

AUGUST
2017

WATER PURCHASE CONTRACT


This **CONTRACT** for the sale and purchase of water is made and entered into as of the 21ST day of August, 2017, by and between **GRAYSON COUNTY WATER DISTRICT**, a water district organized and established pursuant to the provisions of Chapter 74 of the Kentucky Revised Statutes (hereinafter referred to as "District") and the **CITY OF CANEYVILLE, KENTUCKY**, a municipal corporation of the sixth class of the Commonwealth of Kentucky (hereinafter referred to as "Caneyville").

WITNESSETH:

WHEREAS, the District is organized and established for the purpose of constructing and operating a water supply distribution system serving water users within the District's service area in Kentucky and in order to accomplish this purpose, the District owns and operates a water procurement, treatment, transmission and distribution system (the "District System"), which includes a water treatment plant in Grayson County, Kentucky, with a raw water intake from Rough River Lake; and

WHEREAS, the District has sufficient capacity within its system to provide all the water needed by Caneyville and is willing to sell water to Caneyville in sufficient quantity to meet Caneyville's needs; and

WHEREAS, Caneyville has requested the District to sell to it all of its water requirements and the District is willing to do so in accordance with the terms hereinafter in this Contract set forth.

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Gwen R. Pinson Executive Director 
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NOW, THEREFORE, for and in consideration of the mutual covenants contained and benefits to be derived by the parties hereto, the District and Caneyville agree as follows:

1. **Quality and Quantity of Water.** During the term of this Contract and any renewal or extension thereof, the District agrees to furnish to Caneyville at the points of delivery hereafter described potable treated water meeting applicable purity standards of the Federal Safe Drinking Water Act, in amounts sufficient to meet the normal daily usages of Caneyville but not to exceed a maximum daily usage of 125,000 gallons per day. The quantities of water previously enumerated in this Contract shall be absolute maximums unless mutually agreed otherwise by the parties hereto.

2. **Accounting System.** The District shall chart expenses in accordance with the Uniform System of Accounts and set out in its annual report filed with the Kentucky Public Service Commission as the accounting system for the identification of the costs described in Section 6 below.

3. **Metering.** The District will furnish, install and operate the necessary metering equipment for properly measuring water quantity while minimizing pressure loss through the meters and to calibrate such metering equipment whenever it shall be deemed necessary or at a minimum of one time every two years. If Caneyville requests the meters to be tested more often, the cost and expense of such interim testing shall be borne by Caneyville unless the meter registers more than two percent (2%) above or below the test results. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous reading of any meter disclosed by the test to be inaccurate shall be corrected for the six (6) months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the

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amount delivered in the corresponding period immediately prior to the failure unless the District and Caneyville agree upon a different amount. The unit of measurement for water delivered pursuant to this Contract shall be gallons of water, U.S. Standard Liquid Measure, and all measuring devices shall, unless the parties agree otherwise, be so calibrated

4. **Billing Procedure.** The District shall furnish Caneyville monthly, with a bill for the amount of water furnished to Caneyville for the period covered by the last preceding meter reading.

5. **Payment.** Caneyville shall pay to the District, not later than fourteen (14) days from the date of billing, for water billed to Caneyville as provided above. Payment shall be deemed, for purposes of this Contract, to have been made when delivered. A late penalty of ten percent (10%) of any unpaid amount shall be assessed if any portion of the bill remains unpaid after the due date. In the event Caneyville fails to pay for water in accordance with the terms of this Contract, the District shall further have the right to terminate the flow of water to Caneyville and shall have all other remedies provided at law or in equity for breach of contract, including an action for recovery of the amounts owed and any damages incidental thereto.

