

ORDINANCE NO. 14-090

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREENVILLE, TEXAS, APPROVING A CONTRACT FOR SALE OF WATER BETWEEN THE CITY OF GREENVILLE, TEXAS, AND THE CITY OF CADDO MILLS, TEXAS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Greenville has agreed to sell surplus treated water to the City of Caddo Mills; and

WHEREAS, the City Council deems it in the best interest of both cities to enter into a Water Sales Contract with the City of Caddo Mills.

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

SECTION 1. The Water Sales Contract with the City of Caddo Mills is hereby approved and the City Manager is hereby authorized to sign such contract with the City of Caddo Mills.

SECTION 2. The following rates shall remain in effect from the date of this agreement until October 1, 2015:


Customer Service Charge	\$21.28 per month
Gallons of Service	\$ 2.71 per 1,000 gallons

SECTION 3. If any section, provision, subsection, paragraph, sentence, clause, phrase or word in this Ordinance or application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such holdings shall not affect the validity of the remaining portions of this Ordinance, and the City Council of the City of Greenville, Texas, hereby declares it would have enacted such remaining portions, despite such invalidity.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are repealed to the extent of conflict only.

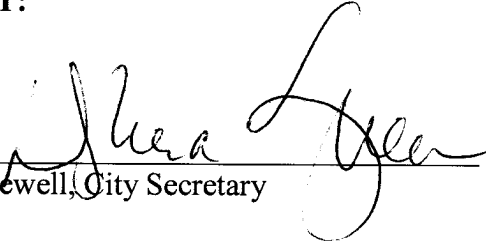
SECTION 5. This Ordinance shall be in full force and effect immediately on October 1, 2015.

PASSED AND APPROVED, this the 18th day of November, 2014.



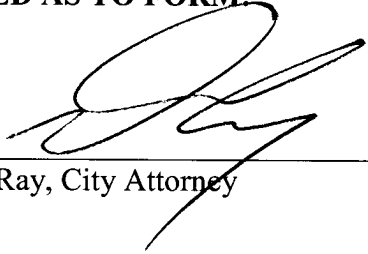
Steve Reid, Mayor

ATTEST:



Debra Newell, City Secretary

APPROVED AS TO FORM:



Daniel W. Ray, City Attorney

WATER SALES AGREEMENT

STATE OF TEXAS

COUNTY OF HUNT

THIS AGREEMENT, made this 12 day of November, 2014, by and between the City of Greenville, Texas, a home-rule municipality in the County of Hunt, State of Texas (hereinafter called "Greenville") and the City of Caddo Mills, Texas, a municipal corporation in the County of Hunt, State of Texas (hereinafter called "Caddo Mills").

WITNESSETH:

In consideration of the mutual covenants, agreements and undertakings herein set forth, the parties hereto agree and Agreement as follows:

SECTION 1. Subject to the terms and conditions set forth in this Agreement, Greenville agrees to sell and deliver to Caddo Mills, and Caddo Mills agrees to purchase from Greenville (at the Point of Delivery hereinafter specified) treated water as required by Caddo Mills during the time this Agreement is in effect.

Caddo Mills shall take treated water at the Point of Delivery up to the following maximum amounts and rates:

Annual:	70,000,000	gallons per year
Monthly:	8,500,000	gallons per month
Daily:	504,000	gallons per day
Hourly:	21,000	gallons per hour
Instantaneous:	350	gallons per minute

SECTION 2. This Agreement shall continue in full force and effect for an initial term of ten (10) years from the date hereof. At the end of the initial term, Caddo Mills may extend the Agreement for an additional five (5) year term by providing Greenville with written notice of its intent to do so within the initial term. At the end of the first additional five (5) year term, Caddo Mills may extend the Agreement for a second additional five (5) year term by providing Greenville with written notice within the first additional five (5) year term.

