

*Agreement File*

## AGREEMENT

Sale of Treated Water to Rural Water District No.5  
of Douglas County, Kansas  
from City of Lawrence, Kansas

### 1.00 PROVISIONS

- 1.10 **General.** This agreement for the treatment and transmission of water entered into this 21<sup>st</sup> day of December, 1998, by and between the City of Lawrence, Douglas County, Kansas, a municipal corporation of the first class, hereinafter referred to as "City," and Rural Water District No. 5, Douglas County, Kansas, hereinafter referred to as "District."

Whereas, the District, has contracted for an allotment of water from the Clinton Reservoir, Douglas County, Kansas, as administered by the Kansas Water Office, and

Whereas, the District is organized and established under the provisions of K.S.A. 82a-612 et. seq. for the purpose of operating a water supply distribution system serving water users within the area defined in this agreement, and the District requests a supply of treated water; and

Whereas, the City owns and operates a water supply treatment and distribution system with a current and projected capacity capable of serving District needs as defined in this agreement; and

Whereas, the City and the District mutually agree that the purpose of the District is to serve primarily agricultural and other rural subscribers, both present and future, and the purpose is not to encourage urban growth in areas unreasonably removed from the city limits of the City of Lawrence; and

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth, the details of this agreement are as follows:

### 2.00 DEFINITIONS

For purposes of this Agreement the following definitions shall be applicable:

Average Day Demand shall mean the total annual volume of water divided by 365 days.

City shall mean the City of Lawrence, Kansas

District shall mean Rural Water District No. 5, Douglas County, Kansas

gpd = gallon per day

gpm = gallon per minute

Maximum Day Demand shall mean the maximum water use demand over a 24 hour period.

Peak Hourly Demand shall mean the maximum usage over a one (1) hour period.

## QUANTITY

**2.10 Agreement Amount.** The City agrees to treat and deliver a quantity of water to the District as specified herein:

Year	Allowable Service Connections	Average Day Demand shall not exceed	Maximum Day Demand shall not exceed	Peak Hourly Demand shall not exceed
1998	891	205,000 gpd	410,000 gpd	500 gpm
1999	923	212,500 gpd	425,000 gpd	500 gpm
2000	958	220,500 gpd	441,000 gpd	500 gpm
2001	981	226,000 gpd	452,000 gpd	500 gpm
2002	1,005	231,000 gpd	463,000 gpd	500 gpm
2003	1,030	237,000 gpd	474,000 gpd	500 gpm
2004	1,055	243,000 gpd	486,000 gpd	500 gpm
2005	1,081	250,000 gpd	497,000 gpd	500 gpm
2006	1,108	255,000 gpd	510,000 gpd	500 gpm
2007	1,135	261,000 gpd	522,500 gpd	500 gpm
2008	1,163	268,000 gpd	535,000 gpd	500 gpm
2009	1,192	274,000 gpd	549, 000 gpd	500 gpm
2010	1,221	281,000 gpd	562,000 gpd	500 gpm

2011	1,221	281,000 gpd	562,000 gpd	500 gpm
2012	1,221	281,000 gpd	562,000 gpd	500 gpm
2013	1,221	281,000 gpd	562,000 gpd	500 gpm

The City and the District both acknowledge the likelihood of renegotiating the provisions of this Agreement concerning water quantities to be supplied and service connections permitted after the year 2010; provided such renegotiation and agreement terms are in the best interest of both parties.

**2.20 Reservoir Allotment.** As the terms of this agreement reflect the sale of water-treatment and water-transmission only, and not the sale of water itself, the District shall maintain its agreement with the Kansas Water Office for purchase and security of water allotments. Should, at any time, the amount of withdrawal as specified in the agreement between the City and the District become in excess of that amount as specified in the agreement between the District and the Kansas Water Office, this agreement shall be voidable by either the City or the District, given ninety (90) days written notification.

### 3.00 BOUNDARIES

**3.10 Service Area.** The District shall be defined as that area inclusive of the boundaries of Rural Water District No. 5 as recorded with the Board of County Commissioners of Douglas County, Kansas, and any subsequent annexations as recorded by same.

### 4.00 METERING

**4.10 Master Meter Location.** The master meter location shall be at the intersection of 35th Street and Iowa. Structure and equipment shall be purchased and constructed in accordance with City specifications, at the District's expense.

