

Water Contract

**CONTRACT BETWEEN  
THE CITY OF COLUMBUS, OHIO AND  
EARNHART HILL REGIONAL WATER AND SEWER DISTRICT**

This Contract, made and entered into this 25<sup>th</sup> day of August, 2006 by and between the CITY OF COLUMBUS, a municipal corporation, as authorized by Ordinance No. 0848-2006 passed and approved by Columbus City Council, and the EARNHART HILL REGIONAL WATER AND SEWER DISTRICT, ("District") a political subdivision of the State of Ohio organized under Chapter 6119 of the Ohio Revised Code, as authorized by Resolution No. 2006-03, passed by the Board of Trustees of the District.

**WITNESSETH:**

**Section 1.** The purpose of this contract is to provide adequate water supply to the commercial and industrial properties located in the Northern Industrial Area, as delineated on Exhibit A, once those properties are included in a Joint Economic Development area (JEDD) that includes the City of Columbus. It is the parties' intent that as each JEDD is formed, the District shall enter into a contract with the JEDD. Once that contract is entered, this water contract shall be modified to include the territory included within the newly formed JEDD.

The parties are entering this contract in anticipation of the formation of the first JEDD, the Northern Pickaway County Joint Economic Development District (NPC JEDD), depicted on Exhibit B. The parties anticipate that as additional JEDDs are formed or a JEDD is modified, this Contract will be modified to include those new territories, which will be depicted on exhibits that are then incorporated into this Contract (hereinafter "Subsequent Exhibits").

The City of Columbus shall, for the consideration hereinafter stated, furnish to the District and to the commercial and industrial inhabitants of the portion of the District depicted on Exhibit B, and any Subsequent Exhibits, surplus water from the municipal water system of the said City of Columbus upon the District entering into a contract with each Joint Economic Development District ("JEDD") as described herein and for the term of years hereinafter described.

Within the area of the proposed NPC JEDD is an area owned or controlled or operated by the Columbus Regional Airport Authority (the "CRAA"), as depicted on Exhibit B. The parties acknowledge that the CRAA has indicated that it will need water service to the CRAA area on or before November 1, 2006. The parties agree that the District must provide or be in the process of providing water service to the CRAA by November 1, 2006. If the District is unable to meet this requirement, the City of Columbus may provide such service and may seek any remedies under law to enforce this Contract. In the event the District is unable to provide water service to the CRAA area as provided above, the District (a) hereby consents to the City's provision of water service within the CRAA area, and (b) acknowledges that it shall be required to reimburse the City of Columbus for the reasonable costs of providing water service to the CRAA and any costs associated therewith including all legal expenses associated with enforcement of this Contract.

This Contract will not be effective until if and when the District enters into a contract with the NPC JEDD for providing water service to the industrial and commercial properties within the NPC JEDD. This Contract will be effective on and after the date the Earnhart Hill Regional Water and Sewer District-Pickaway County JEDD water contract is executed ("the Effective Date").

The term of this Contract will commence on the Effective Date, and shall remain in full force and effect until midnight of December 31, 2026. Unless written notice is given by either party to the other at least three years prior to December 31, 2026, this Contract shall remain in effect for an additional three-year period. In the same manner, this Contract with any amendments thereof shall remain in effect from three-year term to three-year term thereafter, subject to termination after the expiration of any such term upon written notice given by either party to the other at or before the expiration of the previous three-year term. Written notice of the intent to terminate this Contract must be given to the Director of Public Utilities for the City of Columbus or the General Manager of the District.

**Section 2.** Such water aforementioned shall be furnished from the water distribution system of the City of Columbus to the District through pipes, valves, hydrants, and meters furnished and installed at the entire cost of the District. Connections shall be made to the Columbus distribution system at locations mutually agreed upon in writing between the parties to this Contract. The District shall have the further right to connect its water lines to any other water mains subsequently installed by the City of Columbus within or adjacent to the area depicted on Exhibit B; as well as on Subsequent Exhibits, provided, that the Director of Public Utilities of the City of Columbus may refuse such right when in his or her opinion such water mains are of insufficient capacity or pressure to serve the proposed water service area.

At any connection point where water is furnished such water shall be measured by a meter or meters of the type and capacity approved by the Administrator of the Division of Water of the City of Columbus (hereinafter "Administrator" or "Division of Water"). Said meters are to be provided by the City of Columbus following payment by the District of all applicable meter charges and system capacity charges. Said meters are to be transported from their point of storage by the District and set by the District in accordance with the standard plans and specifications as required by the Division of Water. Such meters shall be installed in an adequate protective structure at a location approved by the Administrator. The installation of all meters, protective structures, water mains and appurtenant work shall be at the sole cost and expense of the District. Maintenance of the meters shall be at the expense of the City of Columbus. All other required maintenance or replacement of the meter setting or protective structure as determined by the Administrator, shall be at the expense of the District. The City of Columbus shall have free access to these meters, for the purpose of reading the meters, at any time throughout the duration of this Contract.

