

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF ANOKATENTH JUDICIAL DISTRICT

City of Blaine,

Plaintiff,

v.

City of Lexington,

Defendant.

Court File No:

Case Type: Civil Other/Miscellaneous
Judge**SUMMONS**

THIS SUMMONS IS DIRECTED TO DEFENDANT ABOVE-NAMED:

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this summons.

2. **YOU MUST REPLY WITHIN 21 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this summons a **written response** called an Answer within 21 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this Summons located at:

Kevin S. Sandstrom, Esq.
Keith A. Marnholtz, Esq.
Eckberg Lammers, P.C.
1809 Northwestern Avenue
Stillwater, MN 55082

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 21 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the Complaint. If you do not want to contest the claims stated in the Complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the Complaint.

5. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

6. **ALTERNATIVE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

ECKBERG LAMMERS, P.C.

Dated: September 12, 2022

By: /s/Keith A. Marnholtz
Kevin S. Sandstrom (0348958)
Keith A. Marnholtz (0392351)
Attorneys for City of Blaine
1809 Northwestern Avenue
Stillwater, MN 55082
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MINNESOTA
JUDICIAL
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STATE OF MINNESOTA**DISTRICT COURT****COUNTY OF ANOKA****TENTH JUDICIAL DISTRICT**

City of Blaine,

Plaintiff,

v.

City of Lexington,

Defendant.

Court File No:

Case Type: Civil Other/Miscellaneous
Judge**COMPLAINT**

Plaintiff City of Blaine, for its claims against Defendant City of Lexington, states and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff City of Blaine (hereafter, "Blaine") is a municipal corporation under the laws of the State of Minnesota located in Anoka County, Minnesota.

2. Defendant City of Lexington (hereafter, "Lexington") is a municipal corporation under the laws of the State of Minnesota located in Anoka County, Minnesota.

3. This Court has jurisdiction over this matter under Minnesota law, including Minn. Stat. § 484.01 and Minn. Stat. § 555.01. Venue is proper in this Court under Minn. Stat. § 542.09.

BACKGROUND FACTS

4. In or around 1976, Blaine began planning to expand its water system in its southeastern portion, which borders Lexington. At the time, the Blaine water system in its southeastern portion was not sufficiently developed to meet the then-present or anticipated future water demand.

5. In an effort to improve its water system infrastructure, Blaine began negotiations with Lexington regarding a joint powers agreement for the development and use of new water system infrastructure for Blaine. The cities' goal with the anticipated joint powers agreement was "to reinforce each other's fire flow capabilities and to provide a more adequate domestic water supply for both cities."

6. On October 6, 1977, negotiations were completed and Blaine and Lexington entered, pursuant to Minnesota Statutes Chapter 429, the Joint Powers Agreement regarding their water systems that is relevant to this case ("JPA"). The JPA is attached to this complaint as **Exhibit A**.

7. Pursuant to the JPA, Blaine agreed to design, finance, and construct an extension of "the Blaine water main trunk system" through Lexington.

8. The cities also agreed to interconnect their water systems. Despite the interconnection of the cities' water systems, each city remained "responsible for the operation and maintenance of its own water system."

9. Additionally, Lexington agreed to sell water to Blaine at a rate of \$0.30 per 1,000 gallons, for use in areas of Blaine that were underserved at that time until such time as "Blaine has completed the construction of its water facilities to serve such area[.]"

10. The cities' JPA was a one-year agreement, which renewed automatically on each subsequent October 6th, unless either party served a written notice of cancellation on the other at least 90 days before the annual renewal date.

11. In accordance with the JPA, Blaine proceeded to design, finance, and construct an extension of the Blaine trunk water main system through Lexington. This included the construction of a 16-inch water main under Hamline Avenue, Flowerfield Road, and Edgewood Road through

Lexington. As part of the construction, Lexington's water system was interconnected with the Blaine trunk water main. This resulted in approximately 15 points of interconnection between Blaine's new 16-inch water main and the existing Lexington water system.

12. At the time of the construction of the Blaine water main trunk system through Lexington and the interconnection of the cities' water systems, the existing Lexington water system had numerous dead-end water lines, which reduced fire flow capability in Lexington's water system. Lexington's water system had this dead-end water line issue before the parties entered into the JPA and this condition continues through today.

13. The interconnection points between the Blaine water system and Lexington water system have never been metered or controlled in any manner. Water flows unmeasured and uncontrolled between the water systems, which inevitably results in water from Lexington's water system flowing into Blaine's water system, mixing with the water in the Blaine system, and being delivered to end users of the Blaine water system.

