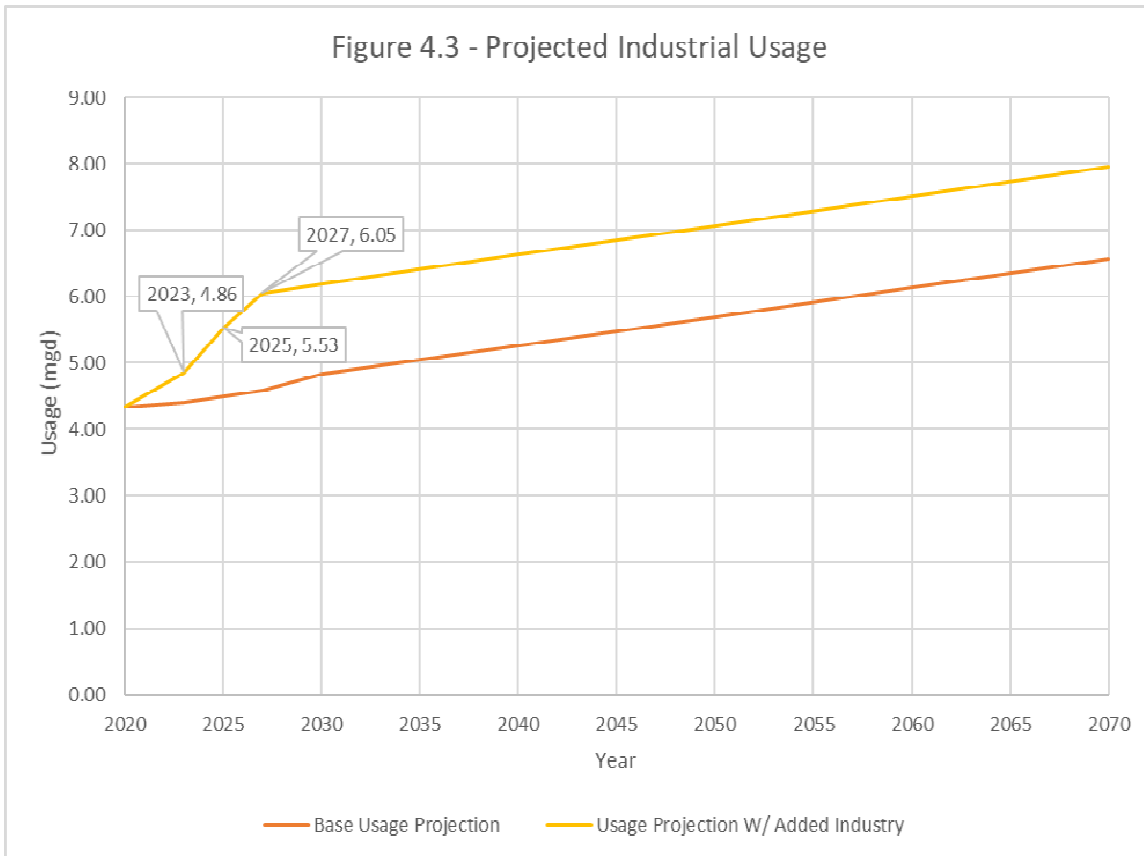


FIGURE 4.3 – Projected Industrial Usage

EXHIBIT 3

AFFIDAVIT
of
JESSICA FILIATREAU, P. E.

The Affiant, Jessica Filiatreau, P. E., after first being duly sworn, states as follows:

1. My name is Jessica Filiatreau, P. E. I am the City Civil Engineer for the City of Bardstown, Kentucky (“Bardstown”). I have served in this capacity since I started working for Bardstown in May 2010. I am a licensed professional engineer in the Commonwealth of Kentucky.

2. A substantial portion of my duties as City Civil Engineer involve planning for both the short-term and long-range needs of Bardstown’s water system. This includes source of supply, treatment, storage, transmission, and distribution of the water to our retail and wholesale customers. Then, once the Bardstown City Council makes a decision on these proposed projects, I am responsible for implementing these plans and making sure that the projects are constructed and installed in a timely and cost-effective manner.

3. Bardstown provides water to residential, commercial, and industrial retail customers and wholesale water service to the City of Bloomfield, North Nelson Water District, LaRue County Water District No. 1, and the City of New Haven

(whose water system is now owned and operated by LaRue County Water District No. 1).

4. Bardstown operates a water treatment plant which draws water from Sympton Lake with supplemental withdrawal from Beech Fork River. Both of these sources are very susceptible to drought. As a result, Bardstown has had numerous raw water studies performed over the past four (4) decades dating back to 1989 to locate a supplemental source of supply. No raw water alternative provided a reliable and affordable solution to this problem. An alternative to purchase finished water from Louisville Water Company was considered in 2011 and revisited in 2021. In 2018 Bardstown made the switch to chloramine as its primary disinfection in part to be compatible when comingling finished water with LWC if that alternative water source was to be implemented. Bardstown has determined that an interconnection with the Louisville Water Company will be the best short-term and long-range source of supplemental water for Bardstown and its customers.

Purpose of Affidavit

5. The purpose of this Affidavit is to inform the Public Service Commission (“PSC”) of the critical need for the Nelson County Water Supply Project and to strongly encourage the PSC to approve the Water Supply Agreement dated September 25, 2024, between the Louisville Water Company and North

Nelson Water District (the “Louisville Water Agreement”) and the Water Supply Agreement dated September 17, 2024, between North Nelson Water District and Bardstown (the “Bardstown Agreement”) as expeditiously as possible . The Nelson County Water Supply Project cannot become a reality without the PSC’s approval of both the Louisville Water Agreement and the Bardstown Agreement.

Need for Supplemental Water

6. Bardstown has a significant need for a supplemental water supply source to meet the current and future demands of the customers it serves. The residents, schools, businesses, and industrial plants located in Bardstown, Bloomfield, New Haven, Boston, Nelson County, substantial portions of LaRue County, Fredericktown in Washington County, and Youngers Creek in Hardin County, depend upon Bardstown Water to supply its current and future water needs. Bardstown is facing these **challenges**:

- A. **Limited Raw Water Supply.** Its raw water sources (Simpson Lake and Beech Fork River) cannot be expanded to supply the water demands of Bardstown’s increased population and its commercial, industrial (including distilleries), and wholesale customers.
- B. **Drought Susceptibility.** As stated above, both raw water sources for Bardstown – Beech Fork River and Simpson Lake are highly susceptible to drought.
- C. **Rapid Growth.** Bardstown has experienced and continues to experience a rapid growth in its industrial base, especially its distilleries, which use and plan to use even larger volumes of water.

- D. **Need for Supplemental Source of Water.** The proposed interconnection of Louisville Water’s infrastructure with Bardstown’s water system via the approximately 8.75 miles of 24-inch diameter water main to be constructed along Kentucky Highway 245 by the North Nelson Water District (“North Nelson”) will provide Bardstown with an adequate and reliable source of finished water to supplement the water treated by Bardstown at its existing water treatment plant. This project is known as the Nelson County Water Supply Project. This Project will solve Bardstown’s limited water supply and drought susceptibility problems which have plagued Bardstown for decades. It will also enable Bardstown to meet its current and future demands for water caused by the rapid growth and water demands of its industrial customers.
- E. **Compliance with America’s Water Infrastructure Act of 2018 (“AWIA”).** The AWIA requires water utilities to perform risk and resiliency assessments. The Nelson County Water Supply Project will reduce risk and improve resiliency issues identified by Bardstown.

7. Bardstown’s average daily water sales total approximately 4.2 million gallons per day (MGD). As shown in **Appendix A** to this Affidavit, Bardstown’s average daily demand is rapidly increasing because of the increased water demands of its current distilleries. The demand from these distilleries alone is rapidly approaching 1.0 MGD and will exceed 1.5 MGD by 2028. By 2030, this demand will exceed 2.0 MGD. The increased demand will cause Bardstown’s average daily water sales to approach 6.0 MGD, which is an increase of 1.8 MGD or over a 40 percent increase over the next five (5) years.

Regional Project

8. The Nelson County Water Supply Project is truly a regional solution for a regional problem. The Nelson County Fiscal Court and all the water utilities

in Nelson County recognized the critical need for Bardstown to obtain an adequate and reliable supplemental water source. This realization caused the Nelson County Fiscal Court and all the water utilities in Nelson County to reach an agreement that the entire cleaner water grant funds allocated to Nelson County by the Kentucky General Assembly for 2021 (Grant 21CWW168 for \$1,697,955) and 2022 (Grant 22CWW203 for \$2,839,085) would be used for the Nelson County Water Supply Project. These grants total \$4,537,040. In addition, the Nelson County Fiscal Court contributed \$3,300,000 of the funds which it received from the American Rescue Plan Act of 2021 (“ARPA”) toward this Project. To further emphasize the importance of this Project, the 2022 Kentucky General Assembly appropriated \$10,000,000 toward this Project. As a result, North Nelson will be able to construct the Nelson County Water Supply Project without using any of its own funds or without borrowing any money whatsoever.

Bardstown System Improvements

9. Once the funding was in place to construct the Nelson County Water Supply Project, Bardstown immediately undertook two (2) major capital improvement projects to enable it to “receive” the new supplemental supply of water and “move” or convey this water to the locations within its distribution system where this water would be consumed. One of these projects, the North Nelson Interconnect Project has already been completed at a cost of **\$2,873,515**. This Project consisted

of constructing 3,641 linear feet of 24-inch diameter ductile iron pipe, 640 linear feet of 16-inch diameter ductile iron pipe, and a 1,600 gallon per minute pump station. This Project starts at the master meter location where North Nelson will deliver the water it purchases from Louisville Water to Bardstown. **Bardstown would not have constructed this Project and used its own financial reserves, but for the assurance that the Nelson County Water Supply Project would be constructed by North Nelson.**

10. The second major capital improvement project is identified as the East Bardstown Water Improvement Project. This Project will cost a total of **\$9,966,000**. The City has entered into two separate KIA Fund B loan agreements to fund this expenditure. It consists of approximately 9,200 linear feet of 16-inch diameter ductile iron pipe, a 2,000 gallon per minute pump station, and a 1.5-million-gallon elevated water storage tank. This Project is currently under construction and will be completed by the time the Nelson County Water Supply Project is finished.

11. The total cost of these two (2) major capital improvement projects undertaken by Bardstown with no state or federal grant assistance is **\$12,839,715**.

Critical Timeline

12. Distilleries in Bardstown's water service area made requests for additional water for new distilleries and major expansion at existing plants beginning in 2021 with requests stepping up in 2025 through 2030. Bardstown has been

working with the water utilities as described above for the last three (3) years to get additional water to the community to meet these requests. Private development happens at a much faster pace. Between 2016 and 2021 (5years) distillery water usage increased 138%. In January of 2025 (just a few months away), **distillery water demand is expected to double from the 2021 usage (an increase of 100% in 4 years)**. This is over 200% increase in usage in less than a decade. Bardstown has moved as quickly as it can to meet its customers needs, but will still be susceptible to drought and peak daily demands until the NN & LWC projects are complete. These projects need to be online as soon as practical to meet the water demands in the Bardstown/Nelson County community. Bardstown needs to be able to provide and sell water to meet the growth of the community and generate much needed revenue to cover its capital expenses without burdening its rate payers.

Conclusion

13. For the foregoing reasons, Bardstown strongly urges the PSC to expeditiously approve the Louisville Water Agreement and the Bardstown Agreement so North Nelson can construct the Nelson County Water Supply Project in a timely manner. Otherwise, Bardstown will not be able to receive the supplemental supply of treated water which it desperately needs.

Jessica Filiatreau

Jessica Filiatreau, P. E.

City Civil Engineer

City of Bardstown

220 N. Fifth St.

Bardstown, KY 40004

COMMONWEALTH OF KENTUCKY)

) SS

COUNTY OF NELSON)

Subscribed and sworn to before me by Jessica Filiatreau, on this 8 day of November, 2024.

