

This Instrument Prepared By:
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WATER PURCHASE AND SALE AGREEMENT

This Water Purchase and Sale Agreement (referred herein as “Agreement”) is made and entered into on this ____ day of _____, 2025 (“Effective Date”), by and between The City of Crossville, a municipal utility created and existing pursuant to Tenn. Code Ann. §§ 7-52-101, *et seq.*, with its situs in Cumberland County, Tennessee (referred herein as “COC”), and Crab Orchard Utility District, a utility district chartered in 1966, pursuant to Tenn. Code Ann. §§ 7-82-101, *et seq.*, with its situs also in Cumberland County, Tennessee (hereinbelow referred to as “COUD”).¹

WITNESSETH:

WHEREAS, COC and COUD provide treated water to customers in Tennessee, COC to portions of Cumberland, Rhea, Putnam and Bledsoe Counties, and COUD to a portion of Cumberland County;

WHEREAS, the service areas of COC and COUD adjoin but are not currently interconnected;

WHEREAS, COUD owns and operates a four million gallon per day ("MPD") water treatment plant that pulls water from Otter Creek Lake, a 137-acre lake constructed by COUD in 1995;

WHEREAS, COUD's service area has received a higher than anticipated growth rate, where water supplies are reaching their limits of safe yield;

WHEREAS, studies have shown the Cumberland Plateau will need an additional supply of raw water in the next thirty (30) to fifty (50) years in the future;

WHEREAS, to secure an additional long-term source of treated water for COUD, COC and COUD submitted a grant application through the Tennessee Department of Environment and Conservation ("TDEC") State Water Infrastructure Grants ("SWIG") program for the purpose of upgrading COC and COUD existing drinking water pumping and transmission capacity and

¹ Each of which, COC and/or COUD, may be referred to as “Party” or together as, “Parties.”

constructing an interconnection point along Miller Avenue, two thousand six hundred (2600') feet south of the intersection of Rock Quarry Road so that COC can transmit up to one million (1,000,000) gallons per day ("GPD") of available treated water supply from COC's system into COUD's system;

WHEREAS, COC has no other justification to upsize its existing piping and transmission capacity to supply up to One Million (1,000,000) GPD to the Miller Avenue service area but to become a daily wholesale water provider to the COUD;

WHEREAS, both COC and COUD have a mutual charge and desire to provide an adequate supply of safe, potable water to their customers; and

WHEREAS, an interconnection point with COC is the fastest and least costly alternative to securing a long-term water supply of up to one million (1,000,000) GPD to meet COUD's growing water demand.

WHEREAS, COUD is in the process of merging with Cumberland Plateau Water Authority ("CWPA").

WHEREAS, this consolidation is required by the public convenience and necessity, is economically sound and feasible, and in the public interest.

WHEREAS, Both COUD and CPWA have petitioned the Cumberland County Mayor to hold a public hearing and to grant the Petition to Merge. This public hearing is scheduled for May 13, 2025.

WHEREAS, it is anticipated that this merger will be occurring prior to or on May 13th, 2025, and out of an abundance of caution, it is felt that CPWA is a necessary party to this instrument as it is anticipated that all assets of COUD will be assigned to CPWA.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt, sufficiency, and adequacy of all of which are hereby acknowledged, the Parties agree as follows:

Section 1. Definitions

- 1.1 Environmental Laws. "Environmental Laws" shall mean all statutes, ordinances, rules and regulation of the United State of America, State of Tennessee, and applicable counties and cities governing or regulating the quality, treatment and resale of utility water for consumption.

- 1.2 Maximum Daily Provision. Unless otherwise agreed by the Parties, during the Term of the Agreement, and for any successive term, the Maximum Daily Provision COC may provide to COUD under this Agreement is one million (1,000,000) gallons of Treated Water for any calendar day.
- 1.3 Point of Service. The Point of Service shall be located approximately two thousand six hundred (2600') feet south of the intersection of Miller Avenue and Rock Quarry Road, on Miller Avenue, State Route 392, in Cumberland County, Tennessee, through which COC shall supply COUD with Treated Water. Additional points of service may be installed upon mutual agreement of the Parties.
- 1.4 Minimum Purchase Amount. During the Term of this Agreement, the Minimum Daily Purchase Amount shall be three hundred thousand (300,000) gallons of Treated Water for any calendar day.
- 1.5 Treated Water. Water of the same grade, kind, and quality, furnished by the Parties in their respective service areas, treated and pumped to the Point of Service, for resale by COC or COUD to their respective customers, shall comply with all relevant Environmental Laws, both State and Federal.

