

Sample Contract for Interconnection Service

RESOLUTION

WHEREAS, the City of _____, Iowa desires to obtain a secondary back-up water supply, and

WHEREAS, the City of _____, Iowa has received a contract proposal from Regional Water Association, Inc., and

WHEREAS, the cost of said contract would be \$XXX,000, and

WHEREAS, a public hearing has been held on the issue of whether or not the City should enter said contract, and

WHEREAS, the Council has considered all comments from the public, written and oral,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF _____, IOWA AS FOLLOWS:

1. The Water Purchase Contract, a copy of which is attached hereto, is hereby found and determined by the City Council of the City of _____, Iowa to be in the best interests of the City and its citizens.
2. The Mayor and Clerk are hereby authorized to execute and sign the Water Purchase Contract with Regional Water Association, on behalf of the City, in the contract form attached hereto.

Passed by the City Council of the City of _____, Iowa this ____ day of _____ (month and year) and approved by the Mayor of the City of _____, Iowa this ____ day of _____ (month and year)

THIS CONTRACT for the sale and purchase of water is entered into as of the _____ day of _____, (year), between _____ Regional Water Association, Inc., (hereinafter referred to as the “Seller”) and the (City) Municipal Waterworks, (hereinafter referred to as the “Purchaser”).

W I T N E S S E T H :

WHEREAS, the Purchaser requires a supply of treated water and the Seller is organized and established under the provisions of Chapter 504A, *Code of Iowa*, and owns and operates a water supply and distribution system and;

WHEREAS, the Board of Directors of _____ Regional Water Association, Inc., has approved the sale of water to the Purchaser in accordance with the provisions of this agreement and the execution thereof by the Executive Director; and

WHEREAS, the City of _____ has approved the purchase of water from the Seller under the terms and conditions of this agreement and has authorized and directed the Mayor and City Clerk to execute the same on behalf of the Purchaser,

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth, it is mutually agreed:

1. **Term of Agreement.** This agreement shall be effective upon the date of delivery of water under the terms of this agreement and shall continue for a period of twenty (20) years. After the initial ten (10) year period, this agreement may continue annually for up to ten (10) more years with the payment of \$Y,000 per additional year. The terms of this agreement may be renegotiated at the end of the twenty (20) year period and continue for an additional period of time upon the mutual consent of each party.
2. **Quality and Quantity.** During the term of this agreement or any renewal or extension thereof, Seller shall furnish water to Purchaser at the point of delivery hereinafter specified, which shall meet quality standards of State, Federal, and other regulatory agencies. Seller will not be responsible for water quality beyond the point of delivery. Seller agrees to provide a maximum of (Y) million gallons per month. No minimum purchase is required. Water may be used on an "as needed" basis.

Seller will not be responsible for quality or quantity in the event that the Seller is unable to perform for reason or reasons beyond its control. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire, and the use of water to fight fires, earthquake, or other catastrophe or circumstances beyond the control of the Seller or acts of God shall excuse the Seller from this provision for such reasonable period of time as may be necessary to restore service.

3. **Point of Delivery and Pressure.** Water will be delivered to the point of delivery at a reasonably constant pressure. The "point of delivery" shall be located on _____, or at such other locations as may be agreed upon by the parties.

Water pressure at the point of delivery will be X psi at Y gallons per minute. Ownership and installation of the meter, vault and appurtenances shall be with the Seller. Purchaser shall be responsible for the purchase of any real estate or easements that may be required for the Purchaser to connect from the point of delivery into its system, and the parties may share newly acquired easements or existing easements for the purposes of locating the point of delivery and the attendant meter, vault and appurtenances and lines leading in and leading out thereof.

4. **Metering Equipment.** Seller agrees to operate and maintain at its own expense at the point of delivery all necessary metering equipment, pumping station, radio control monitoring equipment and the required devices of standard type for properly measuring the quantity of water delivered to the Purchaser and to calibrate such metering equipment at the manufacturer's recommended interval or whenever the parties reasonably believe that such may be in error. A meter registering not more than two percent above or below the actual flow shall be deemed to be accurate. If calibration should disclose an inaccuracy of over two percent in the metering device, the parties shall attempt to adjust the bills rendered during the period of inaccuracy to their mutual satisfaction. In the event the parties cannot agree, the billing will be adjusted based on the usage for the same time period in the previous year considering the number of customers on the Purchaser's lines for each period. Authorized representatives of Purchaser and Seller shall at all times have access to the metering devices.
5. **Billing Procedures.** If water is used under the terms of this agreement by the Purchaser, it is the Purchaser's responsibility to read the meter. Billing supplies will be furnished by the Seller. The Purchaser shall calculate the bill and send to the Seller. The bill is to be paid on or before the 15th day of each month. Payments received after the 15th of the month are subject to a ten percent (10%) late payment charge.
6. **Connection Fee.** To pay as an agreed cost, a connection fee to connect the Sellers system with the system of the Purchaser, the sum of \$XXX,000 which shall cover any and all costs of the Seller for installation of the pipe, metering equipment, appurtenances necessary and the right to the water supply to a maximum of four (4) million gallons per month for the agreed initial ten (10) year period.

