



Hannibal/Ralls Territorial Agreement

APPENDIX C

WATER PURCHASE CONTRACT

This contract for the sale and purchase of water is entered into as of this 20th day of October, 2004 by and between the City of Hannibal, Missouri, acting by and through the Hannibal Board of Public Works (hereinafter referred to as "SELLER"), and Public Water Supply District No. 1 of Ralls County Missouri (hereinafter referred to as "PURCHASER").

WITNESSETH:

WHEREAS, the PURCHASER is organized and established under the provisions of Chapter 247 of the Revised Statutes of Missouri for the purpose of constructing and operating a water supply system serving water users within the area described in plans now on file in the office of the PURCHASER and extensions thereto and to accomplish this purpose, the PURCHASER will require a supply of treated water; and

WHEREAS, the SELLER owns and operates a water supply system with a capacity currently capable of serving the current volume and a plan to upgrade capacity to serve the projected volume stated in paragraph 1.A.i; and

WHEREAS, by Resolution enacted on the 19th day of October, 2004, by the SELLER, the sale of water to the PURCHASER in accordance with the provisions of this Contract was approved; and

WHEREAS, by Resolution enacted on the 19th day of October, 2004, by the Purchaser, the purchase of water from the SELLER in accordance with the terms this Contract was approved.

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

1. The SELLER shall:

A. Furnish PURCHASER at points of delivery hereinafter specified such quantities as may be required by the PURCHASER during the term of this Contract or any renewal or extension thereof, potable treated water meeting applicable water quality standards as adopted by the Division of Environmental Quality of the Missouri Department of Natural Resources of the State of Missouri, unless said demand is in excess of the available capacity of SELLER'S water distribution/storage facilities. If at any time the total amount of water needed for customers of SELLER and PURCHASER exceeds the total amount of water available from SELLER'S

system, the water supplies to the parties' customers shall be reduced in equal proportions based upon the water usage by the parties' customers in the immediately preceding month.

- i. PURCHASER shall be permitted to buy quantities of water sufficient to service its water customers within PURCHASER'S water district boundaries throughout the duration of this Contract. PURCHASER and SELLER shall meet at least semi-annually to discuss known and potential customer growth within PURCHASER'S boundaries to assist SELLER in planning for long-term capacity. In no event will PURCHASER make service commitments outside PURCHASER'S boundaries without verification by SELLER that sufficient supply is available for such service commitments.

The parties acknowledge that additional interconnections and metering points are desired by PURCHASER to serve customers within PURCHASER'S boundaries. Such interconnection shall be supported by good engineering judgment and practice. SELLER'S interconnection and metering point expenses shall be limited to those items described in paragraph 1.C. The parties agree to the following connection points:

1. Palmyra Rd (Route W), 1760' east of Head Land.....700,000 gpd max.
2. Ely Street Connection.....300,000 gpd max.
3. Near Hwy 36 road bore.....To be determined
4. At SELLER'S Hwy 36 tower.....To be determined
5. London Gravel Road connection.....To be determined
6. Where SELLER'S 12" feed to Diemaker's tower crosses PURCHASER'S 6" line.....To be determined

SELLER agrees to provide an engineering analysis of pressure and volume availability once purchaser decides to activate any of the above-listed connection points. SELLER and PURCHASER agree to negotiate with each other in good faith in the event interconnections and metering points are desired by PURCHASER in addition to the six connection points specified in this subparagraph.

B. Furnish water at a reasonable constant pressure calculated at 40 pounds per square inch from an existing main supply at the points identified above. If a greater pressure than that normally available at the point of delivery is required by the PURCHASER, the cost of supplying water at such greater pressure shall be borne by the PURCHASER. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire, strikes, earthquake, other acts of God, 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, nor shall the SELLER be in any way, jointly or severally liable nor shall any claim be made against it for any loss, damage, or injury caused by such failures of pressure or supply. PURCHASER agrees to save and keep harmless the SELLER from all damage to real and personal property occasioned or caused by the making of any connections or caused by the furnishing of water hereunder, and shall also keep and save the SELLER harmless from all damage of every kind, nature and description which may arise as the result of the making of the Agreement except such damage or injury caused through the negligence or willfulness of the SELLER or through its servants, agents or employees. SELLER agrees to save and keep harmless the PURCHASER from all damage to real and personal property occasioned or caused by the making of any connections or caused by the purchasing of water hereunder, and shall also keep and save the PURCHASER harmless from all damage of every kind, nature and description which may arise as the result of the making of the Agreement except such damage or injury caused through the negligence or willfulness of the PURCHASER or through their servants, agents or employees.

C. Furnish, install, operate, and maintain at its own expense at points of delivery, the necessary metering equipment including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the PURCHASER and to calibrate such metering equipment whenever requested by the PURCHASER but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate shall be corrected up or down for the three (3) months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water during such period shall be deemed to be the amount of water delivered in the billing period immediately prior to the failure, unless SELLER

and PURCHASER shall agree upon a different amount. The metering equipment shall be read from the first to the fifth (1st to the 5th) day of each month. An appropriate official of the PURCHASER at all reasonable times shall have access to the meters for the purpose of verifying its reading.

D. Send PURCHASER by the tenth business day of each month an itemized statement for each connection point. This statement shall be subject to the same payment due dates, penalties and payment terms as customers of the SELLER.