The City of Columbus reserves to itself the right to change at anytime, the type or capacity of any meter measuring the flow of water from the City of Columbus into the District whenever, in the opinion of the Administrator, such changes are necessary to improve the accuracy of the metering system and that said changes can be made without appreciably affecting

the quality of service to the District. Said meter changes shall be made at the sole expense of the City of Columbus.

The City of Columbus reserves to itself the right to approve any actual connection to its lines. The City of Columbus reserves the right to chlorinate its lines up to the point of the District's meter(s). All District lines connected to the City shall be chlorinated by the District. Such approval shall extend to all phases of the work including but not limited to equipment, material, personnel, location, time and technique. In the event that such work is performed by the City of Columbus, the District shall pay the actual cost of labor and materials plus twenty-five percent.

The City of Columbus reserves to itself the right to add or delete any chemicals to the water which is deemed necessary by the electorate, executive, legislative, or administrative bodies of the City of Columbus, each within their specific authority. Conversely, the City of Columbus is not subject to any requirements of the District, whether through said District's electorate, executive, legislative, or administrative bodies, to add or delete chemicals to the water supply.

The City of Columbus agrees that during the term of this Contract it will use its best efforts to provide such services to the District so as to allow a reasonable and orderly growth and development within the NPC JEDD, as depicted on Exhibit B, as well as the JEDDs depicted on any Subsequent Exhibits. It is expressly understood and agreed by the parties hereto that the intent of this assurance is that in consideration for the District's forbearance from utilizing water from the District sources the City of Columbus will continue to provide a level of water utility services sufficient to meet reasonable and orderly growth and development projections within any area located in the Northern Industrial Area that has become a part of a JEDD.

**Section 3.** The water main or mains to be constructed and maintained by the District between its meter and the distribution system of the City of Columbus shall be for transmission purposes only and shall be exclusive property of the District. No taps shall be made to said transmission main.

**Section 4.** The water supply aforementioned shall be restricted for usage within the limits depicted on Exhibit B, attached hereto and incorporated within this Contract, as well as any Subsequent Exhibits. The District shall not allow any taps to be made for useage beyond the limits of Exhibit B or any Subsequent Exhibits. Notwithstanding the foregoing or any other language in this Contract to the contrary, the District may provide water to any existing residential structure that satisfies all of the following:

1. the residential structure is located within the limits depicted on Exhibit B, or any Subsequent Exhibits;
2. the residential structure existed on the Effective Date of this Contract;
3. a District line is available and accessible to the residential structure; and

4. the Pickaway County Board of Health determines the residential structure's source of water is either non-potable without treatment or of insufficient volume.

Also, notwithstanding the foregoing or any other language in this Contract to the contrary, once the District has established a tap at a property as authorized in this Contract, the District may continue to provide water service to that property even if it is subsequently removed from the NPC JEDD or any other JEDD located in the Northern Industrial Area.

**Section 5.** The water supply aforesaid shall be for the commercial and industrial usage of the District and its inhabitants. The Administrator reserves the right of approval for any water service connection within the service area of the District wherever the peak instantaneous demand will exceed two hundred gallons per minute (200 gpm). Water usage at this rate or larger will be permitted, if, in the opinion of the Director of Public Utilities of the City of Columbus, such usage will not impair the planned development of the Columbus Service Area. During the term of this Contract the District agrees that the only water to be used or permitted in any portion of their distribution system served by the City of Columbus shall be water supplied from the water distribution system of the City of Columbus. Further, any portion of the water distribution shall be effectively isolated from other water supply sources.

**Section 6.** The City of Columbus shall have the right to connect its water lines to any water lines owned or installed by the District for the purpose of supplying water to other consumers; provided, however, that the District may refuse such right when such water line is of insufficient capacity to provide water service to the intended area. Whenever practical, as determined by the Administrator water at any such connection shall be metered in like fashion to that entering the District water system and the City of Columbus shall be solely responsible for the cost of installing any necessary meters. Where master metering is not practical the volumes of water taken from the distribution system of the District as recorded on individual meters, read by the City of Columbus, shall be credited to the District's water consumption on the billing following the most recent reading of said individual meters. Prior to making any such individual connection to a water line owned or installed by the District for other consumers, written permission must first be obtained from the District. A tapping permit must then be obtained from the District and all applicable fees shall be paid to the District before a service agreement is requested with the City of Columbus.

