

WATER PURCHASE CONTRACT

This contract for the sale and purchase of water is entered into as of the 16 day of July,  
19 79, between the TODD COUNTY WATER DISTRICT  
ELKTON, KENTUCKY

(Address)

hereinafter referred to as the "Seller" and the CITY OF ELKTON  
CITY HALL, ELKTON, KENTUCKY

(Address)

hereinafter referred to as the "Purchaser",

WITNESSETH:

Whereas, the Purchaser is organized and established under the provisions of Chapter 96 of the  
Code of Ky. Revised Statutes, for the purpose of constructing and operating a water supply distribution  
system serving water users within the area described in plans now on file in the office of the Purchaser and to accomplish  
this purpose, the Purchaser will require a supply of treated water, and

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

Whereas, by Resolution No. \_\_\_\_\_ enacted on the \_\_\_\_\_ day  
of \_\_\_\_\_, 19 77, 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 Todd County Water District,  
and attested by the Secretary, was duly authorized, and

Whereas, by Resolution #1976/1 of the City Council  
of the Purchaser, enacted on the 25th day of October, 19 76,  
the purchase of water from the Seller in accordance with the terms set forth in the said Resolution #1976/1  
was approved, and the execution of this contract by the City of Elkton, 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 \_\_\_\_\_  
Kentucky Department for Natural Resources & Environmental Protection  
in such quantity as may be required by the Purchaser not to exceed 18,000,000 gallons per month.

2. (Point of Delivery and Pressure) That water will be furnished at a reasonably constant pressure calculated at 65 psi from ~~an existing~~ a proposed eight inch main supply at a point located on US Highway 68 near the west city limits of Elkton.

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 this provision for such reasonable period of time as may be necessary to restore service.

3. (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 Purchaser 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 four 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 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 the last day of mo. An appropriate official of the Purchaser at all reasonable times shall have access to the meter for the purpose of verifying its readings.

4. (Billing Procedure) To furnish the Purchaser at the above address not later than the 10th 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 20th day of each month, for water delivered in accordance with the following schedule of rates:

a. \$ 5417 up to 18,000,000 gallons, which amount shall also be the minimum rate per month.

~~XXXXXXXXXXXXXXXXXXXX cents per 100 gallons for water in excess of~~  
~~XXXXXXXXXXXXXXXXXXXX gallons.~~  
~~XXXXXXXXXXXXXXXXXXXX cents per 100 gallons for water in excess of~~  
~~XXXXXXXXXXXXXXXXXXXX gallons.~~

(Subject to conditions as described in Attachment #1)

2. (Connection Fee) To pay as an agreed cost, a connection fee to connect the Seller's system with the system of the Purchaser, the sum of \_\_\_\_\_ dollars which shall cover any and all costs of the Seller for installation of the metering equipment and \_\_\_\_\_

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

1. (Term of Contract) That this contract shall extend for a term of 40 years from the date of the initial delivery of any water as shown by the first bill submitted by the Seller to the Purchaser and, thereafter may be renewed or extended for such term, or terms, as may be agreed upon by the Seller and Purchaser.

2. (Delivery of Water) That 30 days prior to the estimated date of completion of construction of the Purchaser's water supply distribution system, the ~~Purchaser~~ Seller will notify the ~~Seller~~ Purchaser in writing the date for the initial delivery of water.

3. (Water for Testing) When requested by the Purchaser the Seller will make available to the contractor at the point of delivery, or other point reasonably close thereto, water sufficient for testing, flushing, and trench filling the system of the Purchaser during construction, irrespective of whether the metering equipment has been installed at that time, at a flat charge of \$ \_\_\_\_\_ which will be paid by the contractor or, on his failure to pay, by the Purchaser.

4. (Failure to Deliver) That the Seller will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with quantities of water required by the Purchaser. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the Seller is otherwise diminished over an extended period of time, the supply of water to Purchaser's consumers shall be reduced or diminished in the same ratio or proportion as the supply to Seller's consumers is reduced or diminished.