6. **Rate and Rate Calculation.** Rates will be calculated based on cost of service allocations for wholesale customers that have been generally accepted by the Kentucky Public Service Commission. A rate study is attached to this contract showing the determination of the rate contained herein. The information contained in this study is based on expenses for the year ending 2016. The District will review its expenses annually based on numbers used in its audit report and annual report filed with the PSC. The initial price of water shall be \$3.076 per 1,000 gallons, being calculated as the sum of (a) Debt on the 2.3 MGD Water Treatment Plant plus (b) the Cost of Operation as hereinafter set forth:

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- I. For the purpose of calculating the wholesale rate the divisor used for allocation on any debt and depreciation shall be the amount of water purchased by Caneyville as shown in the annual report filed with the Kentucky Public Service Commission.
- II. The divisor used for all other calculations, (GCWD Water Treatment Expense, & Supply and pumping) shall be the total amount of water treated by the District as reported in the annual report filed with the Kentucky Public Service Commission.
- III. The % allocation is an agreed upon amount of committed water from the Districts Water Treatment Plant based on its current 2.3 mgd capacity and Caneyville's requested .125 mgd supply. This can only be changed by mutual agreements during term period negotiations.
- IV. All associated cost for GCWD Water Treatment Plant Expense, Supply & Pumping, & Depreciation shall be extracted from the annual audited financial report.

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7. **Calculation of Debt Expenses Associated with New Water Plant.** The annual debt payment on the water plant is based on a 20 year loan from the Kentucky Infrastructure Authority issued in 2002. There is also shared debt expense from work performed to meet more stringent DBP regulations based on a long term note of 40 years issued by Rural Development in 2012. Caneyville currently has allocated 5.43 percent of the 2.3 million gallon per day capacity as set out in this study. This factor will not change unless Caneyville increases or decreases its allocations from the District. (see attached schedules)

- The KIA 20 year bond was for a total of \$3,930,850.27. Of this total \$ 2,948,355 was used towards the water treatment plant in Contract I. Therefore only the proportional debt is attributed to WTP which would be 75% of the total debt repayment for KIA


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8. **Determination of Wholesale Rate.** The following table shows the determination of the wholesale rate based on the allocation of expenses as presented for the Fiscal year end 2016.

Allocated to Caneyville	Expense	Gallons x 1000	Cost per 1,000 Gallons
Water Treatment Plant Operations & maintenance Expense	554,755	215,092	\$2.579
Supply & Pumping	\$8,197	215,092	\$.038
Water Plant Original Debt Repayment	\$9,727	46,049	\$0.211
DBP Debt Repayment	\$2,902	46,049	\$0.063
Depreciation	\$8,523	46,049	\$0.185
Total Expense to Caneyville			\$3.076

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7. **Rate Adjustment.** Adjustments to the price of water may be made as follows:

a. The rate may be adjusted annually in an amount equal to the increase/decrease in expenses associated with providing service. The increase/decrease in expenses is calculated by first determining the expenses for the previous year based on the most recent annual audited statements of the District with respect to the components required to calculate the rate in accordance with the terms of this Contract.

b. Cost of debt shall be adjusted for District System improvements caused by regulatory requirements or for improvement or expansion resulting from the requirements of Caneyville for additional capacity. The annual cost of amortization shall then be determined based on the percentage of water sold to Caneyville times the cost of such expansions in the manner set forth in the rate study and adding the result to the rate existing at that time.

c. In the event that the District delivers water at any delivery point that does not meet the most current minimum levels of the Division of Water for free chlorine residual. The District will adjust the usage to Caneyville in an agreed upon amount that it took Caneyville to flush their lines to regain the minimum required Division of Water for free chlorine residual at the entry point to Caneyville's System.

8. **Term of Contract.** The initial term of this Contract shall extend for a term of ten (10) years from the date of the initial delivery of any water as shown by the first bill submitted by District to Caneyville after consummation and PSC approval of this contract and, thereafter, Caneyville is granted an option to renew or extend this Contract under the same terms and conditions for an additional ten (10)-year period provided written notice of Caneyville's intention to exercise this option to extend is given to District at least two (2) years prior to the

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expiration of the Initial Term. The Water District also explicitly reserves the same right to termination or renewal of said contract with the same two (2) years prior notice at the end of the Initial term.

9. **Failure to Deliver.** The District will take such action as may be necessary to furnish Caneyville with quantities of water required by Caneyville. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water or the supply of water available to District is otherwise diminished over an extended period of time, the supply of water to Caneyville's consumers shall be reduced or diminished in the same ratio or proportion as the supply to all District's consumers is reduced or diminished.

10. **Remedies.** Either party shall have the right to enforce this Contract by injunctive or mandamus action or to assert any other remedies provided by applicable law for the failure of the other party to comply with its agreements and covenants set forth herein.

