

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREENVILLE, TEXAS, AUTHORIZING ENTRY INTO AGREEMENT BY AND BETWEEN SAID CITY AND JACOBIA WATER SUPPLY CORPORATION RELATING TO THE FURNISHING OF WATER SUPPLY SERVICES BY SAID CITY; AND, PROVIDING THAT SAID ORDINANCE SHALL TAKE EFFECT AND BE IN FULL FORCE IMMEDIATELY UPON ITS PASSAGE AND APPROVAL

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENVILLE, TEXAS:

SECTION 1. That the Mayor of the said City of Greenville, Texas, be, and he is hereby, authorized to execute, and the City Clerk of said City be, and she is hereby, authorized to attest, for and on behalf of said City, that certain agreement by and between said City and the Jacobia Water Supply Corporation, relating to the furnishing of water supply services by said City, a copy of which being attached hereto, marked "Exhibit A", and reference to which being here made for all purposes as if the same were copied in its entirety herein.

SECTION 2. This ordinance shall take effect and be in full force immediately upon its passage and approval, and it is so ordained.

PASSED AND APPROVED, this the 22nd day of January, 1980.

William F. Edkins
Mayor

ATTEST:

Arnell Wilson
City Clerk

APPROVED TO AS TO FORM:

Debra Adams
City Attorney

STATE OF TEXAS)
)
COUNTY OF HUNT)

THIS CONTRACT, hereinafter called the "Contract," made and entered into as of this 31st day of January, 1980, by and between the City of Greenville, Texas, a Municipal Corporation, in Hunt County, Texas, acting under the laws of the State of Texas, hereinafter called City, and the JACOBIA WATER SUPPLY CORPORATION, of Hunt County, Texas, hereinafter called Corporation;

W I T N E S S E T H:

WHEREAS, Corporation is preparing to improve its water distribution system and its water supply facilities; and

WHEREAS, Corporation is desirous of obtaining an adequate and dependable water supply; and

WHEREAS, by the execution of this Contract, Corporation is surrendering none of its rights to the ownership and operation of its water distribution system or its water supply facility, but it is expressly asserting its continued right to operate such water supply and distributing system; and

WHEREAS, City will have available water in the quantities hereinafter contracted to be sold by it to the Corporation;

NOW THEREFORE, in consideration of the mutual covenants and agreement herein contained, City agrees to furnish, and Corporation agrees to pay for water supply services upon the terms and conditions and for the consideration hereinafter set forth, to-wit:

1. QUANTITY. Subject only to the provisions of this section and Section 9 hereof, City agrees, during the period of this Contract, to tender and make available to Corporation, for

its own use and at the delivery point as hereinafter specified, treated water in the volume required by the Corporation, provided that the maximum amount of water required shall not exceed 300,000 gallons per day, with City having right to limit delivery of said water at a rate not to exceed 75 gallons per minute, and Corporation agrees to pay City for such services in accordance with the provisions of Section 6 hereof.

Should Corporation desire to increase the maximum rate of delivery as herein before fixed, a formal request stating the desired rate of increased delivery shall be addressed to City and shall then become a matter of negotiation between Corporation and City.

City will use its best efforts to remain in a position to furnish water as herein contracted to be sold to Corporation, but its liabilities shall be limited in accordance with other conditions herein contained. In the event drought conditions create a shortage of water so that it becomes necessary for City to impose restrictions upon water usage upon its customers within the corporate limits of City, City may serve written notice upon Corporation and upon receipt of such notice, Corporation shall immediately impose the same restrictions with respect to the use of water upon its customers. City shall have the express right at such times to prohibit the use of water by Corporation's customers for the purpose of supplying livestock water or watering lawns and gardens. In the event the total water supply available to City shall be insufficient to meet all of the needs of the customers of City, and the customers of Corporation, the City may prohibit the use of water by Corporation customers for any purpose other than purely domestic uses, as

set out above, and then may pro-rate the water available among the customers of City and Corporation. In the event of such shortage, Corporation shall be furnished water in the quantity which bears the same proportions to the total water available to City as the average amount of water used per day by Corporation bears to the average amount of water used per day by all customers of City for the preceding thirty (30) days period. City shall use all means within its disposal to resume normal water supply to Corporation as quickly as possible.