14. Problems with the free-flowing, unregulated interconnections became apparent after construction was completed on the Blaine trunk water main. From 1977 to present, Lexington has had a single well supplying all of the water for the Lexington water system ("Lexington Well")¹. The Lexington Well produces water that has high levels of alkalinity, hardness, calcium, and manganese.

15. Due to Blaine's concerns over the quality of water produced by the Lexington Well and flowing into the Blaine water system, Blaine researched potential mitigation measures it could take. In 1984, Blaine's City Manager sent a letter to Lexington's Clerk-Administrator proposing the installation of valves and bypasses on the points of interconnection between the cities' water

¹ The Lexington Well is referred to as Well No. 1 by Lexington and Well No. 15 by Blaine.

systems. Such valves and bypasses would allow the cities' water systems to operate independently, while still being capable of providing each other peak demand and fire flow backup.

16. Lexington objected to the proposed installation of valves and bypasses, and Blaine did not proceed with the project.

17. In January 1987, Blaine received a feasibility report for Improvement Project No. 87-03, Separation of the Blaine and Lexington Water Systems. The feasibility report detailed that of the 15 points of interconnection between the water systems, "nine have existing valves that can simply be turned off if separate operation of the two systems is desired. Five locations require that bypass loops or valves be added to allow operation in either combined or separated systems. One location is a dead-end street served only by the Blaine system, so these Lexington residents will probably have to be billed directly by Blaine if the systems are to be operated independently."

18. On June 18, 1987, the Blaine City Council directed the City Manager to provide Lexington with a 90-day notice to cancel the JPA regarding the cities' water systems.

19. On June 26, 1987, the Blaine City Manager provided notice of cancellation of the JPA to Lexington's Clerk-Administrator, in accordance with the 90-day notice provision in the JPA. The notice of cancellation letter is attached to this complaint as **Exhibit B**.

20. On June 29, 1987, the Blaine City Manager issued a press release to area newspapers, announcing Blaine's cancellation of the JPA with Lexington and Blaine's reasons for the termination.

21. On October 6, 1987, the Blaine City Manager, via letter, notified the Lexington City Administrator that the Blaine City Council tabled action on Improvement Project 87-03.

22. The JPA was terminated as of October 5, 1987. The Blaine City Manager proposed to the Lexington City Administrator that the cities enter discussions to formalize a new agreement

to address the issues surrounding the interconnection of the cities' water systems.

23. On April 7, 1988, the Blaine City Council voted to authorize entry of a one-year trial joint powers agreement with Lexington regarding the operation of the cities' water systems ("Second JPA").

24. The terms contained in the one-year Second JPA and whether the Second JPA between the cities was ever reduced to writing and approved are unknown. Neither Blaine nor Lexington have been able to produce a written Second JPA from 1988. Regardless, the one-year term of any Second JPA from 1988 has long expired.

25. The cities have had a long-standing practice regarding the pumping of water. From approximately mid-May through mid-October, when water demand is highest, Lexington pumps water from the Lexington Well, which flows into the Blaine water system and blends with Blaine water. Lexington shuts the Lexington Well down from mid-October through mid-May, during which time Blaine supplies all water for the Lexington water system. The parties theorized that due to the high water demand during the summer and early fall, water quality issues from the Lexington well would be less noticeable when Lexington water is blended with Blaine water.

26. The parties contemplated that Lexington would pump approximately the same amount of water during the five-month period the Lexington Well was engaged as it consumed from Blaine during the seven-month period the Lexington Well was not operating.

27. Despite there being no approved joint powers agreement or other written contract between the parties regarding the pumping arrangement, the pumping arrangement between the cities continued for years.

28. From 1988 to present, Blaine is unaware of any improvements Lexington has made to the Lexington Well or any other efforts Lexington has undertaken to improve its water quality

and address the issues regarding the high levels of alkalinity, hardness, calcium, and manganese in the water pumped from the Lexington Well.

28. Beginning in 2005, Blaine started to make significant investments in its water system, including a new water treatment plant and related components, such as new wells and other water infrastructure. As a result of its investment, Blaine was capable of providing its water customers with fully filtered and treated water in 2021.

29. In May 2020, Blaine Public Works Director Jon Haukaas met with Lexington City Administrator Bill Petracek. During their meeting, Haukaas informed Petracek that Blaine was transitioning to provide its water system customers filtered, treated water in 2021. Haukaas stated Blaine could not continue its prior seasonal water pumping arrangement with Lexington because water from the Lexington well entering Blaine's system would inhibit Blaine's ability to provide its customers with filtered, treated water. Haukaas proposed Lexington could purchase water from Blaine going forward, so that neither Blaine nor Lexington would need to use water from the Lexington Well.

