

Appendix A: Sample Water Purchase Agreement

THIS CONTRACT, for the purchase of water is entered into as of the _____ day of _____ 2001, by and between the City of _____, Minnesota, whose address is _____, hereinafter referred to as "Seller", and _____, a public body under the laws of Minnesota, with its principal place of business in the City of _____, _____ County, Minnesota, whose address is _____, hereinafter referred to as "Purchaser"

WITNESSETH:

WHEREAS, Seller is a municipal corporation under the laws of Minnesota and is established in part for the purpose of operating water supply systems serving water users within and about the incorporated city limits of the City of _____; and

WHEREAS, Purchaser currently owns and operates a water supply transmission and distribution system in areas of _____ Minnesota abutting the City of _____; and

WHEREAS, Purchaser anticipates the extension of its water supply transmission and distribution system for the servicing of additional users necessitating access to large water sources; and

WHEREAS, Purchaser, in order to service said additional water users, will require a supply of treated water as herein defined in paragraph A. hereof, and

WHEREAS, by Resolution No. _____ of the City Council of Seller enacted on the _____ day of _____, the sale of water to Purchaser, in accordance with the provisions of said Resolution, was approved in the execution of this contract by the Mayor of Seller and attested to by the City Administrator, was duly authorized; and

WHEREAS, by Resolution _____ enacted on the _____ day of _____, by Purchaser, the purchase of water from Seller in accordance with the terms hereinafter set forth, was approved and execution of this contract carrying out said Resolution by its chairman and attested to by its secretary, was duly authorized.

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

A. WATER SALES:

1. Quality and Quantity. Seller hereby agrees to provide to Purchaser during the term of this contract or any renewal or extension thereof, potable treated water meeting applicable purity standards for the State of Minnesota and the United States of America, necessary for rural water users petitioning for service in the current extension of _____ and more specifically to the volumes of water set forth on Exhibit "A" which is attached hereto.

2. Rate. Seller hereby agrees to provide to Purchaser at the rate of One Dollar and 20/100 (\$1.20) per one thousand (1,000) gallons of water as measured through the water meter to be installed by Seller. It is mutually agreed that said rate shall be guaranteed for a period of one (1) year from the date Seller begins supplying water to Purchaser for the use of Purchaser's water users.

3. Rate Adjustments. It is further agreed that water rates may be adjusted after the guaranteed period specified in paragraph 2 above, with the condition that any rate increase shall be made in conjunction with general rate increases made by Seller to its other water users. Rate increases to Purchaser shall reflect the increased costs of City's water production, including increased cost of power, water treatment chemicals, and other direct costs related to the production of water for Purchaser over the present costs thereof Rate increases to Purchaser shall further reflect overall increases in direct and administrative costs of water production (costs including but not limited to labor, supplies, repair, fuel, power, transportation, employee benefits, contractual services, well repairs, replacement and treatment plant upkeep, and general allocable administrative expenses).

4. It is mutually agreed by and between the parties that in the event of a water shortage requiring restriction of the volume of water usage by the various persons or entities served by both Seller's and Purchaser's systems, that Seller and Purchaser shall be required to reduce their water usage proportionally with the proportion of reduction resting with Seller with the understanding that Seller will reduce Purchaser and its other commercial users at the same rate of restriction.

B. SELLER'S CAPITAL IMPROVEMENTS TO EXISTING WATER SYSTEM

It is understood between the parties that Seller, City of _____, anticipates proceeding with certain capital improvements necessary to supply the water volume being requested in this Agreement. The parties understand that in order for Seller to fulfill its obligations and responsibilities under their contract, it will be necessary for them to dedicate financial improvements to their water system:

1. 500 gpm filter and plant modifications,
2. 400 gpm well, meter and transmission, and
3. distribution improvements.

Therefore, the parties understand that this contract is contingent upon completion of said capital improvements necessary to fulfill the water requested in this Purchase Agreement.

