

CONTRACT

THIS CONTRACT for the sale and purchase of water, entered into as of the 8th day of March, 1977, by and between the City of Lawrence, Douglas County, Kansas, a municipal corporation of first class, hereinafter referred to as SELLER, and the City of Baldwin City, Douglas County, Kansas, hereinafter referred to as PURCHASER.

WITNESSETH:

WHEREAS, the Purchaser is a third class city located in Douglas County, Kansas, desiring a supply source of potable water; and

WHEREAS, the Seller owns and operates a water supply system and is desirous of selling potable water; and

WHEREAS, by Resolution No. 4175, enacted on the 8th day of March, 1977, by Seller, the sale of water to Purchaser, in accordance with the provisions of said resolution was approved, and the execution of this contract carrying out said Resolution by the Mayor and attested by the City Clerk was duly authorized; and

WHEREAS, by Resolution of the Governing Body of the Purchaser, enacted on the 28th day of February, 1977, the purchase of water from the Seller in accordance with the terms set forth in said Resolution was approved, and the execution of this contract by the Mayor and attested by the City Clerk was duly authorized.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth:

A. The Seller Agrees:

1. To furnish to the Purchaser at a point of delivery hereinafter specified, during the term of this contract or any renewal or extension thereof, potable treated water meeting the applicable purity standards of the Kansas State Board of Health for domestic use, in such quantity as may be required by the Purchaser not to exceed 185 million gallons per year, except that daily quantity shall not exceed 500,000 gallons, and this limitation shall escalate to 730 million gallons per year except that daily quantity shall not exceed 2,000,000 gallons, when Clinton water supply is used by the City of Lawrence. However, at such time as there is available to the Purchaser a supply of water in an amount of approximately 730 million gallons per year from Clinton Reservoir, Douglas County, Kansas, as a result of Purchaser's application to the

Water Resources Board, State of Kansas, then and in that event, Purchaser shall provide for its own yearly gallonage requirement and the Seller shall not thereafter be required to furnish a supply of water to the Purchaser. Purchaser agrees to make all reasonable efforts to secure its allocation from the said Water Resources Board.

It is further provided, that the Seller shall treat, in accordance with the applicable purity standards of the Kansas State Board of Health, the Purchaser's supply of water obtained from Clinton Reservoir, not to exceed 2,000,000 gallons per day, for which the Purchaser shall pay the Seller the same rate as if Seller were also supplying the water. Payment of said rate shall also entitle Purchaser to delivery of the water allocated to Purchaser and treated by Seller, through the water lines of Seller, to the point of delivery specified herein. Further provided, however, that the cost the Purchaser shall pay the Seller for the treatment of said water shall not include any water storage charge which may be made for said Clinton Reservoir water supply by the State of Kansas, its agents or assigns.

The annual and daily quantity limitation may be hereafter increased upon written consent of Seller.

Purchaser agrees to construct facilities sufficient to reasonable assure that water shall not be taken by Purchaser during peak hourly loads at a rate in excess of 700,000 gallons per day, nor in excess of 2,000,000 gallons per day when water from Clinton Reservoir is available.

2. That said water will be furnished at a reasonable constant pressure of approximately 50 pounds PSI to an existing 12" water main of Purchaser located at a point at or near 31st Street and Haskell Road in the City of Lawrence. If a greater pressure than that normally available at the point of delivery is required by Purchaser, the cost of providing such greater pressure shall be borne by the Purchaser. Emergency failure of pressure supply due to main supply line leaks, power failure, flood, 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 as may be necessary to restore service.

3. To furnish to Purchaser not later than the 20th of each month, at such address as Purchaser shall specify in writing, an itemized statement of the amount of water purchased by Purchaser during the preceding month.
4. To furnish, install, operate and maintain at its own expense at the point of delivery, necessary metering equipment and required devices of standard type for measuring the quantity of water delivered to Purchaser.

B. The Purchaser Agrees:

1. To furnish and install, at its own expense, at the point of delivery, a meter installation to be approved by Seller. That Seller will calibrate the aforementioned metering equipment whenever requested by Purchaser, but not more frequently than once every 12 months. A meter registering not more than two percent (2%) above or below the test results shall be deemed to be accurate. The previous reading of any meter disclosed by test to be inaccurate shall be corrected for the six months previous to such test in accordance with the percentage of inaccuracy found by said test. If any meter fails to register for any period, the amount of water furnished and/or treated during such period shall be deemed to be the amount of water delivered and/or treated in the corresponding period immediately prior to the failure unless Seller and Purchaser shall agree upon a different amount. The metering equipment shall be read by the Seller on or before the fifth day of each month. Appropriate officials of Purchaser and Seller shall at all reasonable times have access to the meter for the purpose of verifying any readings.
2. The Purchaser further agrees to maintain and keep in a good state of repair all of its lines, meters, pumps, storage tanks, and other equipment and facilities used in the operation of its water system. It is understood that the Seller shall not in any event or upon any condition become liable or responsible for any such maintenance and upkeep. The Seller will make no allowance for loss of water due to repair problems.
3. The Purchaser further agrees that the Seller has the right to examine and approve the plans and specifications, for the meter pit and metering devices, prior to the time that construction of Purchaser's system is commenced.

