

WATER PURCHASE AND SALE AGREEMENT

This Water Purchase and Sale Agreement ("Agreement") is made and entered into 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 ("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 in Cumberland County, Tennessee ("COUD") (each of which may be referred to herein as a "Party" or together, as the "Parties").

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 portions of Cumberland and Morgan Counties;

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 ("MOD") 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 to fifty 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 constructing an interconnection point along Miller Avenue, 2600 feet south of the intersection of Rock Quarry Road so that COC can transmit up to one million 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 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.

NOW, THEREFORE, for and 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 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, said water to comply with Environmental Laws.

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 (namely, 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 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 due to main supply line breaks, power failures, flood, fire, and use of water to fight fires, earthquakes or 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 ("Prepayment"), which Prepayment amount represents the five percent grant matching costs together with the matching funds to obtain the IDEC 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 ("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 ~~\$X.XX per 1,000 gallons~~ of Treated Water for the ~~first thirty-six months of this Agreement. Thereafter, the rate shall be increased annually in accordance with the Consumer Price Index ("CPI"), not to exceed 3% per annum.~~

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 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 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, that 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 twelve (12) years from the Effective Date ("Term"). Thereafter, the Agreement shall renew automatically for successive five-year terms, unless either Party provides written notice to the other Party, at least thirty-six months in advance, of its intent to terminate this Agreement at the end of the Term or, if the Agreement has automatically renewed, pursuant to Section 5.2(b) hereof.

5.2 Termination.

(a) 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 non-breaching Party gives written notice of the event constituting such breach to the breaching Party. In addition, the non-breaching 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 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 non-breaching 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 non-breaching Party, and 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 for no fault on the part of COC, then COUD shall nevertheless be responsible for and make a payment annually to COC on January 1 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.

(b) After the initial Term of this Agreement, and in the event this Agreement has automatically renewed for a successive five-year term, this Agreement may be terminated by either Party with or without cause, for any or no reason, upon written notice provided to the other Party at least thirty-six (36) months in advance of the termination date.

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 and regulations, including Environmental Laws and civil rights laws, and shall not discriminate on the basis of race, color, religion, national origin or handicap.

8.2 Further Assurances.

Following the Effective Date, the Parties shall execute and deliver such additional documents, instruments, and assurances and take such further actions 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; Assignment.

This Agreement shall be binding upon the 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.

COUD:

Crab Orchard Utility District
Attention: General Manager
2389 E. 15¹Street

COC:

Crossville, TN 38555

City of Crossville
Attention: City Manager
392 North Main Street
Crossville, TN 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 of Essence.

The Parties 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 event 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; 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 Headings; 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 a part of this Agreement as if fully set forth herein verbatim.

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 first above written, each Party hereto retaining an executed copy thereof.

City of Crossville

By: _____
Its: Mayor

APPROVED AS TO FORM:

ATTEST:

By: _____
Its: General Counsel

By: _____
Its: Manager

CRAB ORCHARD UTILITY BOARD

By: _____
Its: Board Chairman

ATTEST:

By: _____
Its: General Manager