

PML89WTR

TYPE OF RECORD: ACTIVE NON-PERMANENT
CATEGORY OF RECORD: **WATER**
NAME OF CONTRACTOR: PURDY MESA LIVESTOCK WATER COMPANY
SUBJECT/PROJECT: WATER PURCHASE AGREEMENT
CITY DEPARTMENT: PUBLIC WORKS
YEAR: 1989
EXPIRATION DATE: 7/18/19
DESTRUCTION DATE: 1/25

Copies to Greg Hoover } 7-25-89
Finance }

WATER PURCHASE AGREEMENT

This AGREEMENT is made and entered into this 19th day of July 1989, by and between the City of Grand Junction, Mesa County, Colorado, a home rule city, hereinafter referred to as the "City" and Purdy Mesa Livestock Water Company, Mesa County, Colorado hereinafter referred to as the "Company."

WITNESSETH

WHEREAS, the Company, a Colorado corporation organized under the laws of the State of Colorado, wishes to continue to use a source of untreated and non-potable water to be treated by the Company and then used for household, firefighting, lawn and livestock watering purposes located in the area known as Purdy Mesa and along Kannah Creek, all located in Mesa County, Colorado. A map of the Company's existing distribution system, its tap on the flowline, existing customer locations, and property served is incorporated and attached to this agreement as "Exhibit PM-A", and

WHEREAS, the Company's system supplies piped water for household uses, firefighting, lawn and livestock watering, but not for human consumption, to 27 service connections and regularly serves an average of 100 persons daily through out the calender year, and

WHEREAS, the Company has sold 75 taps, and

WHEREAS, the City owns and operates a raw water transmission

line known as the Kannah Creek Flowline which is located in portions of Sections 31, 32, and 33 of Township 12 South, Range 97 West, and portions of Sections 35 and 36 of Township 12 South, Range 98 West of the Sixth Principal Meridian, Mesa County, Colorado, and

WHEREAS, the Company wishes to derive its source of untreated and non-potable water supply from an existing one inch tap on the above-referenced City flowline which is identified in "Exhibit PM-A" and on the City accounting system as Account Number 1001-0050-010, and

WHEREAS, the City is presently willing to provide untreated and non-potable water to the Company from said existing one inch tap on the City flow line identified in "Exhibit PM-A" or from a larger tap which may be authorized by the City in the future.

NOW, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, IT IS AGREED AS FOLLOWS:

1. Subject to the terms hereof, the City agrees to furnish untreated and non-potable water to the Company at the existing tap location.
2. The City agrees to read the meter at the existing loca-

tion and the Company agrees to pay monthly for the water used based on the meter readings. The rate to be paid by the Company to the City is based on a formula not to exceed 1.72 times Rate No.1 Commercial and Residential Rate (within the city limits), section 31-12 of the City Code. The Rate No.1 rate will change periodically.

3. The City agrees to allow the existing one inch meter to remain at its present location and provide necessary maintenance as required. It is agreed that, at a time convenient to both parties, the existing tap will be increased to a 2" and a 2" meter installed by the City. The cost of the 2" meter, associated labor and materials will be paid forthwith by the Company.

4. The Company agrees that it shall maintain in good order all of its distribution system, and that the City is not responsible for, or liable for, any pipeline maintenance or repairs on the Company's lines which begin on the downstream side of the meter. In no case will the Company construct facilities upstream of the meter unless approved, in writing, prior to construction, by the City Engineer and the Utility Manager. Such facilities, should they be constructed, will remain the responsibility of the Company for maintenance and repair.

5. Subject to the terms of this agreement, the City and the Company agree to limit the amount of water provided to not more than 35,000 gallons per day to be provided at the above-referenced tap. The City is not obligated to provide more than 35,000 gallons of water per day. The City agrees that the 35,000 gallon limit may be exceeded if the Company's pipeline breaks or has a major leak. The Company agrees to accept and pay for amounts of water as measured at the meter. Any proposed increase over 35,000 gallons per day may be requested by the Company with adequate justification. Such an increase must be approved by the City Council.

In order that the City's untreated water supply not become overextended, as solely determined by the City, the Company agrees to restrict the number of its individual taps and users to those sold at the time of this agreement and enumerated in "Exhibit PM-A". It is agreed that this number is seventy-five(75). The Company agrees to notify in writing the City each time a new user receives water from the Company along with each user's full name, address, and property being served on behalf of such user. Any proposed increase over seventy-five (75) taps must be approved by the City Council.

6. If the Company, in order to effectuate the provisions of this agreement, needs to modify its articles, by-laws or agreements of or with its users, the Company shall do so forthwith. The Company shall supply, to each new user and no

less than one time per year to existing users, notice concerning provisions of Articles 5,8,10,11,13, of this agreement. The Company shall supply the City with a map locating all users so the City can record this instrument.