Conversely, the District may grant, in writing, permission to inhabitants of the District to request tapping permits from the Division of Water, for individual connections to water lines owned or installed by the City of Columbus. Upon approval of said request and payment of all applicable fees to the Division of Water, said inhabitants shall obtain a water service agreement with the District. The volumes of water taken from the distribution system of the City of Columbus as recorded on individual meters read by the District shall be added to the District's water consumption on the billing following the most recent reading of said individual meters.

The City of Columbus and the District reserve to themselves the right to make any actual connections to their respective water lines, and in such event, the party obtaining water service from the connection shall pay the actual cost of labor and materials plus twenty-five percent.

**Section 7.** All water main extensions or additions between the City of Columbus distribution system and the meters referred to in Section 2 shall be installed according to the current specifications for water mains, valves and appurtenances in use at the time by the Division of Water of the City of Columbus, Ohio. Plans and specifications for such lines shall first be submitted to the Director of Public Utilities of the City of Columbus, Ohio, for his/her written approval that such plans and specifications are in accordance with current specifications in use in the City of Columbus. Such approval or rejection fully supported by evidence showing that the plans and specifications vary from the current City of Columbus Specifications shall be made by the Director of Public Utilities within thirty (30) days after detailed plans and specifications have been submitted by the District; otherwise the District may proceed with construction without prejudice in full conformity with such plans and specifications.

No cross-connections shall be made or permitted with any other water supply than that of the City of Columbus. The District shall have an OEPA approved backflow program.

Section 1105.11 of the Columbus City Codes, 1959, as amended, or as same may be amended or reenacted in the future shall not apply to lines built by the District, or by authorization of the District, so long as there are no funds of the City of Columbus invested and there is no cost to the City of Columbus.

**Section 8.** The meters referred to in Section 2 shall be read by meter readers of the City of Columbus. Twenty-four hour notice of the meter readings shall be given to the District and a representative of the District shall have the right to accompany the meter readers of the City of Columbus when said readings are taken. The amount of water consumed shall be computed and a bill presented to the District not to exceed four times annually. The District shall, within thirty-five (35) days after the bill is mailed, make payment thereof in full to the Treasurer of the City of Columbus. Failure to make full payment within the thirty-five (35) days following the mailing of said bill will result in the addition of a penalty to the unpaid bill. The amount of the penalty shall be ten percent (10%) of the unpaid bill and shall be due at the time of payment of the overdue bill.

Further, failure to make full payment by the District to the City of Columbus within thirty (30) days of the due date shall be sufficient reason for the City of Columbus to discontinue the water supply service to the District without resorting to any legal proceedings in law or equity, and the District shall save the City of Columbus harmless from each, every and all claims or suits for damages to the persons and/or properties, to the inhabitants of the District and/or to the District.

The water rates to be charged to the District for water furnished pursuant to this Contract shall be the prevailing rate specified for Outside City Master Meter Contracts in Section 1105.055 of the Columbus City Code.

In the event of failure of any meter the amount of water consumed shall be estimated by the Administrator. Such estimates shall be based on the average daily consumption used during any similar period.

**Section 9.** During the terms of this Contract, the District will assist the City of Columbus with the right to enter into the District and its streets, highways, and alleys or other public easements for the purpose of this Contract and with prior notice for the further purpose of laying any large feeder mains which may be deemed necessary by the Director of Public Utilities of the City of Columbus on the basis of sound engineering principles, to provide water service to areas not included within the District and/or the District's service area.

The City of Columbus pledges to make such large feeder main installations at its own expense and to restore all streets, highways, or alleys to the extent possible to the same condition in which they were found prior to such installation. The City of Columbus will and shall own and have the right to reinstall, reconstruct, preserve, maintain, and repair any facility so constructed as aforesaid as such may become necessary and such right shall continue after the expiration of this Contract. During the period of this Contract, the District may connect any main or mains of its distribution system to any such feed main aforesaid with the approval of the Director of Public Utilities of the City of Columbus. Such connections shall be made by the City of Columbus and paid for by the District under the same terms as provided in Section 2 of this Contract.

Plans and/or specifications for any water line extensions proposed by the City of Columbus through the District shall be submitted to the District for review and approval from an engineering viewpoint. Such approval or rejection, fully supported by sound engineering reasons, shall be made within thirty days (30) of submission; otherwise, the City of Columbus may proceed with construction without prejudice in full conformity with said plans and specifications.

The District shall, upon request, submit to the City of Columbus location maps showing its current total water distribution system with all changes or additions brought to date. Also, the District will, upon request, submit to the Division of Water a copy of a set of plans as built for record purposes for all water facilities installed within ninety (90) days of project completion. The City of Columbus agrees to provide to the District, upon request, any public information about the Columbus water system which may be necessary in order to determine the adequacy of water service being provided to the District.