Stephanie Holbert
Notary Public

Notary No. KYNP 53589

My Commission expires: June 15, 2026

APPENDIX A



BARDSTOWN

Distillery Water Usage & Projections

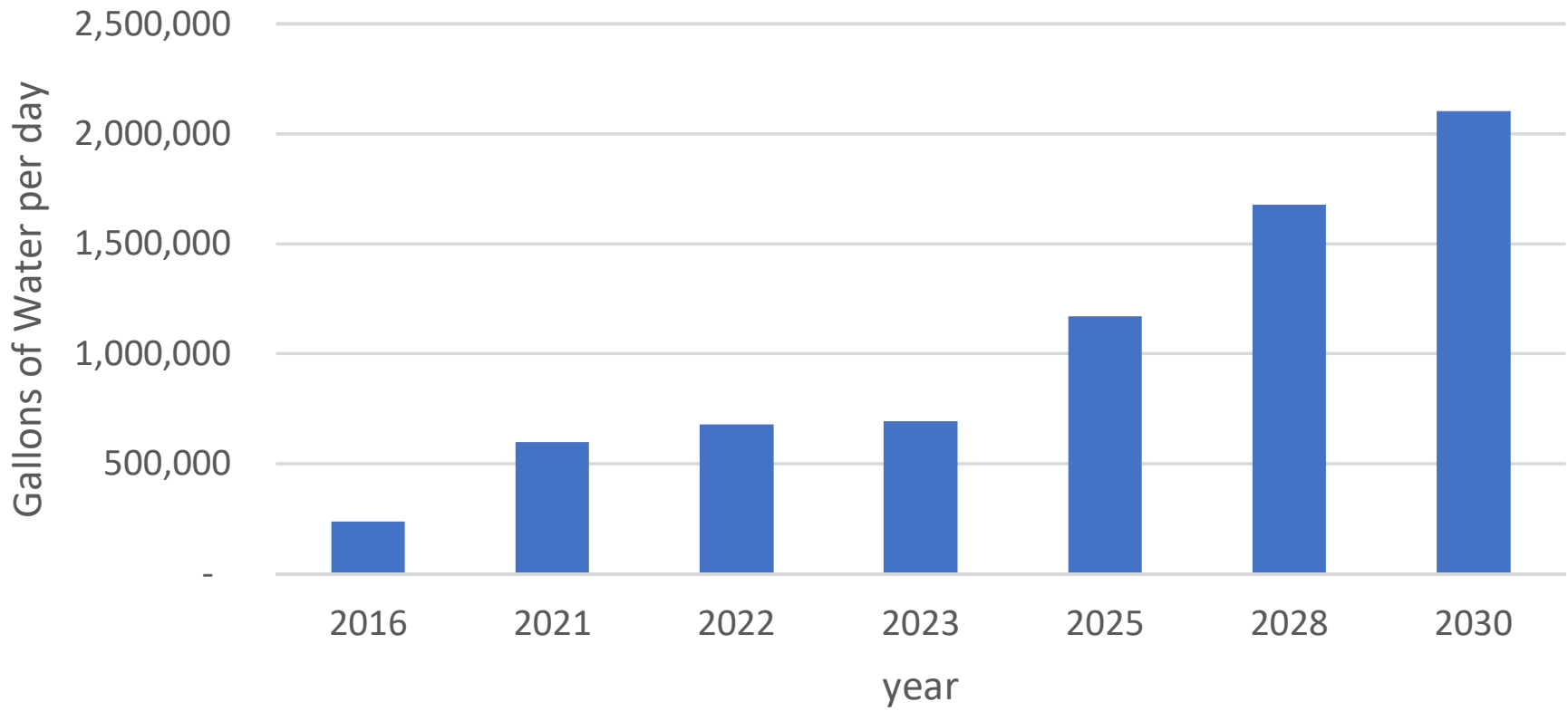


EXHIBIT 4

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (“MOA”) is made and entered into on this 21st day of December 2021 (the “Effective Date”) by and among the Nelson Fiscal Court (the “Fiscal Court”), the City of Bardstown, Kentucky (“Bardstown”), and North Nelson Water District (the “District”).

WITNESSETH:

WHEREAS, Nelson County is well located, has a vibrant economy, and has a growing population;

WHEREAS, Bardstown currently provides potable water to a large portion of Nelson County by providing both retail and wholesale water service;

WHEREAS, the District currently provides potable water service to a large portion of Nelson County;

WHEREAS, the Fiscal Court, Bardstown, and the District have a shared interest in providing for the future water supply needs of Nelson County;

WHEREAS, Bardstown has extensively studied potential sources of both raw water and potable water to supplement the water supply needs of Bardstown and Nelson County;

WHEREAS, it appears that constructing a large diameter water transmission main along Kentucky Highway 245 from Bardstown to the existing master meter between the District and the Louisville Water Company (“LWC”),

which is located near the intersection of Kentucky Highway 1604 with Kentucky Highway 245, is the most feasible and cost-effective project for providing a supplemental source of water to Nelson County in the short-term;

WHEREAS, this water main transmission project (“Nelson County Water Supply Project” or the “Project”) will benefit the entire county because Bardstown and the District will both utilize water delivered by the water transmission main to supplement the water supplied to their respective water transmission and distribution systems;

WHEREAS, the Fiscal Court plans to contribute approximately \$5,000,000 toward the Nelson County Water Supply Project;

WHEREAS, Bardstown and the District will utilize other available funds and grants to pay a portion of the Nelson County Water Supply Project, with the balance of the Project costs to be shared equally by Bardstown and the District; and,

WHEREAS, it is mutually advantageous for the Fiscal Court, Bardstown, and the District to enter into this MOA.

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereto, it is hereby agreed as follows:

1. Recitals. The facts, recitals, and statements contained in the foregoing preamble of this MOA are true and correct, and are hereby affirmed and incorporated as a part of this MOA.

2. District's Obligations. The District shall be responsible for the following: (a) procuring the engineer to design the Nelson County Water Supply Project; (b) overseeing the engineering design of the Project; (c) bidding the Project; and (d) overseeing the construction of the Project. Following the completion of the Project, the District shall become the owner of the water transmission main and other improvements constructed as part of the Project. Thereafter, the District shall be solely responsible for maintaining and operating the water transmission main and other improvements constructed as part of the Project.

3. Fiscal Court's Contribution. The Fiscal Court shall contribute the sum of \$4,997,955.22 toward the cost of the Nelson County Water Supply Project. The Fiscal Court's contribution will be funded in the following manner: (a) the sum of \$3,300,000 will be funded from funds directly allocated to the Fiscal Court by the American Rescue Plan Act (the "ARPA"); and (b) the sum of \$1,697,955.22, which was appropriated for use in Nelson County by Senate Bill 36 passed by the 2021 Kentucky General Assembly, will be administered and distributed by the Kentucky Infrastructure Authority ("KIA") according to its

regulations, policies, and procedures. The \$3,300,000 direct contribution from the Fiscal Court shall be paid to the District as invoices are submitted for stored materials, completed work on the Project, engineering fees, or other Project costs. The Fiscal Court shall remit payment to the District within 15 days after the invoices are submitted to the Fiscal Court. It is the intention of the parties for the Fiscal Court's contribution to be the first funds expended for the Project.

4. Other Grant Funds. Bardstown and the District shall use their best efforts to obtain other grant funds to pay a portion of the Project costs. Bardstown and the District shall equally benefit from these grant funds regardless of whether the actual grantee for a specific grant is Bardstown, the District, or both Bardstown and the District.

5. Remainder of Project Costs. The remainder of the Project costs shall be split equally by Bardstown and the District. Once the funds directly provided by the Fiscal Court have been paid toward the Project costs, the funds administered by KIA have been paid toward the Project costs, and any other grant funds obtained by Bardstown or the District have been paid toward the Project costs, then the remainder of the Project costs shall be split equally by Bardstown and the District. It is contemplated that Bardstown shall contribute 50% of the cost of each pay request by paying those funds to the District to ensure the contractor, engineer, and other Project costs can be paid by the District in a timely manner.

The District shall contribute the remaining 50% of the cost of each pay request. The District will then utilize the funds contributed by Bardstown and the District to see that the pay requests are paid in a timely manner.

6. Segregation of Funds. The District acknowledges that it will need to keep, and hereby agrees that it shall keep, all monies received from the Fiscal Court, KIA (Senate Bill 36 funds), Bardstown, any other grants that might be received for this Project, loan proceeds, and the funds that the District contributes to this Project, in a separate account from all other District funds. This will facilitate proper expenditure and oversight of the funds.

7. Single Audit. Because of the amount of federal funds that will be expended for this Project, Single Audit compliance and reporting under the federal Single Audit Act Amendments of 1996 will be required. The District hereby acknowledges and accepts this responsibility.

8. Project Design. Although the District shall ultimately be responsible for the design and construction of the Project, Bardstown shall be an active participant in the design process. It is contemplated that alternate bids for a 16-inch, a 20-inch, and, perhaps, a 24-inch diameter water transmission main shall be obtained. Then, Bardstown and the District shall jointly decide which diameter water transmission main shall be constructed after the alternate bids are obtained. Attached hereto as composite **Exhibit 1** are Preliminary Project Cost Estimates

prepared by Kentucky Engineering Group, PLLC for a 16-inch, a 20-inch, and a 24-inch diameter water transmission main.

9. Water Purchase Agreement. The District and Bardstown shall negotiate the terms of a Water Purchase Agreement whereby the District shall provide wholesale water service to Bardstown at a delivery point near the Houglin-Greenwell Funeral Home. The master meter (delivery point) between the District and Bardstown will be located approximately 1,250 feet northwest of the intersection of Wilson Parkway with Kentucky Highway 245.

10. PSC Approval. It is understood by all parties that the District cannot commence construction of the Nelson County Water Supply Project without first obtaining a Certificate of Public Convenience and Necessity (the “CPCN”) from the Kentucky Public Service Commission (the “PSC”). The cost of obtaining the necessary CPCN from the PSC shall be considered a Project cost.

11. Cooperation. Each of the parties agree to cooperate with the other parties in the timely execution of any documents necessary to effectuate the provisions of this MOA.

12. Assignment and Amendment.

A. This MOA and the rights of the Fiscal Court, or Bardstown, or the District shall not be conveyed, assigned, or transferred to any other person or entity without the prior written consent of all parties.

B. This MOA shall not be amended or modified unless such amendment or modification is in writing and signed by all parties.

13. Entirety. The parties further agree that this MOA now constitutes the entire understanding of the Fiscal Court, Bardstown, and the District with respect to the transaction contemplated herein.

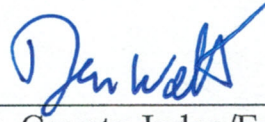
14. Counterparts. This MOA may be executed in multiple counterparts by the parties hereto. All of such counterparts shall be construed as if all signatures were appended to one document. The parties hereto agree that a facsimile or e-mail of a counterpart of this signed MOA constitutes an original counterpart, and shall be a valid and binding document for all legal and other purposes.

15. Severability. The invalidity or unenforceability of any provision of this MOA shall not affect the validity or enforceability of any other provision hereof, and any such invalid or unenforceable provision shall be deemed to be severable.

IN WITNESS WHEREOF, this MOA has been executed in multiple counterparts, each of which is deemed to be an original, by the duly authorized officers and officials of the parties pursuant to authority granted by the governing body of each respective party, as of its Effective Date.

