

## AGREEMENT

### Sale of Treated Water to Baldwin City, and its Wholesale Customers, from City of Lawrence, Kansas

#### 1.0 PROVISIONS

**1.10 General.** This agreement for the treatment, transmission, and sale of water entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the City of Lawrence, Douglas County, Kansas, a municipal corporation of the first class, hereinafter referred to as "City;" and Baldwin City, Douglas County, Kansas, a municipal corporation, hereinafter referred to as "Baldwin City."

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

Whereas, Baldwin City operates a water supply distribution system serving water users within its city limits and outside its city limits and Baldwin City requests a supply of treated water from the City; and

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

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

#### 2.0 DEFINITIONS

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

**City** shall mean the City of Lawrence, Kansas.

**Baldwin City** shall mean Baldwin City, Douglas County, Kansas.

**gpy** = gallons per year

**KWO** shall mean the Kansas Water Office

**mg/l** = milligram per liter

#### QUANTITY

**2.10 Agreement Amount.** The maximum quantity of water the City agrees to treat and sell to Baldwin City under this contract is 323,128,999 gpy.

**2.20 Reservoir Allotment.** As the terms of this agreement reflect primarily the sale of water treatment and water-transmission, Baldwin City shall maintain its agreement with the KWO for purchase and security of water allotments. As of the date of the execution of this Agreement, Baldwin City's allotment with the Kansas Water Office is 323,128,999 gpy.

The parties recognize that Baldwin City may require additional water during the term of this Agreement greater than its KWO allotment. The parties agree that every 5 years, the parties will determine if Baldwin City will require additional water beyond its KWO allotment and will agree on an amount that the City will provide and treat to Baldwin City as long as the City has sufficient capacity to do so. The parties agree that Baldwin City will pay a raw water cost on the water supplied over and above Baldwin City's KWO allotment at a rate calculated consistent with Exhibit B described as the Kansas River Raw Water Cost. However, this shall not affect Baldwin City's volume billing rate.

Baldwin City shall advise the Lawrence City Manager in writing a minimum of 6 months prior to non-renewal of its water agreement through the KWO and its intent to modify this agreement to include purchase of raw water from the City in addition to the purchase of the already provided services of water treatment and water transmission. In the event the KWO reduces the allotments of the City or Baldwin City, the parties hereto may renegotiate the maximum quantity provision of this Agreement.

### **3.00 BOUNDARIES**

**3.10 Service Area Expansion Plans.** When Baldwin City is considering expanding its boundaries, or taking on additional wholesale water customers, Baldwin City shall advise the City of the anticipated number of meters and average daily demand within its service area boundaries.

### **4.00 METERING**

**4.10 Master Meter Location.** The master meter is located at 3100 Haskell Ave., Lawrence, Kansas. Structure and equipment shall be purchased, constructed, and maintained in accordance with City specifications, at Baldwin City's expense.

The necessary easements and rights-of-way shall be obtained by Baldwin City and shall not be vacated so long as they are required for a master meter location. 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 Baldwin City, at Baldwin City's expense.

The City and Baldwin City acknowledge the possibility of the relocation of the master meter. The present master meter location at 3100 Haskell Ave. is located within a wetlands designated area. Kansas Department of Transportation has agreed to fully reimburse Baldwin City for the relocation of the master meter and other necessary appurtenances to another suitable location. Consequently, the parties agree that the master meter location may be relocated to a mutually agreed relocation through the funding by Kansas Department of Transportation allocated to Baldwin City. In the event the City requests a future or further relocation of the master meter, the parties agree the master meter may be relocated to a mutually agreed relocation site and the City shall be responsible for all costs associated with the requested location by the City. The City and Baldwin City acknowledge that the future construction of the City's Wakarusa Wastewater Treatment Plant and the Kaw Water Transmission Main may cause Baldwin City to elect to relocate its master meter or establish a second master meter location. In the event that Baldwin City makes such a request for relocation, Baldwin City shall be responsible for all costs associated with the requested relocation of its master meter or the second 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.

**4.30 Master Meter Testing.** Testing shall be performed annually by the City on master meters, with a copy to Baldwin City. Accuracy of the meters will be determined by the accuracy limits established by the latest edition of the AWWA M-6 Water Meters – Selection, Installation, Testing and Maintenance Manual for the type and size of master meter installed. Should any master meter be found registering inaccurately, adjustments in billing shall be made to Baldwin City by the City for water metered during the previous six (6) months.

