

## WATER PURCHASE CONTRACT

This **Water Purchase Contract** (“the Agreement”) is made and entered into this 6th day of February, 2016 by and between the City of Augusta, Kentucky (“Augusta”) and Bracken County Water District (“Bracken District”) (collectively “the Parties”).

### WITNESSETH:

WHEREAS, Augusta is a Kentucky city of the home rule class;

WHEREAS, Bracken District is a water district organized and operating under Chapter 74 of the Kentucky Revised Statutes;

WHEREAS, prior to November 1996, Augusta and Bracken District each operated its own water treatment facilities and water distribution system;

WHEREAS, on March 4, 1993, the Parties entered into a Water Purchase Contract (“1993 Water Purchase Contract”) which provided that Augusta would construct a water treatment plant to serve the Parties (“Water Treatment Plant”) and which further provided the terms and conditions under which the Water Treatment Plant would be managed and operated and treated water from the Water Treatment Plant would be distributed and sold;

WHEREAS, on April 26, 1995, the Parties executed an addendum to the 1993 Water Purchase Contract (“Addendum Agreement”) to modify the amount of the monthly capital cost payment that Bracken District would pay;

WHEREAS, on November 5, 1999, the Parties executed a Settlement Agreement in PSC Case No. 98-497 (“Settlement Agreement”) which addressed certain matters, including the billing and collection of undercharges and the timing for the revision and adjustment of the rates for water produced by the Water Treatment Plant;

WHEREAS, in May 2008, the Parties executed the Water Purchase Contract Agreement of 2008 (“2008 Modification Agreement”) to amend the 1993 Water Purchase Contract to increase the amount of water available to Bracken District to 75 percent of the Water Treatment Plant’s capacity and to increase Bracken District’s monthly capital cost payment to reflect the revised capacity allocation;

WHEREAS, the Parties desire to more clearly define each Party’s role in the ownership, operation and management of the Water Treatment Plant, including the terms and conditions under which Augusta provides water service to Bracken District;

NOW THEREFORE, the Parties agree as follows:

1. **Effect of Agreement on Previous Agreements.** As of the Effective Date set forth in Paragraph 32, this Agreement supersedes and replaces the provisions of all previous agreements between the Parties related to the Water Treatment Plant, in *Brant Kirtley* Water

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Purchase Contract, as amended by the Addendum Agreement, Settlement Agreement, and 2008 Modification Agreement.

2. **Relinquishment of Equitable Interest.** Bracken District relinquishes any equitable ownership interest in the Water Treatment Plant that may exist pursuant to the terms of the 1993 Water Purchase Contract, as amended by the 2008 Modification Agreement. Purchase of water service under this Agreement shall not create any equitable ownership interest in the Water Treatment Plant.

3. **Term.** The term of this Agreement is for a period of 20 years, commencing on the Effective Date as provided in Paragraph 32 unless otherwise extended or modified by the Parties' written agreement.

4. **Obligation to Finance Improvements or Repairs.** Under this Agreement, Bracken District shall have no obligation to pay for any cost associated with the improvement, expansion, repair, or replacement of the Water Treatment Plant except as those costs are included in the rate for purchased water.

5. **Quantity and Quality of Water.** Augusta shall furnish to Bracken District for purchase at the Agreed Rate up to 921,600 gallons of water daily at the Point of Delivery and further agrees to provide Bracken District additional quantities for purchase if such quantities are available after Augusta has supplied the needs of its distribution system and its other wholesale customers. Augusta shall furnish to Bracken District potable, treated water that meets all water quality standards set forth in state and federal law at the Effective Date of this Agreement and any subsequent amendments or revisions to such laws.

6. **Minimum Purchase Volume.** For the first 120 months following the Effective Date of this Agreement, Bracken District shall purchase a minimum of 6,500,000 gallons of water each month ("Agreed Monthly Minimum Volume"), provided, however, that Bracken District shall be excused of its obligation to purchase the Agreed Monthly Minimum Volume in any month in which Augusta is unable to furnish that volume or in which Bracken District suffers a major service interruption similar to that described in Paragraph 9 that limits its ability to receive and distribute water. At the end of this 120-month period, Bracken District shall not be required to purchase the Agreed Monthly Minimum Volume from Augusta provided it serves upon Augusta notice of its intent to purchase a lesser volume. Such notice must be in writing and must be provided a minimum of 24 months in advance of the first monthly period in which Bracken District intends to purchase less than the Agreed Monthly Minimum Volume. If Bracken District does not reduce its purchases below the Agreed Monthly Minimum Volume within 90 days of the start of the period identified in its written notice, Bracken District's notice shall be deemed ineffective. Bracken District's notice shall not be deemed ineffective if, after reducing its purchases in accordance with its notice, it subsequently purchases from Augusta a volume of water equal or above the Agreed Monthly Minimum Volume.