Section 2. COC's Responsibilities

- 2.1 COC shall:
 - a) beginning on the Effective Date, perform the necessary planning, survey, design, bidding, and construction required to interconnect and supply COUD with Treated Water at the Point of Service;
 - b) coordinate with COUD regarding the planning of COUD's water system construction portion of this project (to wit: the construction of COUD's pump station and transmission line) related to this Agreement; and
 - c) upon completion of the necessary construction to interconnect COC's system to COUD's system, provide Treated Water to COUD in accordance with Section 4 of this Agreement in the same or similar manner as it furnishes Treated Water to its customers within its service area.
- 2.2 In no event shall COC be responsible for any interruptions in service due to breakdowns, power failures, equipment failures, line failures, or any other circumstances or conditions beyond its control. Further, emergency failures of pressure or supply line

breaks, power failures, flood, fire, and use of water to fight fires, earthquakes, or any other catastrophe, shall excuse COC from its obligation to provide Treated Water to COUD for such reasonable period of time as may be necessary to address the catastrophe and restore service.

Section 3. COUD's Responsibilities

3.1 COUD shall:

- a) on the Effective Date, pay Two Hundred Eighty Thousand Three Hundred (\$280,300) Dollars to COC (referred herein as "Prepayment"), which Prepayment Amount represents the five (5%) percent grant matching costs together with the matching funds to obtain the TDEC SWIG grant funding;
- b) pay COC for the Treated Water in accordance with Section 4 of this Agreement;
- c) provide COC with six (6) months' advanced written notice of any significant changes in anticipated water demand or of anticipated changes to its distribution system operations which could affect COC's ability to supply Treated Water to COUD;
- d) provide, upon COC's request, Treated Water to COC in accordance with the terms of this Agreement in the same or similar manner as it furnishes Treated Water to its customers within its service area;
- e) comply with state laws requiring an active Cross-Connection Program within its system to protect COUD's and COC's water supply; and
- f) provide COC with any and all other information necessary for COC to provide Treated Water to COUD under this Agreement, including, but not limited to, water pressure needs, pump stations in use, and tank elevations.

3.2 COUD shall not install new pumping facilities or alter existing pumping facilities within its service area which would increase the demand for Treated Water from COC without the review and written consent of COC or its representatives.

3.3 In no event shall COUD be responsible for any interruptions in service due to breakdowns, power failures, equipment failures, line failures, or any other circumstances or conditions beyond its control. Further, emergency failures of pressure or supply, due to main supply line breaks, power failures, flood, fire, and use of water to fight fires, earthquakes, or other catastrophe, shall excuse COUD from its obligation to

provide or receive Treated Water to COC for such reasonable period of time as may be necessary to address the catastrophe and restore service.

Section 4. Sale and Purchase of Water

COC shall sell, and COUD shall purchase, Treated Water as follows:

- 4.1 Quantity. During the Term of this Agreement, or any renewal or extension thereof, but not before such time that a point of connection has been established by COC for the conveyance of water to COUD, COC shall make available for sale to COUD up to the Maximum Daily Provision of Treated Water each day for resale to customers of COUD at a maximum flow rate of one thousand (1,000) gallons per minute (referred as “GPM”), and COUD shall purchase from COC Treated Water received from COC pursuant to the terms and conditions of this Agreement; provided, however, that in all events COUD shall be responsible for, and pay COC for, at least the Minimum Purchase Amount each day set forth in subparagraph 1.4, according to the rate set forth in Section 4.2 below, subject to the contingencies set forth in paragraph 2.2 and 3.3 above. The quantity of Treated Water billed to COUD shall be determined by the sum of the daily meter readings in a given billing period, rounded up on the books as necessary to reach the daily Minimum Purchase Amount. In the event COUD anticipates a need to take greater than the applicable Maximum Daily Provision of Treated Water, COUD may request permission to do so from COC, and if COC, in its sole discretion, grants the request, COUD may take the additional Treated Water without penalty at the rate provided for in subparagraph 4.2 below.
- 4.2 Rate. The rate for Treated Water supplied by COC to COUD under this Agreement shall be Three Dollars and Seventy-Five (\$3.75) Cents per one thousand (1,000) gallons of Treated Water for COC’s fiscal year 2024-2025. Thereinafter, the rate shall be determined by the following formula:

