

CONTRACT FOR WATER SERVICE
BETWEEN THE
BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL
AND THE
CITY OF MENDOTA, MINNESOTA

This Contract is made and entered into this 8th day of May, 2018 by and between the BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL, a Minnesota municipal corporation d/b/a Saint Paul Regional Water Services ("Board") and the CITY OF MENDOTA, a municipal corporation located in Dakota County, Minnesota ("Mendota").

WITNESSETH:

That the said parties, in consideration of the mutual covenants and agreements hereinafter set forth, have agreed to and with each other as follows:

ARTICLE 1.0 – TERM, LIABILITY, INDEMNIFICATION

SECTION 1.1 Term of Contract

This Contract shall be for an initial term of twenty (20) years commencing on the 8th day of May, 2018, and terminating on the 8th day of May, 2037, unless terminated earlier as hereinafter provided. It is expressly understood that this Contract may be extended for an additional term of twenty years (20) by the written consent of both parties. This Contract may be terminated for default, or may be cancelled by either party if laws are enacted by the State of Minnesota or the United States of America which substantially and adversely affect rights, duties, or obligations of either party under this Contract.

If this agreement is terminated for any reason prior to full and complete payments due to the Board relating to Section 4.2 of this agreement are received, the remaining amount due the Board is to be paid in full immediately.

SECTION 1.2 Default

Either Mendota or the Board shall have the right to terminate this Contract in the event that the other party fails to comply with any of the terms and conditions of this Contract. An act of default shall include failure to pay charges lawfully due the Board under the terms of this Contract and the Board shall have the right to terminate water service. Termination of this Contract and/or water service may occur

only after reasonable written notice setting forth the act(s) of default has been submitted to the other party, and the defaulting party shall have a reasonable opportunity to correct any condition which is cited as cause for termination of the Contract and/or water service. Notice of default shall be in writing by certified mail to the parties at the following addresses:

Mendota City Clerk
P.O. Box 688
Mendota, MN 55150-0688

Board of Water Commissioners of the City of Saint Paul
c/o SPRWS General Manager
1900 Rice Street
Saint Paul, MN 55113-6810

SECTION 1.3 Liability of Board

The Board agrees to furnish the water requirements of Mendota and its residents for domestic, commercial, and fire protection purposes under normal static pressure in its mains at the points of connection. It is understood and agreed, however, that the Board undertakes to supply such water only in case the pressure in its mains is sufficient to enable it so to do, and the Board assumes no responsibility for failure to supply water resulting from acts or conditions beyond its control.

SECTION 1.4 Indemnification

Mendota does hereby covenant and agree to indemnify, defend and save harmless the Board, the City of Saint Paul, and all of their officers, agents, employees and servants from any and all claims arising from or that may be claimed to arise from the operation, maintenance, repair or existence of Mendota's water system, or from failure to abide by this Agreement, including but not limited to, failure to comply with Section 2.3, with the exception of claims arising from the negligence of the Board.

SECTION 1.5 Guarantee of Supply

The Board agrees to furnish all water requirements of Mendota under the terms, conditions and provisions of this Contract as herein provided subject to the qualifications hereinbefore set forth.

It is agreed by and between the parties hereto that the terms, conditions and provisions outlined in this Contract shall be applicable only between the parties hereto and shall not afford to consumers within Mendota any rights or interests hereunder.

ARTICLE 2.0 – WATER QUALITY AND USE

SECTION 2.1 Water Quality

The quality of water furnished to Mendota shall be the same as treated water supplied by the Board to its other consumers and shall meet State Health Department standards.

SECTION 2.2 Use of Supplemental Water Supply

No supplemental supply of water shall be connected to the Mendota water system being served by the Board without the prior approval of the Board.

This Contract shall not preclude Mendota from establishing a portion of its water system to be supplied from any source approved by the Minnesota Department of Health in areas where water supply from the Board is impractical or unworkable, or in such cases where a central water supply system may be constructed and installed for a housing development prior to the time that water mains supplying the area with water purchased from the Board can be extended. However, in no case shall there be direct connections between the Board's supply system and other supplies, and whenever the Board's supply system is deemed practical and workable, the other supply shall be discontinued.

