

AMENDMENT TO WHOLESALE WATER SUPPLY CONTRACT

This Amendment to Wholesale Water Supply Contract ("2020 WWS Contract Amendment") is executed as of April 30 2020 and effective immediately, to amend the 2006 Wholesale Water Supply Contract ("City WWS Contract") between Kempner Water Supply Corporation ("KWSC"), a Texas water supply corporation and the City of Lampasas, a Texas municipal corporation (the "City") (collectively referred to herein as the "Parties").

Whereas, KWSC transmits treated water to the City from Central Texas Water Supply Corporation ("CTWSC"), a Texas water supply corporation, in accordance with terms of the 2005 Wholesale Water Supply Contract ("CTWSC WWS Contract") between CTWSC and KWSC;

Whereas, both the City WWS Contract and the CTWSC WWS Contract require the Parties to pay certain Operating and Maintenance Expenses ("O&M") for the existing system, including reasonable total annual salary costs;

Whereas, a dispute arose with respect to certain employee-related salary costs and expenses and the reasonableness and allocation of the charges therefor under the CTWSC WWS Contract, and KWSC and CTWSC have resolved that dispute and executed an Amendment to the CTWSC WWS Contract with respect to such employee related salary costs and expenses, a copy of which is attached hereto as Exhibit A ("Amendment");

Whereas, a portion of those employee related salary costs and expenses are passed through to the City pursuant to the City WWS, and the City WWS Contract has provisions that address how and to what extent those costs are passed through to the City;

Whereas, KWSC and the City have agreed to modify the City WWS Contract to address and accept the Amendment to the CTWSC WWS Contract.

Now, therefore, the Parties agree, in consideration of the covenants and agreements of the City WWS, as well as those contained herein, as follows:

1. *Article III, section 3.5.B.2*, which defines the CTWSC O&M Expense that is subject to the City WWS Contract, is hereby amended to include a modification in the definition of CTWSC O&M Expense of which the City pays its proportionate share under the City WWS Contract, by inserting after the first sentence of 3.5.B.2 the following language addition ("Agreed Reallocation").

Salary Costs (Salary Costs being defined to include all pay or direct monetary compensation, including bonus) for the General Manager, and other office staff employees not solely assigned to the Existing System, to

the extent charged to or included in general office overhead or administrative costs, shall be charged to and included in the O&M Expenses at a total rate of 90% of the total annual salary costs of such employees.

The City hereby agrees to amend the City WWS Contract and to pay its proportionate share of CTWSC O&M Expenses as modified by the Agreed Reallocation, subject to the conditions set forth below with respect to any future modification of the Agreed Reallocation under paragraphs 2, 3.1 and 3.2 of the Amendment.

2. This 2020 WWS Contract Amendment shall operate for an initial term of 10 years, from the date hereof, until the end of April 2030, and shall automatically renew for successive (5) year periods thereafter, unless modified pursuant to paragraphs 3.1 and 3.2 of the Amendment, provided any such modification complies with the City's conditions set forth below.

3. The Amendment, attached as Exhibit A, does not provide for participation by the City in the options and alternatives described in paragraphs 3.1 and 3.2 thereof. The City authorizes CTWSC and KWSC to modify the Agreed Reallocation without City participation so long as the modification has the effect of reducing the amount paid by the City as its proportionate share of CTWSC O&M expenses, whether by reducing the rate below 90% or reducing the costs subject to the rate. Accordingly, the City hereby agrees:


a. In the event KWSC and/or CTWSC desire to amend the Agreed Reallocation as part of the CTWSC WSS Contract, the City hereby authorizes KWSC to negotiate modifications to the Agreed Reallocation, and agrees to continue to pay its proportionate share of CTWSC O&M Expenses under Article 3.5.B.2 of the City WWS Contract, on the following conditions: that CTWSC and KWSC do not amend or modify the Agreed Reallocation such that the total rate described therein exceeds the total rate of 90% as currently provided. For the avoidance of doubt, if the amendment or modification to the Agreed Reallocation results in no greater cost than the 90% currently provided in the Agreed Reallocation, then Lampasas does not need to participate in the re-negotiation process, under paragraph 3.b below. Otherwise, it shall have the rights specified in paragraph 3.b to participate. However, as a part of this process, Kempner shall confer with Lampasas for ideas regarding any proposed amendment or reallocation.

b. In the event that CTWSC and KWSC amend or seek to amend the Agreed Reallocation in a manner other than as set forth in 3.a. above, the City will not automatically amend the City WSS Contract concomitantly or recognize such new amendment as applicable to the City WSS Contract unless the City (1) is provided a reasonable opportunity by KWSC to coordinate and reasonably participate with, by and through KWSC in the negotiations of any such amendment pursuant to paragraphs 3.1 and 3.2 of the Amendment, and (2) provides its express prior written consent, which consent will not be unreasonably withheld.