$$\frac{((\text{Water Resources Expenses (less Capital Outlay)} + \text{Water Depreciation} + \text{Bond Interest and Fees} + \text{Percentage of Water Transportation and Distribution}) / \text{Consumption}) \times 1,000}{}$$

This Percentage of Water Transportation is calculated by dividing total consumption by COUD, divided by the total consumption for the City of Crossville (including COUD).²

NOTE: The relevant numbers to be put into the formula above will be derived at the end of the fiscal year.

Further, the contract amounts will initially be constructed pursuant to the City of Crossville's participating Engineer's estimate, see Exhibit "A." COC will be joining at a five (5%) percent match amount of One Hundred Forty Nine Thousand Seven Hundred (\$149,700) Dollars, and the Crab Orchard Utility District participating Engineer's estimate at a five (5%) percent match amount of Two Hundred Eighty Thousand Three Hundred (\$280,300) Dollars, see Exhibit "B." Once the project is complete, COC and COUD will utilize the real contracted values, and each entity will pay the five (5%) percent match amount for the items owned by each entity. The general items owned by COC will be approximately seven thousand three hundred (7,300) linear feet of twelve (12") inch ductile iron water line and five hundred twenty (520') feet of sixteen (16") inch ductile iron water line, a master meter, and all apparatuses associated with the lines (such as casing and fire hydrants). The items in general, owned by COUD will be built in place of the Water Booster Station, and the property associated with it—approximately seven thousand three hundred (7,300') feet of twelve (12") inch ductile iron water line and SCADA equipment associated with electric actuated valves and all apparatuses associated with the pump station and lines. Moreover, all engineering costs, grant administration, and any other incident cost associated with this Agreement, not included in the construction contract, will be divided based upon each entity's percentage of the overall construction costs. The overall construction cost will be based upon the final construction pay application for the project associated with this Agreement.

- 4.3 Point of Service, Metering, Billing and Payment. COC shall supply COUD with Treated Water at the Point of Service. COC shall measure the quantity of Treated Water taken by COUD with a meter owned and maintained by COC, the type of which shall be determined by COC in its sole and absolute discretion. COUD may request that COC test the meters, and COUD Shall pay for such testing, if permitted in the Rules and Regulations of COC as

² As a practical example, the \$3.75 calculation listed above was derived from the following June 30, 2024 data: ((2,221,976.68 – 151,356.00 + 1,812,332.30 + 532,722.16 + 540 + 0) / 1,178,799,200) X 1,000 equals 3.75.

established from time to time. COC shall bill COUD monthly for the previous month's purchase of Treated Water as determined by the terms of this Agreement, and COUD shall pay for such Treated Water in accordance with the applicable rate; provided, however, COUD shall, in no event, pay less than the Minimum Purchase Amount, multiplied by the applicable rate set forth in Section 4.2.