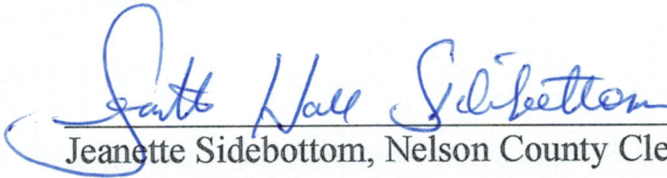
NELSON COUNTY FISCAL COURT

BY:



Dean Watts, County Judge/Executive

ATTEST:



Jeanette Sidebottom, Nelson County Clerk

CITY OF BARDSTOWN, KENTUCKY

BY: 

J. Richard Heaton, Mayor

ATTEST:



Gary Little, City Clerk

NORTH NELSON WATER DISTRICT

BY: 
Nicky Rapier, Chairman

ATTEST:


Don Mudd, Secretary

EXHIBIT 1

Project Cost Estimates

For

16 – Inch Diameter

20 – Inch Diameter

24 – Inch Diameter

Water Transmission Mains



Preliminary Project Cost Estimate

Project : The Nelson County Water Supply Project

Date : 05/12/21

Job No. :

Revised : 12/08/21

Est. By: JCT

ITEM NO.	SUMMARY OF: North Nelson Water District Water System Improvements	QUANTITY		COST PER UNIT		TOTAL COST
		NO. OF UNITS	UNIT MEAS.			
1	16" D.I.P. Water Transmission Main including creek crossings, road/driveway crossings, etc.	46,000	LF	\$ 165.00		\$ 7,590,000.00
2	16" Gate Valves	15	EA	\$ 12,500.00		\$ 187,500.00
3	Flushing Hydrants	15	EA	\$ 5,000.00		\$ 75,000.00
4	Control Valve Bldg.	1	LS	\$ 100,000.00		\$ 100,000.00
5	Master Meter & Vault	1	LS	\$ 75,000.00		\$ 75,000.00
6	Telemetry MTU and 4 Remote Sites	1	LS	\$ 85,000.00		\$ 85,000.00
						\$ -
						\$ -
						\$ -
	SUBTOTAL AMOUNT					\$ 8,112,500.00
10%	CONTINGENCY					\$ 811,250.00
	PRELIMINARY ENGINEERING/PLANNING					\$ 30,000.00
	ENGINEERING DESIGN					\$ 475,000.00
	RESIDENT INSPECTION					\$ 163,000.00
	RATE STUDY					\$ 10,000.00
	ENVIRONMENTAL ASSESMENT					\$ 15,000.00
	EASEMENTS/LAND ACQUISITION					\$ 10,000.00
	LEGAL AND ADMINISTRATION					\$ 15,000.00
	INTEREST					\$ 75,000.00
	TOTAL ESTIMATED PROJECT COST					\$ 9,716,750.00



Preliminary Project Cost Estimate

Project : The Nelson County Water Supply Project
Date : 05/12/21 Job No. :
Revised : 12/08/21 Est. By: JCT

ITEM NO.	SUMMARY OF: North Nelson Water District Water System Improvements	QUANTITY		COST PER UNIT		TOTAL COST
		NO. OF UNITS	UNIT MEAS.			
1	20" D.I.P. Water Transmission Main including creek crossings, road/driveway crossings, etc.	46,000	LF	\$ 205.00		\$ 9,430,000.00
2	20" Butterfly Valves	15	EA	\$ 20,000.00		\$ 300,000.00
3	Flushing Hydrants	15	EA	\$ 5,000.00		\$ 75,000.00
4	Control Valve Bldg.	1	LS	\$ 100,000.00		\$ 100,000.00
5	Master Meter & Vault	1	LS	\$ 75,000.00		\$ 75,000.00
6	Telemetry MTU and 4 Remote Sites	1	LS	\$ 85,000.00		\$ 85,000.00
						\$ -
						\$ -
						\$ -
	SUBTOTAL AMOUNT					\$ 10,065,000.00
10%	CONTINGENCY					\$ 1,006,500.00
	PRELIMINARY ENGINEERING/PLANNING					\$ 30,000.00
	ENGINEERING DESIGN					\$ 589,000.00
	RESIDENT INSPECTION					\$ 202,000.00
	RATE STUDY					\$ 10,000.00
	ENVIRONMENTAL ASSESMENT					\$ 15,000.00
	EASEMENTS/LAND ACQUISITION					\$ 10,000.00
	LEGAL AND ADMINISTRATION					\$ 15,000.00
	INTEREST					\$ 75,000.00
	TOTAL ESTIMATED PROJECT COST					\$ 12,017,500.00



Preliminary Project Cost Estimate

Project : The Nelson County Water Supply Project

Date : 05/12/21

Job No. :

Revised : 12/08/21

Est. By: JCT

ITEM NO.	SUMMARY OF: North Nelson Water District Water System Improvements	QUANTITY		COST PER UNIT		TOTAL COST
		NO. OF UNITS	UNIT MEAS.			
1	24" D.I.P. Water Transmission Main including creek crossings, road/driveway crossings, etc.	46,000	LF	\$ 225.00		\$ 10,350,000.00
2	24" Butterfly Valves	15	EA	\$ 22,500.00		\$ 337,500.00
3	Flushing Hydrants	15	EA	\$ 5,000.00		\$ 75,000.00
4	Control Valve Bldg.	1	LS	\$ 100,000.00		\$ 100,000.00
5	Master Meter & Vault	1	LS	\$ 75,000.00		\$ 75,000.00
6	Telemetry MTU and 4 Remote Sites	1	LS	\$ 85,000.00		\$ 85,000.00
						\$ -
						\$ -
						\$ -
	SUBTOTAL AMOUNT					\$ 11,022,500.00
10%	CONTINGENCY					\$ 1,102,250.00
	PRELIMINARY ENGINEERING/PLANNING					\$ 30,000.00
	ENGINEERING DESIGN					\$ 645,000.00
	RESIDENT INSPECTION					\$ 225,000.00
	RATE STUDY					\$ 10,000.00
	ENVIRONMENTAL ASSESMENT					\$ 15,000.00
	EASEMENTS/LAND ACQUISITION					\$ 10,000.00
	LEGAL AND ADMINISTRATION					\$ 15,000.00
	INTEREST					\$ 75,000.00
	TOTAL ESTIMATED PROJECT COST					\$ 13,149,750.00

EXHIBIT 5

SUPPLEMENTAL MEMORANDUM OF AGREEMENT

THIS SUPPLEMENTAL MEMORANDUM OF AGREEMENT

("Supplemental MOA") is made and entered into on this 19th day of July 2022 (the "Effective Date") by and among the Nelson Fiscal Court (the "Fiscal Court"), the City of Bardstown, Kentucky ("Bardstown"), and North Nelson Water District (the "District").

WITNESSETH:

WHEREAS, the Fiscal Court, Bardstown, and the District previously executed a Memorandum of Agreement ("MOA"), which has an Effective Date of December 21, 2021;

WHEREAS, the purpose of the MOA is to facilitate the construction of a large diameter water transmission main along Kentucky Highway 245 to serve as a regional transmission water supply line. This regional project is identified in the MOA as the "Nelson County Water Supply Project" or the "Project";

WHEREAS, the Parties have been seeking additional grants to supplement the funds itemized and allocated for the Project in the MOA;

WHEREAS, the Parties' efforts have been exceptionally successful;

WHEREAS, the Fiscal Court has been allocated the sum of **\$10,000,000** by the Kentucky General Assembly for this Project. This allocation is contained in House Bill 1, which is the State Executive Branch Budget for Fiscal Years 2022-

2023 and 2023-2024, adopted by the 2022 General Assembly, and it shall be referenced as the “2022 State Budget Allocation”;

WHEREAS, as set forth in House Bill 1, Section 1, Part I, A. General Government, 5(6)(d), the purpose of the 2022 State Budget Allocation is for “regional water supply infrastructure projects,” including “regional water supply lines”;

WHEREAS, the Parties desire for the 2022 State Budget Allocation to be utilized as part of the funding for the Project;

WHEREAS, it is mutually advantageous for the Fiscal Court, Bardstown, and the District to enter into this Supplemental MOA; and

WHEREAS, the Parties desire to supplement the MOA as hereinafter provided.

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereto, it is hereby agreed as follows:

1. Recitals. The facts, recitals, and statements contained in the MOA and in the foregoing preamble of this Supplemental MOA are true and correct, and are hereby affirmed and incorporated as a part of this Supplemental MOA.

2. MOA Still in Effect. Each and every provision of the MOA, as supplemented by this Supplemental MOA, shall continue to remain in full force and effect.

3. Additional Fiscal Court Contribution. In addition to the contributions of the Fiscal Court set forth in paragraph 3 of the MOA, the Fiscal Court shall also contribute the 2022 State Budget Allocation in the amount of \$10,000,000 to the Project.

4. Water Main Size. The water transmission main shall either be a 20-inch or a 24-inch diameter ductile iron pipe based upon the bids received and the available Project funding. Both diameter sizes shall be bid.

5. Bid Alternates. The Project shall be advertised for bid with the following bid alternates or options:

- A.** Bid Option 1: 20-inch diameter water transmission main extending from Kentucky Highway 1604 to Houghlin Funeral Home.
- B.** Bid Option 1-A: 24-inch diameter water transmission main extending from Kentucky Highway 1604 to Houghlin Funeral Home.
- C.** Bid Option 2: 20-inch diameter water transmission main extending from Houghlin Funeral Home to Bardstown's Withrow Court Water Storage Tank (the "Bardstown Interconnect Portion of Project").
- D.** Bid Option 2-A: 24-inch diameter water transmission main extending from Houghlin Funeral Home to Bardstown's Withrow Court Water Storage Tank (the "Bardstown Interconnect Portion of Project").

6. Order of Funding. All funds described in the MOA and in this Supplemental MOA shall be prioritized and spent in the following order:

- A.** First: Fully fund Bid Option 1 or 1-A.
- B.** Second: Fund Bid Option 2 or 2-A. Any grants for the Water infrastructure projects in this Supplemental MOA that are applicable to any cost sharing agreements related to local Distillery expansions will be used to lower those costs by the appropriate percentages agreed upon by those agreements.
- C.** Third: Any remaining funds shall be allocated to the Bardstown East Side Water System Improvements.

7. Cooperation. Each of the Parties agree to cooperate with the other parties in the timely execution of any documents necessary to effectuate the provisions of the MOA and this Supplemental MOA.

8. Assignment and Amendment.

A. This Supplemental MOA and the rights of the Fiscal Court, or Bardstown, or the District shall not be conveyed, assigned, or transferred to any other person or entity without the prior written consent of all Parties.

B. This Supplemental MOA shall not be amended or modified unless such amendment or modification is in writing and signed by all Parties.

9. Entirety. The Parties further agree that the MOA, as supplemented by this Supplemental MOA, now constitutes the entire understanding of the Fiscal

Court, Bardstown, and the District with respect to the transaction contemplated therein.

10. Counterparts. This Supplemental MOA may be executed in multiple counterparts by the Parties hereto. All of such counterparts shall be construed as if all signatures were appended to one document. The Parties hereto agree that a facsimile or e-mail of a counterpart of this signed Supplemental MOA constitutes an original counterpart, and shall be a valid and binding document for all legal and other purposes.

11. Severability. The invalidity or unenforceability of any provision of this Supplemental MOA shall not affect the validity or enforceability of any other provision hereof, and any such invalid or unenforceable provision shall be deemed to be severable.

IN WITNESS WHEREOF, this Supplemental MOA has been executed in multiple counterparts, each of which is deemed to be an original, by the duly authorized officers and officials of the Parties pursuant to authority granted by the governing body of each respective Party, as of its Effective Date.

[signature pages to follow]


NELSON COUNTY FISCAL COURT

BY: Dean Watts
Dean Watts, County Judge/Executive

ATTEST:

Jeanette Sidebottom
Jeanette Sidebottom, Nelson County Clerk

CITY OF BARDSTOWN, KENTUCKY

BY: 

J. Richard Heaton, Mayor

ATTEST:



Gary Little, City Clerk

NORTH NELSON WATER DISTRICT

BY: 
Nicky Rapier, Chairman

ATTEST:



Don Mudd, Secretary

EXHIBIT 6

RESOLUTION NO. 2024-09-01

**A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE NORTH NELSON WATER DISTRICT
ACCEPTING LOWEST AND BEST BID AND
AWARDING CONTRACT FOR NELSON COUNTY
WATER SUPPLY PROJECT PHASE II**

WHEREAS, North Nelson Water District (“North Nelson”) caused to be published in the August 21, 2024 edition of *The Kentucky Standard* an advertisement for bids for the Nelson County Water Supply Project Phase II (the “Contract” or “Project”) in accordance with the provisions of KRS Chapter 424;

WHEREAS, fourteen (14) firms submitted bids on the Contract in accordance with the terms of the advertisements and the Bid Specifications;

WHEREAS, Dirt Works Unlimited, LLC (“Dirt Works”) of Brandenburg, Kentucky submitted the lowest of the 14 bids with a bid of \$10,653,157.00 to construct the Project using 24-inch ductile iron pipe, and a bid of \$9,031,186.00 to construct the Project using 20-inch ductile iron pipe; both bids were the lowest received for the respective pipe size;

WHEREAS, Kentucky Engineering Group, PLLC (“Kentucky Engineering”) has recommended that the District award the Contract to Dirt Works to construct the Project using 24-inch ductile iron pipe;

WHEREAS, pursuant to the terms of the Memorandum of Agreement by and among the Nelson County Fiscal Court (“Fiscal Court”), the City of Bardstown (“Bardstown”), and North Nelson Water District (“North Nelson”) dated December 21, 2021 (the “MOA”) and the Supplemental Memorandum of Agreement dated July 19, 2022 by and among the same parties (“Supplemental MOA”), North Nelson and Bardstown shall jointly agree on whether the Project shall be constructed using 24-inch or 20-inch ductile iron pipe; and

WHEREAS, Bardstown has requested that the Project be constructed using 24-inch ductile iron pipe.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF NORTH NELSON WATER DISTRICT AS FOLLOWS:

Section 1. The facts, recitals, and statements contained in the foregoing preamble of this Resolution are true and correct and are hereby affirmed and incorporated as a part of this Resolution.

