



## Board of Aldermen Request for Action

**MEETING DATE:** 5/2/2023

**DEPARTMENT:** Public Works

**AGENDA ITEM:** Resolution 1223, approving the assignment of an easement to Public Water Supply District #8.

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**REQUESTED BOARD ACTION:**

A motion to approve Resolution 1223, approving the assignment of an easement to Public Water Supply District (PWSD) #8.

**SUMMARY:** The City entered into an agreement with PWSD #8 in October 2016 to provide water to the District. The District's meter is located at the water tower on northwest 188<sup>th</sup> Street. In December of 2022 the District provided an easement to the City from the water tower to County Line Road for the 8-inch water main that supplies the Districts' water. Per the agreement the City owns and maintains this 8-inch main.

The PWSD #8 is in the process of relocating their meter from the water tower to the Platte/Clay County line. When complete the District will be responsible for the main from their meter to their system.

A portion of the easement the district provided to the City now needs to be re-assigned back to the district to facilitate this installation.

**PREVIOUS ACTION:** none

**POLICY ISSUE:**

Facility / infrastructure maintenance

**FINANCIAL CONSIDERATIONS:**

None

**ATTACHMENTS:**

- |   |                                   |
|---|-----------------------------------|
| <input type="checkbox"/> Ordinance                        | <input type="checkbox"/> Contract |
| <input checked="" type="checkbox"/> Resolution            | <input type="checkbox"/> Plans    |
| <input type="checkbox"/> Staff Report                     | <input type="checkbox"/> Minutes  |
| <input checked="" type="checkbox"/> Other: 2016 Agreement |                                   |
| Easement Assignment                                       |                                   |
| Easement Exhibit  |                                   |

**RESOLUTION 1223**

**A RESOLUTION APPROVING THE ASSIGNMENT OF EASEMENT TO  
PUBLIC WATER SUPPLY DISTRICT #8**

**WHEREAS**, the City of Smithville (City) entered into an agreement in October of 2016 to provide water to Public Water Supply District (PSWD) #8; and

**WHEREAS**, on December 21, 2022, PWSD #8 conveyed an easement to the City for the 8-inch main that supplies water to the District from the meter to the point of connection approximately 200 feet into Platte County; and

**WHEREAS**, PWSD #8 and the City have agreed that the meter will be moved to the Platte County line and the City will assign a portion of the easement recorded on December 21, 2022, back to the PWSD #8.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF  
THE CITY OF SMITHVILLE, MISSOURI, AS FOLLOWS:**

**THAT** the Board approves the assignment of easement to PWSD #8 and authorizes the Mayor to sign said easement.

**PASSED AND ADOPTED** by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 2<sup>nd</sup> day of May, 2023.

\_\_\_\_\_  
Damien Boley, Mayor

ATTEST:

\_\_\_\_\_  
Linda Drummond, City Clerk

ASSIGNMENT OF PORTION OF WATER LINE EASEMENT

DATED: April 10, 2023

GRANTOR: City of Smithville, Missouri  
107 W. Main Street, Smithville, MO 64089

GRANTEE: Public Water Supply District No. 8 of Platte County, MO

LEGAL DESCRIPTION:

A 15.00 FOOT WIDE TRACT OF LAND IN PART OF THE FRACTIONAL NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 53 NORTH, RANGE 33 WEST, IN PLATTE COUNTY, MISSOURI, LYING 7.50 FEET ON EITHER SIDE OF THE FOLLOWING DESCRIBED CENTERLINE: COMMENCING AT THE SOUTHWEST CORNER OF SAID FRACTIONAL NORTHWEST QUARTER IN PLATTE COUNTY, · N00°12'09"E, ALONG THE WEST LINE OF SAID FRACTIONAL NORTHWEST QUARTER IN PLATTE COUNTY, A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING OF THE CENTERLINE TO BE HEREIN DESCRIBED; THENCE S89°31'16"E ALONG A LINE 15.00 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF SAID FRACTIONAL NORTHWEST QUARTER IN PLATTE COUNTY, A DISTANCE OF 278.54 FEET TO A POINT ON THE PLATTE COUNTY AND CLAY COUNTY LINE, SAID POINT BEING THE POINT OF TERMINATION OF SAID CENTERLINE AND EASEMENT.