7. **Point of Delivery.** Augusta shall deliver water to Bracken District through a master meter located at a point immediately adjacent to the Water Treatment Plant at 203 Ferry Street, Augusta, Kentucky.

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8. **Operation of Water Treatment Plant and Related Facilities.** Augusta shall remedy diligently all temporary or partial failures to deliver water with all practicable dispatch. Augusta shall immediately inform Bracken District by telephone, email, or facsimile transmission of the nature and extent of such failure to deliver water. Each Party shall promptly notify the other of any condition or event in the operation of their water supply, treatment or distribution facilities that would adversely affect the efficiency or reliability of the other Party's facilities.

9. **Major Service Interruptions.** Failure of pressure to the main supply, water main breaks, power failures, flood, fire, earthquake, raw water shortages or other catastrophes shall excuse Augusta from complying with those terms of this Agreement for supply of water or pressure until such time as the cause of the reduction of pressure or supply or water has been removed or remedied; provided, however, that Augusta shall make available to Bracken District 64 percent of treated water that is available for distribution during such emergencies or catastrophes. Bracken District agrees to take such actions as may be reasonably necessary to curtail water usage within its system in response to the emergency or catastrophe.

10. **Service Interruptions Due to Fire Events.** If the customers of either Party to this Agreement require unusually large quantities of water for a period of time not to exceed 24 hours, for the purpose of extinguishing unusual and extreme fires, Augusta may supply water to the Party whose customers require such water though such action may result in diminished or terminated water service to the Parties.

11. **Initial Wholesale Rate.** The initial rate for wholesale water service shall be \$2.35 per 1,000 gallons ("Agreed Rate") and shall be subject to modification pursuant to Paragraphs 12 through 16 of this Agreement

12. **Frequency of Adjustments to Wholesale Rate.** Augusta shall not adjust the Agreed Rate earlier than one year after the effective date of this Agreement. Following the first adjustment of the Agreed Rate, Augusta shall not adjust its rate for wholesale water service to Bracken District earlier than two years from the effective date of its most recent rate adjustment. "Effective date of the recent rate adjustment" shall mean the date on which Augusta proposed to begin charging the adjusted rate or the date on which the Kentucky Public Service Commission authorized Augusta to charge the adjusted rate, whichever is later.

13. **Emergency Adjustment of Wholesale Rate.** Notwithstanding the restrictions set forth in Paragraph 12, Augusta may adjust its rate for wholesale water service upon a showing that its credit or operations will be materially impaired or damaged by the failure to implement the proposed rate adjustment and such impairment or damage directly results from an act of God, strike, lockouts affecting Augusta or its suppliers, an act of the public enemy, war, blockade, insurrection, riot, epidemic, landslide, lightning, earthquakes, fire, storm, flood, washout, arrest and restraint of rulers and peoples, civil disturbance, sabotage, terrorism, accident to machinery or lines of pipe, the binding order of any court or governmental authority which has been resisted in good faith by all reasonable legal means, and any other cause, whether of the kind herein enumerated or otherwise, not reasonably within Augusta's control and which Augusta's exercise of due diligence is unable to prevent or overcome. Augusta shall provide Bracken District with written notice of its proposed emergency rate adjustment at

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least 20 days prior to the proposed effective date of the emergency rate adjustment as well as the detailed calculations that it used to develop the proposed rate, including an explanation of each adjustment to test period expenses and revenue, and the reasons why an emergency rate adjustment is required.

