

WATER PURCHASE CONTRACT

This contract and agreement for the sale and purchase of water is entered into as of the 13th day of September, 2004, between the City of Somerset, Kentucky, hereinafter referred to as the "Seller", and the Southeastern Water Association hereinafter referred to as the "Purchaser".

WITNESSETH:

Whereas, the **Purchaser** is organized and established under the provision of the Secretary of State, the Department of Local Government, the Environmental and Natural Resources Protection Cabinet, and the Code of the State of Kentucky, for purpose of construction and operation 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 service of treated water by the **Seller**, and

Whereas, the **Seller** owns and operates a water supply distribution system organized and established under the provisions of the Environmental and Natural Resources Protection Cabinet and the Code of the State of Kentucky, having a capacity currently capable of serving the present customers of the **Seller's** system and with additional capacity capable of supplying the required volume of the **Purchaser** per this agreement and the **Seller** does seek and consent of the sale of water, and

Whereas, by Ordinance enacted on the 13th day of September, 2004, by the City Council of the **Seller**, the sale of water to the **Purchaser** in accordance with the provisions of the said Ordinance was approved, and the execution of this contract carrying out the said Ordinance by the Mayor, and attested by the Clerk, was duly authorized, and

Whereas by Resolution of the City Council of the **Purchaser**, enacted on the 9th day of September, 2004, 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 Clerk 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)** The furnish the **Purchaser** at the point of delivery hereinafter specified, during the terms of this contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the State of Kentucky in such quantity was may be required by the **Purchaser** up to and not to exceed **3 million gallons per day** for ordinary demand periods with allowance for drought and



short-term high demands up to **3.5 million gallons per day** if the water is available.

2. **(Point of Delivery and Pressure)** That said water is to be delivered to the Purchaser's existing connection points and master meters at the following locations: Hwy 39 at Pulaski County High School, Tateville, Hwy 80 and Ross Street, 192 and 914, Barnsburg, and Babe's Lane and 461. The delivery pressure will be nominally within 10 PSI of the Seller's full tank static pressure but shall be maintained to be at least 40 PSI to avoid pump cavitation due to low suction pressure. Emergency failures of 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 (see "Failure to Deliver" below).
3. **(Metering Equipment)** To furnish, install, operate, and maintain at its own expense at the points of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type of 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 6 months previous to such test in accordance with the percentage of inaccuracy found by such test. 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 a regular monthly basis. An appropriate official of the Purchaser shall have access to the meter at all reasonable time for the purpose of verifying its readings.
4. **(Billing Procedure)** To furnish the Purchaser at the above address not later than the 1st day of each month, with an itemized statement of the amount of water acquired on behalf of the Purchaser during the preceding month, including details of wholesale water acquisition rates.

B. The Purchaser Agrees:

1. **(Rates and Payment Date)** To pay the Seller, not later than the 10th day of each month, for water acquired on the Purchaser's behalf in accordance with the following schedule of rates:



- A) \$2.00 per 1000 gallons or portion thereof rounded to the nearest cent.
2. **(Connection Fee)** That here is no connection fee in this contract but, should a new meter connection be required, the ordinary fee is the actual cost of the metering equipment vault, and tie-in.
3. **(Source of Water)** That the Seller shall be the exclusive source of water.

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 forty (40) years from the date of the close of the **Purchaser's** loan with Rural Development for the year 2003 water system improvements project, Thereafter, this contract may be renewed or extended for such term, or terms, as may be mutually 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, additions to the system, or the **Purchaser's** need for water, the **Purchaser** will notify the **Seller** in writing the date for the initial delivery of water.
3. **(Failure to Deliver)** That the **Seller** will, at all time, operate and maintain its system in an efficient manner, will make all practical effort to provide continuous service at a reasonably constant pressure and flow, and will take such action as may be necessary to acquire on behalf of the **Purchaser**. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In event of a prolonged water shortage of any kind (acts of God, water quality problems, maintenance shut-downs, etc) the **Seller** shall assure that all customers, including the **Seller** and the **Purchaser**, will share in such shortages equally on a pro-rated basis, I.e., the supply of water to the **Purchaser's** meter shall be reduced or diminished in the same ratio or proportion as the supply to the **Seller's** consumers is reduced or diminished.
4. **Modification of Contract)** 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 one (1) year period. Any increase or decrease in rates shall only be based on a demonstrable increase or decrease in the costs of performance hereunder and the **Seller** shall notify the **Purchaser** of decreases as well as increases, but such costs shall not include increased capitalization of the **Seller's**



system, unless such capital improvements and additional costs are jointly used to provide water to the **Purchaser**. The **Seller** shall demonstrate such necessary costs and joint usage. Should any such capitalization be determined to be required to meet minimum standards of service to all customers, the equivalent 40- year financing cost (or the lesser amount of the **seller's** actual cost) for such facilities shall be proportionately allocated according to joint use and may be included in the **Purchaser's** rate. All other provisions of this contract may be modified or altered only by mutual agreement and amendment.

5. **(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.
6. **(Miscellaneous)** That the construction of the **Purchaser's** water supply system by the **Purchaser** is being financed directly, indirectly, and/or in part by a loan made or insured by, and/or a grant from, the United States of America, acting through the Rural Development 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 Rural Development.
7. **(Successor to the Purchase)** That in the event of any occurrence rendering the **Purchaser**, whether the result of legal process, assignment, or otherwise, shall succeed to the rights of the **Purchaser** hereunder.
8. **(Sole Agreement)** That this document is the sole agreement in force between the Parties and that it replaces any and all prior contracts, agreements, and/or prior contracts, agreement, and/or amendments for this purpose.
9. **(Severability)** That the invalidation of any provision of this contract under law does not invalidate the remaining provisions.

In witness whereof, the parties hereto, acting under authority of their respective governing bodies, have caused this contract to be duly executed in 4 counterparts, each of which shall constitute an original.



Seller:

City of Somerset

By: J.P. Wiles

Title: Mayor

Attest:

[Signature]
Clerk

Purchaser:

Southeastern Water Association

By: Jel Richards, F

Title: 9/13/04

Attest:

Clerk

This contract is approved on behalf of Rural Development this ____ day of _____, 20____.

By: _____

Title: _____

TARIFF BRANCH
RECEIVED
 11/24/2008
 PUBLIC SERVICE
 COMMISSION
 OF KENTUCKY