Section 2. The Board of Commissioners hereby accepts the recommendation of Kentucky Engineering and honors the request of Bardstown to construct the Project using 24-inch ductile iron pipe and award the Contract to Dirt Works.

Section 3. The Board of Commissioners hereby declares the bid of Dirt Works in the amount of \$10,653,157.00 to construct the Project using 24-inch ductile iron pipe to be the lowest and best bid.

Section 4. Dirt Works is awarded the Contract for the Project in the amount of \$10,653,157.00.

Section 5. The Chairman is authorized and directed as follows: (a) to execute the Notice of Award; (b) to execute the Agreement; (c) to execute the Notice to Proceed; and (d) to take any and all other actions reasonably necessary to implement the award of the Contract to Dirt Works, including the execution of any and all other documents necessary for such purpose.

Section 6. This Resolution shall take effect upon its adoption.

Adopted by the Board of Commissioners of North Nelson Water District at a regular meeting held on September 16, 2024, signed by the Chairman, and attested by the Secretary.

NORTH NELSON WATER DISTRICT

BY: 

Robert Cecil, Chairman

ATTEST:



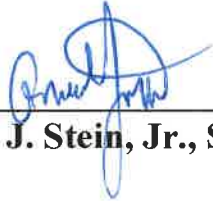
Orville J. Stein, Jr., Secretary

CERTIFICATION

I, **ORVILLE J. STEIN, JR.**, Secretary of the Board of Commissioners of **NORTH NELSON WATER DISTRICT**, do hereby certify that I have the care, custody and control of the official records of North Nelson; the above and foregoing Resolution is a true and correct copy of the Resolution which was adopted by the Board of Commissioners of North Nelson on September 16, 2024 at a regular meeting; that said Resolution has been duly recorded in the minute book of North Nelson; and that said Resolution is now in full force and effect.

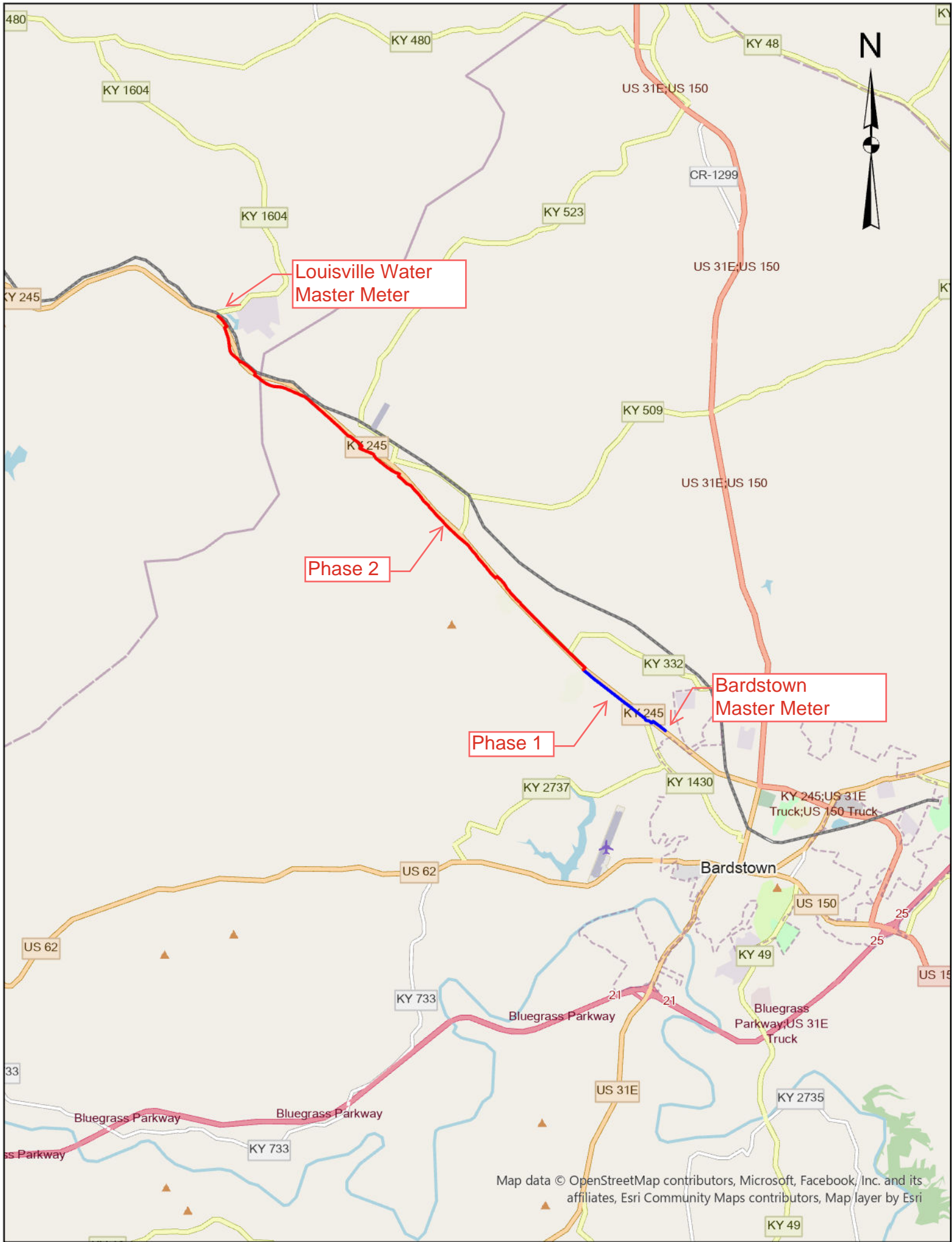
This 16th day of September, 2024.

NORTH NELSON WATER DISTRICT

BY: 

Orville J. Stein, Jr., Secretary

EXHIBIT 7



Louisville Water Master Meter

Phase 2

Phase 1

Bardstovwn Master Meter

EXHIBIT 8

Location Description of Phase 2 Nelson County Water Supply Project

The location of Phase 2 of the Nelson County Water Supply Project begins at Louisville Water Company's master meter serving North Nelson Water District located near the intersection of Kentucky Highway 1604 and Kentucky Highway 245, extends 7.29 miles (38,500 linear feet) along Kentucky Highway 245 in Nelson County, Kentucky, and joins Phase 1 of the Nelson County Water Supply Project near the Thomas Nelson High School.

Exhibit 9
Project Plans
Filed Separately

Exhibit 10
Project Specifications
Filed Separately

EXHIBIT 11

GRANT ASSISTANCE AGREEMENT

This Grant Assistance Agreement (the "Agreement") is made and entered into by and between the Kentucky Infrastructure Authority (the "Authority"), a body corporate and politic, constituting a public corporation and governmental agency and instrumentality of the Commonwealth of Kentucky, and the North Nelson Water District (the "Grantee"), acting herein through its Authorized Official, each a party to this Agreement, which shall be effective upon the date of signing by the Executive Director of the Authority,

WITNESSETH:

WHEREAS, the General Assembly of the Commonwealth of Kentucky, being the duly and legally constituted legislature of Kentucky at its 1988 Regular Session, enacted House Bill 217 amending Chapter 224A of the Kentucky Revised Statutes (the "Act"), creating the "Kentucky Infrastructure Authority" to serve the public purposes identified in the Act; and

WHEREAS, the Authority, attached to the Governor's Office, is charged pursuant to Section 224A.300 of the Act with coordinating the funding and implementation of infrastructure projects and to this end maintains the Water Resource Information System (the "WRIS") a comprehensive database of community water and wastewater projects across Kentucky; and

WHEREAS, Senate Bill 36 of the 2021 Regular Session of the Kentucky General Assembly approved a \$250,000,000 allocation in Federal Funds for Fiscal Year 2021 from the American Rescue Plan Act of 2021/Coronavirus State Fiscal Recovery Fund to the Authority for the Drinking Water and Wastewater Grant Program, known as the Kentucky Cleaner Water Program (the "CWP"), a portion of which funds are the subject of this Agreement; and

WHEREAS, the Grantee now seeks to acquire and construct a project as described in the Grantee's Project Profile in the WRIS (the "Project") and the Authority has determined that the Project meets the guidelines of the Cleaner Water Program and the directives of the General Assembly; and

WHEREAS, the Grantee and the Authority desire to enter into this Agreement which sets forth their respective duties, rights, covenants, and obligations with respect to the acquisition and construction of the Project and the application of the proceeds of a grant from the Cleaner Water Program as administered by the Authority.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the grant hereby effected, and for other good and valuable consideration, the receipt, mutuality and sufficiency of which is hereby acknowledged by the parties hereto, the Authority and the Grantee each agree as follows:

SECTION 1 – DEFINITIONS

All terms utilized herein shall have the same definitions and meaning as ascribed to them in the Act, which Act is hereby incorporated in this Agreement by reference, the same as if set forth herein verbatim; provided, however, that those definitions utilized in the Act having general application are hereby modified in certain instances to apply specifically to the Grantee and its Project.

Act shall mean Chapter 224A of the Kentucky Revised Statutes, as amended (the "KRS").

Agreement shall mean this Grant Assistance Agreement made and entered into by and between the Grantee and the Authority, as authorized by the Act, providing for a Grant to be made to the Grantee or its approved agent, subject to approval by the Authority.

Area Water Management Council shall mean the entity designated as the regional planning body for the respective counties within an Area Development District in Kentucky, which shall prepare and maintain an **Area Water Management Plan**, listing and prioritizing Project Profiles for water and wastewater projects within that region.

Engineer(s) shall mean the professional engineer or firm of professional engineers properly procured in accord with Chapter 45A of the KRS, as amended, by the Grantee in connection with the Project, as identified in the WRIS Cleaner Water Program Database.

Exhibit shall refer to a specific document, or to the completion of a process or procedure to be accomplished as a prerequisite to release of funds to the Grantee by the Authority.

Grant shall mean that portion of the Kentucky CWP funds made available to the Commonwealth by the American Recovery Program Act and allocated by the Kentucky General Assembly in its 2021 Regular Session, which shall be incrementally transferred under this Agreement from the Commonwealth to the Grantee through Grant Number 21CWW168 in the principal amount of **\$1,697,955** for the purpose of defraying the costs incidental to the Project.

Grantee shall mean any unit of local government, or its designated agent, as approved by the Authority, or any special purpose governmental entity within the Commonwealth eligible for funds under the CWP in accordance with the Act, now having been or hereafter being granted the funds for the Project; and for the purposes of this Agreement shall mean the Grantee identified on the front page of this Agreement.

Project shall mean, when used generally, a water, wastewater or other infrastructure project authorized pursuant to the Act, and when used in specific reference to the Grantee's Project funded by the Authority through the CWP, it shall refer to that

project as described in the Grantee's Project Profile in the WRIS, which has an 8 digit number following the designation WX or SX.

Project Administrator shall mean that individual designated in the Project Profile by that title, who has the capacity and responsibility of supervising the Project and coordinating the preparation of all related documentation on behalf of the Grantee with respect to the Project.

Project Budget shall mean a list of Project expenses and funding sources, in the form set forth in the current Project Profile as set forth in the WRIS.

Project Profile shall mean those specific details of the Project, presented by the Grantee to the respective Area Water Management Council for review and incorporation into the Area Water Management Plan and the WRIS.

System shall mean the utility system owned and operated by the Grantee or the agent of the Grantee, as approved by the Authority, to which the Project shall become a part, and any revenues generated by the Project, which are used to operate and maintain the utility system in the typical manner of a local public utility in Kentucky.

