

WATER PURCHASE CONTRACT

This Water Purchase Contract (the “Contract” or “Water Purchase Contract”) made and entered into effective as of the __ day of _____, 2022, by and between TRI-COUNTY WATER AUTHORITY (Seller), and CITY OF PLEASANT HILL, MISSOURI (Purchaser).

WITNESSETH:

WHEREAS, Seller is a Missouri Not-For-Profit Corporation and Purchaser is special charter city duly created and existing under and by virtue of the laws of the State of Missouri; and

WHEREAS, the City Council of Purchaser did authorize the Purchaser to enter into a contract for the purchase of potable water; and

WHEREAS, the City Council of Purchaser did approve this Contract, and authorized and directed the execution hereof by its Mayor and attested by its City Clerk by Ordinance adopted on _____, 2022.

NOW, THEREFORE, in consideration of the foregoing and of the mutual agreements and covenants herein contained, Seller and Purchaser hereby agree as follows:

Section 1. Definitions.

PART I

As used herein, the terms hereinafter set forth shall have the meanings hereinafter given.

(a) “Bond Indenture” means an indenture of trust, resolution, ordinance or other agreement authorizing the issuance of bonds, notes or other obligations of Seller, providing proceeds to construct a project or other improvements to the Seller’s System.

(b) “Bonds” means any bonds, notes or other obligations issued by or on behalf of the Seller to finance or refinance the cost of projects for the Seller.

(c) “Commodity Cost” means all of the costs of production, transmission and storage of treated water, exclusive of any Debt Service associated with facilities use for such purposes, but including operating reserve payments and other payment obligations required by the Bond Indentures and the Loan Agreements.

(d) “Commodity Rate” means the rate to be charged by the Seller for each 1,000 gallons of water delivered by Seller, or other allocation of a proportion of the Commodity Costs, established by the Seller’s Board of Directors from time to time in an amount sufficient to recover Seller’s Commodity Cost.

(e) “Contract” or “Water Purchase Contract” shall mean this Water Purchase Contract between the Seller and the Purchaser as the same may be amended from time to time pursuant hereto.

(f) “Contract Year” shall mean the twelve (12) month period commencing at 12:01 a.m. on January 1 of each year and ending at 12:00 midnight on the following December 31.

(g) “Consulting Engineer” means one or more engineers or engineering firms designated by the Seller, having demonstrated expertise in the field of water production, treatment, distribution and waterworks facility operations, rates and feasibility studies.

(h) “Debt Service” means, with respect to any period, the aggregate of the amounts required to be paid during such period into any fund or funds for the purpose of paying the principal of, premium, if any, and net interest or interest like payments on the Bonds from time to time outstanding when due, excluding from the determination of Debt Service to the extent that such principal of, premium, if any, or net interest or interest like payments on Bonds are payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof, but including amounts sufficient to provide debt service coverages as required by the Bond Indentures and Loan Agreements. Debt Service will be allocated to the Purchaser, Participating Members and others purchasing Water from the Seller equal to the sum of the following:

- (1) the product of (A) the percentage benefit assigned to a Purchaser and (B) the amount of System Debt Service required to be deposited by the Seller during the Month into any fund or account established by the Bond Indentures and the Loan Agreements; *and*
- (2) the product of (A) the percentage benefit assigned to a Purchaser, and (B) the amount of Project Debt Service required to be deposited by the Seller during the Month into any fund or account established by the Bond Indentures and the Loan Agreements.

(i) “Entitlement Share” shall mean that amount of water available for purchase from Seller as shown on the attached Schedule B. This amount may be amended, based on future expansion projects that Buyer may agree to participate in, which are and mutually agreed upon by both Buyer and Seller.

(j) “Loan Agreement” means the loan agreement or other obligation providing proceeds from Bonds or a Bond Indenture to construct a project or other improvements to the Seller’s System.

(k) “Month” shall mean a calendar month.

(l) “Net Revenues Available for Debt Service” means, for the period of determination for either the Seller or the Purchaser, all income, revenues and receipts derived from the operation of the System less all reasonable and necessary expenses of operation, maintenance and repair of the System and keeping the System in good repair and working order (other than interest paid on outstanding indebtedness, depreciation, amortization and other similar noncash charges during the period of determination) and other proper charges, all as determined in accordance with accounting principles generally accepted in the United States, but excluding any profits or losses on the early extinguishment of debt or on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets.

