

Form RD 442-30

Position 5

FORM APPROVED

(Rev. 10-96)

UNITED STATES DEPARTMENT OF AGRICULTURE

OMB. NO.0575-0015

RURAL DEVELOPMENT

**WATER PURCHASE CONTRACT**

This contract is the sale and purchase of water is entered into as of the 20<sup>th</sup> day of April, 2009 between Knott County Water and Sewer District, P.O. Box 884, Hindman, KY 41822 hereinafter referred to as the "Seller" and Phoenix Property Owners Association, Inc. P.O. Box 450 Dwarf, KY 41739 hereinafter referred to as the "Purchaser."

WITNESSETH:

Whereas, the SELLER is organized and established under the provisions of \_\_\_\_\_ of the Code of \_\_\_\_\_ for the purpose of constructing and operating a water supply distribution system serving water users within the area described in plans now on file in the office of the Purchaser and to accomplish this purpose, the Purchaser will require a supply of treated water, and

Whereas, the Seller owns and operates a water production and distribution system with a capacity currently capable of serving the present customers of the Seller's system and the estimated number of water users to be served by the said Purchaser as shown in the plans of the system now on file in the office of the Purchaser, and

Whereas, by Resolution No. 04082009 enacted on the 10<sup>th</sup> day of April, 2009 by the Seller, the sale of water to the Purchaser in accordance with the provisions of the said Resolution was approved, and the execution of this contract carrying out the said Resolution by the Chairperson of the Knott County Water and Sewer District, and attested by the Commission's Secretary, was duly authorized, and

~~Whereas, by Resolution No. \_\_\_\_\_ of the Purchaser, enacted on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, the purchase of water from the Seller in accordance with the terms set forth in the said Resolution was approved, and the execution of this contract by the Chairperson, and attested by the Secretary was duly authorized;~~

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

A. The Seller Agrees:

1. (Quality and Quantity) To furnish the Purchaser at the point of delivery hereinafter specified, during the term of this contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the Commonwealth of Kentucky Division of Water and the U.S. Environmental Protection Agency in such quantity as may be required by the Purchaser not to exceed 50,000 gallons per day with a minimum of 25,000 gallons per day.

Public reporting burden for this collection of information is estimated the average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to U.S. Department of Agriculture, Clearance Officer, STOP 7602, 1400 Independence Avenue, S.W., Washington, D.C. 20250-7602. Please DO NOT RETURN this form to this address. Forward to the local USDA office only. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

RD 442-30 (Rev. 10-96)  
**PUBLIC SERVICE COMMISSION  
 OF KENTUCKY**  
 EFFECTIVE  
 7/5/2009  
 PURSUANT TO 807 KAR 5:011  
 SECTION 9 (1)

By [Signature]  
 Executive Director

2. (Point of Delivery and Pressure) That water will be furnished at a reasonably constant pressure calculated at 110 PSI from an existing 8" (eight) inch main supply at a point located on Kentucky Highway 80 in Knott County near the Knott/Perry County line. If a greater pressure than that normally available at the point of delivery is required by the Purchaser, the cost of providing such greater pressure shall be borne by the Purchaser. Emergency failures of pressure or 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 the provision for such reasonable period of time as may be necessary to restore service.
3. (Billing Procedure) To furnish the Purchaser at the above address not later than the 30<sup>th</sup> day of each month, with an itemized statement of the amount of water furnished the purchaser during the preceding month.

B. The Purchaser Agrees:


1. (Rates and Payment Date) To pay the Seller, not later than the 10<sup>th</sup> day of each month (subsequent to the receipt of the bill), for water delivered in accordance with the following schedule of rates:
  - (a) \$3.00 per 1,000 gallons of water for all water provided to Purchaser.
2. (Metering Equipment) To furnish, install, operate, and maintain at its own expense at point of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the Purchaser and to calibrate such metering equipment whenever requested by the Seller but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate.

The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the 6 (six) months previous to such test in accordance 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 amount of water delivered in the corresponding period immediately prior to the failure, unless Seller and Purchaser shall agree upon a different amount. The metering equipment shall be read on or about the 18<sup>th</sup> day of each month by the Seller. Appropriate officials of the Purchaser and Seller shall at all reasonable times shall have access to the meter for the purpose of verifying its readings.

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

1. (Terms of Contract) That this contract shall extend for a term of 1 year from the date of the initial delivery of any water as shown by the first bill submitted by the Seller to the Purchaser and, thereafter may be renewed or extended for such term, or terms, as may be agreed upon by the Seller and Purchaser.
2. (Deliver of Water) That 15 to 20 days prior to the estimated date of completion of the Purchaser's water supply distribution system, the Seller will notify the Purchaser in writing of the date for the initial delivery of water.
3. (Water for Testing) When requested by the Purchaser, the Seller will make available to the contractor at the point of delivery or other point reasonably close thereto, water sufficient for testing, flushing, and trench filling the system of the Purchaser during construction, irrespective of whether the metering equipment has been installed at that time, at a charge of \$3.00 per 1,000 gallons, which will be paid by the contractor or, on his failure to pay, by the Purchaser.

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- 4. (Failure to Deliver) That the Seller will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with quantities of water required by the Purchaser. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the Seller is otherwise diminished over an extended period of time, the supply of water to Purchaser's consumers shall be reduced or diminished to the extent necessary and appropriate by the Seller.
- 5. (Modification of Contract) That the provisions of this contract pertaining to the schedule of rates to be paid by the Purchaser for water delivered are subject to modification at the end of every 1 (one) year period and the requesting entity shall bear the cost of the rate study. Any increase or decrease in rates shall be based on a demonstrable increase or decrease in the costs of performance hereunder, but such costs shall not include increased capitalization of the Seller's system. Other provisions of this contract may be modified or altered by mutual agreement.
- 6. (Regulatory Agencies) That this contract is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the Seller and Purchaser will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.
- 7. (Successor to the Purchaser) That in the event of any occurrence rendering the Purchaser incapable of performing under this contract, any successor of the Purchaser, whether the result of legal process, assignment, or otherwise, shall succeed to the rights of the Purchaser hereunder.

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

Seller: KNOTT COUNTY WATER AND SEWER DISTRICT

By Alice G. Ritchie

Title: Alice G. Ritchie, Chairperson

Attest:

Rura Campbell

Secretary

Purchaser: PHOENIX PROPERTY OWNERS ASSOCIATION, INC

By Leroy B. Lackey, Jr

Title: PRESIDENT

Attest:

CLW

Secretary

This contract is approved on behalf of Rural Development this \_\_\_\_\_ day of \_\_\_\_\_ 2009.

By \_\_\_\_\_

Title \_\_\_\_\_

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Executive Director