7. The City agrees to provide the amounts of water agreed upon herein for the term set forth below except to the extent that supply is curtailed by relocation or abandonment of the flowline, planned maintenance, emergency repair on the flowline or the delivery structures, acts of God, or other circumstances not foreseen by the parties. In the event of drought and the City determines that the water supply is not adequate to supply City residents, the City shall declare that a shortage exists and shall notify the Company. The determination of shortage shall be made unilaterally by the City and such determination shall be binding on the Company and its users. Within ten days of receipt of such notification the Company shall institute reductions of service to their customers commensurate with reductions of service to City residents. In the event there is planned maintenance on the flowline or the delivery structures which would likely result in an interruption of flow to the Company, the City will attempt to give at least 72 hours notice by telephone to a Company representative. In the event of an emergency, as determined solely by the City, no notice will be provided. If the emergency will result in the line being out of service for a lengthy period of time then notice will be given as

soon as practicable.

8. The Company agrees that, in the event the flowline is moved from its existing location or replaced during the term of this agreement, the Company will bear all costs to reestablish its tap on the new or alternative flowline and to extend its distribution system to the new tap.

9. The Company agrees to hold the City harmless from and to indemnify the City, its officers, agents, and employees from all claims, causes of action, damages, or injury to persons or property arising out of any failure to supply water pursuant to this agreement, except that this provision shall not apply if the failure to supply water is due to the City's breach of this agreement.

The Company further agrees that it will not prevent or object to the City's access to the flowline or to the City's right to repair, replace, modify, enlarge, or move the flowline or delivery structures or to the City's right to modify water sales agreements with other users even though such agreements may contain provisions different than or inconsistent with this agreement.

10. The Company agrees that the water so contracted for is for its users as described in Exhibit PM-A and it shall allow its use only for household uses, firefighting, lawn and live-

stock watering purposes, but not for human consumption, except as provided herein. No lease, sale, donation, transfer, or other disposition of any of the water contracted for herein may be made without the prior written approval of the authorized representative of the City of Grand Junction.

11. The Company agrees that it is solely responsible for maintenance of its pipelines. All water, including water lost in breaks or leaks, which passes through the meter shall be paid for by the Company as provided in this Agreement.

12. The Company agrees and fully understands that the City does not, and is not required to, treat any water passing through the meter in any way and the quality of the water currently delivered to the Company does not, and will not, meet present or future water quality standards as set by any regulatory agency for a domestic water supply. The Company recognizes and agrees to meet the standards set for public water systems by the Safe Drinking Water Act, as amended, or any other applicable law or regulation should the Company provide water for human consumption. The Company will annually certify to the City that the supplying of water for human consumption meets all State, Federal, and Local requirements. In the event of a breach of any provision of this paragraph, the Company agrees the City may disconnect the tap and meter forthwith and when the Company is in compliance with all State, Federal, and local requirements the City will

reconnect the tap.

As the workload of City staff permits, the City agrees to provide technical assistance to the Company in determining alternatives for meeting the drinking water standards. However such assistance will not relieve the Company of its responsibilities under this article nor obligate the City for the payment of any monies.

13. The Company agrees to provide water to the property upon which is situate what is locally known at the Hallenbeck house at the same rates as the Company charges its other users, as part of its water service.

14. Company warrants that the map labelled Exhibit PM-A is accurate and Company recognizes that the City is relying on the accuracy of such map in making this agreement.

15. The term of this Agreement shall be for 30 years and shall terminate on July 18th, 2019. The parties have the option to request review and to renegotiate this agreement upon written request to either party on or before six months prior to each decennial anniversary date of this agreement. All terms and conditions will be renegotiated by both parties in good faith subject to applicable federal and state laws and City policy established at that time.

The City may, at its discretion, build a treatment plant which would replace the existing plant. In such event, there may not be any untreated water in the Kannah Creek Flowline above the existing tap used by the Company. If such occurs, this agreement shall terminate. If such termination occurs either party has the option to request negotiation of a new contract.

16. For the purposes of Article 7, the authorized Company representative is:

President of the Company with consent of the Board
Name: W.D. Bradbury, President
Address: 4614 U.S. Highway 50 Whitewater, Colorado 81527
Phone Number: (303) 241-3918
Emergency Number: (303) 241-3813

17. For the purposes of Article 10 and Article 18 the authorized representative of the City of Grand Junction will be the City Manager with consent of the City Council.

18. No assignment or transfer of this agreement or any rights or duties created herein, shall be valid unless approved in writing by an authorized representative of the City of Grand Junction.

19. In the event that either party negates or breaches any

provision contained herein, 30 days following written notice of the breach having been sent to the breaching party, this agreement may be terminated.

IN WITNESS WHEREOF the parties have set their hands and seals this 19th day of JULY 1989.

City of Grand Junction

Attest:

RT Mantlo
Mayor

Neva B. Lockhart, CMC
City Clerk

Purdy Mesa Livestock Water Company

Attest:

W.D. Bradbury
President

Paul Bonnell
Secretary

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