C. PURCHASER PARTICIPATE IN SELLER'S CAPITAL IMPROVEMENTS:

The parties understand that by this Agreement, Purchaser agrees to participate in Seller's capital improvements set forth in paragraph B above, and that Purchaser will be required to pay on or before _____, a one-time connection fee of \$514,000.00 based upon current engineer's projected costs as follows:

1.	500 gpm filer and plant modifications @ 40% of \$750,000.00	\$300,000.00
2.	400 gpm well, meter and transmission @ 50% of \$400,000.00	\$200,000.00
3.	distribution improvements @ 20% of \$120,000.00	\$ 24,000.00
	Less meter pit costs	<u>-\$ 10000.00</u>
	TOTAL PROPOSED CONNECTION FEE	\$514,000.00

The parties also understand that the above-referenced meter pit will be located upon Purchaser's service line approximately one (1) mile west of Seller's corporate limits and either in the southwest corner of _____, or the northwest corner of _____. Although Purchaser shall retain the ownership of the easement upon which the meter pit is located, Seller shall have an access easement across said meter pit during the original term of this Agreement and any extension thereto. Notwithstanding the existence of the above-referenced meter pit, Seller shall supply Purchaser the contracted water at a hook-up located on the _____, with the understanding that Seller shall continue to own the valve at that junction.

The parties further understand that in order for Purchaser to generate the desired request for water, Purchaser will have to expand its current system to an expansion area and existing water source improvements will be necessary requiring both successful funding and successful legal proceedings. Therefore, the parties understand that this Agreement is contingent upon successful funding of the expansion project and the successful legal completion of the expansion project.

D. TERM:

1. Original Term. The original term of this Agreement shall commence with the execution and end with the final bond payment made to the USDA, Rural Development, or any refinancing thereof, for bonds issued relative to the anticipated loan of Purchaser, _____, shall be made for the purpose of the extension of the distribution system for the new rural users. It is understood that this term shall be for a period of thirty (30) years.

2. Extension. It is further understood and agreed that the intention of the parties is to have this Agreement perpetual, except that after the original term, it is agreed that either party may terminate the Agreement by giving to the other party twenty-four (24) months written notice of its intention to terminate.

F. WATER USAGE:

1. Anticipated Usage. The volumes of water Seller will provide during the term of this Agreement will be restricted to those volumes shown on Exhibit "A" attached hereto and incorporated by reference.
2. Request for Increased Usage. In the event Purchaser needs water in excess of that anticipated as maximum levels in Exhibit "A", Seller shall have the option of either providing the excess water at the rate in effect at the time, or surcharging ten percent (10%) for the excess amounts of water at a rate in excess of the prevailing rate, or refusing to provide additional water requested by Purchaser. It is agreed that the maximum levels shall be computed by utilizing the amounts of water used by Purchaser for any preceding three (3) month period for the purpose of this Agreement. It is understood and agreed that the maximum annual consumption level by Purchaser shall be 65 million gallons of water, and in the event that consumption is in excess of that amount, the Seller shall have the right to increase the rate in effect hereunder so that Seller shall recoup its production costs of water produced and consumed by Purchaser in excess of that maximum level. Production costs shall be the cost of production determined and agreed upon mutually by the parties' respective accountants, production costs to be computed by utilizing Seller's cost of power, water treatment chemicals and other direct costs of production along with increased costs of labor, supplies, repair, power, fuel, transportation, employee benefits, contractual services and general allocable administrative expenses.
3. Access to Metering. It is further agreed that Purchaser shall provide to Seller the necessary access upon reasonable request to the meter facility measuring the amounts of water provided by Seller to Purchaser.

F. The parties understand that, during the term of this contract, the service provided or made available through Purchaser shall not be curtailed or limited by inclusion of the areas served by Purchaser within the corporate limits of Seller, or by the granting of any private franchise for similar services within that area; nor shall Seller, upon the happening of any event, be the basis for requiring Purchaser to secure any franchise, license, or permit as a condition of continuing to serve the area served by Purchaser at the time of the occurrence of any such event. For the purpose of this paragraph, the phrase "area served" shall be defined as those hook-ups/users currently being served by Purchaser and those hook-ups/users contracted to be served by Purchaser at the time Seller provides Purchaser with Seller's accepted Petition of Annexation or Joint Resolution of Annexation of the area to be annexed.

G. This Agreement shall be binding upon the parties, their successors, heirs and assigns.

IN WITNESS WHEREOF, the undersigned have set their hands the above date written.

SELLER:

City of _____

By _____

Its Mayor

Attested:

Its City Administrator

PURCHASER:

By _____

Its Chairman

By

Its Secretary

EXHIBIT "A"

_____ VOLUME OF WATER PURCHASED

The following volumes of water are anticipated to be purchased under a Water Purchase Agreement to which this is attached.

Maximum Yearly Volume	65,000,000 gallons
Initial Average Daily Usage	75,000 gallons
Initial Peak Daily Usage	105,000 gallons
Maximum Peak Flow Rate	200 gallons/minute