SECTION 2 - OBLIGATIONS OF THE AUTHORITY

The Authority covenants and agrees, conditioned upon the timely performance by the Grantee of its respective obligations, to undertake the following obligations:

- A. The Authority shall review and approve Project related documentation provided by the Grantee. Once the Project is under construction, the Authority shall review requests for payment submitted for payment of costs of the Project. Any deficiencies found in said requests will be reported immediately to the Grantee. If there are no deficiencies in said requests or deficiencies have been resolved satisfactorily by the Grantee, the Authority will approve the requests and disburse grant funds to the Grantee in an amount not to exceed, cumulatively, the approved grant amount for the Project.
- B. The Authority will communicate and cooperate with the Grantee to best assist the Grantee in meeting its obligations set out in this Agreement.

SECTION 3 - OBLIGATIONS OF THE GRANTEE

The Grantee covenants and agrees to undertake the following obligations:

- A. The Grantee shall complete and submit executed copies of all required Exhibits to the Authority, in accordance with the Conditional Commitment Letter instructions.

- B. The Grantee may consider utilizing the option for partial funding set out in Section 6, below. Over the course of the acquisition and construction of the Project, the Grantee shall provide such status reports as may be requested by the Authority, and once the Project is under construction submit periodic requests for payment to the Authority accompanied by copies of invoices for costs incurred in accordance with the Authority's standard draw-down request format.
- C. The Grantee shall perform and/or cause to be performed all necessary acts consistent with all federal and state labor and procurement laws in connection with the planning, design, acquisition and construction of the Project, including: the proper procurement of land, easements and rights of way; professional services, including but not limited to architectural and engineering services; construction contractor(s) services; and the acquisition of necessary equipment and/or materials.
- D. The Grantee shall obtain and keep on file all required permits, licenses and approvals from the appropriate federal, state, and/or local governmental agencies prior to starting construction of the Project.
- E. The Grantee shall comply with all applicable federal and state statutes, executive orders, regulatory requirements, and policies relating to the planning and construction of the Project.
- F. The Grantee shall cooperate fully with the Authority and provide any documentation requested by the Authority in order to facilitate completing the obligations set out in this Agreement.
- G. The Grantee will proceed expeditiously to complete the Project in accordance with the approved final engineering plans and specifications or amendments thereto, prepared by the Project Engineer for the Grantee, if required and as approved by the Authority and other state and federal agencies, as appropriate.
- H. The Grantee agrees that throughout the reasonable life of the infrastructure facilities developed under the Project it will retain ownership of, operate, and maintain these facilities, and all appurtenances thereto, keeping them in good and sound repair and good operating condition at its own expense so that the completed Project will continue to provide the services for which it was designed. Change of ownership or disposal of the Project facilities during their useful life may occur only with written approval of the Authority.
- I. If the Grantee is a local unit of government, city or county, and determines that it is in the best interest of its citizens, it may enter into a memorandum of agreement with a Kentucky corporation to serve as its agent for the implementation and long term operation and management of the Project, subject to the Agreement. The form and content of such a memorandum of agreement is subject to the prior approval of the Authority.

- J. General Compliance with all Duties. The Grantee shall faithfully and punctually perform all duties with reference to the System required by the American Rescue Plan Act of 2021, and by the terms and provisions of the Act, and this Assistance Agreement.
- K. Further Covenants under the American Rescue Plan Act of 2021. The Grantee shall comply with all further requirements or conditions which may arise from time to time in order to assure compliance with the American Rescue Plan Act of 2021, including but not limited to the following:
1. Records Retention. The Grantee shall provide to the Authority access to all records related to the Project for review in determining compliance with this Agreement and all applicable laws and regulations, including the American Rescue Plan Act of 2021/Coronavirus State Fiscal Recovery Fund. The Grantee shall retain all records, including all invoices, relating to the Project for five (5) years after full execution of the Certificate of Completion.
 2. Single Audit Requirements. Grantees that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements. Grantees may also refer to the Office of Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the Federal Audit Clearinghouse to see examples and single audit submissions.
 3. Civil Rights Compliance. The Grantee is required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the U.S. Department of the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.
- L. General. The Grantee shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Grantee under the provisions of the American Rescue Plan Act of 2021 and this Assistance Agreement in accordance with the terms of such provisions.

SECTION 4 - MUTUALITY OF OBLIGATIONS

- A. The parties agree that the funds granted by the Commonwealth to the Grantee are to be used solely for the purposes of the acquisition and construction of the Project. Further, the parties agree that the obligations imposed upon them are for their respective benefit and the timely fulfillment of the obligations set herein are necessary for the Project.
- B. Except as may otherwise be provided herein, the parties to this Agreement shall be solely responsible for any incidental costs incurred in fulfilling their respective obligations under this Agreement and neither party shall have any claim against the other party for reimbursement of incidental costs whether or not a party is in default.

SECTION 5 - TERMS OF AGREEMENT

- A. This Agreement shall be valid only after both parties have duly signed and provided the executed document to the other.
- B. This Agreement may be terminated by either party at any time for cause and may be terminated by either party without cause upon 30 days written notice to the other party. Termination of this Agreement shall not diminish or in any other manner affect any other remedy that may be available to the parties for any breach of the Agreement that occurs prior to the termination.
- C. If, after execution of this Agreement, additional financial assistance is found to be required for the acquisition and construction of the Project and the required additional assistance does or does not become available to the Grantee from any source, the Project may be modified so long as any change in scope and budget is mutually agreed to by the parties to this Agreement, and clearly documented in a revision of the Project Budget within the Project Profile.

SECTION 6 - ADVANCE FUNDING FOR PROJECT PLANNING AND DESIGN

- A. The Grantee may request, in writing, that a portion of the grant funds be disbursed prior to Project bidding to pay up to 50% of the budgeted engineering fee for Project planning and design to the Project Engineer to expedite submission of the Project plans and specifications for review by the Kentucky Division of Water. The balance of the budgeted engineering fee for project planning and design may be paid only after approval of the plans by the Kentucky Division of Water.
- B. It is specifically understood and agreed by the Grantee in the event that the Project has not been advertised for bids within twenty-four (24) months from the date of

signing of this Agreement, for whatever reason, any funds disbursed for Project planning and design are subject to full and immediate repayment by the Grantee to the Authority.

- C. No funds shall be released under this Section until the requirements of Exhibits 1 through 7 of this Agreement have been completed.

SECTION 7. - EVENTS OF DEFAULT AND REMEDIES.

Section 7.1. Events of Default Defined.

The following will be "Events of Default" under this Agreement and the term "Event of Default" or "Default" will mean, whenever it is used in this Agreement, any one or more of the following events:

- A. Any unauthorized or improper expenditure of funds by the Grantee, or expenditure of funds by the Grantee other than in accordance with the terms of this Agreement.
- B. Failure by the Grantee to observe or perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (A) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied will have been given to the Grantee by the Authority unless the Authority agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Authority will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Grantee within the applicable period and diligently pursued until such failure is corrected.
- C. The dissolution or liquidation of the Grantee, or the voluntary initiation by the Grantee of any proceeding under any federal or Kentucky law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Grantee of any such proceeding which remain undismissed for sixty (60) days, or the entry by the Grantee into an agreement of composition with creditors or the failure generally by the Grantee to pay its debts as they become due.
- D. A default by the Grantee under the provisions of any agreements relating to its debt obligations.

Section 7.2. Remedies on Default.

Whenever any Event of Default referred to in Section 7.1 has occurred and is continuing, the Authority may, without any further demand or notice, take one or any combination of the following remedial steps:

- A. Declare this Agreement void from the beginning without further obligation to the Grantee and may commence appropriate legal action to enforce its rights under this Agreement including action for recovery of funds expended hereunder.
- B. Terminate any remaining grant payments to the Grantee.
- C. Exercise all the rights and remedies of the Authority set forth in the Act.
- D. Take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Agreement.
- E. Submit a formal referral to the appropriate federal agency.

Section 7.3. No Remedy Exclusive.

No remedy herein conferred upon or reserved to the Authority is intended to be exclusive, and every such remedy will be cumulative and will be in addition to every other remedy given hereunder and every remedy now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power and any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 7.4. Consent to Powers of Authority Under Act.

The Grantee hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges in respect of the Project upon the occurrence of an Event of Default, and the Grantee hereby covenants and agrees that if the Authority should in the future have recourse to said rights and powers, the Grantee shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Agreement.

Section 7.5. Waivers.

In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver will be limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

Section 7.6. Agreement to Pay Attorneys' Fees and Expenses.

In the event that either party hereto defaults under any of the provisions hereof and the non-defaulting party employs attorneys or incurs other expenses for the enforcement of

performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will pay on demand therefor to the non-defaulting party the fees of such attorneys and such other expenses so incurred by the non-defaulting party.

SECTION 8 - MISCELLANEOUS PROVISIONS

- A. The Grantee may sign this Agreement electronically via a program subject to the approval by the Authority, or manually on a paper copy that is scanned to the portable document format (.pdf) and emailed to the Authority. Transmittal of all other correspondence or documentation, including the required Exhibits identified in the Attachment shall be scanned and attached as a file to email. The Authority and the Grantee, working through the Project Administrator, shall assist each other in securing and maintaining a complete, current Project document file for reference, records, and audit purposes.
- B. The headings set forth in this Agreement are for convenience and the terms contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.
- C. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the successor and assigns, respectively, of the parties. Except for the limited use of a memorandum of agreement (as provided in Section 3 herein), this provision shall not be construed to permit an assignment by any party of any of its rights and duties under this Agreement which assignment shall be prohibited except with the prior written consent of the parties hereto.
- D. This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof and may be modified only by a written instrument duly executed by each of the parties hereto.
- E. Timely and accurate performance of all actions by the respective parties are mutually recognized by the parties of this Agreement to be of importance to the citizens of the Commonwealth generally, and particularly to those citizens directly affected by the Project.
- F. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.
- G. The Authority may audit or review all documentation and records of the Grantee relating to this Project pursuant to the provisions of Section 45A.150 of the KRS or any other applicable federal or state law.
- H. The Grantee agrees that the Authority, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other documentation or evidence, which are directly pertinent to this Agreement for the purpose of financial audit or program review.

Furthermore, any books, documents, papers records, or other evidence provided to the Commonwealth, the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission, which are directly pertinent to this Agreement, shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior to the execution of this Agreement. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information which would otherwise be subject to public release if a state government agency was providing the services.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officials as of the day and year above written.

**KENTUCKY INFRASTRUCTURE
AUTHORITY**

By: *Richard Adam* *For Sandy Williams*
Sandy Williams, Executive Director

Date: 02/12/24

NORTH NELSON WATER DISTRICT

By: *Robert Cecil*
Authorized Official

**THIS AGREEMENT HAS BEEN EXAMINED
BY:**

By: *Natalie Lile*
LEGAL COUNSEL TO THE KENTUCKY
INFRASTRUCTURE AUTHORITY

CWP GRANT CONDITIONS – COMPLIANCE FORMS & EXHIBITS

Note A: Exhibits 1 through 3 must be completed, scanned, and emailed to the Authority on or before the date the Grantee signs the Conditional Commitment Letter. The Conditional Commitment Letter may be signed electronically or manually, then scanned and emailed to the Authority.

- Exhibit 1 Notification to the Authority of completed Review / Update of Project Profile
- Exhibit 2 Confirmation of Grantee Vendor Number – via KY Finance Cabinet Application
- Exhibit 3 Copy of the Transparency Act Reporting Information Form

Note B: Upon receipt of the signed Conditional Commitment Letter and the Authority's verification of Exhibits 1-3, the Authority will forward to the Grantee the Grant Assistance Agreement. The Grantee should proceed to complete Exhibits 4 through 7, scan and send each Exhibit to the Authority by email; and then the Authorized Official may sign the Assistance Agreement, either electronically or by scanning and send attached to email.

- Exhibit 4 A) Grantee Resolution (Accepting Grant, Approving Agreement, Amending Budget, Designating an Authorized Official)
B) Certificate of Recording Officer
- Exhibit 5 Opinion of Legal Counsel Relating to the Grantee Resolution
- Exhibit 6 A) Copy of the Engineering Services Contract; and
B) Grantee & Engineer Fee Confirmation

Note C: The Grantee may request 50% of the engineering design fee (as budgeted in the Project Profile) at this point and may request the balance of the engineering design fee once Exhibit 8 has been sent to the Authority.