4. Except to the extent of the amendments as expressly stated and agreed by the City herein, the City WWS Contract is not amended in any manner.

Executed on this ____ day of April, 2020.

CITY OF LAMPASAS

By: 
Its: Mayor

KEMPNER WATER SUPPLY CORPORATION

By: 
Its: President

AMENDMENT TO WHOLESALE WATER SUPPLY CONTRACT

This Amendment to Wholesale Water Supply Contract ("2020 WWS Contract Amendment") is executed at and as of February 1, 2020 and effective immediately, to amend the 2006 Wholesale Water Supply Contract ("WWS Contract") between Central Texas Water Supply Corporation ("CTWSC"), a Texas water supply corporation, and Kempner Water Supply Corporation ("KWSC"), a Texas water supply corporation (jointly the "Parties").

Whereas, a dispute has arisen with respect to certain employee related costs and expenses, and the reasonableness and allocation of the charges therefor under the WWS Contract

Whereas the parties have agreed to modify the WWS Contract, as set out herein, in order to further clarify the proper method of charging for those employee related expenses, as well as a process for adjustment in future years, if necessary.

Now, therefore, the Parties agree, in consideration of the covenants and agreements of the WWS Contract, as well as those contained herein as follows:

1. *Article 1, section 1.01* definition "Operation and Maintenance Expenses" or "O&M Expenses" is hereby amended and modified, by the following addition thereto, as follows (the "Agreed Reallocation"):

Salary Costs (Salary Costs being defined to include all pay or direct monetary compensation, including bonus) for the General Manager, and other office staff employees not solely assigned to the Existing System to the extent charged to or included in general office overhead or administrative costs, shall be charged to and included in the O&M Expenses at a total rate of 90% of the total annual salary cost of such employees.

2. This Amendment shall operate for an initial term of 10 years, from the date hereof until the end of February, 2030, and shall automatically review for successive (5) year periods thereafter, unless modified pursuant to paragraph 3.1 – 3.2 herein.

3.1. At the end of the initial term, or each successive end of term thereafter, the parties can: (a) allow the above agreement (paragraph 1) relating to the allocation of the General Manager, and other office staff costs to continue for the next successive term; (b) agree to modify the allocation of the General Manager, and other office staff costs for the next term based on conditions then existing; (c) agree to designate an independent consultant to conduct a study to determine the appropriate allocation of employee expenses, and method and time therefor; or, if the parties wish to have the allocation determined by a neutral decisionmaker but cannot agree on an independent and appropriate consultant, each choose an engineer with knowledge of the general operations of water supply corporations such as CTWSC and KWSC, and have the neutral decisionmaker chosen by those designated engineers. The cost of any such neutral consultant shall be borne equally by the parties; or (d) seek judicial determination of appropriate allocation of employee expense under Paragraph 3.2.



3.2. The parties may, by given at least 180 days notice prior to February 28, 2030, designate either option (b) or (c) above and upon the giving of notice shall each cooperate with the other in a commercially reasonable manner, including the production of relevant documents, to reach a reasonable and accurate allocation of the General Manager, and other office employee expense and costs related to the Existing System for inclusion in O&M Expenses, as required. In the event that the Parties are unable to reach such an allocation by agreement, then either party shall have the right to demand that the allocation be calculated in a certain manner and, upon refusal by the other party, to file suit for judicial determination of the matter. During such Judicial determination and until Final Judgment, the Reallocation shall remain in effect (subject to adjustment through the Final Judgment from the date of filing of the suit).

4. During the term of this Agreement, the Parties agree that all reasonable and necessary audit and accounting fees, including those charged for CTWSC's annual audit and for monthly accounting reviews by CTWSC's accounting firm, will be included in the calculation of Operation and Maintenance Expenses. During the term of this Agreement, KWSC will not seek relief from the auditor fees (so long as they are reasonable and necessary) charged to CTWSC for its annual audit or reasonable and necessary accounting fees.

5. Except to the extent of the amendments as expressly stated herein, the WWS Contract is not amended in any manner.

Executed on this 4 day of ^(Mar) ~~Mar~~, 2020.

CENTRAL TEXAS WATER SUPPLY
CORPORATION

By: John R. Whitson
Its: President

KEMPNER WATER SUPPLY
CORPORATION

By: [Signature]
Its: President