(m) “Participating Members” means the municipal corporations and public water supply districts who have entered into Water Supply Contracts with the Seller in substantially the same form as this Contract. The Participating Members as of the date this Contract is signed are set forth on Schedule “A” attached hereto.

(n) “Point(s) of Delivery” shall mean the point or points of interconnection between the facilities of, or available to, the Purchaser and the terminal facilities of the Seller, as shown on the attached Schedule B.

(o) “Project” shall mean the System or portions of the System constructed and equipped for the purpose of providing water by the Seller to the Point of Delivery for benefit of the Purchaser, including all related structures, facilities and equipment, together with any major renewals, replacements, repairs, additions, improvements, betterments and modifications necessary, in the opinion of the Seller’s Consulting Engineer, to keep the System in good operating condition or to prevent a loss of revenues therefrom, or required by any governmental agency having jurisdiction over the Project.

(p) “Project Debt Service” means that portion of the Debt Service to be paid during such period that is allocated to Purchaser specially benefited by an expansion or improvement of the System.

(q) “Project Bonds” means any bonds, notes or other obligations issued under the Bond Indentures, Loan Agreements or otherwise to provide funds to finance the costs of the Project or other improvements to the Seller’s System for the benefit of the Purchaser.

(r) “Prudent Utility Practice” shall mean a particular time (i) any of the practices, methods and acts engaged in or approved by a significant portion of the water supply industry at such time, or within which (ii) in the exercise of reasonable judgment in light of facts known at such time, could have been expected to accomplish the desired results at the lowest reasonable cost consistent with good business practices, reliability, safety and timeliness considering the fact that the Seller is a Missouri Not-For-Profit corporation. Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to a spectrum of possible practices, methods and acts, having due regard for manufacturers warranties and the requirements of governmental agencies of

competent jurisdiction and shall apply not only to functional parts of the System but also to appropriate structures, landscaping, painting, signs, lighting or other facilities and to public relations programs reasonably designed to promote public enjoyment, understanding and acceptance of the System.

(s) “Sellers Rules and Regulations” shall mean those rules and/or regulations established from time to time by the governing body of Seller for the operation of the Seller’s System.

(t) “System Debt Service” means that portion of the Debt Service to be paid during such period that is allocated to the Purchaser, Participating Members and any others purchasing Water from the Seller.

(u) “Trustee” means the bank or trust company acting as trustee under any Bond Indenture.

(v) “Uncontrollable Forces” shall mean any cause beyond the control of the Seller and which by the exercise of due diligence of the Seller is unable to prevent or overcome, including but not limited to an act of God, fire, flood, explosion, earthquake, strike, sabotage, pestilence, or an act of the public enemy, civil or military authority, including court orders, injunctions and orders of governmental agencies with proper jurisdiction, insurrection of governmental agencies with proper jurisdiction, insurrection or riot, an act of the elements, pandemics, failure of equipment, inability of the Seller or any contractor engaged in work on the System to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers, or inability of the Seller to sell or issue Bonds.

(w) “Water” shall mean potable treated water meeting applicable purity standards of the State of Missouri Department of Natural Resources, or any other agency having jurisdiction over the same.

(x) “Water Rate” shall mean the amount established by Seller (that may be stated as a rate per each 1,000 gallons of water sold by Seller) taking into consideration the Commodity Costs of the Seller to be charged to the Purchaser.

(y) “Water Supply Contracts” shall mean this Contract and the Water Supply Contracts substantially similar hereto (with such changes as may be necessary to reflect the municipal or corporate nature of the water Purchaser) between the Seller and a Participating Member or other purchaser providing for the purchase and sale of Water from the Seller, as the same may be amended from time to time pursuant thereto.

(z) “System” means, with respect to the Seller, the entire waterworks system owned and operated by the Seller for the needs of the Participating Members, the Purchaser and others, including all appurtenances and facilities connected therewith or relating thereto, together with all extensions, improvements, additions and enlargements thereto hereafter made or acquired by the Seller, and, with respect to the Purchaser, the entire waterworks system or

combined waterworks and sewerage system owned and operated by the Purchaser for the needs of the Purchaser and its inhabitants and others, including all appurtenances and facilities connected therewith or relating thereto, together with all extensions, improvements, additions and enlargements thereto hereafter made or acquired by the Purchaser.