**ASSIGNMENT OF PORTION OF WATER LINE EASEMENT**

KNOW ALL MEN BY THESE PRESENTS:

That the City of Smithville, Missouri, hereinafter called GRANTOR, for and in consideration of one dollar (\$1.00) and other valuable considerations, the receipt of which is hereby acknowledged, does hereby assign, transfer and convey over to Public Water Supply District No. 8 of Platte County, Missouri and its successors and assignees, hereinafter called GRANTEE, all of its rights, title and interests to the following described portion of that certain Water Line Easement assigned to GRANTOR in instrument # 2022039253 recorded on December 21, 2022 in Book 9496 at Page 17 of the Records of the Recorder of Deeds of Clay County, Missouri, on, or as situated in Platte County, Missouri, with said Easement tract further described as:

A 15.00 FOOT WIDE TRACT OF LAND IN PART OF THE FRACTIONAL NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 53 NORTH, RANGE 33 WEST, IN PLATTE COUNTY, MISSOURI, LYING 7.50 FEET ON EITHER SIDE OF THE FOLLOWING DESCRIBED CENTERLINE: COMMENCING AT THE SOUTHWEST CORNER OF SAID FRACTIONAL NORTHWEST QUARTER IN PLATTE COUNTY; NOO°12'09"E, ALONG THE WEST LINE OF SAID FRACTIONAL NORTHWEST QUARTER IN PLATTE COUNTY, A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING OF THE CENTERLINE TO BE HEREIN DESCRIBED; THENCE S89°31'16"E ALONG A LINE 15.00 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF SAID FRACTIONAL NORTHWEST QUARTER IN PLATTE COUNTY, A DISTANCE OF 278.54 FEET TO A POINT ON THE PLATTE COUNTY AND CLAY COUNTY LINE, SAID POINT BEING THE POINT OF TERMINATION OF SAID CENTERLINE AND EASEMENT. SIDELINES OF SAID EASEMENT ARE TO BE SHORTENED OR LENGTHENED TO FORM A CONTIGUOUS BOUNDARY WITH EXISTING PROPERTY LINES.

Said tract further depicted in Exhibit A, attached and incorporated by reference. GRANTEE hereby assumes and agrees to fulfill the conditions of said Water Line Easement within the above-described area.

Dated: May 2, 2023

City of Smithville, Missouri

By: \_\_\_\_\_  
Damien Boley, Mayor

Attest: \_\_\_\_\_  
Linda Drummond, City Clerk

STATE OF MISSOURI       §  
  §  
COUNTY OF CLAY       §

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, Notary Public for said County and State, personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn did say that he/she is the Mayor of the City of Smithville, Missouri and that the foregoing instrument was signed on behalf of said City of Smithville, Missouri by authority of its Board of Aldermen, and said Mayor acknowledged the instrument to be the free act and deed of the City of Smithville, Missouri.