**4.40 Master Meter Reading.** The City shall read Baldwin City's 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 Baldwin City no allowances for loss of water due to repairs, main breaks, or similar system disruption beyond the master meter location. The City shall read Baldwin City's master meters during the week respective of the City's established meter-reading schedule. Baldwin City 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 Baldwin City'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 Baldwin City's expense, by a licensed and certified backflow device technician. Devices shall be tested annually, at Baldwin City's expense, by a licensed and certified backflow device technician. Devices shall be rebuilt every five years, at Baldwin City'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.** Baldwin City shall provide the City, to be kept on file with the City, a copy of Baldwin City's Public Water Supplier's Permit. Baldwin City shall also, in accordance with the City's Cross-Connection Control Code, provide the City with Baldwin City's cross-connection control plan, to be kept on file with the City. The City shall provide its Public Water Supplier's Permit and its Backflow Prevention and Cross-Connection Control Plan to Baldwin City.

## **6.00 RATES**

**6.10 Billing Rate and Annual Review.** The City shall bill Baldwin City monthly for treatment and transmission services registered at the master meter location. Upon execution of the agreement and continuing through December 31, 2013, the billing rate is \$2.91 per 1,000 gallons purchased.

Beginning in 2014, and for each subsequent year thereafter, the City shall establish the billing rate, provided that in no event shall Baldwin City's billing rate increase after 2013 at a rate greater than the percentage rate of increase assessed to residential water customers within the Lawrence city limits. The parties acknowledge that the City's residential rate structure is based on a volume charge and a minimum monthly charge and therefore the rate of increase for residential customers varies based on the volume of water used. In recognition of this fact, the parties agree that Baldwin City's billing rate for all water purchased shall not increase at a rate greater than the average percentage increase for the City's residential customers that use between 1,000 and 5,000 gallons per month.

However, the parties acknowledge that any billing rate increase that is applied to its residential customers is not automatically assessed to Baldwin City's billing rate, only that the maximum

increase to Baldwin City's billing rate shall not be greater than the average of the percentage residential rate increase of the City's residential customers using between 1,000 gallons and 5,000 gallons per month. If the City does not adjust the billing rate, the last-established rate shall remain in effect until adjusted by the City.

See [Exhibit A](#) for an example of the future rate increase calculation.

In the event Baldwin City does not maintain or renew its water agreement with the KWO, a raw water charge shall be added to Baldwin City's billing rate. The raw water charge shall be based on the City's average cost per 1,000 gallons of raw water from Clinton Reservoir, the Kansas River and any future raw water secured by the City for the previous calendar year. This shall be referred to as the blended rate for raw water purchases. However, if Baldwin City maintains its water agreement with KWO, but desires to purchase above its allotment with KWO and the City is able to provide such excess raw water, the parties agree that the raw water cost to Baldwin City shall be charged on the basis of the cost of raw water to the City from the Kansas River.

See [Exhibit B](#) for example calculations of the Blended Raw Water Cost and the Kansas River Raw Water Cost.

The City agrees to provide to Baldwin City annually a copy of the City's approved Capital Improvement Projects and Cost of Service Analysis.

## **7.00 WATER QUALITY**

**7.10 Raw Water.** The City shall draw raw water from the Clinton Reservoir, the Kansas (Kaw) River, an alluvial well field immediately adjacent to the Kaw River and any future source locations secured by the City. Water pursuant to this Agreement shall be treated by either the Kaw River Water Treatment Plant or the Clinton Reservoir Water Treatment Plant. The source of all water delivered under this agreement up to Baldwin City's agreement amount with the KWO will be considered to be withdrawn from Clinton Reservoir. The source of all water delivered above Baldwin City's agreement amount with the KWO shall not be designated to be supplied from a specified source. Nothing in this Agreement shall be interpreted as a limitation on the source of supply the City provides Baldwin City pursuant to this Agreement.

The City acknowledges that any water Baldwin City has under agreement with the KWO shall be paid by Baldwin City. The City will not assess a raw water charge except as specified in section 2.20 and 6.10 of this agreement.

**7.20 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 delivered at the master meter shall have a total combined chlorine residual of not less than 2.0 mg/l. Water processed by the City's two water treatment plants shall be pumped in the City's distribution system.

**7.30 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 system. Source water from the Kaw River may be treated and delivered to Baldwin City in amounts as defined in this Agreement. Differentiation between water originally drawn from the Kansas River and treated water originally drawn from the Clinton Reservoir shall not be made.

## **8.00 PRESSURE**

- 8.10 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 approximately 45-50 psi (pounds per square inch) and reasonably constant under normal conditions.

## **9.00 AREAS OF RESPONSIBILITY**

- 9.10 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 Baldwin City.