Section 2. Effective Date, Term.

This Contract shall be in full force and effect as of _____, 2022, and shall continue for the term through and including December 31, 2041.

PART II

Section 3. Delivery Pressure

Seller agrees to sell and furnish, and Purchaser agrees to purchase, and is entitled to receive Water at a reasonably constant pressure and of a constant rate of flow sufficient to deliver the Purchaser's Entitlement Share to the Purchaser's Point of Delivery from the Seller's System. Emergency failure of pressure or supply due to main supply line breaks, power failures, 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 that may be necessary to restore service.

Section 4. Delivery of Output, Notification.

Water required to be delivered to Purchaser shall be delivered at the Point(s) of Delivery and at authorized service meter connections in accordance with Seller's Rules and Regulations. Seller agrees to notify Purchaser in writing at least thirty (30) days in advance of the estimated date of initial delivery of water to the Purchaser. The Point(s) of Delivery to be provided by Seller are identified on Schedule B attached hereto.

PART III

Section 5. Connection Charge.

The charge for all agreed upon Points of Delivery to the Project, as shown on Schedule B shall be paid by the Purchaser. The cost of any additional or other Points of Delivery requested by Purchaser at any future date shall also be paid by Purchaser. All connections shall be made in accordance with Seller's Rules and Regulations, but in no event shall a connection charge for additional or other connections be less than the actual cost of making such connection, as determined by Seller.

Section 6. Budget; Monthly Billing and Payment.

(a) At least sixty (60) days before the commencement of each Contract Year, the Seller shall prepare and provide to each Purchaser a budget presenting a detailed estimate of

the Commodity Costs and Debt Service for such Contract Year. At the end of each Month of each Contract Year, the Seller shall review its budget of Commodity Costs for the Contract Year, including credits thereto. If the budget does not substantially correspond with actual receipts or expenditures or if there have been or are expected to be at any time during any Contract Year extraordinary receipts, credits or payments of costs substantially affecting the Commodity Costs, the Seller shall prepare and provide to each Purchaser a revised budget of Commodity Costs incorporating adjustments to reflect such receipts, credits, or payments and any payments required to replenish working capital, which revised budget shall supersede the previous budget of Commodity Costs.

(b) On or before the tenth (10th) day of each Month beginning with the month following the initial Month of the first Contract Year, the Seller shall render to the Purchaser a monthly statement representing Purchaser's share of the Commodity Costs for the prior month.

(c) Any other provisions in this Contract to the contrary notwithstanding, the payments to be made pursuant to paragraph (b) above shall be due and payable by Purchaser at the office of Seller specified in Section 29 of this Contract on or before the 20th day of each Month.

(d) Amounts due and not paid by the Purchaser on or before the 30th day of the Month on which they are due shall bear an additional charge equal to the lesser of one and one-half percent (1.5%) per month, compounded monthly, or the maximum amount permitted under applicable law, until such amount and such additional charge are paid in full.

(e) In the event of any dispute as to any portion of any monthly statement, the Purchaser shall nevertheless pay the full amount shown on such statement when due and shall, within sixty (60) days from the date of such statement give written notice of the dispute to Seller. Such notice shall identify the disputed statement, state the amount in dispute and set forth a full statement on the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as aforesaid. The Seller shall give consideration to such dispute and shall advise the Purchaser with regard to the Seller's position relative thereto within thirty (30) days following receipt of such written notice. Upon determination of the correct amount, any difference between such correct amount and such full amount shall be adjusted on the statement next submitted to the Purchaser after such determination pursuant to paragraph (a) above.

PART IV

Section 7. Characteristics of Service.

(a) 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 Water in such quantity and quality as is specified herein. Temporary or partial failure to deliver Water shall be remedied with all possible dispatch. In the event of an extended shortage of Water, or if the supply of Water available to the Seller is otherwise diminished over an extended period

of time, the supply of Water to Purchaser shall be reduced or diminished in the same ratio or proportion as the supply to all Participating Members or other purchasers of Water from the Seller is reduced or diminished to the extent possible.

(b) This Contract is subject to such rules, regulations or other laws as may be applicable to similar agreements in the State of Missouri, including Seller's Rules and Regulations, and so long as the same are applicable, Seller and Purchaser will collaborate in obtaining such permits, certificates or the like as may be required to comply therewith.