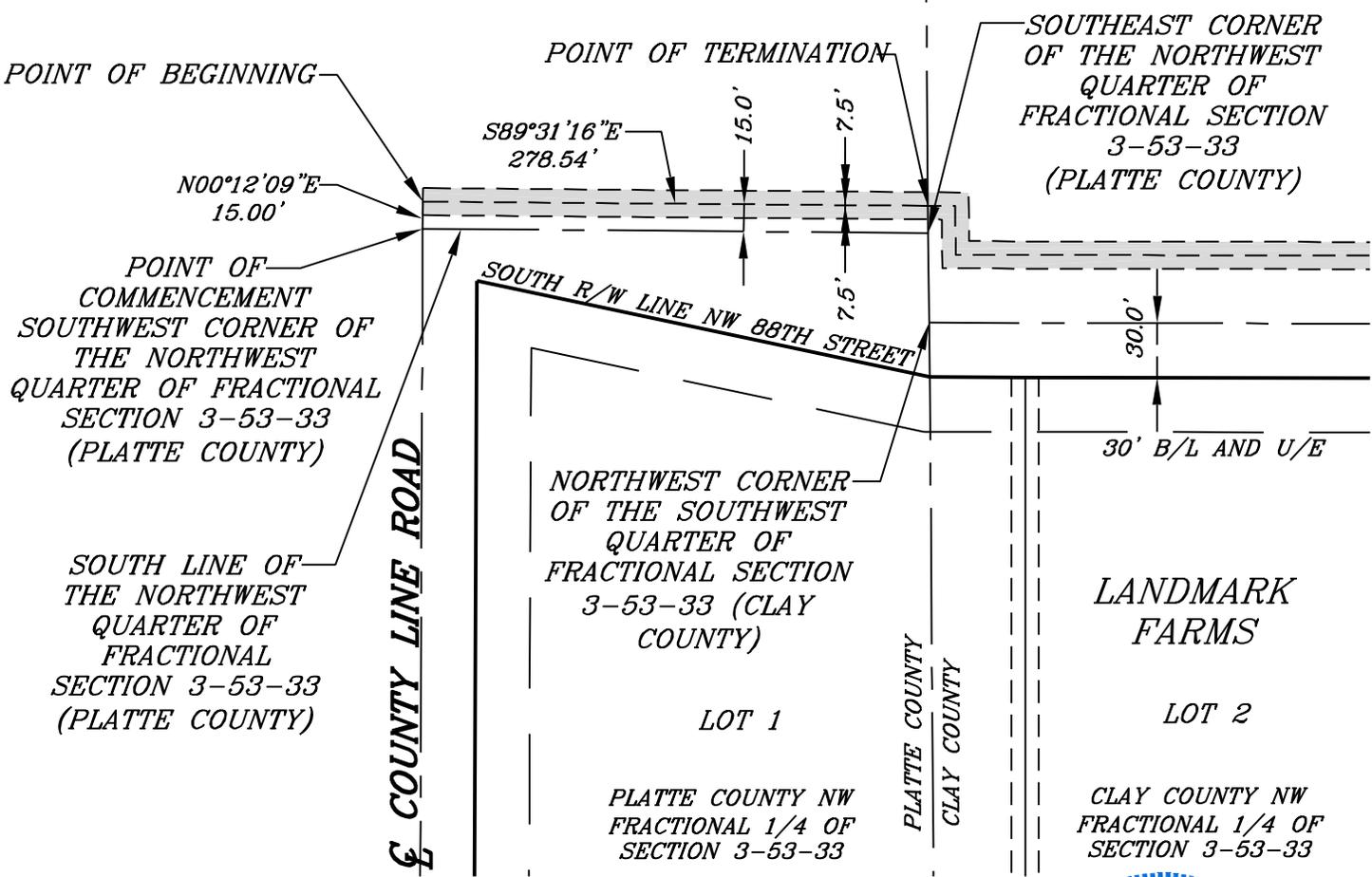
In witness whereof, I have hereunto set my hand and affixed my seal the date you first above written.

\_\_\_\_\_  
Notary Public

**PROPERTY DESCRIPTION**

CONTAINING 4,178 SQUARE FEET  
PROPERTY DESCRIPTION

A 15.00 FOOT WIDE TRACT OF LAND IN PART OF THE FRACTIONAL NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 53 NORTH, RANGE 33 WEST, IN PLATTE COUNTY, MISSOURI, LYING 7.50 FEET ON EITHER SIDE OF THE FOLLOWING DESCRIBED CENTERLINE: COMMENCING AT THE SOUTHWEST CORNER OF SAID FRACTIONAL NORTHWEST QUARTER IN PLATTE COUNTY; N00°12'09"E, ALONG THE WEST LINE OF SAID FRACTIONAL NORTHWEST QUARTER IN PLATTE COUNTY, A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING OF THE CENTERLINE TO BE HEREIN DESCRIBED; THENCE S89°31'16"E ALONG A LINE 15.00 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF SAID FRACTIONAL NORTHWEST QUARTER IN PLATTE COUNTY, A DISTANCE OF 278.54 FEET TO A POINT ON THE PLATTE COUNTY AND CLAY COUNTY LINE, SAID POINT BEING THE POINT OF TERMINATION OF SAID CENTERLINE AND EASEMENT.