Section 5. Term & Termination

- 5.1 Term: The term of this Agreement shall be for a period of twenty (20) years from the Effective Date.
- 5.2 Termination: During the Term of this Agreement, either Party may terminate this Agreement ONLY in the event the other Party commits a material breach of any covenant or provision of this Agreement, and such breach continues for thirty (30) days after the nonbreaching Party gives written notice of the event constituting such breach to the breaching Party. In addition, the nonbreaching Party may pursue and exercise any and all rights and remedies at law, in equity, and/or other appropriate proceeding, whether for specific performance of any covenant and/or provision contained in this Agreement, including an injunction against the breaching party for a violation of any of the terms hereof, or by law to recover any and all amounts due. Each and every right, power, and remedy given to the nonbreaching Party in this Agreement shall be cumulative and shall be in addition to every other right, power, and remedy specifically given herein, and may be exercised as often and, in such order, as may be determined by the nonbreaching party. Moreover, the exercise thereof shall not be construed as a waiver of the right to exercise at the same time any other right, power, or remedy. Notwithstanding the foregoing, as long as COC continues to provide water to COUD, at the same rates and quantities, in accordance with the terms of this Agreement, COUD shall not terminate this Agreement. If COUD terminates this Agreement during the initial Term of this Agreement due to no fault on the part of COC, then COUD shall nevertheless be responsible for and make a payment annually to COC on January 1st during the initial Term of this Agreement (as determined by COC) necessary for COC to depreciate capital assets and infrastructure installed in connection with the interconnection project contemplated hereby.

Section 6. Further Representations, Warranties, and Covenants

Each Party hereby represents and warrants to the other Party as follows:

- 6.1 Each Party is duly organized, validly existing, and in good standing under the laws of the State of Tennessee and has all requisite power and authority to carry out the business for which it was formed and as required by this Agreement.
- 6.2 COC's City Council and COUD's Board of Commissioners have each duly authorized the execution, delivery and performance of this Agreement. No other proceeding on the part of either Party is necessary to authorize execution of this Agreement or any transaction required or contemplated hereunder. Neither the execution, delivery or performance of this Agreement, nor the compliance with, nor the fulfillment of the terms and provisions of this Agreement does or will (i) violate or conflict with, or result in, any breach of the terms, conditions or provisions of, or constitute a default (or an event that, with notice, lapse of time, or both, would become a default) under the governing documents of either Party, or any agreement, bond, bond resolution, indenture, lease, mortgage or other instrument to which either is a Party or by which it is bound; (ii) require (with the exception of disposal and site permitting) any affirmative approval, consent, authorization or other order or action of any court, governmental authority or regulatory body or any creditor of either; (iii) result in any violation of any provision of Environmental Laws or any other law, rule, regulation or any court order, judgment, writ, injunction, decree, arbitration, order or determination; or (iv) give any party with rights under any instrument, bond, agreement, mortgage, judgment, order, award, decree, or other restriction the right to terminate, modify or otherwise change the rights or obligations of either Party. Both COC and COUD have full power and authority to do and perform all acts and things required under this Agreement. This Agreement, when duly executed and delivered, shall constitute a legal, valid, binding and enforceable agreement.

Section 7. Condition to Agreement

The Parties hereto expressly acknowledge and agree that this Agreement is made in anticipation of the Parties' receipt of SWIG funds and, as such, the Parties' continuing rights and obligations hereunder are expressly contingent upon the Parties' receipt of funds in connection with the joint grant application to TDEC through its SWIG program, and also contingent upon any further requirements, design approval, permitting, or any other approvals of TDEC necessary for the expenditure of said funds for the provision of Treated Water pursuant to this Agreement.

In the event the SWIG grant funding is cancelled by TDEC due to the Parties' inability to

meet the project deadline required by the SWIG grant program, then neither Party shall have any further obligation under this Agreement; provided, however, that any amount of the Prepayment not then committed or expended by COC for the construction of the interconnection or project contemplated herein shall be returned to COUD within thirty (30) days of the Parties receiving appropriate written notice that said SWIG grant funding has been cancelled.