E. Be responsible for water quality up to the point of connection between SELLER'S and PURCHASER'S systems. The points of connection shall include appropriate sampling devices for use by the SELLER and PURCHASER to test for the quality of the delivered potable water. Any supplemental treatment, water retention times, facilities, pumping, repairs or other activities within PURCHASER'S system which result in the water delivered to a PURCHASER'S customer's point of use being found in violation of a drinking water standard or drinking water regulation, shall be solely the responsibility of the PURCHASER.

F. Include PURCHASER in its Disinfection By-Product Program, as it is now or may be implemented, at no cost to PURCHASER. SELLER will include purchaser in its in-house biological testing program at materials only cost.

G. When any known or pending rate adjustments are necessary, the PURCHASER will be notified in writing not less than 90 days prior to implementation of the rate adjustment. The same formula based on residential, in city limits customers shall be applied to the residential water rate paid by the PURCHASER. Said change may be specified as, but is not limited to, a change computed in cents per gallon or as a percentage change for the in-city residential water rate of the SELLER. In the event that any act, natural or otherwise, shall occur, not under the control of SELLER, which shall increase SELLER'S cost of production by 25% or more, such increase shall immediately be reflected to all PURCHASER'S customers other provisions herein notwithstanding.

2. The PURCHASER Agrees:

A. To pay the SELLER not later than the last day of each month, for water delivered, in accordance with the following special user schedule of rates:

- i. Two Dollars and Thirteen Cents (\$2.13) per One Thousand (1,000) gallons of water.
- ii. In addition to the foregoing rates, PURCHASER agrees to pay any taxes levied by Federal, State or other taxing agencies, including but not limited to any sales taxes, property taxes or transfer fees. Pursuant to the Charter of the City of Hannibal, the City charges a transfer fee of five and one-half percent to all City water users; the transfer fee rate can be changed only by vote of the registered voters of the City of Hannibal.

B. That PURCHASER will not assign or transfer, nor attempt to assign or transfer, this Agreement without the express, written consent of SELLER, except to the United States of America. Because the District has outstanding indebtedness to the United States Department of Agriculture, Rural Development, and the payments contemplated under this contract will be made from system revenues, this contract is hereby pledged to the United States of America, United States Department of Agriculture, Rural Development as additional security for said indebtedness pursuant to 7 C.F.R. §1780.

C. To notify SELLER of its intent to reduce water purchases from SELLER by 30% or more in any given month.

3. It is further mutually agreed between SELLER and the PURCHASER as follows:

A. That this Contract supersedes and terminates a prior existing agreement between the parties hereto entered into on the 21st day of December, 1983, and any extensions or modifications thereof.

B. That this Contract shall extend for a term of twenty (20) years from the date of signing. In the event the monthly sales volume to the District drops below 50% of the average of the previous 24 months, the contract may be cancelled by the SELLER giving the PURCHASER three (3) years' notice.

C. That the 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 the PURCHASER with

quantities of water required by the PURCHASER up to the Contract amount. Temporary or partial failure to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the SELLER is otherwise diminished over an extended period of time, the supply of water to PURCHASER shall be reduced or diminished in the same ratio or proportion as the supply to SELLER'S consumers is reduced or diminished.

D. That this Contract is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the SELLER and PURCHASER will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

E. If PURCHASER shall refuse, neglect or fail to pay promptly the water bills rendered for the water supplied it hereunder within the time or times prescribed by this Agreement, or if PURCHASER shall fail to comply with or fail to perform any of the conditions or obligations on its part to be complied with or to be performed hereunder, and if after such failure SELLER shall deliver to PURCHASER and USDA, Rural Development a notice in writing of its intention to shut off the supply of water on account of such failure, refusal or neglect, then SELLER shall have the right to shut off the supply at the expiration of thirty (30) days after the giving of such notice and to terminate this Contract unless within such thirty (30) days PURCHASER shall make good such failure, refusal or neglect. The shutting off of the supply of water for any such cause shall not release PURCHASER from its obligation to make payment of any amount or amounts due or to become due in accordance with the terms hereof. It is expressly understood and agreed that in the event SELLER shuts off the supply of water as hereinabove provided, that SELLER shall not be in any way, jointly or severally liable, nor shall any claim be made against it by PURCHASER for any loss, damage or injury caused by shutting off the water as provided for in the Contract.

F. It is agreed that SELLER shall not be required to make any new capital investment in its water system solely because of needs of PURCHASER.

G. This agreement shall not become effective until such time as it is approved by the U.S.D.A.

IN WITNESS WHEREOF, the parties hereto, acting under the authority of their respective governing bodies, have caused this Contract to be duly executed in four (4) counterparts, each of which shall constitute an original.

MISSOURI

CITY OF HANNIBAL,

By: Greg G Hank
Mayor
Date: 10-20-04

ATTEST:

M.B. Bandenbuhl
City Clerk

PURCHASER:

PUBLIC WATER SUPPLY DISTRICT
NO. 1 OF RALLS COUNTY, MISSOURI

By: E. Keith Brown
President
Date: 10/20/04

ATTEST:

Ronda Calkins
Clerk

This Contract is approved on behalf of the United States Department of Agriculture this
20th day of October, 2004.

By: Leann McClanahan
Typed Name: Leann McClanahan
Title: Rural Development Specialist