30. Following Haukaas' initial meeting with Petracek, the cities entered into discussions regarding the operations of their interconnected water systems. These discussions have not resulted in any agreement regarding the operations of the cities' water systems and continued interconnection of the systems.

31. Blaine has notified Lexington of its desire and intent to separate the water systems and install valves and meters at all interconnection points between the systems. Blaine has indicated it is willing to maintain points of interconnection between its water system and Lexington's water system, so long as water from the Lexington Well is not permitted to flow into the Blaine water system and that any water from the Blaine water system that enters the Lexington

water system is precisely measured and ultimately paid for by Lexington.

32. Lexington has notified Blaine that it refuses to allow the separation of the cities' respective water systems and will deny Blaine access to the portion of the Blaine water main trunk system that is located within Lexington city limits.

33. In December 2019, water from Lexington's Well tested above federal and state standards for gross alpha, which is a regulated radionuclide. As a result of Lexington's well exceeding federal and state standards for gross alpha, Lexington entered into a compliance agreement with the Minnesota Department of Health ("MDH") on March 5, 2020.

34. According to a MDH press release, the March 5, 2020 compliance agreement between MDH and Lexington requires Lexington to take actions to lower the levels of gross alpha in its water system over the subsequent two years.

35. Despite the compliance agreement, the Lexington Well continued to test above federal and state standards for gross alpha. Accordingly, MDH required Lexington to enter a second compliance agreement to address the gross alpha levels in water from the Lexington Well on February 15, 2022.

36. Despite the fact that water from the Lexington well exceeds federal and state standards for gross alpha, Lexington has elected to engage its well and pump water from the Lexington Well into the Blaine water system. Blaine has repeatedly informed Lexington it does not want water from the Lexington Well to flow into its water system, but Lexington continues to pump water into the Blaine water system over Blaine's objections.

37. Blaine does not want to maintain uncontrolled interconnection points between its water system and the Lexington water system, nor does Blaine want to maintain the seasonal pumping arrangement with Lexington. Ultimately, Blaine does not want water from the Lexington

Well to enter its water system and decrease the quality of the water Blaine provides its customers.

38. Blaine confirmed its position to Lexington in a May 20, 2022 letter from Blaine's City Attorney to Lexington's City Attorney, which stated the cities had no joint powers agreement or contract governing the operation or interconnection or their water systems, that Blaine would not continue the seasonal pumping arrangement with Lexington, and that any agreement Lexington may believe exists with Blaine is terminated.

39. Blaine has no contractual obligation to provide water to Lexington and has no contractual obligation to accept water from the Lexington Well into the Blaine water system. Blaine has no contractual obligation or other obligation to maintain interconnection points between its water system and the Lexington water system.

COUNT I

DECLARATORY JUDGMENT – NO JOINT POWERS AGREEMENT

40. Blaine restates, realleges, and incorporates by reference all of the preceding paragraphs contained in this complaint.

41. A controversy exists between the parties concerning whether there is a contract between them regarding the interconnection of their respective water systems and governing the exchange of water between their systems.

42. Blaine has a substantial interest in maintaining its own water system for the health, safety, and welfare of its residents, ensuring the integrity and quality of its water system, and controlling what water enters its water system and is supplied to its residents and customers.

43. Lexington knowingly pumps water that does not meet federal and state environmental standards into Blaine's water system without Blaine's consent.

44. Blaine suffers harm when Lexington pumps water from the Lexington Well into

the Blaine water system because it lowers water quality within the Blaine water system and prevents Blaine from providing fully filtered and treated water to its customers.

45. Lexington asserts it has a contractual right to pump water into the Blaine water system, despite the fact the parties do not have an approved joint powers agreement or other contractual agreement authorizing Lexington to pump water from its well into the Blaine water system.

46. Blaine has repeatedly informed Lexington it does not want water from the Lexington Well flowing into its water system and has asked Lexington not to pump water from the Lexington Well into the Blaine water system.

47. Blaine requests an Order pursuant to Minn. Stat. Ch. 555 declaring that the parties do not have a valid, active joint powers agreement or other contract governing the joint operations and interconnection of their respective water systems and that Lexington does not have a contractual right to continue to pump water from its well into the Blaine water system.