14. **Notice of Proposed Rate Adjustment.** Augusta shall provide Bracken District with written notice of any proposed adjustment in its wholesale rate at least 60 days prior to the date that it proposes to begin charging the proposed rate and shall provide with such notice the detailed calculations that it used to develop the proposed rate, including an explanation of each adjustment to test period expenses and revenues. Bracken District shall have 30 days from the issuance of the notice to submit its written comments regarding the proposed adjustment, including any objections, and to request a meeting with Augusta's representatives to discuss the proposed rate adjustment. Augusta shall serve a written response to Bracken District's comments and, if a request for meeting is timely made, representatives of Augusta shall meet with Bracken District's representatives no later than 10 days prior to the date that it proposes to begin charging the proposed rate. If Augusta fails to strictly comply with all provisions of this Paragraph, its proposed rate adjustment may not take effect until it has strictly complied with all provisions of this Paragraph and the time period for any subsequent event contingent upon such compliance has elapsed unless Augusta has made a good faith effort to comply with the provisions of this Paragraph and Augusta's inability to strictly comply with those provisions was caused by Bracken District (for example, Bracken District's representatives were unable to meet with Augusta's representatives despite being provided with several meeting dates).

15. **Prospective Nature of Rate Adjustment.** Any adjustment to the Agreed Rate or the subsequent rate for wholesale water service shall be prospective only and shall not apply to water service provided prior to the date upon which the adjustment becomes effective.

16. **Methodology for Rate Adjustment.** Adjustments to the Agreed Rate and to any subsequent rate for wholesale water service under this Agreement shall be based upon Augusta's actual cost of providing water to the Point of Delivery. To determine the cost of water, the Parties shall use the following methodology:

a. The test period for determining any wholesale rate adjustment shall be Augusta's most recent fiscal year for which an audit has been completed and approved.

b. The rate for wholesale water service shall be a flat volumetric rate. No separate charge for debt service or depreciation reserve will be assessed. All costs are recovered only through the volumetric charge for sales.

c. The debt service component of the volumetric rate shall equal 120 percent of the annual debt service payment on debt instruments issued to finance the construction of Water Treatment Plant or of subsequent improvements thereto. The Water Treatment Plant's debt service shall be calculated based upon the average of the Water Treatment Plant's debt service payments (i.e., principal and interest) for the three-year period beginning with the year that the proposed rate is expected to become effective. This average will be multiplied by 1.2 to determine the total revenues allocated to debt service for rate-making purposes. Augusta shall not issue additional debt instruments to finance the cost of improvements.

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Plant, the coverage ratio for ratemaking purposes shall be adjusted to reflect the coverage requirements of these debt instruments.

d. Bracken District shall not be assigned more than 64 percent of the Water Treatment Plant's total annual debt service. (For example, if the three-year average of the Water Treatment Plant's debt service payments is \$100,000, then the revenues necessary to meet the debt service component will be \$120,000 (\$100,000 x 1.2). The portion of the Water Treatment Plant's revenue requirement related to debt service that would be allocated to Bracken District would be \$76,800 (\$120,000 x .64).)

e. The Water Treatment Plant's operating costs shall be allocated based upon the total annual volume of finished treated water delivered to Bracken District and to Augusta's distribution system at their respective delivery points located immediately adjacent to the Water Treatment Plant. (Augusta shall measure the flow of finished treated water from the Water Treatment Plant to Augusta's water distribution system by meter located immediately adjacent to the Water Treatment Plant.) Bracken District shall be assigned the percentage of Water Treatment Plant operating costs that is equal to the percentage that results from dividing the volume of finished treated water delivered to Bracken District at the Point of Delivery during the test period by the total annual volume of finished treated water delivered to Bracken District and Augusta's distribution system. (For example, if the Water Treatment Plant delivered 75,000,000 gallons of finished treated water during the test period to Bracken District and the Water Treatment Plant delivered a total volume of 100,000,000 gallons to the Parties at their respective delivery points in the test period, 75 percent of the Water Treatment Plant's adjusted operating expenses would be allocated to Bracken District.)

f. Test period operating costs may be adjusted to reflect known and measurable changes.

g. Depreciation expense shall be included in calculation of the Water Treatment Plant's operating costs, but only such depreciation expense on plant and facilities whose cost is not financed through the issuance of debt and that are in service at the time of the proposed rate adjustment. (For example, depreciation expense related to Water Treatment Plant facilities and equipment that were financed with the proceeds of Augusta's Water System Revenue Bonds 1995 Series A and B would not be included in the calculation of test period operating expenses.)

h. No civil penalty or fine assessed or levied against Augusta for its failure to comply with any applicable law or regulation shall be included in any operating costs allocated to Bracken District.

i. The adjusted wholesale rate to Bracken District shall be the sum of the debt service costs and operating costs allocated to Bracken District divided by the Water Treatment Plant's test period sales to Bracken District.

