



CITY COUNCIL SPECIAL SESSION

Tuesday, December 17, 2024 – 12:00 PM

109 North Kaufman Street, Mount Vernon, Texas 75457

Our mission: to provide effective and fiscally responsible municipal services in a manner which promotes our high standard of community life.

AGENDA

Call to order and announce a quorum is present.

Items to be Considered:

1. Consider and act upon approval of amended and restated water purchase contract with Franklin County Water District.
2. Consider and act upon approval of renewal of lease of land (raw water intake) with Franklin County Water District.
3. Consider and act upon approval of Resolution 24-19 Government Capital finance contract for the purpose of financing overages of water meter project.

Discussion Items and Mayor/Council/City Administrator Reports

Infrastructure, Streets, Parks, Grants

Presiding Officer to Adjourn the City Council Meeting

Notes to the Agenda:

Items marked with an * are consent items considered to be non-controversial and will be voted on in one motion unless a council member asks for separate discussion. The Council may vote and/or act upon each of the items listed in this Agenda except for discussion-only items. The Council reserves the right to retire into executive session under Sections 551.071/551.074 – of the Texas Open Meetings Act concerning any of the items listed on this Agenda, whenever it is considered necessary and legally justified under the Open Meetings Act. Persons with disabilities who plan to attend this meeting and who may need assistance should contact the City Secretary at 903-537-2252 two working days prior to the meeting so that appropriate arrangements can be made.

CERTIFICATION

I do hereby certify that this Public Meeting Notice was posted on the outside bulletin board, at the front entrance of City Hall located at 109 N Kaufman St., Mount Vernon, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted on the following date and time:

Posted December 13, 2024 by 12:00 p.m. and remained so posted at least 72 hours before said meeting was convened.

Kathy Johnson, City Secretary

NOTE: The City of Mount Vernon, Texas meets regularly on the second Monday night of each month at 6:00 p.m. The Council follows a printed Agenda for official action. *Any individual desiring official action should submit his/her request to the office of the City Manager not later than fifteen (15) days prior to the Council Meeting.*

/s/Kathy Johnson

Kathy Johnson, City Secretary

**FRANKLIN COUNTY WATER DISTRICT, AND
CITY OF MOUNT VERNON, TEXAS**

AMENDED AND RESTATED WATER PURCHASE CONTRACT

This **AMENDED AND RESTATED WATER PURCHASE CONTRACT** (the "Contract") is made and entered as of the Effective Date by and between the **FRANKLIN COUNTY WATER DISTRICT**, a conservation and reclamation district and political subdivision of the State of Texas ("FCWD" or the "District"), and the **CITY OF MOUNT VERNON, TEXAS**, a general law Type A municipality in Franklin County, Texas ("Mount Vernon" or the "City") (collectively the "Parties" and each individually a "Party" hereto).

RECITALS

WHEREAS, the City has identified a need to obtain water for municipal purposes from Lake Cypress Springs, Franklin County, Texas (the "Lake"), in order to provide sufficient amounts of water for its existing and future demands;

WHEREAS, the District has acquired the interest of the Texas Water Development Board in Permit to Appropriate State Water No. 2231, as amended (the "Water Permit"), and Certificate of Adjudication No. 04-4560, as amended (the "Certificate"), and after conveying a portion of the water right to Titus County Fresh Water Supply District No. 1, holds sufficient water rights under the Water Permit and Certificate to provide for this Contract;

WHEREAS, the City holds contractual permit No. CP-182A (the "Contractual Permit");

WHEREAS, the Lake is convenient to the City for supplying the amount of water in order to provide for its existing and future demands;

WHEREAS, the Parties entered into that certain contract dated on or about April 15, 1996, which was subsequently superseded by a Water Purchase Contract dated on or about November 12, 2002 (the "Previous Contract"); and

WHEREAS, the Parties hereby desire to supersede, restate, and amend the Previous Contract in its entirety and enter into this Contract.

