

**REVISED AGREEMENT  
FOR THE  
CONSTRUCTION AND INSTALLATION OF WATER MAIN**

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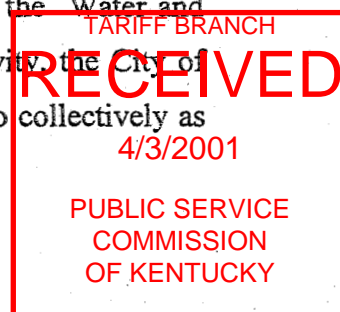
This AGREEMENT is made and entered into by and between the CITY OF HENDERSON, KENTUCKY, a Kentucky municipal corporation; and BEECH GROVE WATER SYSTEMS, INC., a not-for-profit Kentucky corporation. This AGREEMENT replaces the AGREEMENT FOR THE CONSTRUCTION AND INSTALLATION OF WATER MAIN between the two parties signed by BEECH GROVE WATER SYSTEMS, INC. on March 18, 1998 and by the CITY OF HENDERSON on April 14, 1998.

This AGREEMENT changes the rates for water service contained in the WATER PURCHASE CONTRACT dated April 14, 1997 between the CITY OF HENDERSON and BEECH GROVE WATER SYSTEMS, INC. All other provisions of that Agreement remain in effect.

**PREMISES**

A. The parties to this agreement are: (i) the CITY OF HENDERSON, KENTUCKY, a Kentucky municipal corporation and the HENDERSON MUNICIPAL WATER & SEWER COMMISSION authorized by the applicable provisions of KRS Chapter 96 and established by ordinance and resolution of the Board of Commissioners of the City of Henderson whose principal offices are located at 111 Fifth Street in Henderson, Kentucky; and (ii) the BEECH GROVE WATER SYSTEMS, INC., a Kentucky not-for profit corporation whose principal office address is P.O. Box 118., Beech Grove, Kentucky 42322.

B. As used herein, reference to the City of Henderson, Kentucky, includes the Water and Sewer Commission of the City of Henderson, Kentucky. For purposes of brevity, the City of Henderson, Kentucky and the Water and Sewer Commission shall be referred to collectively as



"the City of Henderson" and sometimes "the City", and both of such terms include all of their respective officers, agents, employees and contractors.

C. For brevity, Beech Grove Water Systems, Inc. shall be referred to as "Beech Grove" and such term shall include all of its officers, directors, employees, agents and contractors.

D. The City and Beech Grove are also sometimes referred to herein collectively as "the Parties".

E. The City owns and operates a water treatment plant and appurtenant equipment, lines and facilities, (hereinafter collectively referred to as "the WTP") in Henderson County, Kentucky. Presently some of the City's water lines running from its WTP extend into and serve various customers in McLean County, Kentucky, including Beech Grove.

F. Beech Grove was organized for the purpose of operating a potable water supply and distribution system for users in McLean County having need of such water. Beech Grove desires to purchase additional supplies of potable water from the City of Henderson for resale to its various customers and users in McLean County.

G. The City of Henderson has the capacity and capability of furnishing the requested additional supplies of water to Beech Grove but only through the expenditure of a large sum of money for the construction and installation of the necessary water mains, lines and appurtenant structures and facilities. For the sake of brevity in this Agreement, the construction and installation of water main, lines, structures and facilities shall be referred to as "the Project".

H. To induce the City of Henderson to make the necessary expenditure and to undertake the Project, Beech Grove makes the representations and assumes the obligations herein stated.



I. The Parties desire to reduce their agreement and understanding to writing and such is the purpose of this document.

**NOW THEREFORE, it is AGREED and UNDERSTOOD by the Parties as follows:**

1. At present the City of Henderson owns, operates and maintains a water main in McLean County which runs from the Green River generally along Kentucky State Highway 56 to the Tyson Foods, Inc. chicken hatchery.
2. Upon the terms and conditions stated herein, the City agrees to extend a ten inch (10") water main, hereinafter called the "water main", from a point at the terminus of its present water main on Kentucky State Highway 56 to a point in the town of Beech Grove, Kentucky, near where Kentucky State Highway 56 and Kentucky State Highway 136 intersect.
3. The City of Henderson shall perform all of the planning, engineering and labor and shall furnish all of the materials necessary for the Project.
4. To provide the funds necessary for Project the City will incur debt through a borrowing for which it shall be responsible to its lender for repaying in installments of principal and interest over a terms of years.
5. As an inducement for the City to incur the debt necessary for the Project and to undertake the Project, Beech Grove Water System agrees to initially purchase water from the City of Henderson at the rate schedule included in this paragraph. The parties agree that the rate schedule contained herein replaces the rate schedule in the WATER PURCHASE CONTRACT.