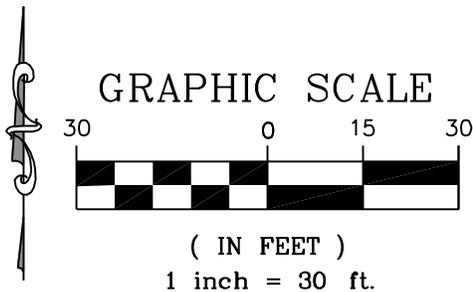
**SURVEYOR'S CERTIFICATION**

I HEREBY DECLARE THAT THIS DRAWING WAS PREPARED UNDER MY SUPERVISION FOR BUILDING PERMIT APPLICATION AND CONSTRUCTION PURPOSES ONLY; THAT THIS DRAWING DOES NOT REPRESENT A BOUNDARY SURVEY AND THE PROPERTY LINES SHOWN HEREON HAVE NOT BEEN VERIFIED.

*Robert G. Young*  
ROBERT G. YOUNG, PLS-2007000089  
04/07/2023



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**R.L. Buford & Associates, LLC**  
LAND SURVEYING - DEVELOPMENT CONSULTANTS  
R.L. BUFORD & ASSOCIATES, LLC - MO CERT. OF  
AUTHORITY LICENSE NO. LS-2010031977  
P.O. BOX 14069, PARKVILLE, MO. 64152 (816) 741-6152

FOR <b>PWSD#8</b>	SEC.-TWP.-RGE. 3-53-33	COUNTY PLATTE	JOB NO. L-23037
	DATE 04/07/2023	FIELD BOOK LOOSE LEAF	PAGE LOOSE LEAF
<b>EASEMENT EXHIBIT</b>			DRAWN BY R.G.Y.

## WATER PURCHASE CONTRACT

**THIS CONTRACT**, for the sale and purchase of water is entered into on the 18<sup>th</sup> day of October, 2016, between **THE CITY OF SMITHVILLE, MISSOURI** (Address: Smithville, Missouri 64089), a City of the Fourth Class organized and existing under the laws of the State of Missouri, hereinafter referred to as the "SELLER," or "CITY" and **PUBLIC WATER SUPPLY DISTRICT NO. 8, OF PLATTE COUNTY MISSOURI**, (Address: P.O. Box 290, Smithville, Missouri 64089), hereinafter referred to as the "PURCHASER" or "BUYER".

WITNESSETH:

WHEREAS, **PURCHASER** is organized and established under the provisions of §247.010 to and including §247.227 of the Revised Statutes of Missouri, for the purposes set forth in said statutes and operates a water supply system, and

WHEREAS, in 2006 a Water Purchase Agreement was executed by the **PURCHASER** and **CITY** for the purpose of delivering and selling water to **PURCHASER** by **CITY** which is set to expire on or about November 1, 2016; and

WHEREAS, **PURCHASER** requires a supply of treated and potable water, and

WHEREAS, **SELLER** owns and operates a water supply distribution system with a capacity currently capable of serving the present customers of the **SELLER'S** system and the estimated number of water users to be served by **PURCHASER** as shown in the plans of the system now on file in the office of the **PURCHASER**, and

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

A. The SELLER Agrees:

1. (Quality and Quantity) To furnish the **PURCHASER** at the point of delivery hereinafter specified, during the term of this Contract or any renewal or extension thereof, potable, treated water meeting applicable purity standards of the Missouri Department of Natural Resources in such quantity as is set forth in Exhibit A, which is hereto attached and incorporated herein by reference.