- Exhibit 7 Copy of the Kentucky eClearinghouse Endorsement Letter with Comments.
- Exhibit 8 Copy of the DOW Approval Letter of Project Engineering Plans & Specifications.
- Exhibit 9 Copy of the bid package signed by (A) Engineer, (B1) Authorized Official, and (B2) Title Attorney, as appropriate.
- Exhibit 10 Certification Regarding Utility Accounting, Cost-Based Rates and Auditing.
- Exhibit 11 Certificate of Project Completion.

GRANT ASSISTANCE AGREEMENT

This Grant Assistance Agreement (the "Agreement") is made and entered into by and between the Kentucky Infrastructure Authority (the "Authority"), a body corporate and politic, constituting a public corporation and governmental agency and instrumentality of the Commonwealth of Kentucky, and the North Nelson Water District (the "Grantee"), acting herein through its Authorized Official, each a party to this Agreement, which shall be effective upon the date of signing by the Executive Director of the Authority,

WITNESSETH:

WHEREAS, the General Assembly of the Commonwealth of Kentucky, being the duly and legally constituted legislature of Kentucky at its 1988 Regular Session, enacted House Bill 217 amending Chapter 224A of the Kentucky Revised Statutes (the "Act"), creating the "Kentucky Infrastructure Authority" to serve the public purposes identified in the Act; and

WHEREAS, the Authority, attached to the Governor's Office, is charged pursuant to Section 224A.300 of the Act with coordinating the funding and implementation of infrastructure projects and to this end maintains the Water Resource Information System (the "WRIS") a comprehensive database of community water and wastewater projects across Kentucky; and

WHEREAS, House Bill 1 of the 2022 Regular Session of the Kentucky General Assembly approved a \$54,000,000 allocation in Federal Funds for Fiscal Year 2023 from the American Rescue Plan Act of 2021/Coronavirus State Fiscal Recovery Fund for various budget line item projects to be administered by the Authority, a portion of which funds are the subject of this Agreement; and

WHEREAS, the Grantee now seeks to acquire and construct a project as described in the Grantee's Project Profile in the WRIS (the "Project") and the Authority has determined that the Project meets the guidelines of the American Rescue Plan Act of 2021 and the directives of the General Assembly; and

WHEREAS, the Grantee and the Authority desire to enter into this Agreement which sets forth their respective duties, rights, covenants, and obligations with respect to the acquisition and construction of the Project and the application of the proceeds of a grant from the Cleaner Water Program as administered by the Authority.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the grant hereby effected, and for other good and valuable consideration, the receipt, mutuality and sufficiency of which is hereby acknowledged by the parties hereto, the Authority and the Grantee each agree as follows:

SECTION 1 – DEFINITIONS

All terms utilized herein shall have the same definitions and meaning as ascribed to them in the Act, which Act is hereby incorporated in this Agreement by reference, the same as if set forth herein verbatim; provided, however, that those definitions utilized in the Act having general application are hereby modified in certain instances to apply specifically to the Grantee and its Project.

Act shall mean Chapter 224A of the Kentucky Revised Statutes, as amended (the “KRS”).

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Engineer(s) shall mean the professional engineer or firm of professional engineers properly procured in accord with KRS Chapter 45A and 2 CFR 200.317 through 2 CFR 200.327 (where applicable), as amended, by the Grantee in connection with the Project, as identified in the WRIS Cleaner Water Program Database.

Exhibit shall refer to a specific document, or to the completion of a process or procedure to be accomplished as a prerequisite to release of funds to the Grantee by the Authority.

Grant shall mean that portion of funds made available to the Commonwealth by the American Recovery Program Act and allocated by the Kentucky General Assembly in its 2022 Regular Session, which shall be incrementally transferred under this Agreement from the Commonwealth to the Grantee through Grant Number 22KFW006 in the principal amount of **\$10,000,000** for the purpose of defraying the costs incidental to the Project.

Grantee shall mean any unit of local government, or its designated agent, as approved by the Authority, or any special purpose governmental entity within the Commonwealth eligible for funds in accordance with the Act, now having been or hereafter being granted the funds for the Project; and for the purposes of this Agreement shall mean the Grantee identified on the front page of this Agreement.

Project shall mean, when used generally, a water, wastewater or other infrastructure project authorized pursuant to House Bill 1 of the 2022 Regular Session, and when used in specific reference to the Grantee’s Project administered by the Authority, it

shall refer to that project as described in the Grantee's Project Profile in the WRIS, which has an 8-digit number following the designation WX or SX.

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- G. The Grantee will proceed expeditiously to complete the Project in accordance with the approved final engineering plans and specifications or amendments thereto, prepared by the Project Engineer for the Grantee, if required and as approved by the Authority and other state and federal agencies, as appropriate.
- H. The Grantee agrees that throughout the reasonable life of the infrastructure facilities developed under the Project it will retain ownership of, operate, and maintain these facilities, and all appurtenances thereto, keeping them in good and sound repair and good operating condition at its own expense so that the completed Project will continue to provide the services for which it was designed. Change of ownership or disposal of the Project facilities during their useful life may occur only with written approval of the Authority.
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1. Records Retention. The Grantee shall provide to the Authority access to all records related to the Project for review in determining compliance with this Agreement and all applicable laws and regulations, including the American Rescue Plan Act of 2021/Coronavirus State Fiscal Recovery Fund. The Grantee shall retain all records, including all invoices, relating to the Project for five (5) years after full execution of the Certificate of Completion.
 2. Single Audit Requirements. Grantees that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements. Grantees may also refer to the Office of Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the Federal Audit Clearinghouse to see examples and single audit submissions.
 3. Civil Rights Compliance. The Grantee is required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the U.S. Department of the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.
- L. General. The Grantee shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Grantee under the provisions of the American Rescue Plan Act of 2021 and this Assistance Agreement in accordance with the terms of such provisions.

SECTION 4 - MUTUALITY OF OBLIGATIONS

- A. The parties agree that the funds granted by the Commonwealth to the Grantee are to be used solely for the purposes of the acquisition and construction of the Project. Further, the parties agree that the obligations imposed upon them are for their respective benefit and the timely fulfillment of the obligations set herein are necessary for the Project.
- B. Except as may otherwise be provided herein, the parties to this Agreement shall be solely responsible for any incidental costs incurred in fulfilling their respective obligations under this Agreement and neither party shall have any claim against the other party for reimbursement of incidental costs whether or not a party is in default.

SECTION 5 - TERMS OF AGREEMENT

- A. This Agreement shall be valid only after both parties have duly signed and provided the executed document to the other.
- B. This Agreement may be terminated by either party at any time for cause and may be terminated by either party without cause upon 30 days written notice to the other party. Termination of this Agreement shall not diminish or in any other manner affect any other remedy that may be available to the parties for any breach of the Agreement that occurs prior to the termination.
- C. If, after execution of this Agreement, additional financial assistance is found to be required for the acquisition and construction of the Project and the required additional assistance does or does not become available to the Grantee from any source, the Project may be modified so long as any change in scope and budget is mutually agreed to by the parties to this Agreement, and clearly documented in a revision of the Project Budget within the Project Profile.

SECTION 6 - ADVANCE FUNDING FOR PROJECT PLANNING AND DESIGN

- A. The Grantee may request, in writing, that a portion of the grant funds be disbursed prior to Project bidding to pay up to 50% of the budgeted engineering fee for Project planning and design to the Project Engineer to expedite submission of the Project plans and specifications for review by the Kentucky Division of Water. The balance of the budgeted engineering fee for project planning and design may be paid only after approval of the plans by the Kentucky Division of Water.
- B. It is specifically understood and agreed by the Grantee in the event that the Project has not been advertised for bids within twenty-four (24) months from the date of

signing of this Agreement, for whatever reason, any funds disbursed for Project planning and design are subject to full and immediate repayment by the Grantee to the Authority.

- C. No funds shall be released under this Section until the requirements of Exhibits 1 through 7 of this Agreement have been completed.

SECTION 7. - EVENTS OF DEFAULT AND REMEDIES.

Section 7.1. Events of Default Defined.

The following will be "Events of Default" under this Agreement and the term "Event of Default" or "Default" will mean, whenever it is used in this Agreement, any one or more of the following events:

- A. Any unauthorized or improper expenditure of funds by the Grantee, or expenditure of funds by the Grantee other than in accordance with the terms of this Agreement.
- B. Failure by the Grantee to observe or perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (A) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied will have been given to the Grantee by the Authority unless the Authority agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Authority will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Grantee within the applicable period and diligently pursued until such failure is corrected.
- C. The dissolution or liquidation of the Grantee, or the voluntary initiation by the Grantee of any proceeding under any federal or Kentucky law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Grantee of any such proceeding which remain undismissed for sixty (60) days, or the entry by the Grantee into an agreement of composition with creditors or the failure generally by the Grantee to pay its debts as they become due.
- D. A default by the Grantee under the provisions of any agreements relating to its debt obligations.

Section 7.2. Remedies on Default.

Whenever any Event of Default referred to in Section 7.1 has occurred and is continuing, the Authority may, without any further demand or notice, take one or any combination of the following remedial steps:

- A. Declare this Agreement void from the beginning without further obligation to the Grantee and may commence appropriate legal action to enforce its rights under this Agreement including action for recovery of funds expended hereunder.
- B. Terminate any remaining grant payments to the Grantee.
- C. Exercise all the rights and remedies of the Authority set forth in the Act.
- D. Take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Agreement.
- E. Submit a formal referral to the appropriate federal agency.

Section 7.3. No Remedy Exclusive.

No remedy herein conferred upon or reserved to the Authority is intended to be exclusive, and every such remedy will be cumulative and will be in addition to every other remedy given hereunder and every remedy now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power and any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 7.4. Consent to Powers of Authority Under Act.

The Grantee hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges in respect of the Project upon the occurrence of an Event of Default, and the Grantee hereby covenants and agrees that if the Authority should in the future have recourse to said rights and powers, the Grantee shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Agreement.

Section 7.5. Waivers.

In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver will be limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

Section 7.6. Agreement to Pay Attorneys' Fees and Expenses.

In the event that either party hereto defaults under any of the provisions hereof and the non-defaulting party employs attorneys or incurs other expenses for the enforcement of

performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will pay on demand therefor to the non-defaulting party the fees of such attorneys and such other expenses so incurred by the non-defaulting party.

SECTION 8 - MISCELLANEOUS PROVISIONS

- A. The Grantee may sign this Agreement electronically via a program subject to the approval by the Authority, or manually on a paper copy that is scanned to the portable document format (.pdf) and emailed to the Authority. Transmittal of all other correspondence or documentation, including the required Exhibits identified in the Attachment shall be scanned and attached as a file to email. The Authority and the Grantee, working through the Project Administrator, shall assist each other in securing and maintaining a complete, current Project document file for reference, records, and audit purposes.
- B. The headings set forth in this Agreement are for convenience and the terms contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.
- C. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the successor and assigns, respectively, of the parties. Except for the limited use of a memorandum of agreement (as provided in Section 3 herein), this provision shall not be construed to permit an assignment by any party of any of its rights and duties under this Agreement which assignment shall be prohibited except with the prior written consent of the parties hereto.
- D. This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof and may be modified only by a written instrument duly executed by each of the parties hereto.
- E. Timely and accurate performance of all actions by the respective parties are mutually recognized by the parties of this Agreement to be of importance to the citizens of the Commonwealth generally, and particularly to those citizens directly affected by the Project.
- F. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.
- G. The Authority may audit or review all documentation and records of the Grantee relating to this Project pursuant to the provisions of Section 45A.150 of the KRS or any other applicable federal or state law.
- H. The Grantee agrees that the Authority, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other documentation or evidence, which are directly pertinent to this Agreement for the purpose of financial audit or program review.

Furthermore, any books, documents, papers records, or other evidence provided to the Commonwealth, the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission, which are directly pertinent to this Agreement, shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior to the execution of this Agreement. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information which would otherwise be subject to public release if a state government agency was providing the services.