17. **Water Treatment Plant Advisory Board.** Within 60 days after the Effective Date, Augusta shall establish by ordinance a Water Treatment Plant Advisory Board to receive comment and recommendations regarding the Water Treatment

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to provide for independent review of the Water Treatment Plant's operations. Within 30 days of the establishment of the Board, the governing bodies of Bracken District and the City of Brooksville ("Brooksville") shall submit the names of potential representatives as provided in Paragraph 17a.

a. The Board shall be composed of three members. The governing bodies of Augusta, Bracken District and the City of Brooksville ("Brooksville") (collectively "Participant Entities") shall each submit to Augusta's Mayor a list of at least two names to serve as its representative on the Board. Augusta's Mayor shall select one name from each list submitted.

b. Except as provided in subparagraph c, each of the Board's members will be appointed for a term of four years. If a vacancy occurs due to death, resignation, expiration of term or other reasons, the Participating Entity that is represented by the vacant position will within 15 days of the creation of the vacancy submit the names of at least two persons to fill vacant position. Within 30 days of receiving the nominations, Augusta's Mayor shall appoint one of the named persons to fill the vacancy. Vacancies resulting from any reason other than expiration of the term shall be filled for the unexpired term only.

c. A Board member shall be removed if the governing body of the Participating Entity that he or she represents advises Augusta's Mayor in writing that the member no longer has the Participating Entity's confidence and support.

d. A Board member may be removed for cause by Augusta's mayor. "Cause" shall include improper or inadequate performance, incompetency, neglect of duty, malfeasance, illegal conduct, or a violation of a lawfully adopted Augusta ordinance or resolution of the Augusta City Council. Prior to removing a Board member for cause, Augusta's mayor shall give 30 days' written notice to that Board member and the Participating Entity whom the Board member represents.

e. To ensure a reasonable level of experience and knowledge among the Board's members, the first appointees to the Board will be appointed for staggered terms from two to four years to be determined by lot.

f. Board members will be compensated at a rate of \$50 per meeting. However, this compensation shall not exceed \$250 per month. Augusta shall pay the compensation, but payments to Board members shall be considered an operating expense of the Water Treatment Plant. For purposes of determining the wholesale rate to Bracken District, only the compensation paid to the members representing Bracken District and Brooksville will be allocated to Bracken District.

g. The Board may examine the operation and management practices of the Water Treatment Plant and may make written recommendations to Augusta regarding those practices. Augusta shall allow any Board member access to the Water Treatment Plant's facilities and records during reasonable hours. Augusta shall provide the Board with advance notice of operational and purchasing decisions for items or matters that are not in the ordinary course of business and allow the Board an opportunity to comment and recommendations regarding those decisions. Augusta shall consider these recommendations that

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those recommendations should not be implemented, shall provide the Board with a written statement explaining its decision.

h. Prior to creating any new position or filling any existing position vacancy at the Water Treatment Plant, Augusta shall request a recommendation from the Board regarding the need to fill the vacancy or create the new position and shall provide a reasonable period for the Board to respond. The Board may make any recommendations in writing to Augusta. If Augusta elects not to implement these recommendations, it shall provide each member of the Board with a written statement of its reasons for its decision.

i. The Board may review annually any rules that Augusta uses to allocate the cost of services that other city departments provide to the Water Treatment Plant and may advise Augusta in writing whether these rules accurately reflect the cost of those services and of any revisions that should be made in these rules to more accurately reflect the cost of those services. Augusta shall consider these recommendations and, if it finds that those recommendations should not be implemented, shall provide the Board with a written statement of its reasons for its decision.

j. At any Public Service Commission proceeding involving the review of Augusta's wholesale rate, Augusta shall have the burden of demonstrating the reasonableness of any test period expense that resulted from any action that was contrary to or inconsistent with a Board recommendation.

k. The ordinance adopted by Augusta to establish the Board shall require that the Board meet at least once every three months, prepare written minutes of each Board meeting, and make these minutes, as well as all findings and recommendations that the Board submits to Augusta, available to the Participating Entities as soon as reasonably practicable.

l. Upon the Board's request, the Participating Entities, either individually or collectively, may provide administrative and logistical support to the Board. If Augusta provides such support to the Board, the cost for such support shall be considered an operating expense of the Water Treatment Plant.

m. Augusta shall not dissolve the Board without Bracken District's consent, which shall not unreasonably be withheld. Dissolution of the Board without Bracken District's consent shall be deemed a material breach of the Agreement.