SECTION 3. For the purpose of measuring the quantities of water delivered by Greenville to Caddo Mills, Greenville shall furnish and install, and Greenville will maintain, a Master Meter of a type approved by both parties for properly measuring the quantities of water delivered under this Agreement. Both Greenville and Caddo Mills shall have access to such metering equipment at all reasonable times, and Greenville shall have the responsibility for maintaining, calibrating and adjusting said meter. Greenville shall, when requested by Caddo Mills, but not more frequently than once every year, test the said metering equipment for accuracy. Greenville agrees to read the Master Meter at the end of each month, and to keep a true record of all meter readings and transcribed for reports of its employees or agents with respect

thereto. Upon request of Caddo Mills, Greenville agrees to give Caddo Mills such information as it may request from Greenville's meter records, or to permit Caddo Mills to have access to such records at the offices of Greenville during regular business hours. If upon any test of the meter, the percentage of any inaccuracy thereof is found to be in excess of five percent (5%), the registration thereof shall be corrected. The City of Greenville will supply the City of Caddo Mills a certified copy of the calibration report.

SECTION 4. Greenville is obligated to furnish potable water (in compliance with the standards of the Texas Commission on Environmental Quality (or successor agency), and of the same quality, purity and fitness as that delivered to the inhabitants of Greenville) to Caddo Mills. Greenville shall use its best efforts to deliver to the Point of Connection water that contains as residual of not less than .5 milligrams of chlorine (or its equivalent) per liter of water. However, Greenville shall not be held liable for failure to meet the aforesaid quality standards due to reasons reasonably beyond Greenville's control.

SECTION 5. The water delivered to Caddo Mills under the terms of this Agreement shall be paid for by Caddo Mills in accordance with the following schedule of rates.

The following initial rates shall be in effect from the date of this agreement until October 1, 2015:

Customer Service Charge	\$21.28 per month
Gallons of Service	\$2.71 per 1,000 gallons

If Caddo Mills takes water in an amount that exceeds the Maximum Annual Quantity, then Caddo Mills shall notify Greenville and pay the current Rate for each 1,000-gallon increment over the Maximum Annual Quantity taken. The annual period for determining compliance with the Maximum Annual Quantity shall be October 1 through September 30 of the following year.

On **October 1, 2015**, Greenville shall set new rates based on a new cost of service study or the Consumer Price Index— All Urban Consumers Dallas-Fort Worth, TX area not seasonally adjusted (Index). Caddo Mills shall have the right to provide input and comment on the new cost of service study. An index, such as the Consumer Price Index— All Urban Consumers Dallas-Fort Worth, TX area not seasonally adjusted (Index), shall be used to adjust the rates in subsequent years. Greenville and Caddo Mills may negotiate a temporary change in rates if an unforeseen event creates a significant change in water treatment costs that exceeds the Index rate.

On **October 1, 2016**, and annually thereafter, the rates charged by Greenville to Caddo Mills shall be adjusted based on the Index.

On **October 1, 2020**, and on commencement of each of the additional five-year terms, Greenville (on its own initiative or on request by Caddo Mills) may set a new rate based on a subsequent cost of service study. Caddo Mills shall have the right to provide input and comment

on the subsequent cost of service study. The subsequent cost of service study must be completed at least 90 days prior to the effective date of the new rate.

SECTION 6. Caddo Mills agrees to pay within fifteen (15) calendar days after the receipt of a statement from Greenville which shows the amount due from Caddo Mills for water supplied during the preceding month. Caddo Mills covenants that it will promptly remit to Greenville all amount due Greenville, and should Caddo Mills fail to make any of the monthly payments at the time herein specified, a penalty on the unpaid amount shall be assessed each month at the rate of ten percent (10%) of the amount of the unpaid bill. In the event payment is not made by Caddo Mills within 45 days from the date the same became due, Greenville may discontinue delivery of water until Caddo Mills has paid the full amount due, including penalties as aforesaid.

SECTION 7. The water to be furnished under this Agreement by Greenville to Caddo Mills will be at a reasonably constant minimum pressure of sixty-two (62) p.s.i. at the Point of Delivery, which is the location of the existing Master Meter. Should Caddo Mills request a greater pressure at the Point of Delivery, Greenville will use its diligent efforts to provide the same with all expenses in so doing to be borne by Caddo Mills. Caddo Mills shall operate and maintain their receiving station and associated valving such that a minimum of 50 p.s.i. is maintained on Greenville's line while receiving water into the Caddo Mills system and such that pressure does not exceed 90 p.s.i. as the valve shuts down.