(c) The Seller will establish, to the extent practicable, scheduled periods when the Project shall be shut down for maintenance and will give the Purchaser, whenever possible, at least one hundred twenty (120) days' notice of such periods.

(d) The Seller may temporarily interrupt or reduce delivery of Water from the System if the Seller determines that such interruption or reduction is necessary in case of emergencies affecting the ability of Seller to produce or deliver Water from the Project and in order to install equipment, make repairs and replacements to and make investigations and inspections of or perform maintenance work on the Project.

Except as interrupted or reduced by Uncontrollable Forces, or as otherwise provided in this Contract, the Seller shall operate the System and deliver Water therefrom to the Purchaser in accordance with this Contract and Seller's Rules and Regulations at all times during the term of this Contract.

(e) Nothing contained in this Contract shall be construed to prohibit the Seller from contracting with others for the operation, maintenance or dispatch of its System.

Section 8. Measurement of Water Supply.

The Seller will furnish, install, operate and maintain at Point(s) of Delivery at Purchaser's cost, 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 such flow controls, valves, and backflow prevention devices as may be required by Seller's Rules and Regulations subject to the approval of the Seller's Consulting Engineer, and the same shall belong to Seller. Seller shall calibrate or test such metering equipment at least annually whenever requested by Purchaser, but not more frequently than every twelve (12) months. A meter not measuring 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 three (3) months previous to such test in accordance with the percentage of inaccuracy found by such test, and billings for such three (3) months shall be adjusted accordingly. 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 same period of the preceding year or such other amount as may be agreed upon by Seller and Purchaser. In the event that testing is performed at the written request of Purchaser and no inaccuracy of more than two percent (2%) is found, then all costs of such testing shall be paid by Purchaser; otherwise, such costs shall be paid by Seller. Any adjustment when made shall

constitute full adjustment of any claim between the Seller and the Purchaser arising out of such inaccuracy of metering equipment. The metering equipment shall be read on or about the last day of each Month.

PART V

Section 9. Standard of Construction and Operation.

The Seller shall operate, maintain and manage its System in an efficient and economical manner consistent with Prudent Utility Practice. The Seller will establish, maintain and collect rates and charges for Water sold through its System so as to provide revenues at least sufficient, together with available reserves to enable the Seller to make all payments required to be made by it under any Bond Indentures and Loan Agreements and all other lawful charges against or liens on the revenues of the System. The Seller shall use its best efforts to obtain financing through grants or loans and will issue and sell Bonds at such time and from time to time in an aggregate amount sufficient to provide funds for payment of improvements to the System. In connection therewith, each Purchaser shall furnish at its own expense such information and documents, including financial statements, legal opinions and engineering reports, as the Seller shall reasonably request to complete the issuance of Bonds. The Seller shall proceed in accordance with Prudent Utility Practice to obtain all licenses, permits and other rights and regulatory approvals necessary to the construction and operation of the System and shall prosecute such construction with due diligence to completion in accordance with Prudent Utility Practice and plans and specifications prepared or approved by the Consulting Engineer.

Section 10. Records and Accounts.

The Seller shall keep accurate records and accounts of the System and each Project. Said records and accounts shall be subjected to an audit as of the end of and for each Contract Year by a firm of independent certified public accountants selected by the Seller, which firm shall be experienced in waterworks utility accounting. Such firm's audit report shall be submitted to the Seller, with copies to the Purchaser within 180 days after the end of such Contract Year, or when such documents are completed and available.

PART VI

Section 11. Consulting Engineer.

The Seller will retain the Consulting Engineer to make the determinations required by this Contract, any Bond Indentures and any Loan Agreements.

Section 12. Purchaser's Rate Covenant.

Purchaser will, or will take all necessary action to, establish, maintain and collect rates and charges for its System so as to provide revenues at least sufficient to enable the Purchaser

to make all payments required by it under this Contract and to pay all other lawful charges or liens on the revenues of its System.

Section 13. Facilities to be provided by the Purchaser and Operation of the Purchaser's System.