18. **Depreciation Reserve Fund Payment.** Within 30 days of the effective date of this Agreement, Bracken District will deliver to Augusta all monies owed under the 1993 Water Purchase Contract, as modified, for contributions to the Water Treatment Plant's Depreciation Reserve Fund. Based upon water service provided through December 31, 2015, Bracken District owes Augusta \$28,997.51. For each additional month of service provided before the effective date of this Agreement, this amount should be increased by \$588.75.

19. **Billing and Payment Procedure.** No later than the tenth day of each month Augusta shall furnish Bracken District an itemized statement of the amount of water furnished Bracken District at the delivery point during the preceding month.

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District shall pay those charges not later than the last day of each month. Any amount unpaid after that date shall be subject to a 10 percent late payment fee.

20. **Reports and Records.** Augusta shall provide the following reports and records to Bracken District:

a. No later than the 10th day of each month, Augusta will provide to Bracken District at no cost a report on the Water Treatment Plant's expenses for the previous month. This report will list the nature and amount of each Water Treatment Plant expense, including allocated expenses for services provided by other city departments. Upon Bracken District's request, Augusta will provide to Bracken District at no cost and in a reasonable period of time any receipt or invoice that supports the expenses listed in a monthly report.

b. Within 60 days of the close of its fiscal year, Augusta will provide Bracken District with a copy of the Water Treatment Plant's general ledger and check register for the previous fiscal year.

c. Within 15 days of the completion of the report of the annual audit of Augusta's financial statements by an independent auditor and the report's approval by the Augusta City Council, Augusta shall provide Bracken District a copy of the report.

d. The reports and records required by this Paragraph may be provided in physical copy or electronic copy delivered to Bracken District's office or e-mail address.

e. Nothing in this Paragraph shall limit Augusta's ability to account for employees' time spent on these activities to be included within the allocation of costs for services provided by non-Water Treatment Plant employees when appropriate.

21. **Failure to Timely Provide Required Reports.** If Augusta fails to make timely submission of any of the reports or documents as required by Paragraph 20 of this Agreement, Bracken District may withhold ten percent of the total invoiced cost of water for the monthly period in which Augusta's failure occurred. If Augusta provides the required report within 30 days of the date established by this Agreement, Bracken District shall pay the withheld monies to Augusta. Otherwise, Bracken District may permanently withhold the amount. Augusta shall, however, be excused from compliance of the requirements of Paragraph 20 if it suffers temporary or permanent loss of information through damage to or failure of its informational technology ("IT") systems. Augusta shall inform Bracken District about the loss of data within the proscribed time period identified in Paragraph 20 and produce to Bracken District all responsive information available to it. If information is restored at a later time, Augusta shall provide responsive information not previously produced to Bracken District. Upon notification of the loss of data due to damage to or failure of Augusta's IT systems, Bracken District may not withhold any amount of the invoiced cost of water pursuant to the terms of this Paragraph.

22. **Separate Records and Accounts.** Augusta shall maintain records for the Water Treatment Plant separate from its other departments and operations and, when purchasing supplies and services for the Water Treatment Plant, shall establish a separate account with vendors for the Water Treatment Plant unless reduced costs will clearly result from joint purchases with other departments.

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23. **Allocation of Costs for Services Provided by Other City Departments.**

Augusta shall within 120 days of the Effective Date of this Agreement implement a process for contemporaneous recording of the time that its non-Water Treatment Plant employees expend in support of the Water Treatment Plant and any time that the Water Treatment Plant's employees spend in support of non-Water Treatment Plant functions. In lieu of implementing such process, Augusta may retain an independent consultant to study Augusta's operations and develop cost allocation rules for those services. Prior to retaining a consultant to conduct such study, Augusta will obtain Bracken District's agreement as to the selection of a consultant. The cost of such study shall be amortized over a three-year period for ratemaking purposes and shall be considered an operating cost.

24. **Meters and Meter Testing.**

As of the Effective Date of this Agreement, Augusta shall be the owner of the meter that measures the flow of finished treated water from the Water Treatment Plant to Bracken District. Augusta shall provide advance notice to Bracken District of all tests scheduled to be performed on any meter that measures the flow of water from the Water Treatment Plant to Bracken District or to Augusta's distribution system and will allow Bracken District's representatives to be present at such tests. Augusta shall annually have these meters tested by qualified persons and will provide Bracken District a copy of all meter test results. The total cost of testing the meter serving Bracken District will be allocated to Bracken District for ratemaking purposes. None of the costs associated with the testing of the meter recording the volume of water delivered to Augusta's distribution system will be allocated to Bracken District.