SECTION 8. Greenville, at its expense, shall operate and maintain all facilities, rights-of-way and easements required to furnish service hereunder to the Point of Delivery. Caddo Mills, at its expense, shall operate and maintain all facilities (except the Master Meter) within its system past the Point of Delivery.

SECTION 9. Greenville shall use reasonable diligence and care to provide a regular and uninterrupted supply of water to Caddo Mills, and to avoid any shortage or interruption of delivery thereof. However, Greenville shall not be liable for any failure, interruption or shortage of water, of any loss or damage resulting therefrom occasioned by any cause beyond the reasonable control of Greenville.

In the event of any extended shortage of water or if the quantity of water available to Greenville is otherwise diminished over an extended period of time, the supply of water to Caddo Mills shall be reduced or diminished in the same ratio or proportion as the supply to Greenville's consumers is reduced or diminished.

This Agreement is subject to such rules, regulations or laws as may be applicable to similar agreements in the State of Texas, and Greenville and Caddo Mills will collaborate in obtaining such permits, certificates, or the like as may be required to comply therewith.

In the event of any occurrence rendering either party incapable of performing under this Agreement, any successor of such party, whether the result of legal process, assignment, or otherwise, shall be bound by the terms and conditions of this Agreement.

SECTION 10. Caddo Mills agrees to abide by Greenville's Water Conservation Plan and Drought Contingency Plan, as adopted in Greenville Ordinance No. 14-027, and as subsequently amended. Caddo Mills and each of its successive wholesale customers shall develop and implement a water conservation plan and a drought contingency plan as required by Chapter 288 of the TCEQ's rules, and that use the applicable elements of Greenville's Water Conservation Plan and Drought Contingency Plan. During periods of drought, and in accordance with Greenville's Drought Contingency Plan, Greenville may reduce or curtail deliveries of water on a pro rata basis in accordance with Texas Water Code Section 11.039.

SECTION 11. Caddo Mills covenants that it will charge and collect such rates and charges for water sold by it so as to enable Caddo Mills to meet its obligations hereunder.

SECTION 12. Title and control to all water supplied under this Agreement shall remain in Greenville to the POINT OF DELIVERY and from that point title shall be vested in Caddo Mills.

SECTION 13. All notices and communications (including statements for water and payments therefor) shall be delivered to the proper party herein if mailed first class mail postage prepaid to the following addresses:

City of Greenville
P.O. Box 1049
Greenville, Texas 75403-1049

City of Caddo Mills
P.O. Box 490
Caddo Mills, Texas 75135-0490

provided that either party may, in writing to the other, give notice of a change of address which change shall be effective fifteen (15) days after receipt by the other party.

SECTION 14. Should Caddo Mills at any time violate any of the terms, conditions or provisions of the Agreement, and fail to remedy such violation after notification in writing by Greenville for a period of fifteen (15) days, Greenville may discontinue the delivery of water under the terms of this Agreement until the breach or default has been corrected.

SECTION 15. If for any reason of "force majeure" either of the parties hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, such party shall give notice and full particulars of such reason in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon. 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 but for no longer period, and 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, lock-outs, or other industrial disturbances, acts of public enemy, orders or actions of any kind of the government of the United States of America, or the State of Texas, or any civil or military authority; insurrections, riots,

epidemics, landslides, earthquakes, fires, hurricanes, storms, floods, washouts, routs, arrests, restraints of government and people, civil disturbances, explosions, breakage or accident to the machinery, pipelines, or canals or other structures of machinery; partial or entire failure of water supply and inability on the part of Greenville to deliver water hereunder or of Caddo Mills to receive ware; or on account of any other cause not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lock-outs shall be entirely within the discretion of the party having the difficulty, and that the above requirement that may "force majeure" shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lock-outs by acceding 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. No damage shall be recoverable from Greenville by reason of the suspension of the delivery of water due to any of the causes above mentioned.

SECTION 16. Caddo Mills agrees that by providing it with treated water, Greenville is providing goods and/or services to Caddo Mills.