2. QUALITY. City is obligated to furnish to Corporation treated water which will be of the same quality as furnished customers residing within the City limits of Greenville.

3. POINT OF DELIVERY. The point for delivery of water to Corporation by City from City's system shall be from an existing six (6) inch supply line at a point located at the City limits of Greenville in the south right-of-way line of State Highway 24 (said point being hereafter called point of delivery).

City agrees to deliver at said point of delivery, the quantities of water herein contracted for, said water to be delivered out of the existing six (6) inch line and into a six (6) inch cast iron line of Corporation for a distance of approximately 4,000 feet along Highway 24 east of the City limits of Greenville to the Corporation's storage tank at the pressure which is maintained at this point in the water supply system of City, it being hereby specifically agreed that Corporation may utilize whatever pressure is maintained in the City system normally for the movement of water herein contracted to be purchased through the supply line to the first reservoir of the Corporation.

4. MEASURING EQUIPMENT. Corporation shall furnish and install and the City shall operate and maintain at its own expense at said delivery point, the necessary equipment and devices of standard type for measuring properly the quantity of water delivered under this agreement. Either the City or the Corporation may request special meter tests at any time with the cost of all tests being borne by the party asking said request. Meters registering not more than two (2) percent above or below normal shall be deemed to be accurate. The reading of any meters which have been disclosed by test to be inaccurate shall be corrected for the ninety (90) days previous to such test in accordance with the percentage of inaccuracy found by such test. If any meter shall fail to register for any period, the amount payable shall be based upon the water delivered in the corresponding period immediately prior to the failure, unless City and Corporation shall agree to an amount of water furnished during such period. The meter used under this agreement shall be read on the last day of each calendar month by City's operator and shall be available for checking by a representative of the Corporation during usual business hours on the last day of each calendar month. In the event the City determines it necessary to relocate the measuring equipment, referred to herein, such relocation shall be at the expense of City.

5. UNIT OF MEASUREMENT. The unit of measurement for all water delivered hereunder shall be 1,000 gallons of water, U.S. Standard Liquid Measure.

6. PRICE AND TERMS. The service to be performed under this Contract by City consists of the readiness of the City to deliver to Corporation, upon its demand, water in accordance with the provisions of Section 1 hereof.

In return for such service, Corporation agrees to compensate City by payment of certain monthly sums of money for each of which said sums City agrees, if required by Corporation, to deliver all or so much thereof as Corporation may desire, of a certain corresponding volume of water as set forth below in the following schedule:

First 1,500 gallons	\$2.83
Next 3,500 gallons @ .89¢ per thousand	\$3.12
Next 5,000 gallons @ 82¢ per thousand	\$4.10
Next 5,000 gallons @ 73¢ per thousand	\$3.65
Next 5,000 gallons @ 65¢ per thousand	\$3.25
All additional - 56¢ per thousand gallons	

Payment of the monthly service charge listed above shall be made each month by the Corporation to the City and shall be due and payable on or before the 10th day of the month following the service.

In the event the City raises or lowers its minimum rate for metered service within the City limits of the City, then the above rate shall be automatically adjusted to reflect said change and the Corporation shall be notified within ten (10) days of such change.