25. **Inaccurate/Non-Registering Meter.**

A meter registering within the acceptable limits as identified by American Water Works Association standards shall be deemed to be accurate. A meter not registering accurately will be replaced or repaired and shall cause billings for at least one, and up to three months previous to such test, to be adjusted by the percentage of inaccuracy found by such test. If any meter shall fail to register usage for any regular billing period, the amount of water furnished during such billing period shall be considered to be the same as the amount of water furnished during the corresponding billing period immediately prior to the failure, unless the parties agree in writing to determine the amount of water furnished by some other method.

26. **Lease of Existing Water Wells.**

Augusta currently withdraws water from Bracken District's Wells 1, 2, and 3. Subject to the conditions noted below, Augusta may lease from Bracken District for the sum of \$1.00 for the term of one year for the Water Treatment Plant's use. Unless one of the Parties provides the other with one year's written notice of its intent not to renew this lease, the lease shall be renewed annually without further action. Bracken District shall retain the right to conduct annual inspections of each well. Augusta shall be fully and completely responsible for the maintenance of the wells.

27. **Refinancing of Existing Bonded Debt.**

Augusta shall exercise good faith efforts to refinance within 12 months of the Effective Date its Series 1995A and B Water System Revenue Bonds and Series 2004 Water System Revenue Bonds under such terms and conditions as to produce positive gross savings and net present value savings. If Augusta is unable to obtain such refinancing within that time period, it shall so advise Bracken District in writing.

<p>REPRODUCTION OF ORIGINAL DOCUMENT          AUGUSTA WATER SERVICE COMMISSION          CHARLES GREENGLASS          ACTING EXECUTIVE DIRECTOR          TARIFF BRANCH</p>
<p><i>Brent Kirtley</i></p>
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28. **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, hold harmless and defend the other Party against all claims, demands, cost, or expense 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.

29. **Warranty.** Bracken District warrants that has not executed a contract for sale of water to Brooksville that guarantees Brooksville a percentage of any equitable ownership interest that Bracken District may possess in the Water Treatment Plant. To the extent that Brooksville has such a right or makes a claim to a right in equitable ownership interest in the Water Treatment Plant, Bracken District agrees to indemnify, hold harmless and defend Augusta against all claims, demands, costs or expense that Brooksville may assert.

30. **Material Breach.** If a party to this Agreement fails to comply with a material provision of this Agreement, the other party may terminate this Agreement upon 60 days written notice. In its notice of termination, the party seeking termination shall identify the provisions of the Agreement with which the other party has allegedly failed to comply and shall allow the other party 60 days in which to cure the alleged failure to comply. If the alleged failure to comply is not cured to the satisfaction of the party seeking termination, the dispute procedures set forth in Paragraph 31 shall be followed.

31. **Dispute Procedures.** The Parties shall resolve any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity hereof (“Dispute”), under the sections of this Paragraph.

a. Any Dispute related to an adjustment of the wholesale rate shall be governed by Paragraphs 11 through 16 of this Agreement, shall be subject to the jurisdiction of the Kentucky Public Service Commission, but shall not be subject to the procedures set forth in this Paragraph.

b. For any Dispute that is not related to the adjustment of the wholesale rate, the Parties shall first attempt in good faith to resolve such Dispute by negotiation and consultation between themselves. In the event that such Dispute is not resolved on an informal basis within 60 days after one party provides written notice to the other party of such Dispute, either party may, by written notice to the other party, demand that the Parties participate in mediation. The party receiving notice demanding mediation shall have 15 days to respond to the other party regarding establishing mediation.

c. The Parties shall make reasonable efforts to agree on a neutral mediator and not unreasonably delay the date for mediation.

d. The Parties agree that the mediator’s fees and expenses and the costs incidental to the mediation will be shared equally between the parties.

e. The Parties agree that all offers, promises, commitments and agreements, whether oral or written, made in the course of the mediation by any of the parties, agents, employees, experts and attorneys, and by the mediator and any employee of the mediator, shall be binding and enforceable.