The necessary easements and rights-of-way shall be obtained by the District. The master meter, valve immediately downstream of the master meter, meter strainer, and valve immediately upstream of the master meter, shall, upon acceptance by the City, be owned by the City. All further maintenance of the master meter, meter strainer, upstream valve, and downstream valve shall be the responsibility of the City. The remaining equipment and structure shall be maintained by the District, at the District's expense.

The City and the District acknowledge the possibility of the relocation of the master meter. The master meter may be relocated provided the City approves

in writing the relocation and the District is responsible for all costs associated with the relocation and the new master meter and master meter location.

- 4.20 **Master Meter Specifications.** Master meters shall meet applicable AWWA specifications and be of either the Turbine type, Compound type or Fire-service type. The type of meter shall be determined by the City of Lawrence Utilities Department. For monthly water usage billing purposes, meter readings will be taken at the actual meter register. If master meters of other types are desired, prior approval must be obtained by the City.
- 4.30 **Master Meter Testing.** Testing shall be performed annually by the City on master meters, with a copy to the District. A master meter registering not more than two percent (2%) above or below the test results shall be deemed accurate. Should any master meter be found registering inaccurately, adjustments in billing shall be made to the District by the City for water metered during the previous six (6) months.
- 4.40 **Master Meter Reading.** The City shall read the District master meter once per month. The City shall have the authority to install, maintain, remove, and otherwise operate remote reading devices at the meter location. The City shall grant the District no allowances for loss of water due to repairs, main breaks, or similar system disruption. The City shall read the District's master meters during the week respective of the City's established meter-reading schedule. The District shall be billed from the City's established billing cycle.
- 5.00 **BACKFLOW PREVENTION**
- 5.10 **Devices.** The master meter location shall contain backflow prevention devices, approved by the City, in accordance with the City's Cross-connection Control Code (City of Lawrence, Kansas Code Section 19-701 et seq. and amendments thereto). Devices shall be installed at the District's expense. The devices shall be adequately protected from freezing, and maintain adequate drainage to prevent submergence.
- 5.20 **Testing.** Backflow prevention devices shall be tested at the time of installation, at the District's expense, by a licensed and certified backflow device technician. Devices shall be tested annually, at the District's expense, by a licensed and certified backflow device technician. Devices shall be rebuilt every five years, at the District's expense, by a licensed and certified backflow device technician. Completed test records shall be sent to the City and maintained on file.
- 5.30 **Accountability.** The District shall provide the City, to be kept on file with the City, a copy of the District's Public Water Supplier's Permit. The District shall

also, in accordance with the City's Cross-Connection Control Code, provide the City with the District's cross-connection control plan, to be kept on file with the City.

## 6.00 FEES

- 6.10 **Billing Rate and Annual Review.** The City shall bill the District monthly for treatment and transmission services registered at the master meter location. The 1998 billing rate shall be \$1.56 per 1000 gallons, as established by the City. The City shall annually establish the billing rate as provided for herein, provided that if the City does not adjust the rate the most recently established rate shall remain in effect until adjusted by the City.

Unless otherwise determined by the City the rates shall be as follows:

1999	\$1.62 per 1000 gallons
2000	\$1.68 per 1000 gallons

For every year after 2000, the City shall determine the billing rate. The billing rate shall be determined by the City based on the following:

The rate shall be based on the reasonable projected cost of service, which shall include but not be limited to the cost of service for peak demand service, administrative cost of service and rate of return on City investment, and related reasonable capital improvement costs associated with service to the District.

The cost of service for District service shall not include the cost of City distribution lines of eight (8) inches or less in size, costs of City water usage, City public fire protection related costs, or any costs related to the purchase of raw water from Clinton Reservoir purchased by the District.

## 6.20 DEMAND CONTRACT CHARGE

The City and the District acknowledge that the City is expending substantial resources to ensure the orderly and timely provision of water service to the District, including fixed capital costs which would be idled or of reduced need if the District does not use water as contemplated by the provisions of this Agreement. The District agrees to pay \$50,000.00 on an annual basis to the City until December 31, 2013, regardless of the amount of water used during that time. All payments by the District shall be credited to actual water used and paid for pursuant to Section 6.10. The intent of this provision is to hold the City harmless during the duration of this Agreement in the event the

District terminates this Agreement, seeks other supplies of water, or otherwise significantly reduces its use of water.

