

## WATER PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the City of Sibley, 808 3<sup>rd</sup> Ave., P.O. Box 126, Sibley, Iowa 51249, hereinafter referred to as “Seller” and the City of Harrisburg, 301 E. Willow St., Harrisburg, South Dakota 57032, hereinafter referred to as “Purchaser”, as follows:

WHEREAS, Seller is a member of Lewis and Clark Regional Water System and has contracted to purchase 650,000 gallons of water per day; and

WHEREAS, Seller is not able to use its full allotment now and in the future from Lewis and Clark Regional Water System and is willing to sell a portion to Purchaser.

NOW, THEREFORE, in consideration of the terms, conditions and mutual covenants herein contained, the parties agree as follows.

1. Seller shall furnish to Purchaser, as a portion of its allocation from Lewis and Clark Regional Water System, the following amounts of water:
  - a. Commencing May 1, 2021, the amount of 200,000 gallons per day.
  - b. Commencing April 1, 2022, the amount of 250,000 gallons per day.
  - c. At Phase II Completion, fifty percent (50%) of the available water in Phase II, which is estimated to be approximately 179,250 gallons per day.
2. The cost of the water supplied under this agreement to Purchaser shall be \$0.30 per thousand (1,000) gallons above the current effective rate of the cost of the water as provided to Seller as a member of Lewis and Clark Regional Water System. As additional consideration for the purchase of the Phase II water supplied, Purchaser shall pay for seventy-five percent (75%) of Seller’s construction costs for Phase II. Purchaser shall make payment to Seller for Phase II construction costs within thirty (30) days of written request from Seller. Payments may be requested in a lump sum upon completion or as progress payments through construction.
3. For water supplied pursuant to Sections 1.a and 1.b, the term of this agreement shall be thirty (30) years from the date of this agreement. For water supplied pursuant to Section 1.c, the term of this agreement shall be twenty-five (25) years from the date of Phase II Completion.
4. In the event of the following occur, the parties may agree to terminate the agreement early:
  - a. Lewis and Clark Regional Water System is no longer able to supply water to Seller to fulfill the needs of Purchaser;

- b. Purchaser breaches the terms and conditions of this agreement; or
  - c. The parties mutually agree to terminate this agreement.
5. Seller shall be responsible for monthly invoicing the sale of water to Purchaser. Lewis and Clark Regional Water System will invoice Seller on a monthly basis and Seller will then invoice Purchaser for the amount of 250,000 gallons based upon the Lewis and Clark Regional Water System rate plus \$0.30 per thousand (1,000) gallons above the current effective rate. Purchaser shall be responsible for payment to Seller of the amount invoiced within fifteen (15) days of receipt of said invoice.
  6. Each party shall indemnify and hold harmless the other party from and against any and all loss, damage, liability, cost and expense including, without limitation, reasonable attorney's fees and disbursements relating to any personal injury, death or property damage, or other economic losses arising from or concerning the acts or omissions of the other party under this agreement, or the negligence or willful misconduct of the party holding the other harmless, including that party's employees and agents.
  7. The quality of the water and pressure of delivery will be as provided by Lewis and Clark Regional Water System. Seller shall have no obligation to provide for any metering equipment or pay for any connection costs.
  8. Purchaser's obligations to make the payments set forth in this agreement shall be lawfully made from funds to be budgeted and appropriated for that purpose during the Purchaser's then current fiscal year. The Purchaser's obligation hereunder shall not in any way be construed to be a debt of the Purchaser in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the Purchaser, nor shall anything contained herein constitute a pledge of the general credit, tax revenues, funds or moneys of the Purchaser.
  9. This agreement shall be governed by applicable local, state or federal regulations or laws in the State of Iowa. The parties agree to cooperate in the obtaining of all permits, certificates and other documents necessary or convenient to carry out the terms and purposes thereof.
  10. This agreement may be modified at any time by mutual written consent of the parties.
  11. The parties mutually acknowledge that this is the entire agreement between the parties hereto.

12. This agreement all terms and conditions herein shall be binding upon the parties and their agents, successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto executed this agreement by and through their authorized officers, on the date first above written.

**CITY OF SIBLEY,  
IOWA**

**CITY OF HARRISBURG,  
SOUTH DAKOTA**

\_\_\_\_\_  
Jerry L. Johnson, Mayor

\_\_\_\_\_  
\_\_\_\_\_, Mayor

ATTEST:

ATTEST:

\_\_\_\_\_  
Susan Sembach, City Clerk

\_\_\_\_\_  
\_\_\_\_\_, Finance Officer