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service, are confidential, privileged and inadmissible for any purpose, including impeachment, in any litigation, arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

f. If the Parties cannot resolve for any reason, including, but not limited to, the failure of either party to agree within the permitted time period to enter into mediation or agree to any settlement proposed during any negotiations, any such Dispute, either Party may initiate proceedings in an appropriate forum.

32. **Effective Date.** The Parties acknowledge that this Agreement shall become effective upon an Order of the Kentucky Public Service Commission approving the Agreement.

33. **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns. This Agreement shall not be assigned by either Party without the written consent of the other Party 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. No Party shall unreasonably withhold its consent.

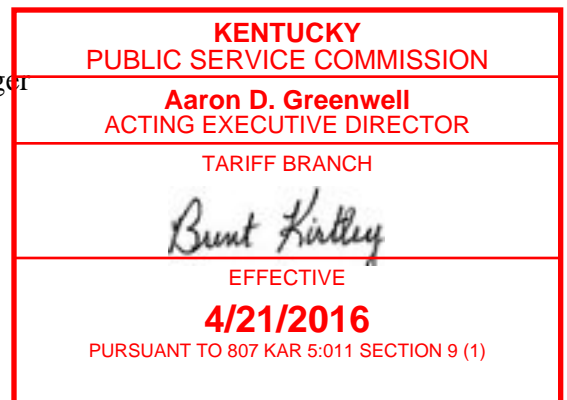
34. **Entire Agreement.** This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, written and oral, with respect to the subject matter.

35. **Legal Fees.** In the event of any legal action to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred including court costs, attorneys' fees, and all other related expenses incurred in such action. Legal action shall not include any proceeding before the Kentucky Public Service Commission. Nothing in this Paragraph shall prevent either party from claiming or challenging the recovery of rate case expenses in any proceeding before the Kentucky Public Service Commission.

36. **Choice of Law.** This Agreement shall be construed according to the laws of the Commonwealth of Kentucky.

37. **Notices.** Any notices, reports, records, or other information required under this Agreement shall be submitted as follows:

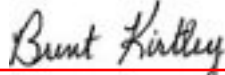
City of Augusta  
c/o Water Treatment Plant Operations Manager  
219 Main Street  
Augusta, KY 41002  
Telephone: (606) 756-2183  
Fax: (606) 756-2185  
E-mail: gengland@augustaky.com



Bracken County Water District  
P.O. Box 201  
Brooksville, KY 41004  
Telephone: (606) 735-3013  
Fax: (606) 735-3017  
E-mail: d Moran@brackencountywaterdistrict.com

Each Party shall provide written notice of any change in the contact information set forth above.

**REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK  
SIGNATURE PAGE FOLLOWS**

<b>KENTUCKY PUBLIC SERVICE COMMISSION</b>
<b>Aaron D. Greenwell ACTING EXECUTIVE DIRECTOR</b>
TARIFF BRANCH 
EFFECTIVE <b>4/21/2016</b> PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

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

CITY OF AUGUSTA, KENTUCKY

By: Mary A. Zeigler  
MARY ZEIGLER, MAYOR

ATTEST:

Gretchen Usleaman  
GRETCHEN USLEAMAN, CITY CLERK

BRACKEN COUNTY WATER DISTRICT

By: \_\_\_\_\_  
ANTHONY HABERMEHL, CHAIRMAN

ATTEST:

\_\_\_\_\_  
TIMOTHY SWEENEY, SECRETARY





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CITY OF AUGUSTA, KENTUCKY

By: \_\_\_\_\_  
MARY ZEIGLER, MAYOR

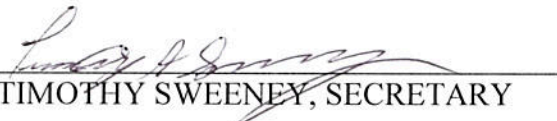
ATTEST:

\_\_\_\_\_  
GRETCHEN USLEAMAN, CITY CLERK

BRACKEN COUNTY WATER DISTRICT

By:   
\_\_\_\_\_  
ANTHONY HABERMEHL, CHAIRMAN

ATTEST:

  
\_\_\_\_\_  
TIMOTHY SWEENEY, SECRETARY

<b>KENTUCKY</b> PUBLIC SERVICE COMMISSION
<b>Aaron D. Greenwell</b> ACTING EXECUTIVE DIRECTOR
TARIFF BRANCH 
EFFECTIVE <b>4/21/2016</b> PURSUANT TO 807 KAR 5:011 SECTION 9 (1)