

## EXTENSION DEPOSIT AGREEMENT (3T)

This agreement, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between KENTUCKY AMERICAN WATER, hereinafter called the "WATER COMPANY", and LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, hereinafter called the "DEPOSITOR".

### WITNESSETH:

In consideration of the reciprocal covenants herein contained and of each act done or to be performed by the DEPOSITOR and the WATER COMPANY pursuant to this Agreement, the parties hereby agree as follows:

**FIRST:** The WATER COMPANY contracts and agrees to lay the water main(s) as shown on the drawing attached hereto and made a part hereof, hereinafter called the "Main Extension," described and located as follows:

<b>WBS No. D12-0201-P-1486</b>	The installation of approximately 275 feet of 4-inch ductile iron pipe to serve West Hickman Wet Weather Storage Facility @ 2401 Richmond Road.
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**SECOND:** The WATER COMPANY shall construct the Main Extension with reasonable diligence consistent with good business and sound construction practices and the availability of labor, equipment and materials, but the means of making such construction, the methods and materials used therein, and the scheduling thereof shall be matters within the exclusive control and determination of the WATER COMPANY.

**THIRD:** The DEPOSITOR hereby agrees to deposit with the WATER COMPANY, upon written notice that it is prepared and able to go forward with the work provided in paragraph FIRST hereof, an amount in cash, equal to the estimated cost of installing said Main Extension, less three (3) times the Company's estimate of immediate normal annual revenue for all customers whose service lines shall be connected directly to the extension between its original beginning and original terminus and who shall be served therefrom as soon as the said Main Extension is installed. Upon such written notice, a Supplemental Memorandum shall be signed by both parties showing the then estimated cost of this Main Extension, and also showing three (3) times the Company's most recent estimate of immediate normal annual revenue from the then original prospective customers, and the amount of deposit received from the DEPOSITOR, which Supplemental Memorandum shall be attached to and become a part of this Agreement.

**FOURTH:** Within a reasonable time after the Main Extension is placed in service, the WATER COMPANY shall furnish to the DEPOSITOR a statement giving the date of completion of the Main Extension and setting forth the total costs incurred in the construction of the Main Extension. In the event that the estimated cost exceeds the actual cost of the Main Extension as shown by such statement, the WATER COMPANY shall refund to the DEPOSITOR, at the time such statement is rendered, an amount equal to such excess of the estimated cost such actual cost. If the estimated cost shall have been less than the actual cost of the Main Extension, as shown by such statement, the DEPOSITOR shall deposit with the WATER COMPANY, within ten (10) days following receipt of such statement, the amount by which such actual costs exceed the estimated cost. The amount of such refund or additional deposit shall be credited or debited, as the case may be, by the WATER COMPANY, to the DEPOSITOR'S Refundable Extension Deposit Account.

**FIFTH:** The WATER COMPANY expressly reserves and shall have the right in the construction and installation of the Main Extension to use, lay and install pipe of a larger diameter than the size contemplated by this Agreement and as shown on the drawing attached hereto, provided, however, that any adjustment between the Deposit and the cost of such Main Extension as hereinabove provided in paragraph FOURTH of this Agreement, shall be based upon and adjusted to the pipe diameter specified in paragraph FIRST of this Agreement and shown on the drawing attached hereto, in the following manner: There shall be deducted from the total installment cost of the larger diameter main (1) the difference in material costs of the pipe and appurtenances installed and the pipe and appurtenances contracted for and (2) the difference in the unit prices for installing the two sizes of main.

**SIXTH:** The estimated cost of the extension is **twenty-two thousand eight hundred thirty-one and 00/100 dollars (\$22,831.00).**

**SEVENTH:** During the first ten (10) years after the date the initial deposit is received by the WATER COMPANY and after the stated number of original prospective customers are taking water from this Extension, the WATER COMPANY shall refund to the original Depositor or Depositors, for each additional bona fide new customer taking service through a service line directly connected to said Extension between its original beginning and original terminus under a regular yearly contract, an amount equal to three (3) times the WATER COMPANY'S estimate of immediate normal annual revenue from such new customers; provided, however, that the total amount of the refunds to be made by the WATER COMPANY to the DEPOSITOR, under this or any other section of this Agreement, shall not exceed the original Deposit, without interest thereon, such Deposit being the limit or the WATER COMPANY'S obligation for such refunds hereunder, and that all or any part of the Deposit not refunded within said ten (10) year period shall become the property of the WATER COMPANY.