The \$XXX,000 connection fee shall be paid as follows: \$YY,000 upon the initial availability of water and the balance of \$ZZZ,000 by (month, day, year).
7. **Rates.** During the first five (5) year period of this agreement, if the Purchaser receives metered water service, the agreed upon price for that water will be \$X.00 per thousand gallons per month.

During the remaining 15 (15) year period of this agreement, the price per thousand gallons will be the rate charged similar bulk rate customers in the area unless the cost of water to the seller from its source plus a XX% markup exceeds the current bulk rate charge, in which case, the higher rate would apply.

8. **Delivery of Water.** Thirty (30) days prior to the estimated date of delivery of water, the Seller shall notify the Purchaser in writing of the date for the initial delivery of water to the Purchaser for resale to the customers of Purchaser.
9. **Default of the Seller.** The Seller will operate and maintain its system as efficiently as possible under the circumstances then existing and will take such action as necessary to furnish the Purchaser with quantities of water set forth in this agreement; temporary or partial failures to deliver water shall be remedied with all possible dispatch.

In the event of an extended shortage of water or if the supply of water available to the Seller is otherwise diminished over an extended period of time, Seller may reduce Purchaser's supply of water in the same ratio or proportion as such is reduced to other customers of the Seller.

10. **Default by Purchaser.** In the event Purchaser fails to pay for the delivery of water as set forth in this agreement, Seller may at its option terminate this Contract and disconnect Purchaser from Seller's supply lines.
11. **Maintenance by Purchaser.** Accidents or other causes resulting in waste or loss of water after delivery to the master meter shall not entitle Purchaser to any adjustment or reduction in bills or water delivered hereunder. Purchaser will properly care for and maintain all water mains and other appurtenances served by water hereunder and will prevent excessive leakage and waste therefrom in accordance with normal operating practices. In such an event, Seller shall not be liable to Purchaser or its customers for any damages that may result therefrom.
12. **Indemnification.** Purchaser covenants and warrants that will exonerate, indemnify, and hold harmless the Seller, its agents and employees, from and against any and all third-party claims, made or asserted against the Purchaser, its agents or employees, arising out of or in any way connected with the performance or non-performance of this agreement by the Purchaser. The Purchaser reserves its rights to any direct action or to interplead or cross-claim against Seller in the event Seller be in breach of any of the terms or conditions of this contract.
13. **Indemnification.** Seller covenants and warrants that it will exonerate, indemnify and hold harmless the Purchaser, its agents and employees, from and against any and all third-party claims, made or asserted against the Purchaser, its agents or employees, arising out of or in any way connected with the performance or non-performance of this agreement by the seller. The Seller reserves its rights to any

direct action or to interplead or cross-claim against Purchaser in the event Purchaser be in breach of any of the terms or condition of this contract.

14. **Regulatory Agencies.** It is mutually agreed between the Seller and Purchaser that they will cooperate in obtaining such permits, certificates, or the like which may be required to comply with the laws, rules, and regulation of regulatory agencies.
15. **USDA-RD Approval.** The construction of the water supply and distribution system by the Seller is financed by a loan or loans made or insured by, and/or a grant or grants from the United States of America acting through the Rural Development Administration of the United States Department of Agriculture; and the undertakings of the Seller are conditioned upon the approval of the State Director of the Rural Development Administration.
16. **Miscellaneous.** This agreement is between the parties hereto, and Seller has not agreement expressed or imply with customers of Purchaser.

Neither party shall acquire any rights whatsoever in the water system of the other, including but not limited to pipe, wells, towers, treatment facilities or any other part of said system.

If at any time during the twenty (20) year contract period Purchaser desires a full-service water purchase contract, a new contract may be entered into with the rates remaining the same in section 7 of this agreement. If the new contracts begins during the initial ten (10) year period, a refund of \$X,000 per year for the years remaining will be paid to the Purchaser.

Unless otherwise provided herein, either party shall have the right to seek redress for any violation of terms of this agreement through any legal or equitable remedy available to it.

City of _____

Regional Water Association