SECTION 2.3 Rules and Regulations

Mendota further agrees that the use and distribution of water in Mendota, derived from the supply furnished from the mains of the Board, shall at all times be governed by rules, regulations, policies, and conditions which the Board has heretofore adopted for the City of Saint Paul, or which it may hereafter adopt for said City concerning the preservation, regulation and protection of its water supply, including water waste, water conservation, sprinkling restrictions and water use for air conditioning equipment.

Mendota agrees to enact such rules, regulations, policies, and conditions into ordinances and make them legally effective and binding within sixty (60) days after the execution of this Contract, and to enact any amendments thereto adopted by the Board within thirty (30) days after being notified of such adoption, and to adopt suitable penalties for the violation of rules, regulations, policies and conditions, and to strictly enforce such rules, regulations and requirements.

SECTION 2.4 Board's Jurisdiction in Mendota

It is further agreed that the Board, through its officers, agents and employees, shall have the same authority and jurisdiction in the enforcement of such rules and regulations in Mendota that the Board has in the City of Saint Paul. Further, Mendota agrees that when complaint is made to it by any of the officers, agents or employees of the Board of a violation of the aforesaid rules and regulations, Mendota will take immediate and effective steps to prevent the further violation of such rules and regulations and punish the violators thereof, and that Mendota will make it the duty of its attorney to prosecute any violations of such rules, regulations and ordinances upon complaint being made of the violation thereof by the Board or by any of its officers, agents or employees.

SECTION 2.5 Future Quality Standards

To promote and provide quality water for Mendota and the Board's service area, both parties recognize the need for the operation and maintenance of all existing water facilities, and that construction, operation and maintenance of future water facilities may be required by the Board or Mendota to meet present and future primary water quality standards and any secondary water quality standards deemed necessary or desirable by the Board, and that such facilities are in the best interest of both parties.

No unreasonable or unnecessary regulation, permit fee, or time delay shall be imposed upon either party by the other party which would limit or restrict the construction, operation and maintenance of any water facility required to assure compliance with any water quality standard mentioned above.

SECTION 2.6 Future Operating Characteristics

Mendota may desire to change the operating characteristics of its water system from time to time and may request different or additional connections. In that event, Mendota shall pay all costs associated with providing the required additional facilities. Additional connections to the Board's system shall be subject to Board approval and such approval shall not be arbitrarily withheld.

ARTICLE 3.0 – SYSTEM STANDARDS

SECTION 3.1 Standards

Water mains, appurtenances, services and connections shall be of the same kind of materials and constructed in the same manner and under the same standards, rules and regulations as are now in effect or as may hereinafter be prescribed by the Board for similar installations in the City of Saint Paul or under standards acceptable to the Board.

A review of the Board's standards, rules, regulations, policies and conditions as they relate to Mendota shall be held with representatives present from both Mendota and the Board. Either party may request a review and a meeting shall be scheduled at a time and place agreeable to both parties.

SECTION 3.2 Mains Constructed by Mendota

Mendota agrees to construct or have installed, at its own expense, adequate and suitable water mains and appurtenances for the distribution of water within the corporate limits of Mendota in accordance with specifications and standards acceptable to the Board. Plans of all extensions to the Mendota system connecting to the Board's water supply shall be submitted for approval to the Board before advertising for bids, the awarding of contracts or beginning actual construction.

The initial water system and any improvements necessary to provide adequate water service for the citizens within Mendota shall be considered development costs necessary to providing water service and these services shall be provided by Mendota at no expense to the Board.

SECTION 3.3 Right-of-Way Changes

Any and all expenses or costs accruing to the water supply system in Mendota in connection with the maintenance, reconstruction, overlaying or paving of public streets, alleys or rights-of-way due to change of grade on such streets, alleys, rights-of-way or any other change resulting from actions of Mendota, County of Dakota or State of Minnesota as such changes affect mains, services and appurtenances within Mendota shall be the responsibility of Mendota.

SECTION 3.4 Service Connections

It is agreed that all service connections from the main to the property line shall be installed by the Board under rules identical with those in effect in the City of Saint Paul or as may hereafter be modified by the Board. New applications for water service connections shall be made to and through the Board and each applicant shall furnish the Board a certified street address established by Mendota.

SECTION 3.5 Service Connection Guarantee

The Board will, without expense to Mendota or the owner, make all necessary repairs and maintenance to that part of the service connection from the main to the property line under rules identical with those in effect in the City of Saint Paul or as may be modified by the Board. Service connections from private mains or a system not served by the Board's water supply shall not be guaranteed.