2. (Points of Delivery and Pressure) Water will be furnished at a reasonably constant pressure calculated at 30-50 p.s.i. from a six (6) inch main supply at a point located on the south side of State Highway KK at the city limits of **SELLER**, designated herein as Location No. 1. If a greater pressure than that normally available at the point of delivery is required by **PURCHASER**, the cost of providing such greater pressure shall be borne by the **PURCHASER**. Water will also be furnished within the fenced enclosure of City's water tower at 188<sup>th</sup> Street at 1800 g.p.m. from an eight (8) inch main supply, designated herein as Location

No. 2. "The eight (8) inch line runs from the tower to the meter within the fenced enclosure and then from the meter to a connection point near 188<sup>th</sup> Street and Countyline Road. Emergency failures of pressure of supply due to main supply line breaks, power failure, flood, fire and use of water to fight fire, earthquake, or other catastrophe shall excuse SELLER from this provision for such reasonable period of time as may be necessary to restore service.

3. (Metering Equipment) To operate and maintain at its own expense at said point of delivery, the necessary metering equipment, and said SELLER agrees to calibrate such metering equipment whenever requested by 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 for the six (6) months previous to such test in accordance with the percentage of inaccuracy found by such test. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in a corresponding period immediately prior to the failure, unless SELLER and PURCHASER shall agree upon a different amount. The metering equipment shall be read by the last day of each month. An appropriate official of PURCHASER shall have access to the meter at all reasonable times for the purpose of verifying said meter readings and for the purpose of inspection, repair and maintenance of the meter and associated electronic equipment.

4. (Billing Procedure) To furnish PURCHASER at the above address not later than the 1st day of each month, with an itemized statement of the amount of water furnished PURCHASER during the preceding month.

B. The PURCHASER Agrees:

1. (Rates and Payment Date) To pay SELLER, not later than the 16th day of each month, for water delivered in accordance with the following rate: Four Dollars (\$4.00) per 1000 gallons. Any payment not made by the due date agreed to above shall be considered delinquent and the amount of the bill shall be increased ten percent (10%). If the bill is not paid within thirty (30) days from said due date SELLER reserves the right to discontinue furnishing of water until all bills for water and claims therefore are settled in full, or at its option to terminate this agreement pursuant to the terms of Paragraph C-9.

2. PURCHASER shall convey the entire easement for the eight (8) inch line from the meter to the point of connection with PURCHASER'S system over to the SELLER. This conveyance covers the entire easement which extends approximately 200 feet into Platte County west of SELLER'S city limit.

3. PURCHASER recognizes that the ownership of the eight (8) inch line from the tower to the meter and from the meter to the point of connection with PURCHASER'S system belongs exclusively to the SELLER.

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

1. (Term of Contract) If not terminated earlier as herein provided, this Contract shall extend for a term of fifteen (15) years from the date of November 2, 2016. After November 2, 2026, either party may terminate this agreement upon Thirty-Six Months' notice to the other party.

2. (Failure to Deliver) That **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 **PURCHASER** with quantities of water required by **PURCHASER**. Temporary or partial failure to deliver water shall be remedied with all possible dispatch. In the event of a system-wide extended shortage of water, or the total supply of water available to **SELLER** is otherwise diminished over a period of time, the supply of water to **PURCHASER'S** water users shall be reduced or diminished in the same ratio or proportion as the supply to **SELLER'S** water users is reduced or diminished.

3. (Modification of Contract) That the provisions of this Contract pertaining to the rate to be paid by **PURCHASER** for water delivered as are provided in paragraph B-1 of this contract are subject to modification; however, any increase in such rates shall not be greater than the same percentage of increase as **CITY** charges its own citizen retail consumers/customers. Any such change in rate shall become effective at the same time as such change becomes effective to **CITY'S** own citizen retail customer/consumers. Notwithstanding the terms of paragraph C-1 **PURCHASER** may terminate this Agreement upon twelve (12) months' notice if said notice is given to **SELLER** within ninety (90) days of the effective day of the rate increase. **City** and **Purchaser** agree to make themselves reasonably available to meet on an annual basis to discuss this Agreement and any issues concerning this Agreement. Other provisions of this Contract may be modified or altered by mutual written agreement. **SELLER** shall provide **PURCHASER** with thirty days' notice of any price increase before the change in rate shall become effective.