7. FORCE MAJEURE. In case of reason of "Force Majeure" either party hereto shall be rendered unable wholly or in part to carry out its obligations under this agreement, then if such party shall give notice and full particulars of such "Force Majeure" in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such "Force Majeure," shall be suspended during the continuance of the inability then claimed by it, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein, shall

mean acts of God, strikes, lockouts, or other industrial disturbance, acts of public enemy, orders of any kind of the Government of the United States or the State of Texas, or any civil or military authority, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraining of Government and people, civil disturbances, explosions, breakage or accidents to machinery, pipe lines or canals, partial or entire failure of water supply and inability on part of City to deliver water hereunder, or of Corporation to receiver water hereunder on account of any other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirements that any "Force Majeure" shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by according to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty.

8. TERMS OF CONTRACT. This contract shall continue in force and effect for a period of forty (40) years from the date of execution of this contract, and for such period of time in addition thereto as may be necessary for Corporation to repay a loan to be made by the Farmers Home Administration to Corporation.

9. ASSIGNMENT. This Contract may be assigned by Corporation to the United State of America, acting by and through the Farmers Home Administration, its successors or assigns, as security for a certain loan to be made by the Farmers Home Administration to Corporation.

10. MODIFICATION. This Contract may be changed or modified only with the consent of the governing bodies of both City and Corporation. Such modification may be requested by either party, in which event a joint meeting of such governing body shall be held not less than ninety (90) days after the giving of such notice, at which joint meeting, the requested changes or modifications shall be considered and discussed. No such change or modification may be made which will affect adversely the prompt payment when due of all monies required to be paid by Corporation under the terms of this contract.

11. REGULATORY BODIES. This Contract shall be subject to all valid rules, regulations, and laws applicable hereto, passed or promulgated by the United States of America, the State of Texas, or any governmental body of agency having lawful jurisdiction or any authorized representative or agency of any of them.

12. NOTICES. All notices or communications provided for herein shall be in writing and shall be either delivered to Corporation or City, or if mailed, shall be sent by registered mail, postage prepaid, addressed to JACOBIA WATER SUPPLY CORPORATION, R.F.D. #1, Greenville, Texas, or until otherwise specified in writing by City to CITY HALL, CITY OF GREENVILLE, Greenville, Texas.

13. PRIOR AGREEMENTS. Provided, that notwithstanding any other provision of this agreement, the execution of this agreement shall extinguish any obligations under any prior agreement except with respect to payment by Corporation for changes incurred thereunder.

IN WITNESS WHEREOF, the parties hereto acting under authority in their respective governing bodies, have caused this Contract to be duly executed in several counterparts, each of which shall constitute an original, all as of the day and year first above written.

CITY OF GREENVILLE, TEXAS

By William F. Elkins
Mayor

ATTEST:

Irene Wilson
City Secretary

JACOBIA WATER SUPPLY CORPORATION

By James R. Williams
President

ATTEST:

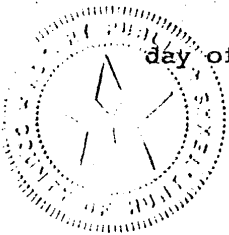
Kenneth Gump
Secretary

STATE OF TEXAS)
)
COUNTY OF HUNT)

BEFORE ME, the undersigned authority, a Notary Public in and for the said County and State, on this day personally appeared William F. Elkins and Irene Wilson each known to me to be the persons whose names are subscribed to the foregoing instrument, and each acknowledged to me that they had executed the same for the purposes and consideration therein expressed and in the capacity therein stated as the act and deed of the City of Greenville, Texas.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 22nd

day of January 1980.



James R. Shields
Notary Public in and for
Hunt County, Texas

STATE OF TEXAS)
)
COUNTY OF HUNT)

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared James R. Williams and Vernon Fry, each known to me to be the persons whose names are subscribed to the foregoing instrument and known to me to be, respectively, the President and Secretary of the JACOBIA WATER SUPPLY CORPORATION, and each of them acknowledged to me that he executed the said instrument for the purposes and consideration therein expressed and in the capacity therein stated and as the act and deed of the JACOBIA WATER SUPPLY CORPORATION.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 23rd day of January 1980.

Moss Green
Notary Public in and for
Hunt County, Texas