**Section 10.** Failure on the part of either party to this Contract to faithfully discharge its obligations and responsibilities hereunder, either in whole or in part, shall vest in the other party to this Contract the right to terminate same, effective ninety (90) days after written notice of such failure and the intent to terminate is delivered to the offending party, provided that the offending party shall have the right to cure or correct such failure to faithfully discharge its obligations and responsibilities and upon demonstration thereof, such notice of termination shall not be effective and this Contract shall remain in full force and effect without prejudice to the City of Columbus' right to collect amounts due and owing to the City of Columbus arising under the terms of this Contract prior to notice of termination.

If the District fails to correct any alleged noncompliance of its contractual agreements herein within 90 days of receiving notice of noncompliance from the City of Columbus, the City of Columbus may make its own corrections pursuant to its own plans and specifications and bill the costs thereof to District.

**Section 11.** The parties anticipate that the City may provide sewer service to District customers within the area depicted in Exhibit B. The parties agree that if the City does provide sewer service to such customers, the District shall make available the water meter readings for those customers on at least a quarterly basis, for the purpose of allowing the City to bill the customers for sewerage services. Said meter readings will be provided to the City in a format acceptable to both parties, and shall include at least the customer's name, billing address, meter serial number and usage measurement in thousand gallons.

**Section 12.** It is further agreed that the City of Columbus shall have the right to temporarily shut off the water supply of the District or any part thereof whenever alterations, additions, maintenance operations, or breaks in the lines due to negligence or accidents make it necessary.

The City of Columbus shall give the District reasonable notice of the anticipated shut off and the probable duration of such shut off. The City shall endeavor to provide at least 48 hours notice of a shut-off. In cases of serious breaks or accidents or emergencies that, in the opinion of the Administrator or his/her authorized agent, require immediate discontinuance of water service, water service will be discontinued without prior notice.

In the latter case the City of Columbus as soon as practicable shall give the District notice of the reason for interruption of water service and an estimate of the possible duration of such interruption. Under no circumstances will the City of Columbus be held liable or responsible for any damage that may result to the District or the inhabitants thereof due to any necessary or emergency discontinuance of water service.

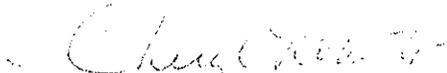
If, as result of a disruption of service from the City of Columbus, the District is required to flush its lines to restore chlorination, the District may apply to the City of Columbus for a credit for the amount of water used in the flushing. The decision to grant a credit is within the sole discretion of the City of Columbus.

**Section 13.** The District further agrees that the rate or rates to be charged water consumers under this Contract shall never be less than those charged consumers within the corporate limits of the City of Columbus for similar consumption.

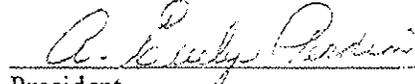
The City of Columbus agrees that the rate charged to the District for water services under this Contract shall not exceed the rate charged to any other municipality or other entity by the City of Columbus as an OUTSIDE CITY MASTER METERED SUBURBAN CONTRACT at the wholesale rate.

**Section 14** The parties anticipate that additional properties may be added to the NPC JEDD or additional JEDDs may be formed within the Northern Industrial Area, depicted on Exhibit A. It is the parties' intention that the commercial and industrial properties added to the NPC JEDD or located within these additional JEDDs shall be served by the District pursuant to subsequent modifications to this Contract. Such modifications shall occur once the District enters into a service agreement with the additional JEDD or a modified service agreement with the NPC JEDD, as applicable. Such modifications are authorized by this Contract and its authorizing ordinance, and the Director may enter into such modifications without further action of the Columbus City Council. Each contract modification shall include a Subsequent Exhibit that identifies the additional properties to be served.

**THE CITY OF COLUMBUS, OHIO**

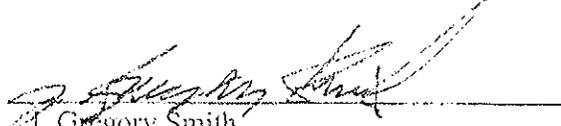
By:   
Director of Public Utilities

**THE EARNHART HILL REGIONAL WATER  
AND SEWER DISTRICT**

By:   
President

**APPROVED AS TO FORM:**

  
City Attorney  
City of Columbus, Ohio

  
J. Gregory Smith  
Ulmer & Berne LLP  
88 East Broad Street, Suite 1600  
Columbus, Ohio 43215  
Attorney for Earnhart Hill Regional Water  
and Sewer District

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