5. (Modification of Contract) That the provisions of this contract pertaining to the schedule of rates to be paid by the Purchaser for water delivered are subject to modification in accordance with Attachment #1 ~~at the end of every xxxxxxxx year period. Any increase or decrease in rates shall be based on a demonstrable increase or decrease in the costs of performance hereunder but such increase or decrease shall not exceed 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. (Miscellaneous) That the construction of the water supply distribution system by the ~~Purchaser~~ Seller is being financed by a loan made or insured by, and/or a grant from, the United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture, and the provisions hereof pertaining to the undertakings of the ~~Purchaser~~ Seller are conditioned upon the approval, in writing, of the State Director of the Farmers Home Administration.

8. (Successor to the Purchaser)\* That in the event of any occurrence rendering the ~~xxxxxxx~~ 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.

\* Purchaser or Seller

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

Seller:

TODD COUNTY WATER DISTRICT

By George D. Bauer  
Title Chairman

Attest:

George R. Burrus  
Secretary

Purchaser:

CITY OF ELKTON

By Stanford Miller  
Title Mayor

Attest:

Ernest Oliver  
Secretary

This contract is approved on behalf of the Farmers Home Administration this 18<sup>th</sup> day of July, 19 79.

By David R. King  
Title Community Program Specialist

ATTACHMENT #1

Attachment #1 to Water Purchase Contract  
 Dated \_\_\_\_\_ between Todd County  
 Water District, "Seller" and City of  
 Elkton "Purchaser".

Paragraph C5 of referenced contract is supplemented as follows:

1. AGREEMENT:

Seller shall be responsible for operation of the water supply in accordance with all applicable laws and regulations. Seller shall establish an accounting system satisfactory to all parties for the purposes of this agreement. The accounting system shall facilitate the identification of costs used in calculating the cost per 1,000 gallons of producing and delivering water to the Purchaser.

2. CONTRACT PAYMENTS:

Payments under this contract shall be adequate to cover the operation and maintenance expense of the water supply facility, the debt service allocated to the water supply facility, and a water supply facility reserve fund to be maintained. Payments for debt service and reserve funds shall be shared by Purchaser and Seller using a cost sharing and attributal loan allocation formula. Payments for operation and maintenance expense shall be based on the actual cost of water produced and the actual usage by Purchaser and Seller.

3. INITIAL RESERVE CAPACITY:

Reserve treatment capacity for each entity shall provide the basis for calculating the allocated capital cost of the water supply facility for the Purchaser and Seller.

The reserve capacity for each entity is as follows:

Purchaser	-	600,000 gallons per day
Seller	-	300,000 gallons per day

The initial allocated capital cost for each entity is as follows:

Purchaser	-	\$1,160,350.
Seller	-	\$ 580,175.

4. DEBT SERVICE PAYMENT:

Principal and interest debt service allocated to the water service cost would be the actual principal and interest payment on that portion of existing debt attributed to the construction of (1) water intake structure, (2) raw water transmission line and pumps, (3) water treatment facility, (4) additional supply line capacity, and (5) master meter at Purchaser's line.

The debt attributable to the Purchaser's allocated capital cost is \$1,061,415 with Purchaser's portion of the principal and interest payment being \$63,515 annually. This payment shall be paid to the Seller on an annual basis regardless of the quantity of water used, not to exceed the reserve capacity in paragraph 3 above.

5. RESERVE FUND:

A water supply facility reserve fund shall be established and maintained. Purchaser and Seller shall each contribute an amount equivalent to ten (10) percent of their respective principal and interest payments to this fund. Contributions to the fund shall be made until a level of \$80,000 is reached. Contributions shall be stopped so long as \$80,000 remains in the fund. Whenever the fund shall drop below that amount the contributions shall be reinstated. The fund shall only be used for payment of costs incurred due to unusual circumstances which cannot be paid as part of the routine operation and maintenance expense of the water treatment facility only. This fund shall be maintained throughout the life of the loan and shall be subject to all requirements of the lending agency. The fund may be invested and draw interest subject to the rules of the lending agency. Upon completion of all obligations to the lending agency, the fund may be liquidated with Purchaser and Seller having a vested interest in the fund in accordance to the ratio of their respective payments to the fund.