COUNT II

DECLARATORY JUDGEMENT – OWNERSHIP OF WATER MAIN

48. Blaine restates, realleges, and incorporates by reference all of the preceding paragraphs contained in this complaint.

49. A controversy exists between the parties concerning whether Blaine owns the 16-inch water main installed pursuant to the JPA, which runs partially through Lexington city limits.

50. The JPA between Blaine and Lexington states that Blaine solely designed, financed, and installed a 16-inch water main through Lexington.

51. The JPA states the water main extension through Lexington is part of an extension of the “Blaine water main trunk system.”

52. Blaine requests an Order pursuant to Minn. Stat. Ch. 555 declaring that Blaine is the sole owner of the 16-inch water mains installed pursuant to the JPA between Blaine and Lexington.

COUNT III

DECLARATORY JUDGMENT – ACCESS TO WATER MAIN

53. Blaine restates, realleges, and incorporates by reference all of the preceding paragraphs contained in this complaint.

54. A controversy exists between the parties concerning whether Blaine has a right to access the portion of the 16-inch water main located within Lexington city limits.

55. Blaine has a substantial interest in maintaining its water system infrastructure, which occasionally requires that Blaine public works staff and contractors access the 16-inch water main within Lexington city limits.

56. Pursuant to Lexington Ordinances Ch. 16, Lexington has elected to manage the road right-of-way within its borders and requires users to have excavation and/or obstruction permits when occupying the right-of-way.

57. Lexington Ordinances § 16.05, Subd. 1 states that “[i]f the [right-of-way permit] [a]pplicant has satisfied the requirements of this chapter, the City shall issue a permit.”

58. Despite the plain language of § 16.05, Subd. 1, Lexington indicated to Blaine it will deny Blaine right-of-way permits to access the 16-inch water main within Lexington city limits.

59. Blaine requests an Order pursuant to Minn. Stat. Ch. 555 declaring that it has the right to maintain Blaine infrastructure situated within Lexington city limits and that Lexington must comply with its own ordinances regarding the issuance of right-of-way permits to Blaine

staff or contractors.

COUNT IV

DECLARATORY JUDGMENT – SEPARATION OF THE WATER SYSTEMS

60. Blaine restates, realleges, and incorporates by reference all of the preceding paragraphs contained in this complaint.

61. A controversy exists between the parties concerning whether Blaine has the right to separate its water system from Lexington's water system.

62. The 15 interconnections points between the Blaine water system and Lexington water system were constructed in accordance with the terms of the JPA.

63. These interconnection points are not controlled or metered, which results in Blaine water flowing uncontrolled and unmeasured into Lexington's water system, and Lexington water flowing uncontrolled and unmeasured into Blaine's water system.

64. The JPA was terminated in accordance with its terms. At present, there is no valid, active joint powers agreement or other contract between the parties requiring the maintenance of interconnections between their respective water systems.

65. Blaine has engaged in good faith negotiation with Lexington regarding the creation of a new joint powers agreement to govern the terms of interconnection between the cities' respective water systems, but these negotiations have not resulted in any agreement.

66. Blaine now seeks to separate its water system from Lexington's water system and asserts it has the right to do so.

67. Blaine requests an Order pursuant to Minn. Stat. Ch. 555 declaring that it has the right to separate its water system from Lexington's water system and close and/or separate the points of interconnection between the cities' respective water systems.

WHEREFORE, Blaine prays for the judgment of the Court as follows:

1. An Order determining there is not a currently active, valid joint powers agreement or other contractual agreement between the parties governing their respective water systems and the exchange of water between them;
2. An Order determining Blaine is the sole owner of the 16-inch water main installed pursuant to a JPA between Blaine and Lexington, including those portions of the water main that sit entirely within Lexington's city limits;
3. An Order determining Blaine has the right to access its 16-inch water main within the Lexington city limits and declaring that Lexington may not deny Blaine or its contractors right-of-way permits to access the water main unless Blaine or its contractors have failed to comply with Lexington Ordinances Ch. 16;
4. An Order determining Blaine has the right to separate, meter, and/or close the interconnection points between its water system and the Lexington water system;
5. An Order awarding Blaine its costs, disbursements, and attorneys' fees incurred in connection with this action against Lexington to the fullest extent available under applicable law; and,
6. For such other relief as the Court deems just and equitable.

ECKBERG LAMMERS, P.C.

Dated: September 12, 2022

By: /s/Keith A. Marnholtz
 Kevin S. Sandstrom (0348958)
 Keith A. Marnholtz (0392351)
 Attorneys for City of Blaine
 1809 Northwestern Avenue
 Stillwater, MN 55082
 (651) 439-2878
 ksandstrom@eckberglammers.com
 kmarnholtz@eckberglammers.com

ACKNOWLEDGMENT

Pursuant to Minn. Stat. §549.211 (1) and (3), the party or parties represented by the undersigned attorneys acknowledge(s) that costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties for actions in bad faith; the assertion of a claim or a defense that is frivolous and that is costly to the other party; the assertion of an unfounded position solely to delay the ordinary course of the proceedings or to harass; or the commission of a fraud upon the Court.

ECKBERG LAMMERS, P.C.Dated: September 12, 2022By: /s/Keith A. Marnholtz
Kevin S. Sandstrom (0348958)
Keith A. Marnholtz (0392351)
Attorneys for City of Blaine

MINNESOTA
JUDICIAL
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JOINT POWERS AGREEMENT PROVIDING
FOR THE INTERCONNECTION OF THE
BLAINE AND LEXINGTON WATER SYSTEMS

THIS AGREEMENT, made and entered into this 6th day of October, 1977, by and between the City of Blaine, a municipal corporation, County of Anoka, State of Minnesota, hereinafter referred to as "Blaine", and the City of Lexington, a municipal corporation, County of Anoka, State of Minnesota, hereinafter referred to as "Lexington",

WITNESSETH:

WHEREAS, pursuant to the authority of Minn. Stat. Section 471.59, Blaine and Lexington hereby enter into a Joint Powers Agreement for the purpose of interconnecting the water systems of both cities to reinforce each other's fire flow capabilities and to provide a more adequate domestic water supply for both cities, and

WHEREAS, Lexington will allow Blaine to purchase water from the existing Lexington water system until Blaine has completed construction of water supply facilities sufficient to service that portion of Blaine abutting Lexington, upon the terms and conditions as more fully set forth hereinafter, and

WHEREAS, Blaine intends to extend the Blaine water main trunk system through Lexington on Hamline Avenue to connect to a proposed one million gallon elevated storage facility to be constructed by Blaine.

Exhibit A

NOW, THEREFORE, the parties agree as follows:

1. Blaine will construct at its own expense the necessary public improvements pursuant to Minn. Stat. Chapter 429, will be responsible for all proceedings therein, and will be responsible for all engineering and installation costs of said improvements. None of the expenses incurred by Blaine shall be borne by or assessed against any property owned by Lexington or located within Lexington unless said property is connected to the Blaine water main trunk system. In that event, a connection charge, pursuant to Minn. Stat. Section 444.075, shall be paid to Blaine prior to connection.

2. Each city agrees to the interconnection of the water systems of both cities to allow each city to reinforce its fire flow capabilities and to provide a more adequate domestic water supply for both cities. In the event it is necessary to acquire right-of-way within Lexington for construction of said improvements, Lexington will assist in the acquisition of the necessary right-of-way, but Blaine shall pay the costs of said acquisition.

3. After Blaine completes its water supply facilities, each city agrees to produce a sufficient quantity of water to serve all property within its corporate limits. In the event either city is unable to produce the necessary quantity to meet its demands, then each city herein agrees to sell a sufficient quantity to the other upon such terms and conditions as set forth herein. In no event will either city be compelled to sell or supply water to the other to the detriment of the water users within either community.

4. Each city shall be responsible for the operation and maintenance of its own water system. In addition, each city shall

record the gallons of water pumped by its well per day, and maintain each water system in accordance with the applicable regulations of the Minnesota Department of Environmental Health which would include but not be limited to treatment, testing and reporting.

5. Each city shall authorize its staff to establish routine and emergency maintenance procedures.

6. Each city shall accurately meter at its own expense, all water pumped at the respective wells. All connections to either water system shall be metered. Each city shall account for and be responsible for all unmetered water used within its corporate limits.

7. Each city agrees to be responsible for the collection of water usage charges for all water used within its corporate limits. Each city agrees to pay to the other the sum of thirty cents (\$.30) per 1,000 gallons of water, or any fraction thereof, furnished by one city to the other. This charge shall be reviewed one year from the date of this contract, and annually thereafter, and adjusted by mutual agreement, if necessary. Payment by each city for water furnished shall be due and payable to the city furnishing the water thirty (30) days from the date of the quarterly billing of the water usage charges, except that adjustments by off-setting water usage shall be determined and payment balances thereafter provided.

8. Lexington hereby agrees to sell to Blaine surplus water at the rate of thirty cents (\$.30) per 1,000 gallons, or any fraction thereof, metered at Blaine's expense, to be utilized by those portions of Blaine that abut Lexington, and until Blaine has completed the construction of its water facilities to serve such area, or until Lexington determines that it has an insufficient supply of water to

comply with the requirements of this contract. It is understood and agreed that Lexington cannot be compelled to expand its water system to supply the water required hereunder, and that the purpose of this provision is to temporarily provide to Blaine an adequate water supply for those areas abutting Lexington that Blaine cannot presently serve.

9. It is further provided that pursuant to a more definitive agreement, Lexington will permit Blaine to utilize a portion of Hamline Avenue for the purpose of interconnecting to a proposed one million gallon elevated storage facility to be constructed by Blaine. Upon request by Blaine, Lexington shall permit said construction in its city streets, upon such terms and conditions as more fully set forth in said agreement, it being contemplated that adequate provision will be made for the restoration of said streets, minimal interference with the use of said streets during construction, and other construction considerations.

10. The interconnection between the city systems shall be regulated by appropriate motions, plans and specifications as provided for by the respective city engineers.

11. The term of this agreement shall be for a period of one year from the date first written above, the month and day of which shall be the automatic renewal date. This agreement shall be automatically renewable for the same term unless either party hereto serves upon the other party a written notice of cancellation at least ninety (90) days prior to the automatic renewal date, subject to the annual review of the rates charged, and provided that in the event

Lexington finds that it is unable to supply to Blaine the water required by Blaine to service those areas abutting Lexington, that Lexington shall forthwith give notice to Blaine to make other arrangements so that Lexington can terminate such service within thirty (30) days of such finding. Blaine agrees to hold Lexington harmless from any claims submitted against Lexington for its failure or inability to provide water to the Blaine users abutting Lexington, and Blaine will indemnify Lexington for any judgments, damages or expenses in favor of said Blaine users resulting from said failure or inability.

12. Each city shall provide at its own expense adequate comprehensive liability insurance covering its potential liability because of the operation of its water system, and shall provide adequate fire and extended coverage insurance on its own facilities. Each city shall be solely responsible for any loss, damage or injury to any person or property arising out of the use of its facilities by any person or persons under its jurisdiction or pursuant to its authorization. Each city shall hold the other harmless from, indemnify the other for any costs or expenses incurred, including attorney's fees, and defend the other against any claim, demand or cause of action initiated, to recover the amount of any such loss, damage or claim for which it is responsible.

IN WITNESS WHEREOF, each city has executed this agreement to be effective as of the day and year first above written.

CITY OF BLAINE

Mayor

City Manager

CITY OF LEXINGTON

Mayor

Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On the 33rd day of September, 1977, before me, a notary public within and for Hennepin County, personally appeared Francis Fogarty and Raymond Nye, to me known to be the Mayor and City Manager of the City of Blaine, a municipal corporation, and who executed the foregoing instrument and acknowledged that they executed the same as the free act and deed of said corporation.

Grace D. Howard
Notary Public
GRACE D. HOWARD
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Jan. 30, 1977

STATE OF MINNESOTA)
) ss.
COUNTY OF Anoka)

On the 9th day of February, 1977, before me, a notary public within and for Anoka County, personally appeared Robert E. Mertes and Antonios Antonis, to me known to be the Mayor and Clerk of the City of Lexington, a municipal corporation, and who executed the foregoing instrument and acknowledged that they executed the same as the free act and deed of said corporation.

Gladys Albertson
Notary Public

GLADYS ALBERTSON
NOTARY PUBLIC - MINNESOTA
ANOKA COUNTY
My Commission Expires Sept. 29, 1977

MINNESOTA
JUDICIAL
BRANCH



June 26, 1987

CERTIFIED AND
RETURN RECEIPT REQUESTED

Jerry Carrier
Clerk/Administrator
City of Lexington
3803 Restwood Road
Lexington, Minnesota 55014

Re: Notice of Cancellation of Joint Powers Agreement
of October 6, 1977

Dear Mr. Carrier:

Please be advised that the City of Blaine hereby provides written notice of cancellation of the Joint Powers Agreement Providing for the Interconnection of the Blaine and Lexington Water Systems, dated October 6, 1977. Said written notice is given as of the date of this letter and is effective October 5, 1987.

Sincerely,

Richard P. Johnson
Richard P. Johnson
City Manager

RPJ:jmn

cc: Blaine City Attorney

bcc: Margaret Langfeld

Exhibit B