<b>BEECH GROVE MONTHLY RATE STRUCTURE</b>		
<b>Rate Steps (Gallons)</b>	<b>Volume (Gallons)</b>	<b>Rate/ 1,000 Gallons</b>
First 4,000,000	4,000,000	\$2.18
Next 1,000,000	5,000,000	\$2.05
Next 1,000,000	6,000,000	\$1.85
Over 6,000,000		\$1.65

The parties agree that the above rates shall be in effect from the time the additional water service is provided until the following October 1. On October 1 of each year the rates shall increase based on the increased costs to the City of providing the water services.

It is the intent of the parties to allow for rate increases based upon the increased cost of providing water services in the future. The parties acknowledge that the City has a combined water and wastewater operation from which the City will provide water under this agreement. The parties also acknowledge that the City will be able to identify the separate costs associated with water treatment from the South Plant once its annual audit has been completed.

The costs so taken into account with respect to the proposed rate increases shall be the City's total costs for treating and distributing water, including the direct cost of operations, depreciation, and all general and administrative costs, as well as debt service interest costs based on that percentage of the total direct cost of operations of the City's South Water and Sewer Systems which is associated with the South Water Treatment Plant and South Water Distribution System, but exclusive of the cost of collecting its charges therefore, such total costs plus a 30% markup. The City's South Water and Sewer Systems are defined as the Water Treatment Plant and Wastewater Treatment Plant located on Kentucky Highway 2097 in Henderson County, Kentucky, and all connecting water and sewer lines and appurtenant structures in Henderson, Webster and McLean Counties, owned by the City. The total costs, so determined, shall be identified in the City's annual audit. The sewer system costs, which shall be included in the cost of treating water, are those costs related to treating and disposing of the sludge from the water treatment plant. Such costs of treating and distributing water shall be based on the net total

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number of gallons of water pumped into the distribution system by the City, excluding the amount of water used directly by the City in the operation of the South Water and Wastewater Treatment Plant facilities. The base period for calculating a rate adjustment shall be the full fiscal year of the City immediately preceding the rate adjustment. A minimum rate increase of one percent (1%) per year shall be effective each October 1.

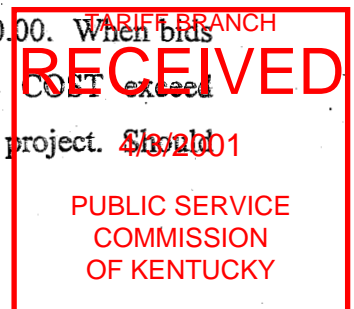
Beech Grove shall have the option at any time throughout the term of this agreement to buy down, by the amount shown below, the rate per 1,000 gallons in affect at the time a buy-down is elected. The buy-down amount shall be in 3 equal increments, each one-third of the TOTAL COST or \$100,000, whichever is greater. The buy-down amount shall be adjusted based on the consumer price index to current value, at the time a payment is made, using the year 1998 as the base year for adjustment.

BEECH GROVE MONTHLY RATE BUY-DOWN		
Rate Steps (Gallons)	Volume (Gallons)	Rate Decrease/ 1,000 Gallons
First 4,000,000	4,000,000	\$0.12
Next 1,000,000	5,000,000	\$0.08
Next 1,000,000	6,000,000	\$0.02
Over 6,000,000		\$0.00

6. When reference is made in this agreement to the "TOTAL COST" to the City for the project, such term means, unless the words used or the context requires a different meaning:

The TOTAL COST to the City of Henderson for all of the planning, engineering, technical support, legal, administrative support, contract administration and management, supervisory support, operational support, labor, materials (whether the same be performed and/or furnished by the City or by its agents, contractors or employees), and principal and interest debt service on all debt incurred by the City, directly or indirectly, for the Project PLUS a FIFTEEN PERCENT (15%) mark-up applied on all of such costs.

The TOTAL COST to the City of Henderson has been estimated to be \$300,000.00. When bids have been taken for the construction of the project, should the TOTAL COST exceed \$300,000.00, the City shall have 45 days to decide whether to proceed with the project.

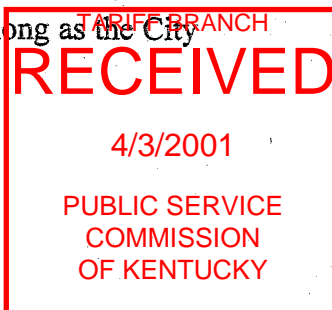


the City elect not to proceed with the project, the City shall notify Beech Grove Water Systems that this AGREEMENT is terminated and all the provisions of the WATER PURCHASE CONTRACT shall remain in full force and effect.

7. This agreement shall run concurrently with the WATER PURCHASE CONTRACT for a 40-year period from April 14, 1997. During this period, the City of Henderson shall retain ownership of and control over the water main. At the end of the 40-year period or after the third and final buy-down payment as described in Paragraph 5, whichever is earlier, Beech Grove Water Systems shall have the option to assume ownership of the water main. Should Beech Grove elect not to assume ownership of the water main, appurtenances and easements, the rate for the water services provided by the City shall be reduced an amount to reflect the debt service component of the rate. Should Beech Grove choose to assume ownership of the water main, appurtenances and easements, the rate for water services provided by the City shall be reduced an amount to reflect the debt services and operation and maintenance components of the rate.