6. OPERATION AND MAINTENANCE PAYMENT:

The operation and maintenance costs chargeable to treatment plant and delivery costs include:

(1) Labor, (2) Chemicals, (3) Electricity, (4) Other applicable utility costs, (5) Insurance, (6) Taxes, (7) Accounting, (8) Repair and maintenance to the most direct potable water main from plant to master meter, and other miscellaneous cost.

7. TIME PERIOD FROM START OF DELIVERY UNTIL END OF SELLER'S FIRST OPERATING YEAR:

a. The Purchaser shall pay an annual minimum charge of sixty five thousand dollars (\$65,000) in equal monthly payments until the end of the first operating year. This shall constitute the payment for operation and maintenance, debt service, and reserve fund for all water used up to 18,000,000 gallons per month.

b. The Seller shall pay the remaining costs not covered by the Purchaser's payment.

8. TIME PERIOD BEGINNING JANUARY 1st AFTER THE SELLER'S FIRST OPERATING YEAR:

The first operating year audit and the annual audit each year thereafter shall determine the true operation and maintenance (O&M) costs for the water supply system. The total annual operation and maintenance cost as determined by each annual audit shall be divided by the total water metered from the plant during that year. The water metered for internal plant use shall be exempt from this calculation. This calculation yields a unit cost of operation and maintenance per 1000 gallons of water metered. The estimated monthly operation and maintenance payment for Purchaser for the following year then equals this unit cost times the actual metered water usage of the Purchaser for each month of that year. The monthly operation and maintenance payment for Seller is calculated using the same unit cost and the metered water usage of the Seller each month.

Each year-end audit shall determine if the operation and maintenance payments for the past year have been over or underpaid based on actual audited operation and maintenance costs. Overpayments shall be deposited in the reserve fund and credited to Seller or Purchaser as appropriate. Underpayments shall be collected on the next payment date after the audit and deposited in the operation and maintenance account.

The annual debt service payment (as shown in paragraph 4) plus 10 percent for the reserve fund (as shown in paragraph 5) shall be divided by twelve to give the required monthly debt service and reserve payment. The Purchaser shall add the estimated operation and maintenance payment and that shall be Purchaser's total monthly payment. Seller shall add its allocated portion of the debt service and reserve payment to the Seller's estimated operation and maintenance payment and that shall be Seller's total monthly payment.

The ten (10) percent reserve fund payment shall be dropped when the reserve fund ceiling of \$80,000 is reached.

This year-end procedure shall be repeated annually at the end of the Seller's operating year.

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9. EXISTING TREATMENT PLANT:

It is understood that Purchaser intends to place its present water plant in a reserve status and can activate it in the event the Seller is unable to provide Purchaser with sufficient water or a failure of the Seller's plant.

10. TRANSMISSION THROUGH PURCHASER'S BOUNDARIES:

Purchaser agrees to permit up to 50,000 gallons of water per day to be transmitted thru its system to serve the Seller's customers located outside the Purchaser's boundaries. There will be no charge for transmission through the Purchaser's system. The Seller will provide necessary meters for determining amount of water transmitted through Purchaser's system. Such metered amounts shall be deducted from amounts metered to Purchaser. A representative of the Purchaser shall be granted access to all such meters at all reasonable times.

11. FIRST OPERATING YEAR DEFINITION:

Adjustments to the operation and maintenance payments, as set forth in this contract, shall not be based on an audit period of less than nine months for the first operating year.

12. ADJUSTMENT OF THE ALLOCATION FORMULA:

Formula Adjustment - Should either the Purchaser or the Seller increase its average annual water usage by over 100,000 gallons per day above the initial reserve amount, the allocation formula shall be adjusted. The adjusted allocation shall be calculated as follows:

Purchaser's allocation shall be equal to Purchaser's average annual water usage divided by the sum of the average water usages for Purchaser and Seller.

Seller's allocation shall be equal to Seller's average annual water usage divided by the sum of the average annual water usages for Purchaser and Seller.

If the average annual water usage for either Purchaser or Seller is less than the initial reserve amount, then the average water usage for that entity shall be considered as equal to the initial reserve amount for purposes of this calculation.

The reserve amount for either Purchaser or Seller shall be increased by 100,000 gallons per day whenever the average annual usage for that entity exceeds the previous reserve amount by 100,000 gallons per day.