SECTION 17. It is the intention of the parties that this Agreement and the rights, obligations and duties of the parties hereto shall be in compliance with applicable law. In the event an obligation is hereby imposed upon either party that is contrary to law, it is the intention of the parties that (a) the remaining portion of the Agreement shall remain in full force and effect and govern the relations of the parties and (b) that portion of the Agreement declared to be invalid shall be omitted from the Agreement. The parties hereto have reviewed the provision hereof and agreed that all the provision hereof are needed and helpful to:

- (1) provide an adequate source of water to the inhabitants of Caddo Mills under proper pressure, utilizing the amount of water available to Caddo Mills hereunder, and
- (2) preserve the purity of the water supplied to Caddo Mills hereunder.

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

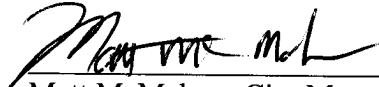
City of Greenville, Texas

Massoud Ebrahim, City Manager

Attest:

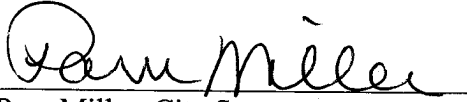
Debra Newell, City Secretary

City of Caddo Mills, Texas



Matt McMahon, City Manager

Attests:



Pam Miller, City Secretary

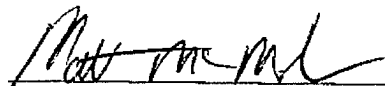
Andy Messer, Caddo Mills City Attorney

APPROVED AS TO FORM:



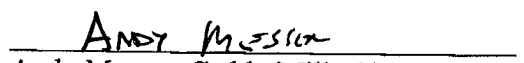
Daniel Ray, Greenville City Attorney

City of Caddo Mills, Texas



Matt McMahon, City Manager

Attests:


Pam Miller, City Secretary


Andy Messer, Caddo Mills City Attorney

APPROVED AS TO FORM:


Daniel Ray, Greenville City Attorney

WATER SALES AGREEMENT

STATE OF TEXAS

COUNTY OF HUNT

THIS AGREEMENT, made this 19 day of November, 2014, by and between the City of Greenville, Texas, a home-rule municipality in the County of Hunt, State of Texas (hereinafter called "Greenville") and the City of Caddo Mills, Texas, a municipal corporation in the County of Hunt, State of Texas (hereinafter called "Caddo Mills").

WITNESSETH:

In consideration of the mutual covenants, agreements and undertakings herein set forth, the parties hereto agree and Agreement as follows:

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Caddo Mills shall take treated water at the Point of Delivery up to the following maximum amounts and rates:

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epidemics, landslides, earthquakes, fires, hurricanes, storms, floods, washouts, routs, arrests, restraints of government and people, civil disturbances, explosions, breakage or accident to the machinery, pipelines, or canals or other structures of machinery; partial or entire failure of water supply and inability on the part of Greenville to deliver water hereunder or of Caddo Mills to receive ware; or on account of any other cause not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lock-outs shall be entirely within the discretion of the party having the difficulty, and that the above requirement that may "force majeure" shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lock-outs by acceding 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. No damage shall be recoverable from Greenville by reason of the suspension of the delivery of water due to any of the causes above mentioned.

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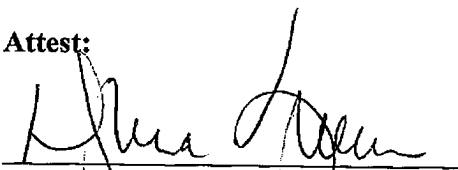
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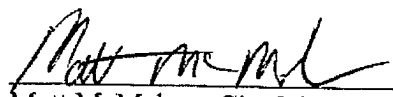
City of Greenville, Texas

Massoud Ebrahim, City Manager

Attest:

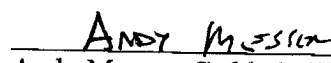

Debra Newell, City Secretary

City of Caddo Mills, Texas

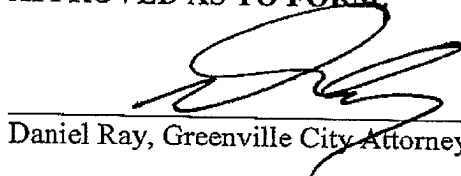

Matt McMahon, City Manager

Attests:


Pam Miller, City Secretary


Andy Messer, Caddo Mills City Attorney

APPROVED AS TO FORM:


Daniel Ray, Greenville City Attorney