All warranties, representations, indemnifications, covenants and agreements between the City and the District contained in this Agreement, including but not limited to the Demand Contract Charge, shall survive the termination or the expiration of this Agreement. Provided, that if termination occurs as the result of notification thereof made by the City, pursuant to paragraph 15.20, then the the District shall have no further liability for the Demand Contract Charge after termination.

## 7.00 CONNECTIONS

- 7.10 **Number of Services.** The District shall be permitted to maintain a maximum number of service connections as established in Appendix A to this Agreement. Service connections shall be counted as all those connections made onto the District's system, all those connections made inside the District's Service Area, as defined in this agreement, and otherwise all those connections made immediately following the master meter location, as defined in this Agreement.

## 8.00 WATER QUALITY

- 8.10 **Source Water.** The City shall draw source water from the Clinton Reservoir, the Kansas (Kaw) River, and an alluvial well field, immediately adjacent to the Kaw River. Water pursuant to this agreement shall be treated by either the Kaw River Water Treatment Plant or the Clinton Reservoir Water Treatment Plant. Nothing in this Agreement shall be interpreted as a limitation on the source of supply the City provides the District pursuant to this Agreement.
- 8.20 **Treated Water.** Source water shall be treated by means of conventional water treatment techniques by the City. Finished, treated water shall meet all federal, state, and local regulations, as defined by the U.S. Environmental Protection Agency (EPA), and the Kansas Department of Health and Environment (KDHE). Water processed by the City's two water treatment plants shall be pumped in the City's distribution system.
- 8.30 **Water Transmission.** Water being pumped from the City's two treatment plants shall not be segregated, or otherwise delivered to specific areas of the City's distribution system. Source water from the Kaw River may be treated and delivered to the District in amounts as defined in this agreement. Differentiation between treated water originally drawn from the Kansas River and treated water originally drawn from the Clinton Reservoir shall not be made.

## 9.00 PRESSURE

- 9.10 **Minimum Supply Pressure.** Water shall be supplied by the City from water lines feeding the master meter location. Supply pressures at the meter location shall be at approximately 45-50 psi (pressure per square inch) and reasonably constant under normal conditions.

## 10.00 AREAS OF RESPONSIBILITY

- 10.10 **Point of Responsibility.** The City shall deliver water, treated in accordance with all regulatory requirements, and to the best of its abilities to the master meter location. This location shall serve as the point in which ownership shall be transferred from the City to the District.
- 10.20 **Indemnification and Liability.** The District shall at all times save and hold harmless the City from all liability, costs, damages, and expenses of any kind, for the payment of which the City may become liable to any person, firm, or corporation by reason of any claim or damages arising from the failure of the District, its employees, agents, or servants to exercise due care and diligence in the operation of the District's water distribution system.

## 11.00 WATER QUALITY PROTECTION

- 11.10 **System Protection.** Both the City and the District shall maintain their respective distribution systems pursuant to EPA and KDHE requirements. Systems shall be kept in a good state of repair, including all lines, meters, pumps, storage tanks, and other appropriate equipment.
- 11.20 **Disinfectant Residual.** The City shall provide adequate disinfectant residual to the master meter location in accordance with EPA and KDHE requirements. Since disinfectant residuals may dissipate from the water while in the District's distribution system, the District shall ensure adequate disinfectant residuals throughout their system. All provisions necessary for re-disinfection shall be provided at the District's expense.
- 11.30 **Contamination Protection.** Should contamination be suspected with the District's system, including positive coliform tests, rapid dissipation of disinfection residual, evidence of bacteriological or viral organisms, or other external forms of contamination, the District shall notify the City immediately. All efforts shall be made to ensure water quality integrity within respective distribution systems.

## 12.00 DIMINISHED CAPACITY

**12.10 Emergency Failures.** Diminished pressure or supply due to main breaks, power failure, flood, fires, drought, earthquake, or other such disasters shall be restored as expediently as is reasonably possible. Nothing in this Agreement shall be interpreted as providing the District with preferential treatment or special rights in relation to the orderly restoration of service to the District versus other City water supply responsibilities.

**12.20 Excessive Demand.** Heavy demands on the City's system may result in diminished pressure or supply to the District without prior warning or notification. All reasonable efforts shall be made by the City to restore service as expediently as possible.