11. **Modification or Amendment.** The provisions of this Contract pertaining to the rate to be paid by Caneyville for water delivered is subject to the provisions of this Contract and may be modified or altered only by written agreement of both parties.

12. **Notification.** Caneyville and District agree to notify each other immediately of any line breaks or emergencies which might affect the operations of the District's System or the District's ability to supply Caneyville.

13. **Arbitration.** In the event District and Caneyville are unable to agree on the applicability or allocation of expenses or data used in calculating the adjusted rate as calculated in accordance with the terms of this Contract, each party shall submit to the other a list of three individuals who would be acceptable to such party to act as an independent party to assist the auditor in determining the applicability of various expenses and the allocation of same. Each party shall exercise the right to strike any two of the other party's suggested names. The remaining two

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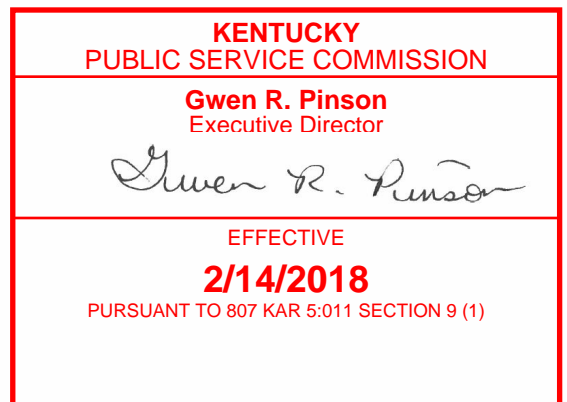
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individuals shall jointly work together to arrive at a resolution. These individuals, who may be engineers, accountants, or managers of a water treatment system, shall consult with District's engineer and Caneyville's engineer whereupon these individuals shall advise the auditor of the District as to the appropriate applicability of expenses and allocation of same. The vote of any three of the four individuals shall be controlling in the establishment of said allocation or applicability of expenses. Following a determination of the allocation or applicability of expenses, the auditor shall then calculate the revised rate in accordance with the terms of this Contract.

14. **Pledge of Contract.** The District shall have the right to pledge or assign this Contract, and its rights hereunder, to the United States of America, acting through the Farmers Home Administration, or any other state or federal agency, as part of the security for a loan or loans from such agency.

15. **Required Administrative Approval.** This Contract, the rates set forth herein and the rate adjustment procedure provided herein shall be subject to the approval of the Kentucky Public Service Commission and the United States Department of Agriculture (Rural Development), and the obligations of the parties hereunder shall be of no force and effect until this Contract and said rates and rate adjustment procedure have been so approved. The District covenants to promptly request approval of this Contract from the said agencies. This Contract shall become effective immediately upon its approval by the Kentucky Public Service Commission and the United States Department of Agriculture (Rural Development). It is expressly acknowledged that the rates the District charges its customers for water sold by it are subject to the approval of the Kentucky Public Service Commission.



16. **Miscellaneous.**


a. Should any part, term or provision of this Contract be determined by a court of competent jurisdiction to be illegal or in conflict of any law, the validity of the remaining portion or portions shall not be affected thereby.

b. This Contract shall be subject to all valid rules, regulations and laws applicable hereto passed or promulgated by the United States of America and the Commonwealth of Kentucky or any governmental body or agency having lawful jurisdiction or any authorized representative or agency of any of them; provided, however, that this clause shall not be construed as waiving the right of either party to challenge the validity of any such rule, regulation or law on any basis, including impairment of this Contract.

c. This Contract may not be modified except in a writing executed by all parties, and all parties shall thereafter be bound by such modification.

d. This Contract and the respective rights and obligations of the parties hereto shall be construed in accordance with and governed by the laws of the Commonwealth of Kentucky.

e. This Contract contains the entire agreement of the parties pertaining to its subject matter and supersedes all prior written and oral agreements pertaining hereto.

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

DISTRICT:
GRAYSON COUNTY WATER DISTRICT

BY: John R. Tomes
John R. Tomes
TITLE: Chairman

ATTEST:
Keia Shaw

CANEYVILLE:
CITY OF CANEYVILLE, KENTUCKY

BY: James P. Embry
James P. Embry
TITLE: Mayor

ATTEST:
Janet Pre

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