SECTION 3.6 Piping, Fixtures, etc.

Mendota, by the enactment of suitable rules, regulations, or ordinances must require that all interior piping, fixtures, accessories, or on-premises piping in any manner connected to the public water system supplied by the Board shall be of the same materials, installed in the same manner and meet the same standards as are required for the same or similar work in the City of Saint Paul.

SECTION 3.7 Extensions of the System

It is agreed that Mendota shall make no extensions to its water distribution system beyond the corporation limits of Mendota without the written approval of the Board.

SECTION 3.8 Right to Inspect

The Board, through its officers, agents and employees, shall have the right at all times to examine, inspect and test any materials or workmanship used or to be used in connection with the waterworks system of Mendota and supplied with water by the Board or connections thereto, for the purpose of determining whether or not they comply with the foregoing provisions, and shall have the right to examine and inspect the materials and workmanship and method of installation of house plumbing connecting with said waterworks system for the same purpose. Mendota shall pay the Board the actual cost of said inspection on new or replacement water main, services or appurtenance installations whenever installed by other than the Board.

ARTICLE 4.0 – SYSTEM MAINTENANCE

SECTION 4.1 Waterworks Defined

Waterworks shall be defined in this Contract to include distribution mains, service connections, fire hydrants, valves, water metering systems and related appurtenances.

SECTION 4.2 Board to Maintain System

Except as hereinafter provided, the Board agrees to maintain and make necessary repairs to the waterworks system of Mendota supplied with water by the Board as defined in SECTION 4.1 above and as further defined by the most recent revision of the Legislative Code for the City of Saint Paul, to keep the same in proper repair and condition to prevent any waste of water. Mendota further agrees that the Board may make emergency repairs to the waterworks system of Mendota, and the cost of such maintenance, including street repair shall be at the sole expense of the Board. Notwithstanding the foregoing, the Board and Mendota agree that a pressure reducing valve is necessary to bring pressures in Mendota's mains to a range of operating levels acceptable to the Board. Until such time that this device is installed and operable, the costs of any repairs and/or maintenance, including surface restoration, which in the opinion of the Board are due to pressures outside of the aforementioned range, shall be at the sole expense of Mendota.

Once this agreement is approved and fully executed, a pressure reducing valve, and the appurtenant improvements required, shall be installed by Board forces as soon as is practicable at a location and in a manner determined by the Board. The cost of the labor, material, and equipment to accomplish the work shall be shared by Mendota and the Board, with 80% of the actual costs borne by Mendota and 20% of the actual costs borne by the Board. Mendota shall pay its share of the actual costs

in five (5) equal installments made annually to the Board. The first installment shall be due January 1, 2019 and thereafter on the first of January each subsequent year through January 1, 2023. The amount of the equal installments shall be provided by the Board to Mendota as soon as all costs have been tabulated. A fully itemized listing of all actual costs shall be provided to Mendota by the Board upon request.

An as-built plan showing all improvements installed to accomplish the installation of the pressure reducing valve shall be provided to Mendota by the Board. The Board will be responsible for ongoing maintenance of these improvements. The Board may elect to replace any of these improvements where the cost of maintenance exceeds the cost of replacement. The actual costs of such replacements will be shared by Mendota and the Board, with 80% of the actual costs borne by Mendota and 20% of the actual costs borne by the Board. Mendota shall pay its share of the actual costs of replacement within thirty (30) days of written invoice provided by the Board. A fully itemized listing of all actual costs of such replacements shall be provided to Mendota by the Board upon request.

SECTION 4.3 Board's Option to Maintain or Replace

The Board may elect to replace, within Mendota, any fire hydrant, service connection and water metering system where the cost of maintaining the existing facility exceeds the cost of replacement. The same standards which apply within the City of Saint Paul shall be used by the Board within Mendota to determine whether replacement is justified. Replacement of distribution mains shall be considered capital improvements and are all the responsibility of Mendota.

SECTION 4.4 New Mains / Maintenance by Board

It is further agreed by and between the parties to this Contract that where Mendota constructs or contracts for the construction of new mains, services and appurtenances to be connected to the system and supplied with water by the Board pursuant to the terms, conditions, and provisions of this Contract, that the Board shall not be responsible for the maintenance or repairs to such newly constructed additions to the water supply system until one year from the date the same have been placed in operation, or until the Board has notified Mendota in writing of the acceptance by it of such installation, whichever date is earlier.