**EIGHTH:** The parties hereto agree that unless otherwise provided, no portion of the Deposit made hereunder will be subject to refund for further extensions of water mains from or beyond the Main Extension installed under this Agreement, or for customers taking service from such further extensions.

**NINTH:** The Main Extensions and all pipes, mains, fire hydrants, meters and other equipment, apparatus and facilities of which said Main Extension is composed shall be and remain the sole property of the WATER COMPANY, the WATER COMPANY having the responsibility for maintenance and repair of the same, and the DEPOSITOR shall have no right, title or interest in such Main Extension or any part thereof by reason of or on account of the DEPOSITOR having made the Deposit hereunder.

**TENTH:** It is expressly understood and agreed that if the WATER COMPANY shall be delayed or prevented from installing the Main Extension and other facilities, if any, hereinabove described because of its failure to secure pipe or other construction materials, or because of strikes, unusual delay in transportation, unavoidable casualties or for any other causes beyond its control, such failure or delay in performance shall be excused; provided, however, if such failure or delay in performance shall extend for a period of more than one (1) year from the date hereof, the DEPOSITOR shall have the right to cancel and terminate this Agreement on thirty (30) days written notice to the WATER COMPANY by registered mail and thereafter both parties shall be relieved of all duties and obligations arising hereunder.

**ELEVENTH:** The rights created by this Agreement shall inure to the benefit of, and the obligations created hereby shall be binding upon, the successors and assigns of the parties hereto.

**TWELFTH:** This Agreement shall be valid and binding on the WATER COMPANY only when executed by its Director of Engineering.

**THIRTEENTH:** That the DEPOSITOR or his agent is responsible for payment of the deposit for the estimated cost of construction to WATER COMPANY. To the extent there is any refund to be made at the end of the project after all costs are accrued, such refund will be paid to the DEPOSITOR by check made payable to the DEPOSITOR. To the extent that any amount is owed to WATER COMPANY at the end of the project after all costs are accrued, payment of such amounts is the responsibility of the DEPOSITOR. To the extent the DEPOSITOR owes any of the refunded amount to the contractors, DEPOSITOR agrees it is responsible for these amounts owed and that WATER COMPANY has no responsibility in that regard.

Executed by the parties hereto in duplicate this the day and year first above written.

**WITNESS:** **KENTUCKY AMERICAN WATER**

\_\_\_\_\_  
By: \_\_\_\_\_  
*Director of Engineering*

**DEPOSITOR(S):**  
Lexington-Fayette Urban County Government  
Accounts Payable  
200 E. Main Street  
Lexington, KY 40507

Phone #: 859-258-3320

Fax #: \_\_\_\_\_

Email: \_\_\_\_\_

**WITNESS:**

\_\_\_\_\_  
By: \_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Print or type name)*

\_\_\_\_\_  
*(Title/Position)*

**SUPPLEMENTAL MEMORANDUM**

THIS SUPPLEMENTAL MEMORANDUM is executed by the parties hereto under and pursuant to the provisions of paragraph THIRD of a certain agreement in writing between the parties entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, for the installation by the KENTUCKY AMERICAN WATER of certain water mains therein described. It is therefore agreed and stipulated:

The estimated cost of the extension is **twenty-two thousand eight hundred thirty-one and 00/100 dollars (\$22,831.00).**

Three (3) times the estimated immediate normal revenue from \_\_\_\_\_ original prospective customers is \_\_\_\_\_ dollars.

The amount of Deposit received from DEPOSITOR is **twenty-two thousand eight hundred thirty-one and 00/100 dollars (\$22,831.00).**

This Supplemental Memorandum shall be attached to the original agreement in accordance with the provisions of paragraph THIRD hereof.

Dated \_\_\_\_\_  
*Date of Deposit*

**WITNESS:**

**KENTUCKY AMERICAN WATER**

\_\_\_\_\_  
By: \_\_\_\_\_  
*Director of Engineering*

**DEPOSITOR(S):**  
Lexington-Fayette Urban County Government  
Accounts Payable  
200 E. Main Street  
Lexington, KY 40507

Phone #: 859-258-3320

Fax #: \_\_\_\_\_

Email: \_\_\_\_\_

**WITNESS:**

\_\_\_\_\_  
By: \_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Print or type name)*

\_\_\_\_\_  
*(Title/Position)*