

RESOLUTION NO. 2023-11R

A RESOLUTION OF THE BOARD OF DIRECTORS OF WYLIE NORTHEAST SPECIAL UTILITY DISTRICT OF COLLIN COUNTY, TEXAS, APPROVING A FIRST AMENDMENT TO AMENDED AND RESTATED POTABLE WATER SUPPLY CONTRACT BETWEEN THE NORTH TEXAS MUNICIPAL WATER DISTRICT AND THE WYLIE NORTHEAST SPECIAL UTILITY DISTRICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Wylie Northeast Special Utility District (the "District") is a political subdivision of the State of Texas created under authority Section 59, Article XVI, Texas Constitution, and operating under Chapters 49 and 65 of the Texas Water Code; and

WHEREAS, the North Texas Municipal Water District ("NTMWD") is a conservation and reclamation district created under the authority Section 59, Article XVI, Texas Constitution; and

WHEREAS, on March 23, 2023, NTMWD and the District entered into that certain Amended and Restated Potable Water Supply Contract wherein NTMWD agreed to provide, and the District agreed to pay for, potable water service (the "Contract"); and

WHEREAS, Section 8(a) of the Contract misstates the method for calculating the District's Annual Minimum, as defined in the Contract, for each ensuing year and the parties seek to correct such misstatement by approving and executing the attached First Amendment to Amended and Restated Potable Water Supply Contract.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF WYLIE NORTHEAST SPECIAL UTILITY DISTRICT THAT:

SECTION 1. Incorporation of Preamble. The findings and recitations contained in the preamble of this Resolution are incorporated herein by reference.

SECTION 2. Amendment Approval. The attached First Amendment to Amended and Restated Potable Water Supply Contract by and between the District and NTMWD is hereby approved, and the President of the Board is hereby authorized to execute the contract for and on behalf of the District.

SECTION 3. Effective Date. This Resolution shall become effective from and after its passage by the Board of Directors of the District.

PASSED and ADOPTED on this the 11th day of September, 2023, by the Board of Directors of Wylie Northeast Special Utility District.



ATTEST:

A handwritten signature in blue ink, appearing to read "Lance Ainsworth", is written over a horizontal line.

Lance Ainsworth, Secretary
or Amanda Horst, Assistant Secretary

APPROVED:

A handwritten signature in blue ink, appearing to read "Jimmy C. Beach", is written over a horizontal line.

Jimmy C. Beach, President

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "James W. Wilson", is written over a horizontal line.

James W. Wilson, Attorney

NORTH TEXAS MUNICIPAL WATER DISTRICT
FIRST AMENDMENT TO AMENDED AND RESTATED
POTABLE WATER SUPPLY CONTRACT

THE STATE OF TEXAS §
 §
THE COUNTY OF COLLIN §

THIS FIRST AMENDMENT (the “First Amendment”) made and entered into as of this the ____ day of September, 2023, by and between the North Texas Municipal Water District, hereinafter called “NTMWD”, a conservation and reclamation district created under Article 16, Section 59, of the Texas Constitution, and Wylie Northeast Special Utility District, hereinafter called “Customer”, a conservation and reclamation district created under Article 16, Section 59, of the Texas Constitution, and Chapter 65 of the Texas Water Code. NTMWD and Customer are each referred to herein as “party” and jointly referred to as “parties” in this Contract.

W I T N E S S E T H :

WHEREAS, NTMWD and Customer are authorized to enter into this First Amendment pursuant to Chapter 62, Acts of the 52nd Legislature, 1951 (Article 8280-141, Vernon’s Texas Civil Statutes), Chapter 791 of the Texas Government Code, (the “Interlocal Cooperation Act”) and other applicable laws;

WHEREAS, on March 23, 2023, NTMWD and Customer entered into that certain Amended and Restated Potable Water Supply Contract wherein NTMWD agreed to provide, and Customer agreed to pay for, potable water service (the “Contract”);

WHEREAS, Section 8(a) of the Contract provides the method for calculating the Annual Minimum, as such term is defined therein, for each ensuing year;

WHEREAS, the method for calculating the Annual Minimum in Section 8(a) of the Contract is misstated and the parties by this First Amendment seek to correct such misstatement;

WHEREAS, the parties mutually agree to modify the Contract to correct the misstatement in Section 8(a);

WHEREAS, capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Contract.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

REVISED PROVISION OF THE CONTRACT

Section 8(a) of the Contract is hereby deleted in its entirety, and the following substituted in lieu thereof:

(a) Customer will compensate NTMWD at the current water rate established for Customer Entities by the Board of Directors of NTMWD (“Water Rate”), as such Water Rate may be changed from time to time, for an Annual Minimum of 476,262,000 gallons of water (a daily average of 1,304,827 gallons per day), regardless of whether said quantity is actually taken by Customer, and any water delivered in excess of the amount allowed for the Annual Minimum will also be purchased at the Water Rate. The Board of Directors of NTMWD shall have exclusive authority to establish the Water Rate. The Annual Minimum Customer will be required to purchase at the above Water Rate, or such other Water Rate as may be from time to time determined by NTMWD, shall be calculated annually for each ensuing year and such minimum amount shall not be less than the value as calculated by using the same methodology as applied to the Member Cities; provided however, Customer cannot take more than 485,000,000 gallons per year as provided in Section 2 of this Contract, and Customer shall pay the Water Rate for any water taken in excess of the Annual Minimum.

Other than as specifically modified herein, the Contract remains in full force and effect and is ratified, renewed, and confirmed by the parties.

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

(Signatures on following pages.)