(a) The Purchaser shall contract for or provide, operate and maintain, all without cost or expense to the Seller, such water lines, pumps and other facilities as may be necessary to enable it to receive and use Water purchased under this Contract at and from the Point(s) of Delivery, including such protective devices as may be necessary in the reasonable judgment of the Seller to protect the Project and the Seller's System and the System of all other Participating Members from disturbance thereto caused by the Purchaser. Promptly after the end of each fiscal year of the Purchaser, the Purchaser will cause an audit of its System for the preceding fiscal year to be made by a certified public accountant or firm of certified public accountants employed for that purpose and paid from the revenues generated from the operation of the Purchaser's System. The annual audit will cover in reasonable detail the operation of the Purchaser's System during the fiscal year. Within 30 days after the completion of the annual audit, a copy will be filed in the administrative office of the Purchaser and a copy of the audit will be mailed to the Seller.

(b) The Purchaser will maintain its System in efficient operating condition, will make such improvements, enlargements, extensions and repairs thereto as may be necessary or advisable in accordance with Prudent Utility Practice, will engage experienced and competent management personnel, and will continue to own and operate its System, all in a manner that will enable it to purchase Water from the Seller in accordance with this Contract throughout its term and any extensions thereof.

(c) The Purchaser will duly observe and comply with all valid requirements of any governmental authority relative to any part of its System. The Purchaser will neither create nor suffer to be created any lien or charge upon its System or upon the revenues therefrom that would cause the Purchaser to fail to perform any of its obligations hereunder.

(d) To the extent permitted by law, the Purchaser, in the operation of its System, will carry or cause to be carried such types of insurance as are in accordance with Prudent Utility Practice and as are required by all agreements to which the Purchaser is a party.

(e) The Purchaser will maintain its corporate identity and existence so long as this Contract is in effect, unless another political subdivision or political corporation by operation of law succeeds to the powers, privileges, rights, liabilities, duties and obligations of the Purchaser hereunder.

Section 14. Source of Purchaser's Payments.

The obligation of the Purchaser to make payments to the Seller under this Contract shall be limited to the obligation to make payments from revenues of the Purchaser's System

and available utility system reserves. All payments made by the Purchaser pursuant to this Contract shall constitute operation and maintenance expenses of its System. The Purchaser shall not be obligated to levy any taxes, general or special, for the purpose of paying to the Seller any sum due hereunder.

PART VII

Section 15. Sale of Water Not Taken by the Purchaser.

Any Water which the Purchaser is entitled to receive under this Contract but does not take, may be sold by the Seller to any party under such terms and conditions as the Seller in its sole discretion shall determine. The Purchaser shall have no right, by offset, credit or otherwise, to any amounts realized by the Seller in connection with such sale.

Section 16. Other Sales of Water.

It is understood that, as between the Purchaser and the Seller, subject to the provisions of any Bond Indentures and Loan Agreements, the Seller may sell Water which the Purchaser is not entitled to receive pursuant to this Contract on such terms and conditions as the Seller in its discretion shall determine. No sales of Water by Purchaser shall be allowed which might adversely affect the tax exempt status of the interest on Bonds issued by or for the benefit of the Seller or the property of the Seller.

Purchaser may not resell any of the Water purchased under the terms of this Contract except by retail to its regular customers, including any cities or public water supply districts being served at the time this Contract is executed. No other such sale(s) shall be made to any other public water supply district, city, or any other entity operating a water distribution system, except with the prior written consent of Seller, which consent shall not be unreasonably withheld, except those made during emergency conditions. Under those conditions, Purchaser shall notify Seller of such sales within 24 hours.

Section 17. Additional Bonds.

Bonds may be issued and sold by or for the benefit of the Seller in accordance with the provisions of any Bond Indentures and any Loan Agreements at any time and from time to time in the event funds are required to pay all or a portion of the cost of (i) any major renewals, replacements, repairs, additions, improvements, betterments and modifications to the Seller's System necessary, in the opinion of the Consulting Engineer, to keep the Seller's System in good operating condition or to prevent a loss of revenue therefrom, (ii) any major additions, improvements, repairs or modifications to the Seller's System required by any governmental agency having jurisdiction over the Seller's System or for which Seller shall be responsible by virtue of any obligation of the Seller arising out of the contract to which the Seller may be a

party relative to the ownership of the Seller's System and (iii) additional water supplies for the Seller's System in any Contract Year to the extent that sufficient funds are not available in any reserves for such purpose under any Bond Indentures or any Loan Agreements. It is the Seller's intent that, if Bonds are sold to finance a project that will benefit only certain members purchasing additional water as a result of the project and not all Purchasers, the revenues derived from newly-contracted Water shall be adequate to pay the principal and interest on the Bonds. The Debt Service paid by all Purchasers (referred to in this document as System Debt Service) will not be increased to pay the costs of a project financed with Bonds where the project benefits only certain Purchasers (referred to in this document as Project Debt Service) notwithstanding any incidental benefit that may accrue to other water purchasers. In the event the proceeds derived from the sale of Bonds exceed in the aggregate the amount of funds required for the purposes for which such Bonds were issued, the excess shall be applied in the manner permitted under the Bond Indentures and Loan Agreements authorizing the issuance of such Bonds.