- I. During the performance of this contract, the Grantee agrees to the following Appendix II to 2 CFR Part 200 contract provisions, as amended:

Equal Employment Opportunity

The Grantee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Grantee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

1. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The Grantee will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The Grantee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or

understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. The Grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The Grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the Grantee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The Grantee will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Grantee becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Contract Work Hours and Safety Standards Act

All contracts that are in excess of \$100,000 and involve the employment of mechanics or laborers must include provisions requiring compliance with the Contract Work Hours and Safety Standards Act as follows:

1. Overtime requirements: No contractor or subcontractor contracting for any part of the Agreement work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess

- of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.
2. Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
 3. Withholding for unpaid wages and liquidated damages. The Grantee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
 4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

Clean Air Act

1. The Grantee agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The Grantee agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.
3. The Grantee agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funding.

Federal Water Pollution Control Act

1. The Grantee agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The Grantee agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.
3. The Grantee agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.

Debarment and Suspension

Contracts shall not be awarded to parties listed on the governmentwide exclusions in the System for Award Management (SAM) listed at www.sam.gov.

Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officials as of the day and year above written.

**KENTUCKY INFRASTRUCTURE
AUTHORITY**

By: *Richard Detman* For Sandy Williams
Sandy Williams, Executive Director

Date: 03/04/2024

NORTH NELSON WATER DISTRICT

By: *Greg A. Cissell*
Authorized Official

**THIS AGREEMENT HAS BEEN EXAMINED
BY:**

By: *Natalie Lile*
**LEGAL COUNSEL TO THE KENTUCKY
INFRASTRUCTURE AUTHORITY**

CWP GRANT CONDITIONS – COMPLIANCE FORMS & EXHIBITS

Note A: Exhibits 1 through 3 must be completed, scanned, and emailed to the Authority on or before the date the Grantee signs the Conditional Commitment Letter. The Conditional Commitment Letter may be signed electronically or manually, then scanned and emailed to the Authority.

- Exhibit 1 Notification to the Authority of completed Review / Update of Project Profile
- Exhibit 2 Confirmation of Grantee Vendor Number – via KY Finance Cabinet Application
- Exhibit 3 Copy of the Transparency Act Reporting Information Form

Note B: Upon receipt of the signed Conditional Commitment Letter and the Authority's verification of Exhibits 1-3, the Authority will forward to the Grantee the Grant Assistance Agreement. The Grantee should proceed to complete Exhibits 4 through 7, scan and send each Exhibit to the Authority by email; and then the Authorized Official may sign the Assistance Agreement, either electronically or by scanning and send attached to email.

- Exhibit 4 A) Grantee Resolution (Accepting Grant, Approving Agreement, Amending Budget, Designating an Authorized Official)
B) Certificate of Recording Officer
- Exhibit 5 Opinion of Legal Counsel Relating to the Grantee Resolution
- Exhibit 6 A) Copy of the Engineering Services Contract; and
B) Grantee & Engineer Fee Confirmation

Note C: The Grantee may request 50% of the engineering design fee (as budgeted in the Project Profile) at this point and may request the balance of the engineering design fee once Exhibit 8 has been sent to the Authority.

- Exhibit 7 Copy of the Kentucky eClearinghouse Endorsement Letter with Comments.
- Exhibit 8 Copy of the DOW Approval Letter of Project Engineering Plans & Specifications.
- Exhibit 9 Copy of the bid package signed by (A) Engineer, (B1) Authorized Official, and (B2) Title Attorney, as appropriate.
- Exhibit 10 Certification Regarding Utility Accounting, Cost-Based Rates and Auditing.
- Exhibit 11 Certificate of Project Completion.

GRANT ASSISTANCE AGREEMENT

This Grant Assistance Agreement (the "Agreement") is made and entered into by and between the Kentucky Infrastructure Authority (the "Authority"), a body corporate and politic, constituting a public corporation and governmental agency and instrumentality of the Commonwealth of Kentucky, and the North Nelson Water District (the "Grantee"), acting herein through its Authorized Official, each a party to this Agreement, which shall be effective upon the date of signing by the Executive Director of the Authority,

WITNESSETH:

WHEREAS, the General Assembly of the Commonwealth of Kentucky, being the duly and legally constituted legislature of Kentucky at its 1988 Regular Session, enacted House Bill 217 amending Chapter 224A of the Kentucky Revised Statutes (the "Act"), creating the "Kentucky Infrastructure Authority" to serve the public purposes identified in the Act; and

WHEREAS, the Authority, attached to the Governor's Office, is charged pursuant to Section 224A.300 of the Act with coordinating the funding and implementation of infrastructure projects and to this end maintains the Water Resource Information System (the "WRIS") a comprehensive database of community water and wastewater projects across Kentucky; and

WHEREAS, House Bill 1 of the 2022 Regular Session of the Kentucky General Assembly approved a \$250,000,000 allocation in Federal Funds for Fiscal Year 2023 from the American Rescue Plan Act of 2021/Coronavirus State Fiscal Recovery Fund to the Authority for the Drinking Water and Wastewater Grant Program, known as the Kentucky Cleaner Water Program (the "CWP"), a portion of which funds are the subject of this Agreement; and

WHEREAS, the Grantee now seeks to acquire and construct a project as described in the Grantee's Project Profile in the WRIS (the "Project") and the Authority has determined that the Project meets the guidelines of the Cleaner Water Program and the directives of the General Assembly; and

WHEREAS, the Grantee and the Authority desire to enter into this Agreement which sets forth their respective duties, rights, covenants, and obligations with respect to the acquisition and construction of the Project and the application of the proceeds of a grant from the Cleaner Water Program as administered by the Authority.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the grant hereby effected, and for other good and valuable consideration, the receipt, mutuality and sufficiency of which is hereby acknowledged by the parties hereto, the Authority and the Grantee each agree as follows:

SECTION 1 – DEFINITIONS

All terms utilized herein shall have the same definitions and meaning as ascribed to them in the Act, which Act is hereby incorporated in this Agreement by reference, the same as if set forth herein verbatim; provided, however, that those definitions utilized in the Act having general application are hereby modified in certain instances to apply specifically to the Grantee and its Project.

Act shall mean Chapter 224A of the Kentucky Revised Statutes, as amended (the “KRS”).

Agreement shall mean this Grant Assistance Agreement made and entered into by and between the Grantee and the Authority, as authorized by the Act, providing for a Grant to be made to the Grantee or its approved agent, subject to approval by the Authority.

Area Water Management Council shall mean the entity designated as the regional planning body for the respective counties within an Area Development District in Kentucky, which shall prepare and maintain an **Area Water Management Plan**, listing and prioritizing Project Profiles for water and wastewater projects within that region.

Engineer(s) shall mean the professional engineer or firm of professional engineers properly procured in accord with KRS Chapter 45A and 2 CFR 200.317 through 2 CFR 200.327 (where applicable), as amended, by the Grantee in connection with the Project, as identified in the WRIS Cleaner Water Program Database.

Exhibit shall refer to a specific document, or to the completion of a process or procedure to be accomplished as a prerequisite to release of funds to the Grantee by the Authority.

Grant shall mean that portion of the Kentucky CWP funds made available to the Commonwealth by the American Recovery Program Act and allocated by the Kentucky General Assembly in its 2022 Regular Session, which shall be incrementally transferred under this Agreement from the Commonwealth to the Grantee through Grant Number 22CWW203 in the principal amount of **\$2,839,085** for the purpose of defraying the costs incidental to the Project.

Grantee shall mean any unit of local government, or its designated agent, as approved by the Authority, or any special purpose governmental entity within the Commonwealth eligible for funds under the CWP in accordance with the Act, now having been or hereafter being granted the funds for the Project; and for the purposes of this Agreement shall mean the Grantee identified on the front page of this Agreement.

Project shall mean, when used generally, a water, wastewater or other infrastructure project authorized pursuant to the Act, and when used in specific reference to the Grantee’s Project funded by the Authority through the CWP, it shall refer to that

project as described in the Grantee's Project Profile in the WRIS, which has an 8 digit number following the designation WX or SX.

Project Administrator shall mean that individual designated in the Project Profile by that title, who has the capacity and responsibility of supervising the Project and coordinating the preparation of all related documentation on behalf of the Grantee with respect to the Project.

Project Budget shall mean a list of Project expenses and funding sources, in the form set forth in the current Project Profile as set forth in the WRIS.

Project Profile shall mean those specific details of the Project, presented by the Grantee to the respective Area Water Management Council for review and incorporation into the Area Water Management Plan and the WRIS.

System shall mean the utility system owned and operated by the Grantee or the agent of the Grantee, as approved by the Authority, to which the Project shall become a part, and any revenues generated by the Project, which are used to operate and maintain the utility system in the typical manner of a local public utility in Kentucky.

SECTION 2 - OBLIGATIONS OF THE AUTHORITY

The Authority covenants and agrees, conditioned upon the timely performance by the Grantee of its respective obligations, to undertake the following obligations:

- A. The Authority shall review and approve Project related documentation provided by the Grantee. Once the Project is under construction, the Authority shall review requests for payment submitted for payment of costs of the Project. Any deficiencies found in said requests will be reported immediately to the Grantee. If there are no deficiencies in said requests or deficiencies have been resolved satisfactorily by the Grantee, the Authority will approve the requests and disburse grant funds to the Grantee in an amount not to exceed, cumulatively, the approved grant amount for the Project.
- B. The Authority will communicate and cooperate with the Grantee to best assist the Grantee in meeting its obligations set out in this Agreement.

SECTION 3 - OBLIGATIONS OF THE GRANTEE

The Grantee covenants and agrees to undertake the following obligations:

- A. The Grantee shall complete and submit executed copies of all required Exhibits to the Authority, in accordance with the Conditional Commitment Letter instructions.

- B. The Grantee may consider utilizing the option for partial funding set out in Section 6, below. Over the course of the acquisition and construction of the Project, the Grantee shall provide such status reports as may be requested by the Authority, and once the Project is under construction submit periodic requests for payment to the Authority accompanied by copies of invoices for costs incurred in accordance with the Authority's standard draw-down request format.
- C. The Grantee shall perform and/or cause to be performed all necessary acts consistent with all federal and state labor and procurement laws in connection with the planning, design, acquisition and construction of the Project, including: the proper procurement of land, easements and rights of way; professional services, including but not limited to architectural and engineering services; construction contractor(s) services; and the acquisition of necessary equipment and/or materials.
- D. The Grantee shall obtain and keep on file all required permits, licenses and approvals from the appropriate federal, state, and/or local governmental agencies prior to starting construction of the Project.
- E. The Grantee shall comply with all applicable federal and state statutes, executive orders, regulatory requirements, and policies relating to the planning and construction of the Project.
- F. The Grantee shall cooperate fully with the Authority and provide any documentation requested by the Authority in order to facilitate completing the obligations set out in this Agreement.
- G. The Grantee will proceed expeditiously to complete the Project in accordance with the approved final engineering plans and specifications or amendments thereto, prepared by the Project Engineer for the Grantee, if required and as approved by the Authority and other state and federal agencies, as appropriate.
- H. The Grantee agrees that throughout the reasonable life of the infrastructure facilities developed under the Project it will retain ownership of, operate, and maintain these facilities, and all appurtenances thereto, keeping them in good and sound repair and good operating condition at its own expense so that the completed Project will continue to provide the services for which it was designed. Change of ownership or disposal of the Project facilities during their useful life may occur only with written approval of the Authority.
- I. If the Grantee is a local unit of government, city or county, and determines that it is in the best interest of its citizens, it may enter into a memorandum of agreement with a Kentucky corporation to serve as its agent for the implementation and long-term operation and management of the Project, subject to the Agreement. The form and content of such a memorandum of agreement is subject to the prior approval of the Authority.

- J. General Compliance with all Duties. The Grantee shall faithfully and punctually perform all duties with reference to the System required by the American Rescue Plan Act of 2021, and by the terms and provisions of the Act, and this Assistance Agreement.
- K. Further Covenants under the American Rescue Plan Act of 2021. The Grantee shall comply with all further requirements or conditions which may arise from time to time in order to assure compliance with the American Rescue Plan Act of 2021, including but not limited to the following:
1. Records Retention. The Grantee shall provide to the Authority access to all records related to the Project for review in determining compliance with this Agreement and all applicable laws and regulations, including the American Rescue Plan Act of 2021/Coronavirus State Fiscal Recovery Fund. The Grantee shall retain all records, including all invoices, relating to the Project for five (5) years after full execution of the Certificate of Completion.
 2. Single Audit Requirements. Grantees that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements. Grantees may also refer to the Office of Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the Federal Audit Clearinghouse to see examples and single audit submissions.
 3. Civil Rights Compliance. The Grantee is required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the U.S. Department of the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.
- L. General. The Grantee shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Grantee under the provisions of the American Rescue Plan Act of 2021 and this Assistance Agreement in accordance with the terms of such provisions.