### **13.00 RESALE**

**13.10 Resale Prohibited.** The City shall provide treatment and transmission services to the District for water to remain in the District's area. Water sold to the District shall not be permitted to enter other established distribution systems. Water delivered to the District by the City shall be sold to District customers only. Reselling of water by District customers, without the City's prior written consent, shall be strictly prohibited.

### **14.00 ACCOUNTABILITY**

**14.10 End of Year Reporting.** The District shall submit to the City an annual usage report. Reports shall include the District's records of monthly flow, peak hour demand, peak day demand, and current number of service connections. This report shall be submitted to the City by February 15th, following the reporting year.

### **15.00 AGREEMENT TERMS**

**15.10 Agreement Length.** This agreement, between the City and the District, shall expire on December 31, 2013 and on such date shall be of no further force and effect.

**15.20 Termination.** As the City and District recognize rapidly changing technology, as well as regulations, this agreement may be terminated by either the City or the District, given thirty-six (36) months written notification.

All warranties, representations, indemnifications, covenants and agreements between the City and the District contained in this Agreement, including but not limited to the Demand Contract Charge, shall survive the termination or the expiration of this Agreement. Provided, that if termination occurs as the result



of notification thereof made by the City, then the District shall have no further liability for the Demand Contract Charge after termination.

**15.30 Assignment.** This agreement may not be assigned without the written consent of both the District and the City. This agreement is and shall be binding and obligatory upon the successors and assigns of the parties hereto.

**15.40 Repeal of Earlier Agreements.** Those certain agreements entered into on or about May 27, 1975, and June 11, 1974, between the City and the District are hereby repealed. It is the intent of the City and the District that this agreement succeed the earlier agreements.

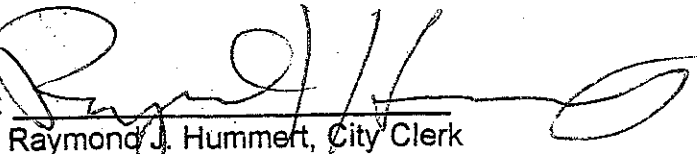
**15.50 Agreement Non-severable.** The provisions of this agreement are not severable. If a court of competent jurisdiction rules that any provision or term of this agreement is invalid or in violation of any local, state, or federal law, this agreement shall be null and void.

IN WITNESS WHEREOF, the parties hereto, acting under the authority of the respective governing bodies have caused this agreement to be executed in triplicate, each of which shall constitute an original.

**City of Lawrence, Kansas**  
A Municipal Corporation

  
Martin A. Kennedy, Mayor

ATTEST:

  
Raymond J. Hummert, City Clerk

STATE OF KANSAS )  
DOUGLAS COUNTY )

BE IT REMEMBERED, that on this 5<sup>th</sup> day of January, 1999, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Martin A. Kennedy, Mayor, City of Lawrence, Kansas, who is personally known to me to be the same person who executed the above Agreement, and such person duly acknowledged the execution of the same to be their free and voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last mentioned.



Bobbie Walshall  
Notary Public

My appointment expires:

**Rural Water District No. 5**  
**Douglas County, Kansas,**  
A Quasi-Municipal Corporation

Alvin Fishburn  
Alvin Fishburn, Chairman  
ATTEST:

Delta Ikenberry  
Delta Ikenberry, Secretary

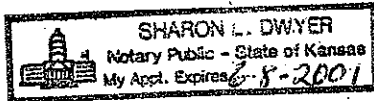
STATE OF KANSAS )  
DOUGLAS COUNTY )

BE IT REMEMBERED, that on this 21st day of December, 1998, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Alvin Fishburn, Chairman, Rural Water District No. 5, Douglas County, Kansas, who is personally known to me to be the same person who executed the above Agreement, and such person duly acknowledged the execution of the same to be their free and voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last mentioned .

  
Notary Public

My appointment expires:



## AGREEMENT

Sale of Treated Water Rural Water District No. 5  
of Douglas County  
City of Lawrence, Kansas

Based on 860 permitted service connections for 1998 under prior agreement.

### APPENDIX 1 Schedule A

<u>Year</u>	<u>Maximum Allowable Service Connections</u>
1998	881 + 10 = 891
1999	913 + 10 = 923
2000	946 + 12 = 958
2001	981
2002	1005
2003	1030
2004	1055
2005	1081
2006	1108
2007	1135
2008	1163
2009	1192
2010	1221
2011	1221
2012	1221
2013	1221