Section 18. Refunding Bonds.

In the event that the Commodity Costs and/or Debt Service may be reduced by the refunding at any time of all or from time to time of any Bonds then outstanding or in the event it shall otherwise be advantageous in the opinion of the Seller to refund any Bonds, the Seller may issue and sell, or cause to be issued and sold, refunding bonds.

PART VIII

Section 19. Default by Purchaser, Remedies of the Seller.

(a) In the event Purchaser shall fail to perform any obligation under its Water Purchase Contract, including failure to make to the Seller when due any payment for which provision is made therein, the Seller shall have, in addition to any other rights or remedies it may have under law, the following rights and remedies:

- (1) the Seller may bring any suit, action or proceedings in law or in equity, including mandamus and action for specific performance, as may be necessary and appropriate to enforce against Purchaser any covenant, agreement or obligation to make any payment for which provision is made in its Water Purchase Contract, or to collect amounts due pursuant to the Water Purchase Contract;
- (2) if such failure shall continue for fifteen (15) days following written notice to Purchaser, upon ten (10) days written notice to such Purchaser, cease and discontinue delivering Water to Purchaser so long as such failure shall continue; provided, however, that any such cessation and discontinuance shall not relieve Purchaser of any obligation under its Water Purchase Contract, including the obligation to pay amounts becoming due on and after the date of such cessation and discontinuance; and
- (3) whether or not the Seller shall have ceased and discontinued delivering Water pursuant to clause (2) above, if such failure shall continue for six months following

written notice to Purchaser from the Seller specifying such failure, the Seller may at any time thereafter while such failure shall be continuing, upon written notice to Purchaser, terminate such Water Purchase Contract; provided, however, that any such termination shall not relieve Purchaser of the obligation to pay any amounts required to be paid under its Water Purchase Contract with respect to any Month ending on or prior to such termination and for the Month in which such termination shall occur, without proration.

(b) The cessation and discontinuance of the delivery of Water to Purchaser, or the termination of the Water Purchase Contract, shall not change the Entitlement Share of any other Purchaser under contract with Seller.

(c) Each Purchaser agrees to be held jointly and severally liable if another Purchaser defaults in the payments pursuant to this Contract. If a Purchaser defaults in the payment of Debt Service, the Seller may:

- (1) Notify all other Purchasers in writing of the default and stating the Seller's intent to bill each remaining Purchaser as a result of the default; and
- (2) So long as the default continues, bill each remaining Purchaser for a proportionate amount of the Debt Service that remains unpaid, based on each remaining Purchaser's Entitlement Share.

The remaining Purchasers shall be required to accept and pay for and shall be entitled proportionately to use or otherwise dispose of the Water that was to have been purchased by the defaulting Purchaser.

(d) If a Purchaser defaults in the payment of any other amount due under this Contract, the Seller may:

- (1) notify all other Purchasers in writing of the default and stating the Seller's intent to bill each remaining Purchaser as a result of the default; and
- (2) adjust the Commodity Costs or portion of Debt Service to account for the unpaid amount.

If the Seller recovers any amount from a defaulting Purchaser, the Seller shall (1) if the recovery is attributable to Debt Service, credit each Purchaser proportionately according to its Entitlement Share, or (2) if the recovery is attributable to any other amount, adjust the Commodity Costs to account for the recovered amount.

Section 20. Default by Seller.

In the event of any default by the Seller in the performance of any of its obligations under this Contract, the Purchaser may bring any suit, action or proceeding in law or in equity, including mandamus, injunction, and action for specific performance as may be necessary or appropriate to enforce such obligation against the Seller, but the same shall not give the Purchaser the right to discontinue the performance of its obligations under this Contract.

Section 21. Abandonment of Remedy, No Waiver.