The Purchaser further agrees that the Seller has the right at any time to inspect the metering installation and Seller has the right to withhold water from the Purchaser, should the metering installation be defective, until such time that the defect has been remedied.

4. The Purchaser further agrees to pay to the Seller, not later than the first day of each month following submission of statement, for water delivered and/or treated at \$0.60 cents per 1,000 gallons with a minimum monthly charge of \$200.00. It is understood and agreed that the price per gallon may be amended as hereinafter provided. The City of Baldwin City shall be solely responsible for the payment of charges for water and/or the treatment thereof.
- C. It is further mutually agreed between the Seller and the Purchaser as follows:
1. The provisions of this contract pertaining to the schedule of rates to be paid by Purchaser for water delivered and/or treated are subject to the modification as herein provided. Any increase in rates shall be based on the demonstrable increase in the costs of treating and processing water by the City of Lawrence over the base year, 1976. Said percentage of increase shall be applied to the base price of \$0.60 cents per 1,000 gallons. Seller shall furnish all cost data to Purchaser to justify any modification of rates. No increase in rates shall be allowed pursuant to this paragraph unless and until such increase in rates to be paid by Purchaser are accompanied by an increase in rates paid by rural water district customers of Seller outside the City of Lawrence, in a percentage of increase reasonably identical to the proposed increase to be paid by Purchaser hereunder. Purchaser will pay the cost of any water storage at Clinton Reservoir and any cost data furnished by Seller shall not include cost to Seller for storage of water.
 2. That all water supplied by said Seller to Purchaser, pursuant to the terms and provisions of this contract and all distribution lines, pumping equipment and other equipment installed and provided by said Purchaser shall remain the absolute property of said Purchaser with full title and ownership thereto.
 3. This contract shall be extended for a term of 40 years from the date of the initial delivery of any water as shown by the first bill submitted by Seller

to Purchaser and the same may be renewed or extended for such term or terms as may be agreed upon by Seller and Purchaser, provided, however, that in the event that either Seller or Purchaser should not desire to continue with said agreement, said party shall give the other party at least eighteen months notice in writing prior to the expiration of any term or the renewal thereof, such notice to be effective upon delivery to the City Clerk of Lawrence, Kansas, and upon delivery to the City Clerk of the City of Baldwin City, Kansas, Douglas County, Kansas.

4. That the Purchaser will notify Seller in writing 30 days prior to the date for the initial delivery of water.
5. When requested by Purchaser, the Seller will make available to the Purchaser's contractor at the point of delivery, or other point reasonable close thereto, water sufficient for testing, flushing and trench filling the system of the Purchaser during construction, irrespective of whether the metering equipment has been installed at that time, at a charge of \$0.60 cents per 1,000 gallons which will be paid by contractor or, on his failure to pay, by the Purchaser.
6. That 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 Purchaser with quantities of water required by the Purchaser, not to exceed 700,000 gallons per day and will treat, as provided in Paragraph A-1 hereof, not to exceed 2,000,000 gallons per day when Clinton water supply is used by the City of Lawrence. Temporary or partial failures to deliver and/or treat water shall be remedied with all possible dispatch. The Seller does not guarantee a specific quantity of water to be delivered. In the event of an extended shortage of water, or the supply of water available to the Seller is otherwise diminished over a period of time, the supply of water to Purchaser's consumers shall be reduced or diminished in the same ratio or proportion as the supply to other outside City limit consumers is reduced or diminished.
7. That the provisions of this contract pertaining to schedule of rates to be paid by the Purchaser for water delivered and/or treated is subject to the modification as hereinbefore provided.

8. This contract is subject to such rules, regulations, or laws which may be applicable to similar requirements in this state and Seller and Purchaser will cooperate in obtaining said permits, certificates, or the like, as may be required to comply therewith. Any regulations in conflict with City policy must be agreed upon by the City Commission of Lawrence.
9. That in no event will Purchaser, without the written consent of Seller, furnish water under any conditions to any purchaser north of a line three miles north of and parallel to Highway 56.
10. The Purchaser agrees to pay in advance to the Seller, as a connection fee to the City Water System, the sum of \$3,000.00 plus the cost paid by Seller for the metering device described in Paragraph A-4 above.
11. That in the event the area through which the Purchaser's facilities extend or any part thereof should be brought within the city limits of the Seller, the Seller shall, at its option, have the right to purchase said portion of the water system of the Purchaser or any part thereof at a price to be agreed upon by the parties or in accordance with procedures established in K. S. A. 12-527, taking into consideration the following items: original cost of the system, loss of water revenue to the Purchaser and additional water income to the Seller, potential cost to the Seller to duplicate the water distribution system, whether Purchaser shall retain the right to transport water through the water transmission facilities bought within the city limits, together with any other reasonable consideration proposed by either party.
12. This agreement is and shall be binding and obligatory upon the successors and assigns of the parties hereto.

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

ATTEST:

Paul Mercer
City Clerk

CITY OF LAWRENCE, a Municipal Corporation

By: *Paul Mercer*
Mayor (SELLER)

ATTEST:

W. W. Scher

CITY OF BALDWIN CITY, KANSAS, DOUGLAS COUNTY

By: *W. W. Scher*
Mayor (PURCHASER)