When public street projects occur, the Board shall have the opportunity to assess the condition of any waterworks prior to the project being advertised for bid. If the Board recommends replacement of existing waterworks as a part of such project and if Mendota determines that such replacement is unnecessary at that time, Mendota shall be responsible for any extraordinary future costs related to the postponement of such replacements.

SECTION 4.5 Board's Right to Use of Streets

Mendota does hereby grant the Board free and uninterrupted use of all public thoroughfares, alleys or public easements of Mendota as may be reasonably necessary for use of the Board in construction or maintenance of the water system within the corporate limits of Mendota, and Mendota does hereby agree through its departmental agencies to cooperate to the fullest extent in the protection of any mains, appurtenances and excavations or barricades that may be necessary to the work performed by the Board.

ARTICLE 5.0 - METERS AND RELATED SERVICES

SECTION 5.1 Board to Furnish Meters

The Board shall furnish, install and retain title to all meters and appurtenances such as radio transmitters and remote meter reading devices installed on other than fire services with full responsibility for maintenance of same in accordance with rules and regulations presently in effect in the City of Saint Paul or as may hereafter be modified by the Board. Fire service meters shall be governed by Section 89. – Water Code – Fire Supplies of the Legislative Code of the City of Saint Paul as it is presently in effect or as may hereafter be modified by the Board.

SECTION 5.2 Billing and Collection

The Board shall assume full responsibility for the expense of reading meters, billing and collection of accounts. The supply of water through each separate water service connection must be recorded by one (1) meter only, for which only one (1) account will be maintained by the Board.

Mendota shall immediately adopt an ordinance giving the Board authority to certify past due billed charges to Dakota County for collection with property taxes. Any unpaid bills shall become a continuing lien on the property. Mendota shall indemnify, defend, and hold harmless the Board against any claim, action or lawsuit brought to dispute any such certification or unpaid bill. Upon receipt by Mendota or the Board of such claim, action, or lawsuit, Mendota shall reimburse the Board the full amount of the disputed certification to the extent Mendota has received those funds.

ARTICLE 6.0 - WATER RATES

SECTION 6.1 Rates and Fees

The rates and fees charged to Mendota consumers shall be those charged to consumers within the City of Saint Paul multiplied by a factor of 1.20, excepting the City of Saint Paul Right-of-Way Recovery

Fee. The multiplier of 1.20 shall be applied to the current and any future water rate structure which the Board adopts and is approved by the City Council of the City of Saint Paul.

ARTICLE 7.0 - HYDRANTS

SECTION 7.1 Hydrants

Hydrant use for purposes other than firefighting by Mendota shall be subject to the same rules and regulations applied by the Board in the City of Saint Paul.

SECTION 7.2 Inspection of Hydrants

An annual inspection of all hydrants located in Mendota will be performed by Board crews. Repair and maintenance work required on hydrants in Mendota will be performed in the same manner as work conducted in the City of Saint Paul.

SECTION 7.3 Hydrant Nozzle Threads

The Board recognizes the Saint Paul Standard for hydrant nozzle threads as selected by Mendota for hydrants within the corporate limits of Mendota. All new and replacement hydrants shall include one Storz connection.

SECTION 7.4 Painting of Hydrants

Mendota shall establish a program for repainting hydrants at intervals of no less than ten (10) years, and the repainting shall be according to Mendota standards.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the
dates listed below.

Approved as to form:

**BOARD OF WATER COMMISSIONERS OF THE
CITY OF SAINT PAUL**

By: _____
Stephen P. Schneider, General Manager
Saint Paul Regional Water Services

By: _____
Matt Anfang, President

Date: _____

Date: _____

By: _____
Lisa Veith, Senior Assistant City Attorney

By: _____
Mollie Gagnelius, Secretary

Date: _____

Date: _____

By: _____
Todd Hurley, Director
Office of Financial Services

Date: _____

CITY OF MENDOTA

By: _____
Thomas Lehmann, City Attorney

By: _____
Brian Mielke, Mayor

Date: _____

Date: _____

By: _____
Kathy Krotter, City Clerk

Date: _____