In the event any action or proceeding taken by the Seller or the Purchaser in connection with any default by the other shall have been discontinued or abandoned for any reason, the Seller and the Purchaser shall be restored to their former positions under this Contract, and all rights, remedies, powers and obligations of the Seller and the Purchaser shall continue as though no such action or proceeding has been taken. The failure of either party to insist in any one or more instances upon strict performance by the other of the Contract or to take advantage of any of its rights hereunder shall not be construed as a waiver of relinquishment.

PART IX

Section 22. Assignment, Sale of Purchaser's System.

(a) This Contract shall inure to the benefit of and be binding upon the respective successors and assigns of the parties to this Contract; provided, however, that except as otherwise provided in this Contract in the event of a default and except for the assignment by the Seller authorized in paragraph (b) below, neither this Contract nor any interest herein shall be transferred or assigned by either party hereto except with the consent in writing of the other. No assignment or transfer shall relieve the assigning or transferring party of any obligation contained in this Contract. The Purchaser acknowledges that the rights of the Seller to transfer or assign its interest in this Contract may be limited by any Bond Indentures and/or any Loan Agreements.

(b) The Purchaser acknowledges and agrees that the Seller may pledge and assign to the Trustee designated in any Bond Indenture all of the Seller's right, title and interest in and to this Contract and all payments to be made to the Seller by the Purchaser under this Contract as security for the payment of the principal (including sinking fund installments) of and premium, if any, and interest on the Bonds and, upon the execution of such pledge and assignment such Trustee shall have all of the rights and remedies provided to the Seller with respect thereto.

(c) The Purchaser agrees that it will not sell, lease, contract to sell, convey, grant an option to purchase or lease, or otherwise dispose of its System except with prior written consent of the Seller and the delivery of an opinion of nationally recognized bond counsel that such sale or other disposition will not affect the tax-exempt status of the interest on outstanding Bonds. The Purchaser will not cooperate in any effort to detach or exclude any part of the Purchaser from service from the Purchaser's System pursuant to Sections 247.160 or 247.170, RSMo, 1986, as amended, or otherwise.

Section 23. Termination, Amendment.

(a) This Contract may not be terminated by either party hereto under any circumstances, including upon the default of the other party, except as otherwise specifically provided in this Contract.

(b) This Contract may not be amended, modified or otherwise altered in any manner except in writing signed by both parties. The Purchaser acknowledges that Seller's Bond Indentures and/or the Loan Agreements may contain provisions restricting the right of the Seller to amend, modify or alter this Contract, and the Seller shall not amend, modify or alter this Contract except as provided in Seller's Bond Indentures and Loan Agreements.

Section 24. Compliance With Laws.

The Purchaser shall not dispose of Water to which it is entitled pursuant to this Contract in any manner which would cause the sale thereof by the Seller to the Purchaser to contravene any provision of law at the time applicable thereto.

Section 25. Taxes.

In the event that any Federal, State or local tax shall be levied upon the sale and delivery of Water to the Purchaser pursuant to this Contract or upon the Seller measured by the Water sold to the Purchaser or the revenue received by the Seller therefrom, the amount of such tax shall be added to the next statement rendered to the Purchaser pursuant to Section 6.

Section 26. Governing Law.

This Contract shall be governed by and construed in accordance with the laws of the State of Missouri.

Section 27. Notices and Computation of Time.

Any notice which may be or is required to be given under this Contract shall be deemed properly given if mailed postage prepaid and addressed to the Seller at 28405 East Blue Valley Road Independence, Missouri 64058, (P.O. Box 170, Buckner, Missouri 64016), and to the Purchaser at 203 Paul Street, Pleasant Hill, Missouri 64080. In computing any period of time from such notice, such period shall commence at 12:01 a.m. on the day following the date such notice was mailed. The foregoing designations and addresses to which notices shall be addressed may be changed at any time and from time to time by giving notice as provided above.

Section 28. Addresses for Statements and Payments.

(a) Statements rendered by the Seller pursuant to Section 6 shall be mailed to the Purchaser, addressed as follows: City of Pleasant Hill, Missouri, 203 Paul Street, Pleasant Hill, Missouri 64080.

(b) Payment of statements rendered by the Seller pursuant to Section 6 shall be made to the Seller by the Purchaser as follows: Tri-County Water Authority P.O. Box 170, Buckner, Missouri 64016 in a manner so that the Seller will have funds available at the opening of business on the day such payment shall become due. Alternative methods of payment to the Seller may be made as directed from time to time by the Seller to the Purchaser.

