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Rates & Research Div.

THIS CONTRACT for the sale and purchase of water is entered into as of the 8 day of February, 1977, between the CITY OF BARDSTOWN, KENTUCKY, hereinafter referred to as the "Seller", and

THE CITY OF LEBANON JUNCTION, KENTUCKY, with Post Office Address at Lebanon Junction, Kentucky 40150, hereinafter referred to as the "Purchaser".

WITNESSETH: Whereas, the Purchaser is a municipal corporation organized and established under the provisions of the Kentucky Revised Statutes and has the obligation of 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. None enacted on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by the Seller, the sale of water to the Purchaser in accordance with the provisions of said resolution was approved, and the execution of this contract carrying out such resolution by the Mayor and attested by the Secretary, was duly authorized, and

WHEREAS, by Resolution of the City Council of the Purchaser, enacted on the 7 day of February, 1977, 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 Mayor and attested by the City Clerk was duly authorized;

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OF KENTUCKY  
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SEP 22 1994

PURSUANT TO 807 KAR 5011,  
SECTION 4(1)

BY: \_\_\_\_\_

Now Therefore, in consideration of 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 Human Resources in such quantity as may be required by the Purchaser not to exceed 6,000,000 gallons per month.

2. (Point of Delivery and Pressure) That water will be furnished at a reasonable constant pressure calculated at City's normal pressure from an existing main supply at a point located near the Bardstown Water Treatment Plant.

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 failures, 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 twelve (12) 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 25th day of each month. 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 5th day of each month, with an itemized statement of the amount of water furnished by the Purchaser during the preceding month.

B. The Purchaser Agrees:

1. (Rates and Payment Date) To pay the Seller, not later than the 15th day of each month, for water delivered in accordance with the following schedule of rates:

(2)

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PURSUANT TO 807 KAR 5011,  
SECTION 1(1)

BY: *[Signature]*  
FOR: *[Signature]*

- a. \$542.67 for the first 1,500,000 gallons, which amount shall constitute the minimum bill per month.
- b. \$0.36 per 1,000 gallons of water in excess of 1,500,000 gallons.

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 as agreed, not less than \$400.00 or more than \$1,000.00 which shall cover any and all costs of the Seller for installation of the metering equipment. There shall be no charge if the Purchaser elects to install the metering equipment itself.

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

1. (Term of Contract) That this contract shall extend for a term of forty 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.

- a. The within agreement is subject to the express condition that in the event the Purchaser fails to complete the construction and installation of its water distribution system within twenty-four (24) months from date of this contract, then and in that event the within agreement and all related instruments and/or documents shall thereafter be null and void and each of the parties released from further obligation of performance hereunder.
- b. That nothing to the contrary herein withstanding, that in the event that the Purchaser shall fail to pay for water delivery pursuant to the terms of paragraph B (1) of this contract within sixty (60) days after any installment shall be due, then and in that event the Seller shall be under no further obligation to furnish water pursuant to the agreement until the sums due have been paid.
- c. If the Purchaser, during the term of the within agreement or any mutually agreed extension hereof, shall elect to obtain water for use in its distribution system to its consumers from any source other than the Seller herein, without the Seller's prior written consent, then and in that event, the Seller, at its discretion, may at any time upon ninety (90) days written notice to the Purchaser, terminate the within contract.

2. (Delivery of Water) That thirty days prior to the estimated date of completion of the Purchaser's water supply distribution system, the Purchaser will notify the Seller 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 reasonable close thereto, water sufficient for testing, flushing, and trench filling the system of the Purchaser during construction, irrespective of whether the metering

(3)

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PURSUANT TO 807 KAR 5011,  
SECTION 4(1)

BY: \_\_\_\_\_  
FOR THE

equipment has been installed at the time, at a flat charge of \$200.00 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 actions 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 resulting in the Seller not having sufficient water supply for both its residents and those distribution systems outside its corporate limits, preference shall be given by the Seller, first to those persons residing within its corporate limits and second to its prior contractual commitments, and that Seller's obligation to furnish filtered water to the Purchaser as herein provided shall be altered and/or diminished according to the extent that water supply is then available.

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 periodic modification at the discretion of the Seller. Any increase in rates shall be based on a demonstrable increase in the costs of performance hereunder, but such costs shall not include increased capitalization of the Seller's distribution system; the official audit of the Seller's records, as prepared by the Seller's auditor annually and the cost allocations therein established, shall constitute the sole and conclusive evidence for demonstrating cost of performance for purposes of establishing increased rates.

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 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 are conditioned upon the approval in writing of the State Director of the Farmers Home Administration.

8. (Successor of 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.

9. It is further agreed that if, during the existence of this agreement, the Seller, at its sole discretion, elects to expand its corporate limits into any area served by the Purchaser, the Seller may extend its water facilities and serve customers within said area whether or not previously served by the Purchaser. Provided, however, that should the Seller extend its water facilities

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(4)

SEP 22 1924

PURSUANT TO 807 KAR 5.011,  
SECTION 2(1)

BY

as aforesaid prior to the retirement of any bonded indebtedness of the Purchaser or forty (40) years from the inception of said indebtedness, whichever event occurs sooner, then in that event the Purchaser may continue service to such customers in the area then currently being served, but shall not enlarge its system in such annexed area by the addition of new consumers; further that at the commencement of the within agreement the Purchaser shall not extend its system within any area currently being served by the Seller or such area that Seller is capable of serving at present time without mutual agreement of parties.

10. The Purchaser shall not enlarge or extend its water service to any consumer beyond Purchasers presently established boundary or wholesale water to any distribution system for purpose of resale without the prior written consent of the Seller.

11. The Purchaser shall at all times maintain a demonstrable legal right to furnish the service subject to this agreement within the territory so served.

12. Failure or delay by the Seller to enforce any of its' legal rights under this contract for any violation shall not operate as a waiver by the Seller of the rights retained in the event of any subsequent violation.

13. Construction, interpretation and enforcement of this agreement shall be in accordance with the laws of the Commonwealth of Kentucky and in the event of litigation, the venue shall be the appropriate court in Nelson County, Kentucky.

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

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SEP 22 1994

Seller:

CITY OF BARDSTOWN, KENTUCKY PURSUANT TO 807 KAR 5011, SECTION 9(1)

By: M. M. Starnes Mayor Pro Tem

Attest:

Lara G. Williams  
City Clerk

Purchaser:

CITY OF LEBANON JUNCTION, KENTUCKY

By: Gerald G. ...  
Mayor

Attest:

Norma Stubb  
City Clerk

This contract is approved on behalf of the Farmers Home Administration this \_\_\_ day of \_\_\_\_\_, 1977.