8. Beech Grove Water Systems shall maintain its rates for water service furnished to its customers at a level necessary to pay the City billings for water service in a timely manner.

9. Beech Grove Water Systems agrees to lease the 100,000 gallon water standpipe to the City of Henderson for the term of this AGREEMENT at the rate of \$1.00 per year. The parties agree that the water standpipe will be moved from its current location to a more serviceable location. The parties believe that, except for the normal "wear-and-tear" of the move, the water standpipe will require no significant work to be in "like new" condition. However, if during the course of the project, the City discovers that maintenance or repairs are necessary to return the water standpipe to "like new" condition, Beech Grove agrees to reimburse the City for the cost of the maintenance or repairs. After the water standpipe is moved and placed in service, the City agrees to maintain the water standpipe throughout the term of this Agreement as long as the City is providing maintenance of the water line.



10. Beech Grove Water Systems shall, at its sole cost and expense, acquire all of the easements and right-of-ways necessary, including temporary and permanent easements and right-of-ways, for unhampered access by the City to the water main both during construction and thereafter. The City shall not begin construction of the water main until Beech Grove certifies, through written documentation, that all of such easements and right-of-ways have been acquired. Furthermore, Beech Grove agrees that it will assign all of its rights to such easements and right-of-ways to the City of Henderson prior to the time the City commences construction of the water main.

11. Prior to the City commencing construction of the water main, Beech Grove shall notify the Public Service Commission of the rate change contained in this Agreement.

12. As a further inducement to the City of Henderson to undertake the Project, Beech Grove Water Systems states:

(a) That it is a corporation in good standing in Kentucky and has full right and authority to assume the obligations and make the representations herein expressed.

(b) That the execution of this document and such other documents as are necessary to facilitate the undertakings herein expressed, for and on behalf of Beech Grove, have been duly authorized by its directors and officers at a properly called meeting.

(c) That it has neither done any act nor failed to do any act which might prevent the City from, or limit the City in, acting under any provisions of this agreement or any of the documents to which references is made herein.

(d) That there exists no default or any state of facts which would or could, with the passage of time or the giving of notice, or both, constitute a default on the part of Beech Grove under the terms of this Agreement or of any of the documents referred to generally or specifically herein.

(e) That neither the execution and delivery of this Agreement or of any of the documents necessary or appropriate to facilitate the undertaking of the Parties, as expressed herein, nor any covenant or representation made herein by Beech Grove conflicts with, or



constitutes a breach or default under any agreement, indenture, undertaking or instrument to which it is a party or is subject, or any law, ordinance, administrative regulation or court decree which is applicable to it.

(f) That no action has been brought or, to the knowledge of Beech Grove is threatened, which would interfere in any way with the right of Beech Grove to execute this Agreement or any documents necessary or appropriate to facilitate the undertakings herein expressed and to perform all of its obligations under any of such documents.

13. Beech Grove Water System covenants with the City of Henderson as follows:

(a) It shall fulfill, perform and observe all of the terms and conditions of this and such other documents as are necessary or appropriate to facilitate the undertakings herein expressed.

(b) That is shall not, without prior written consent of the City, do or fail to do any act if such act or failure would constitute a violation of this or any other document necessary or appropriate to facilitate the undertaking herein expressed.

14. The parties agree that the City will provide all taps to the water main at the City's water tap fee in effect for service outside the City at the time the tap is made.

15. The City of Henderson shall not be liable to Beech Grove, or to the customers of Beech Grove, for loss or damage of any kind or description directly or indirectly related to any failure, interruption of service, shortage of water, loss or water pressure or other cause(s).

16. The attached letter is incorporated by reference.

17. The execution of this Agreement by the undersigned for and on behalf of Beech Grove Water Systems, Inc. was authorized by a resolution of its Board of Directors on

September 14, 1998.





IN TESTIMONY WHEREOF, witness the signatures of the duly authorized officers of the parties hereto, with their corporate seals affixed, as of the date first hereinabove written.

CITY OF HENDERSON, MUNICIPAL  
WATER AND SEWER COMMISSION

By: Janine Marie Madient  
Chairman

ATTEST: John S. Japp  
General Manager 10-1-98

APPROVED BY:  
CITY OF HENDERSON, KENTUCKY

By: [Signature]  
Mayor

ATTEST: Joann Roberts  
City Clerk

(Seal of City)

BEECH GROVE WATER SYSTEMS, INC.

By: David M. Scott, PRESIDENT

ATTEST: Billy Woulcy  
Secretary

(Seal of Beech Grove Water Systems, Inc.)