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

5. (Applicable Law -Venue) This is a cooperative Agreement authorized by Missouri Revised Statutes Section 70.210 et seq. (1994). Any litigation between the Parties with regard to this Agreement shall be in Clay County Missouri and governed by Missouri Law.

6. (Assignment) Neither **CITY** nor **BUYER** shall sell, assign, transfer, or otherwise convey any of their rights under this Agreement without the prior and expressed written consent of the other party. Each party may, in its sole discretion, refuse to consent to any proposed sale, assignment, transfer, or other conveyance.

7. (Sole Source) **BUYER** and **CITY** agree that **CITY** shall be the sole source of water for the **BUYER**. **BUYER** may use other sources of supply during an emergency or any planned outage of the **CITY** source

8. (Water Usage) **BUYER** agrees that the water purchased under the terms of this Agreement shall be used solely within the boundaries of **BUYER's** District, or to Buyers current customers (as of the date of this agreement) who receive services outside of the Buyer's district, or as they may be agreed to in the future in writing by **BUYER** and **CITY**.

9. (Contract Termination – **CITY**) Notwithstanding anything set forth above, **BUYER** understands and agrees that if it becomes delinquent with a payment, and **BUYER** has not cured such violation within thirty (30)) days of written notification of such violation, **CITY** may terminate this Agreement upon sixty (60) days written notification to **BUYER**, unless **CITY** has been paid all amounts within that period.

10. (Eight Inch Line Maintenance) **CITY** shall maintain the eight (8) inch line mentioned in paragraphs B-2 and B-3 and **PURCHASER SHALL HAVE no ownership interest therein or responsibility therefor.**

11. (FORCE MAJEURE) In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement, then the time allowed for performance of such act shall be extended by a period equivalent to the period of such delay.

12. (Condition Precedent) This Agreement shall not be binding on **PURCHASER** until approved by resolution of the Board of Directors of **PURCHASER**, and the execution of this Contract by the President, as attested by the Clerk, was duly authorized;

13. (Condition Precedent) This Agreement shall not be binding on the **CITY** until approved by the **CITY'S** Board of Alderman by Ordinance and the execution of this Agreement by the Mayor, as attested by the City Clerk, is/was duly authorized.

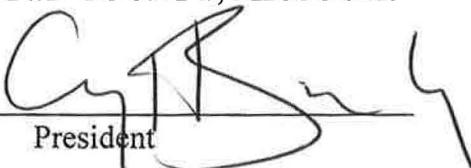
**IN WITNESS WHEREOF**, the parties hereto, acting under authority of their respective governing bodies, have caused this Contract to be duly executed in four (4) counterparts, each of which shall constitute an original.

**SELLER:**  
**CITY OF SMITHVILLE,**

By:   
\_\_\_\_\_  
Mayor

ATTEST   
\_\_\_\_\_

**PURCHASER:**  
**MISSOURI PUBLIC WATER**  
**SUPPLY DISTRICT NO. 8 OF**  
**PLATTE COUNTY, MISSOURI**

By:   
\_\_\_\_\_  
President

ATTEST   
\_\_\_\_\_

City Clerk

SEAL

Clerk

SEAL

## EXHIBIT A

### MAXIMUM & MINIMUM USAGE PER MONTH

<u>YEAR:</u>	<u>MAXIMUM</u>	<u>MINIMUM</u>
0	5,500,000.00	1,600,000.00
1	5,706,250.00	1,600,000.00
2	5,920,234.38	1,600,000.00
3	6,142,243.16	1,600,000.00
4	6,372,577.28	1,600,000.00
5	6,611,548.93	1,600,000.00
6	6,859,482.02	1,600,000.00
7	7,116,712.59	1,600,000.00
8	7,383,589.31	1,600,000.00
9	7,666,473.91	1,600,000.00
10	7,947,741.68	1,600,000.00
11	8,245,781.99	1,600,000.00
12	8,554,998.82	1,600,000.00
13	8,875,811.27	1,600,000.00
14	9,208,654.20	1,600,000.00
15	9,553,978.73	1,600,000.00

Year 0 starts at 5,500,000. Each year thereafter is multiplied by an assumed rate of inflation of 3.75%.