(c) In the event that any day on which any payment under this Contract shall become due shall be a Saturday or Sunday or a holiday recognized by the Seller, the payment shall be made on the next preceding day which is not a Saturday, Sunday or such holiday.

Section 29. Severability.

In the event that any provision in this Contract is declared illegal or no longer in force by reason of any judgment or order issued by any court or regulatory body of jurisdiction, all remaining provisions of this Contract not affected by such judgment or order shall continue in full force and effect.

Section 30. Reports and Information.

Each party hereto shall furnish to the other party such reports and information concerning its operations as the other party may reasonably request from time to time.

Section 31. Right of Access.

Each party grants to the other party right of access to its premises, at the Points of Delivery initially established as provided in Schedule B, or as may hereafter be established, to install, maintain, operate, repair, and renew any and all equipment, apparatus and devices owned or operated by such other party and necessary in the performance of this Contract.

Section 32. Liability of Seller.

The Seller shall not be liable to the Purchaser for any failure of the Seller to perform its obligations to the Purchaser due to Uncontrollable Forces and in no event shall be liable to the Purchaser for any consequential damages.

Section 33. Cooperative Agreement.

The parties do hereby agree to cooperate in obtaining waterline easements or other interests in real estate to enable Seller to fulfill its obligations hereunder in the construction of the transmission lines or other appurtenances, if any be required. The parties do further agree to execute such additional agreements evidencing this obligation as may be reasonably required by Seller, to enable Seller to acquire easements or other interests in real estate necessary or convenient to it to fulfill its obligations under this agreement.

Section 34. Electronic Storage of Documents .

The Seller and Purchaser agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

IN WITNESS WHEREOF, this Contract is executed by the duly authorized officers and representatives of the parties, pursuant to authority vested in them by the lawful action of their respective council, commission, or board, as of the day and year first above written.

TRI-COUNTY WATER AUTHORITY

By _____
President

ATTEST:

Secretary

STATE OF MISSOURI)
) ss:
COUNTY OF _____)

On this _____ day of _____, _____, before me the undersigned Notary Public personally appeared _____, to me personally known, who being by me duly sworn did say that he is President of Tri-County Water Authority, a Missouri Not-For-Profit Corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said _____
_____ acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in _____, Missouri, on the day and year last above written.

Notary Public

CITY OF PLEASANT HILL, MISSOURI

By

ATTEST:

STATE OF MISSOURI)
)
COUNTY OF _____)

On this _____ day of _____, 2022, before me the undersigned Notary Public personally appeared John King, to me personally known, who being by me duly sworn did say that he is the Mayor of the City of Pleasant Hill, Missouri, and that Jodie Wasson is the Acting City Clerk of the City of Pleasant Hill, Missouri; that the seal affixed to the foregoing instrument is the official seal of said entity, and that the instrument was signed and sealed in behalf of said entity by authority of its governing body, and the said Mayor and Acting City Clerk acknowledged said instrument to be the free act and deed of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in _____, Missouri, on the day and year last above written.

Notary Public

SCHEDULE A

Participating Members

Cass County:

PWSD #4 of Cass County
PWSD #5 of Cass County
PWSD #9 of Cass County
PWSD #11 of Cass County
PWSD #12 of Cass County

City of East Lynne
City of Pleasant Hill
City of Lake Winnebago
City of Drexel

Jackson County:

PWSD #12 of Jackson County
PWSD #13 of Jackson County
PWSD #17 of Jackson County
City of Grain Valley
City of Blue Springs
PWSD #1 of Jackson County

SCHEDULE B

Maximum Daily Water Purchase amount shall not exceed 87,700 gallons, unless otherwise approved by Seller. There is no Minimum Daily Water Purchase required under this agreement. Debt Service Payments are due monthly, regardless of daily purchases.

The initial connection point for City of Pleasant Hill shall be: Meter Station at S Knorpp Road, Pleasant Hill, Missouri

The percentage benefit for purposes of calculating allocations of Commodity Costs, Project Debt Service and System Debt Service are:

- (1) Commodity Costs: 0.44%
- (2) Project Debt Service
 - a. 2005 A&C SRF: 0.00%
 - b. 2015 EIARA: 0.00%
 - c. 2016 SRF: 0.00%
- (3) System Debt Service: 0.00%