- 9.20 Indemnification and Liability.** Baldwin City 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 Baldwin City, its employees, agents, or servants to exercise due care and diligence in the operation of Baldwin City's water distribution system.

The City shall at all times save and hold harmless Baldwin City from all liability, costs, damages, and expenses of any kind, for the payment of which the Baldwin City may become liable to any person, firm, or corporation by reason of any claim or damages arising from the failure of the City, its employees, agents, or servants to exercise due care and diligence in the operation of the City's water distribution system.

- 9.30 Point of Contact.** The City and Baldwin City have designated points of contact for the purposes of this agreement. For the City the designated point of contact shall be the Director of Utilities. For Baldwin City the designated contacts shall be the City Manager and the Director of Public Works.

## **10.00 WATER QUALITY PROTECTION**

- 10.10 System Protection.** Both the City and Baldwin City 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.

- 10.20 Disinfectant Residual.** The City shall provide adequate disinfectant residual to the master meter location in accordance with EPA and KDHE requirements and in accordance with Section 7.20. Since disinfectant residuals may dissipate from the water while in Baldwin City's distribution system, Baldwin City shall ensure adequate disinfectant residuals throughout their system. All provisions necessary for re-disinfection shall be provided at Baldwin City's expense.

- 10.30 Contamination Protection.** Should contamination be suspected with either system, including positive coliform tests, rapid dissipation of disinfection residual, evidence of bacteriological or viral organisms, or other external forms of contamination, the owner of such system shall notify the other party immediately. All efforts shall be made to ensure water quality integrity within respective distribution systems.

## **11.00 DIMINISHED CAPACITY**

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

Baldwin City versus other City water supply responsibilities. Nothing in this Agreement shall be interpreted as providing the City with preferential treatment or special rights in relation to the orderly restoration of service to the City versus Baldwin City.

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

**11.30 Water Emergencies.** The parties agree that the City now has the capacity of producing treated water in a quantity sufficient to meet the normal demands of its users, including Baldwin City. The City agrees to make every reasonable effort to provide an adequate supply of water at all times pursuant to the terms of this Agreement, but both parties understand that the City's water supply might, by reason of unforeseen emergency, catastrophe, extended drought, disaster, or other acts of God, become inadequate to meet the needs of the inhabitants of the City, and all other customers. Should such an emergency occur, the City shall not incur any liability to Baldwin City because of any need to curtail or interrupt the provision of water to Baldwin City. Baldwin City agrees to adopt, observe, and enforce conservation measures that achieve an equivalent percentage of water conservation as the conservation measures in effect at the time in the City of Lawrence. Normal service shall be resumed under the terms and conditions of this Agreement, at the termination of the emergency as determined by the City.

## **12.00 RESALE.**

**12.10 Resale.** The City shall provide treatment and transmission services to the Baldwin City for water distribution inside the city limits of Baldwin City and to Baldwin City's wholesale customers. If Baldwin City sells water to additional wholesale customers, Baldwin City shall notify the City. Both parties further agree that connections between public water suppliers for the temporary delivery of water during emergencies is acknowledged.

## **13.00 ACCOUNTABILITY**

**13.10 End of the Year Reporting.** Baldwin City shall submit to the City an annual usage report. Reports shall include Baldwin City'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 15<sup>th</sup>, following the reporting year.

## **14.00 AGREEMENT TERMS**

**14.10 Agreement Length.** This Agreement, between the City and Baldwin City, shall expire on December 31, 2052 and on such date shall be of no further force and effect. Provided, this Agreement may be renewed or extended upon such terms as the parties may agree.

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

**14.40 Repeal of Earlier Agreements.** That certain agreement entered into on or about March 8, 1977, between the City and Baldwin City is hereby repealed. It is the intent of the City and Baldwin City that this Agreement succeeds the earlier agreement.

**14.50 Agreement Severable.** The provisions of this Agreement are 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, that provision shall be null and void. The remaining provisions of the Agreement shall be in full force and effect.

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

\_\_\_\_\_  
Robert J. Schumm, Mayor

ATTEST:

\_\_\_\_\_  
Jonathan M. Douglass, City Clerk

STATE OF KANSAS    )  
DOUGLAS COUNTY    )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Robert J. Schumm, 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 his 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:

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

\_\_\_\_\_  
Ken Wagner, Mayor

ATTEST:

\_\_\_\_\_  
Darcy Higgins, City Clerk

STATE OF KANSAS    )  
DOUGLAS COUNTY    )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Ken Wagner, Mayor of the City of Baldwin City, Kansas, who is personally known to me to be the same persons who executed the above Agreement, and such person duly acknowledged the execution of the same to be his/her 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: