

Resolution #39-1990

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE WATER SUPPLY CONTRACT BETWEEN THE CITY OF ABILENE AND HAWLEY WATER SUPPLY CORPORATION.

WHEREAS, the City has heretofore entered into a water supply agreement in April, 1966, and amended in July, 1966, and April, 1977; and,

WHEREAS, the Hawley Water Supply Corporation has requested an amendment to the Water Supply Contract attached hereto and made a part hereof for all purposes in order that it may serve more customers; and,

WHEREAS, the City Council of the City of Abilene is of the opinion that the terms of the amendment are fair and should be entered into between the City of Abilene and the Hawley Water Supply Corporation; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS;

PART 1. That the attached contract amendment for supplying water be, and the same is hereby approved.

PART 2. That the Mayor be and is hereby authorized to sign said contract on behalf of the City of Abilene.

PART 3. That this resolution shall take effect immediately from and after its passage.

ADOPTED this 27 day of September, A.D., 1990.

ATTEST:

  
CITY SECRETARY

  
MAYOR

APPROVED:

  
CITY ATTORNEY

WATER SUPPLY CONTRACT AMENDMENT

THE STATE OF TEXAS }

COUNTY OF TAYLOR }

WHEREAS, City of Abilene and the Hawley Water Supply Corporation have heretofore on the 7th day of April, 1966, entered into a water supply contract which obligated the City to supply a specified amount of water to the Hawley Water Supply Corporation; and,

WHEREAS, said contract was amended by agreement entered into on the 28th day of July, 1966, and the 28th day of April, 1977; and

WHEREAS, Corporation desires to acquire additional water to an area northwest of the City of Abilene along the road commonly known as Old Anson Road; and,

WHEREAS, City of Abilene and the Hawley Water Supply Corporation desire that the original water supply contract be amended to provide for the water service to the area above described; now, therefore,

This contract made and entered into on this 27 day of September, A.D., 1990, by and between the City of Abilene, a municipal corporation, situated in Taylor and Jones Counties, Texas, henceforth referred to as "CITY" and acting by and through its Mayor, having been duly authorized to act by the City Council of the City of Abilene, and the Hawley Water Supply Corporation, a corporation organized under Article 1434, V.A.T.S., henceforth referred to as "CORPORATION", acting by and through its President, authorized to so act by the Board of Directors of the Corporation.

WITNESSETH:

For and in consideration of One Dollar (\$1.00) and the mutual benefits hereinafter stated, the City and the Corporation make the following amendments and additions to that certain water supply con-

tract dated April 7, 1966, and that certain water supply contract amendment dated July 28, 1966, and that certain water supply contract amendment dated April 28, 1977, by and between the parties above indicated, which amendments and additions are as follows:

That Section II of the above described contract shall be amended to read as follows:

II. Quantity and Demand

That the City agrees to sell and deliver at the delivery point hereinafter specified and the Corporation agrees to purchase and take at said delivery point up to one hundred million (100,000,000) gallons of water per water year.

Corporation represents that its estimated quantity of water will be 100,000,000 gallons per year which shall be known as the "Base Contract Amount". Corporation agrees that Abilene's capability to provide increases of water in quantity is subject to available supply and deliverability, as determined by Abilene's agent.

"Demand" means the quantity of water used by Corporation within a water year.

"Water Year" means the year beginning January 1 and ending December 31.

"Base Contract Amount" means any water year demand that equals or exceeds 100,000,000 gallons.

The "Maximum Daily Amount" of water that Abilene's system is capable of delivering to Corporation at "Delivery Point No. 1" is 450 per minute; at "Delivery Point No. 2" is 200 gallons per minute; at "Delivery Point No. 3" is 200 gallons per minute; at "Delivery Point No. 4" is 300 gallons per

minute; at "Delivery Point No. 5" is 50 gallons per minute; and at "Delivery Point No. 6" is 100 gallons per minute. Abilene is not required to delivery any more water to Corporation than the maximum daily amount at each delivery point(s).

Abilene will use its best efforts to remain in a position to furnish water sufficient for the reasonable demands of Corporation but Abilene's obligation under this Contract shall be dependent on the amount of water available to Abilene from its own source of supply.

If unavoidable distribution problems arise, Abilene reserves the right to further limit Corporation's quantity of water to be taken on an hourly, daily, and/or monthly basis as Abilene determines necessary to preserve adequate water for both parties.

In the event a water conservation stage is in effect under the Drought Contingency Plan, and as a result of such water conservation, the Purchaser uses less water than the Contract amount, then the demand charge shall be modified as follows:

The demand charge amount shall be waived on a monthly basis for each month a water conservation stage is in effect during the water year.

If there is a change in Abilene's Drought Contingency Plan, written notice of such change shall be mailed to Purchaser and FMHA.

That Section IV of the above described contract shall be amended to read as follows:

IV. Rates

Corporation agrees to purchase water at the rate of \$1.38/1,000 gallons, hereinafter referred to as the Contract Rate, which shall be the effective rate from the date of execution of this agreement until one (1) year thereafter; provided, that the price of the water to Purchaser shall never be less than the amount charged any "Commercial Class" water user for the same quantity under the City of Abilene's standard established rate making schedules. Corporation agrees that the Abilene City Council has the right to revise the rate schedule from time to time to cover all reasonable, actual, and expected costs, including the costs of future water supplies. It is specifically understood and agreed that, in increasing or decreasing the standard established rate for "Commercial Class" customers of the Abilene within its corporate limits, the Abilene shall act in good faith, and any such increase or decrease in such standard rate shall be based upon valid economic reasons substantially relating to the costs of Abilene supplying such water. Abilene shall give sixty (60) days advance written notice of any rate change to Corporation and FmHA.

Corporation agrees to pay a total annual demand charge for each water year based on (1) the 100,000,000 gallon base contract amount less current water year demand, or (2) the highest water year demand established during the preceding five years, less current water year demand, whichever is greater.

Rate Schedule:

Contract Amount Rate - \$1.38 per 1,000 gallons  
Demand Charge - \$.20 per 1,000 gallons

The "Demand Charge" represents the cost of reserving the water for Corporation.

The City will bill the Corporation each month at the applicable rate per thousand gallons for water supplied to the Corporation during the previous month, and said statement will be rendered to the Corporation by the fifth (5th) of the succeeding month and shall be due to the City and payable by the Corporation on the fifteenth (15th) of each month in which the statement is received by the Corporation. In the event the Corporation should fail to make any payment by the fifteenth (15th) of the month, said statement shall be deemed delinquent and shall be due and payable with interest at six per cent (6%) per annum from the first day of the month in which payment became delinquent. The City shall notify the Corporation in writing when any such payment to the City shall become delinquent, and if said delinquency is not removed within thirty (30) days after the sending of such written notice, the City may, at its discretion, cease supplying water to the Corporation under the terms of this agreement and declare this agreement forfeited and null and void as provided for in Section XXII hereof.

IN WITNESS WHEREOF, the parties here acting under the authority of their respective governing bodies have caused this agreement to be duly executed on the day and year as first above written.

CITY OF ABILENE, TEXAS

Business Address:  
c/o Director of Water Utilities  
P. O. Box 60  
Abilene, Texas 79604

By: [Signature]  
Mayor

ATTEST:

[Signature]  
City Secretary

APPROVED AS TO FORM:

[Signature]  
City Attorney

This Contract is approved on behalf of the FmHA this 10 TH day of September, 1990.

By: [Signature]  
Title: Assistant District Director

HAWLEY WATER SUPPLY CORPORATION

Business Address:  
c/o President  
P. O. Box 296  
Hawley, TX 79525

By: [Signature]  
President Alvin W. Robertson

ATTEST:

[Signature]  
Secretary of Corporation  
Eddie Womack

APPROVED AS TO FORM:

[Signature]  
Attorney for Corporation