SECTION 4 - MUTUALITY OF OBLIGATIONS

- A. The parties agree that the funds granted by the Commonwealth to the Grantee are to be used solely for the purposes of the acquisition and construction of the Project. Further, the parties agree that the obligations imposed upon them are for their respective benefit and the timely fulfillment of the obligations set herein are necessary for the Project.
- B. Except as may otherwise be provided herein, the parties to this Agreement shall be solely responsible for any incidental costs incurred in fulfilling their respective obligations under this Agreement and neither party shall have any claim against the other party for reimbursement of incidental costs whether or not a party is in default.

SECTION 5 - TERMS OF AGREEMENT

- A. This Agreement shall be valid only after both parties have duly signed and provided the executed document to the other.
- B. This Agreement may be terminated by either party at any time for cause and may be terminated by either party without cause upon 30 days written notice to the other party. Termination of this Agreement shall not diminish or in any other manner affect any other remedy that may be available to the parties for any breach of the Agreement that occurs prior to the termination.
- C. If, after execution of this Agreement, additional financial assistance is found to be required for the acquisition and construction of the Project and the required additional assistance does or does not become available to the Grantee from any source, the Project may be modified so long as any change in scope and budget is mutually agreed to by the parties to this Agreement, and clearly documented in a revision of the Project Budget within the Project Profile.

SECTION 6 - ADVANCE FUNDING FOR PROJECT PLANNING AND DESIGN

- A. The Grantee may request, in writing, that a portion of the grant funds be disbursed prior to Project bidding to pay up to 50% of the budgeted engineering fee for Project planning and design to the Project Engineer to expedite submission of the Project plans and specifications for review by the Kentucky Division of Water. The balance of the budgeted engineering fee for project planning and design may be paid only after approval of the plans by the Kentucky Division of Water.
- B. It is specifically understood and agreed by the Grantee in the event that the Project has not been advertised for bids within twenty-four (24) months from the date of

signing of this Agreement, for whatever reason, any funds disbursed for Project planning and design are subject to full and immediate repayment by the Grantee to the Authority.

- C. No funds shall be released under this Section until the requirements of Exhibits 1 through 7 of this Agreement have been completed.

SECTION 7. - EVENTS OF DEFAULT AND REMEDIES.

Section 7.1. Events of Default Defined.

The following will be "Events of Default" under this Agreement and the term "Event of Default" or "Default" will mean, whenever it is used in this Agreement, any one or more of the following events:

- A. Any unauthorized or improper expenditure of funds by the Grantee, or expenditure of funds by the Grantee other than in accordance with the terms of this Agreement.
- B. Failure by the Grantee to observe or perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (A) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied will have been given to the Grantee by the Authority unless the Authority agrees in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Authority will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Grantee within the applicable period and diligently pursued until such failure is corrected.
- C. The dissolution or liquidation of the Grantee, or the voluntary initiation by the Grantee of any proceeding under any federal or Kentucky law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Grantee of any such proceeding which remain undismissed for sixty (60) days, or the entry by the Grantee into an agreement of composition with creditors or the failure generally by the Grantee to pay its debts as they become due.
- D. A default by the Grantee under the provisions of any agreements relating to its debt obligations.

Section 7.2. Remedies on Default.

Whenever any Event of Default referred to in Section 7.1 has occurred and is continuing, the Authority may, without any further demand or notice, take one or any combination of the following remedial steps:

- A. Declare this Agreement void from the beginning without further obligation to the Grantee and may commence appropriate legal action to enforce its rights under this Agreement including action for recovery of funds expended hereunder.
- B. Terminate any remaining grant payments to the Grantee.
- C. Exercise all the rights and remedies of the Authority set forth in the Act.
- D. Take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Agreement.
- E. Submit a formal referral to the appropriate federal agency.

Section 7.3. No Remedy Exclusive.

No remedy herein conferred upon or reserved to the Authority is intended to be exclusive, and every such remedy will be cumulative and will be in addition to every other remedy given hereunder and every remedy now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power and any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 7.4. Consent to Powers of Authority Under Act.

The Grantee hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges in respect of the Project upon the occurrence of an Event of Default, and the Grantee hereby covenants and agrees that if the Authority should in the future have recourse to said rights and powers, the Grantee shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Agreement.

Section 7.5. Waivers.

In the event that any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver will be limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

Section 7.6. Agreement to Pay Attorneys' Fees and Expenses.

In the event that either party hereto defaults under any of the provisions hereof and the non-defaulting party employs attorneys or incurs other expenses for the enforcement of

performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will pay on demand therefor to the non-defaulting party the fees of such attorneys and such other expenses so incurred by the non-defaulting party.

SECTION 8 - MISCELLANEOUS PROVISIONS

- A. The Grantee may sign this Agreement electronically via a program subject to the approval by the Authority, or manually on a paper copy that is scanned to the portable document format (.pdf) and emailed to the Authority. Transmittal of all other correspondence or documentation, including the required Exhibits identified in the Attachment shall be scanned and attached as a file to email. The Authority and the Grantee, working through the Project Administrator, shall assist each other in securing and maintaining a complete, current Project document file for reference, records, and audit purposes.
- B. The headings set forth in this Agreement are for convenience and the terms contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.
- C. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the successor and assigns, respectively, of the parties. Except for the limited use of a memorandum of agreement (as provided in Section 3 herein), this provision shall not be construed to permit an assignment by any party of any of its rights and duties under this Agreement which assignment shall be prohibited except with the prior written consent of the parties hereto.
- D. This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof and may be modified only by a written instrument duly executed by each of the parties hereto.
- E. Timely and accurate performance of all actions by the respective parties are mutually recognized by the parties of this Agreement to be of importance to the citizens of the Commonwealth generally, and particularly to those citizens directly affected by the Project.
- F. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.
- G. The Authority may audit or review all documentation and records of the Grantee relating to this Project pursuant to the provisions of Section 45A.150 of the KRS or any other applicable federal or state law.
- H. The Grantee agrees that the Authority, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other documentation or evidence, which are directly pertinent to this Agreement for the purpose of financial audit or program review.

Furthermore, any books, documents, papers records, or other evidence provided to the Commonwealth, the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission, which are directly pertinent to this Agreement, shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior to the execution of this Agreement. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information which would otherwise be subject to public release if a state government agency was providing the services.

- I. During the performance of this contract, the Grantee agrees to the following Appendix II to 2 CFR Part 200 contract provisions, as amended:

Equal Employment Opportunity

1. The Grantee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Grantee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
 - a. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - b. The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - c. The Grantee will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- d. The Grantee will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Grantee will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Grantee will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Grantee's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Grantee will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Grantee becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Contract Work Hours and Safety Standards Act

All contracts that are in excess of \$100,000 and involve the employment of mechanics or laborers must include provisions requiring compliance with the Contract Work Hours and Safety Standards Act as follows:

1. Overtime requirements: No contractor or subcontractor contracting for any part of the Agreement work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such a workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such a workweek.
2. Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. Withholding for unpaid wages and liquidated damages. The Grantee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

Clean Air Act

1. The Grantee agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The Grantee agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.

3. The Grantee agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funding.

Federal Water Pollution Control Act

1. The Grantee agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The Grantee agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the Treasury Department and the appropriate Environmental Protection Agency Regional Office.
3. The Grantee agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with American Rescue Plan Act funds.

Debarment and Suspension

Contracts shall not be awarded to parties listed on the governmentwide exclusions in the System for Award Management (SAM) listed at www.sam.gov.

Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier, up to the recipient.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officials as of the day and year above written.

**KENTUCKY INFRASTRUCTURE
AUTHORITY**

By: *Richard Patton* For Sandy Williams
Sandy Williams, Executive Director

Date: 02/05/2024

NORTH NELSON WATER DISTRICT

By: *Colin S. Cissell*
Authorized Official

Print Name: Colin S. Cissell

**THIS AGREEMENT HAS BEEN EXAMINED
BY:**

By: *Natalie Lile*
LEGAL COUNSEL TO THE KENTUCKY
INFRASTRUCTURE AUTHORITY

CWP GRANT CONDITIONS – COMPLIANCE FORMS & EXHIBITS

Note A: Exhibits 1 through 3 must be completed, scanned, and emailed to the Authority on or before the date the Grantee signs the Conditional Commitment Letter. The Conditional Commitment Letter may be signed electronically or manually, then scanned and emailed to the Authority.

- Exhibit 1 Notification to the Authority of completed Review / Update of Project Profile
- Exhibit 2 Confirmation of Grantee Vendor Number – via KY Finance Cabinet Application
- Exhibit 3 Copy of the Transparency Act Reporting Information Form

Note B: Upon receipt of the signed Conditional Commitment Letter and the Authority's verification of Exhibits 1-3, the Authority will forward to the Grantee the Grant Assistance Agreement. The Grantee should proceed to complete Exhibits 4 through 7, scan and send each Exhibit to the Authority by email; and then the Authorized Official may sign the Assistance Agreement, either electronically or by scanning and send attached to email.

- Exhibit 4 A) Grantee Resolution (Accepting Grant, Approving Agreement, Amending Budget, Designating an Authorized Official)
B) Certificate of Recording Officer
- Exhibit 5 Opinion of Legal Counsel Relating to the Grantee Resolution
- Exhibit 6 A) Copy of the Engineering Services Contract; and
B) Grantee & Engineer Fee Confirmation

Note C: The Grantee may request 50% of the engineering design fee (as budgeted in the Project Profile) at this point and may request the balance of the engineering design fee once Exhibit 8 has been sent to the Authority.

- Exhibit 7 Copy of the Kentucky eClearinghouse Endorsement Letter with Comments.
- Exhibit 8 Copy of the DOW Approval Letter of Project Engineering Plans & Specifications.
- Exhibit 9 Copy of the bid package signed by (A) Engineer, (B1) Authorized Official, and (B2) Title Attorney, as appropriate.
- Exhibit 10 Certification Regarding Utility Accounting, Cost-Based Rates and Auditing.
- Exhibit 11 Certificate of Project Completion.

EXHIBIT 12

WATER PURCHASE AGREEMENT

BETWEEN

NORTH NELSON WATER DISTRICT

AND

CITY OF BARDSTOWN, KENTUCKY

September 17, 2024

TABLE OF CONTENTS

North Nelson Water District – City of Bardstown, Kentucky

1.	Term of Agreement — 50 Years	4
2.	Quantity of Water	4
3.	Minimum Purchases	5
4.	Quality of Water	6
5.	Operation of System	6
6.	Delivery Point	8
7.	Metering Equipment.....	9
8.	Telemetry	10
9.	Billing and Payment Procedure	11
10.	Initial Rate	11
11.	Cost Based Rates	12
12.	Advance Notice of Rate Modification	13
13.	Effective Date of Rate Modification	13
14.	Financial and Operational Information	13
15.	PSC Review.....	14
16.	Effective Date.....	14
17.	Indemnification	14
18.	Notices	14
19.	Response to Notices.....	15
20.	Termination	15
21.	Regulatory Agencies.....	17
22.	Successors and Assigns	17
23.	Paragraph Headings	17
24.	Entire Agreement; Severability	18
25.	Interpretation	18
26.	Non-Waiver.....	18
27.	No Third-Party Beneficiaries.....	18

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.”

W I T N E S S E T H:

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 7,730 feet of water transmission main, has already been completed and is ready to be placed into service

(“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.

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 1,389 gallons per minute. Water sales for this phase are anticipated to begin December 31, 2026.

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 Phase 2 Project and the

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 and shall take such action

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. Temporary or partial failures

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 has an overflow elevation

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 percentage of inaccuracy found by

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

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.

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 6 of this Agreement.

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 one (1) examination per

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, such notice shall be in

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:

- 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 regulations.

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 terms and provisions hereof.

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 the Parties hereto and their

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

[Remainder of page intentionally left blank]

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.

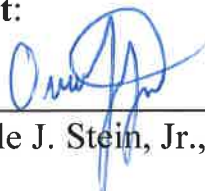
SELLER:

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