Section 8. General Provisions

- 8.1 Compliance with Applicable Laws. The Parties shall comply with all applicable federal, state, and local laws or regulations, including, but not to be limited to, Environmental Laws and civil rights jurisprudence, and shall not discriminate on the basis of race, color, religion, national origin, or disability.
- 8.2 Further Assurances. Following the Effective Date, the Parties shall execute and deliver such additional documents, instruments, and assurances, and take such further action as may be reasonably required to carry out the provisions hereof. Further, upon request, COC and COUD agree to share updated composite drawings of their respective water distribution systems, showing pipe sizes and locations, tank sizes and locations, and all pumping facilities with capacities.
- 8.3 Successors and Assignment. This Agreement shall be binding upon the Parties and shall inure to the benefit of and be enforceable upon and by the successors of the Parties hereto. Moreover, it is specifically acknowledged and agreed to by the Parties that this Agreement shall survive and be binding, effective, enforceable upon and by the successors and assigns of the Parties in the event either Party hereto is acquired, merged into, consolidated with, or otherwise subsumed by any other utility district(s), utility system(s), or municipal utility(ies), whether such acquisition, merger or consolidation occurs voluntarily or, to the extent permitted by law, as a result of state action, and that this Agreement and its rights and obligations shall be accepted, honored, and fully adhered to by any such utility system acquiring, merging with, or consolidating with said Party. Except as provided in this paragraph, neither Party shall assign or transfer, or permit the assignment or transfer, of its rights or obligations under this Agreement without the prior written consent of the other Party, and any purported assignment or transfer without such written consent shall be void. An assignment resulting from a merger by either of the parties is specifically authorized.

- 8.4 Notices. All notices or communications relating to this Agreement from or to the Parties of this Agreement shall be sufficient if personally delivered to the officer designated below, or, if sent to said officer by registered or certified mail, with return receipt requested, to the address of the Parties below. Any risk of loss and non-delivery shall be borne by the Party mailing or delivering such notice to the following:

COUD: CRAB ORCHARD UTILITY DISTRICT
ATTN: GENERAL MANAGER
2389 E. 15TH STREET
CROSSVILLE, TENNESSEE 38555

COC: CITY OF CROSSVILLE
ATTN: CITY MANAGER
392 NORTH MAIN STREET
CROSSVILLE, TENNESSEE 38555

- 8.5. Governing Law. The laws of the State of Tennessee shall govern the interpretation, validity, performance, and enforceability of this Agreement.
- 8.6. Venue. The Parties understand and hereby acknowledge and agree that the agreed venue for any and all legal proceedings relating to the subject matter of this Agreement, or the interpretation, validity, performance and enforceability of this Agreement shall be the Chancery courts located in Cumberland County, Tennessee, which courts shall have exclusive jurisdiction and venue for such purposes.
- 8.7. Severability. If any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the remaining provisions or parts thereof, and this Agreement shall be construed in such a way and to the extent permitted by law to give effect to the intent of such invalid provisions or parts.
- 8.8. Waiver. The failure of either Party to exercise any of its rights hereunder or to enforce any of the terms or conditions of this Agreement shall not constitute or be deemed a waiver of that Party's rights thereafter to exercise any rights of this Agreement and to enforce each and every term and condition hereof. The consent or approval of either Party to any act by

the other Party requiring such approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent or similar act.

- 8.9 Time is of the Essence. The Parties herein agree that time is of the essence with respect to all obligations under this Agreement.
- 8.10 Drafting Party. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the even an ambiguity or question of intent or interpretation arises, the Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.
- 8.11 Entire Agreement and Amendment. This Agreement sets forth the entire understanding between the Parties with respect to the subject matter hereof and supersedes all prior agreements or undertakings between the Parties, oral or written, with respect to the subject matter. No agreement shall be effective to change, modify or terminate this Agreement, in whole or in part, unless such agreement is in writing and duly authorized, executed, and attested to by one witness, by the Party against whom enforcement of such change, modification or termination is sought.
- 8.12 Section Heading and Recitals. The captions and headings in this Agreement are for convenience only and shall not be construed as substantive provisions of this Agreement. The recitals are expressly included and made part and parcel of this Agreement as if fully set forth herein verbatim.

WHEREFORE, AND IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their respective officers who are duly authorized as of the day and year written hereinabove, each Party hereto retaining an executed copy thereof.

City of Crossville

By: _____

Its: Mayor

APPROVED AS TO FORM:

By: _____

Its: General Counsel

ATTEST:

By: _____

Its: Clerk

CRAB ORCHARD UTILITY BOARD

By: _____

Its: Board Chairman

ATTEST:

By: _____

Its: General Manager

Cumberland Plateau Water Authority

By: _____

Its: Board Chairman

ATTEST:

By: _____

Its: _____