AGREEMENT

NOW, THEREFORE, for and in consideration of the above Recitals (which are fully incorporated into this Contract for all intents and purposes) and the mutual covenants, promises, obligations, and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby mutually agree as follows:

**SECTION 1
SALE OF WATER**

1.1 From and after the Effective Date (hereinafter defined), the City shall have the right to withdraw the hereinafter described quantities of raw water from the Lake at the Point of Delivery (hereinafter defined), subject to the Maximum Water Quantity (hereinafter defined), and is to furnish and bear any and all expenses and liability for pumping facilities and metering equipment. As set forth below in **Table 1**, the City may divert a firm supply of raw water out of the District’s water rights up to the amount prescribed for that calendar year at the associated rate provided in Section 3 herein, which rate may be duly adjusted in accordance with the terms of this Contract (the “*Diverted Water*”). FOR THE AVOIDANCE OF CONFUSION, THE CITY SHALL PAY THE DISTRICT THE ASSOCIATED PRICE FOR DIVERTED WATER REGARDLESS OF THE AMOUNT ACTUALLY DIVERTED BY THE CITY IN ANY GIVEN CALENDAR YEAR. In addition to the Diverted Water, the City shall pay a reservation rate provided in Section 3 herein, which rate may be duly adjusted in accordance with the terms of this Contract, for an additional water supply over and above the Diverted Water Amount for each year (the “*Reservation Water*”). FOR THE AVOIDANCE OF CONFUSION, THE CITY SHALL PAY THE DISTRICT THE ASSOCIATED FEES FOR THE RESERVATION WATER REGARDLESS OF THE CITY’S ACTUAL DIVERSION OR NEED FOR THE QUANTITIES PROVIDED HEREIN. The District will use its best efforts to provide the Diverted Water and Reservation Water to the City in the years included at Table 1 at the volumes reflected therein.

Table 1: Water Volumes to Mount Vernon

<u>Year</u>	<u>“Diverted” Water</u> (acre-feet)	<u>“Reservation” Water</u> (acre-feet)
2025	1000	2000
2026	1000	2000
2027	1000	2000
2028	1000	2000
2029	1000	2000

1.2 The City shall have the opportunity to divert Reservation Water to Diverted Water upon no less than twelve (12) months written Notice to the District regarding its intent to divert part of its Reservation Water to Diverted Water in a given year, subject to the Maximum Water Quantity (hereinafter defined). If the City elects to divert part of the Reservation Water to Diverted Water for a given year, the City shall pay the applicable Diverted Water fee for the quantities diverted over and above the Diverted Water amount.

1.3 If the City fails to provide the District with appropriate Notice for diversion of Reservation Water to Diverted Water and diverts part of its Reservation Water quantity, it shall owe the District the fee for Diverted Water no later than the fifth (5th) business day in January following the year of the City’s diversions of Reservation Water to Diverted Water.

1.4 The maximum amount of water that the City shall be permitted to take in any single year during the Term of this Agreement is 3,500 acre-feet, subject to the terms and conditions of this Agreement and any and all applicable federal, state, or local laws, rules, or regulations (the “*Maximum Water Quantity*” herein).

SECTION 2 BILLING AND PAYMENT

2.1 The City shall furnish to the District at its office (at its current address of P.O. Box 559, Mount Vernon, Texas 75457 or at such other address as the District shall in writing specify) not later than the tenth (10th) calendar day of each month after the Effective Date of this Contract an itemized statement of the amounts of water taken by the City each month. On the same day, the City shall pay the District 1/12th of the annual fee for Diverted Water and Reservation Water (as set forth in **Table 1** herein above) then in effect for the corresponding calendar year.

2.2 If the City at any time disputes the amount to be paid by it to the District, the City shall nevertheless promptly make the disputed payment or payments; but, if it is subsequently determined by agreement or court decision that the disputed amount paid by the City should have been less or more, the District shall promptly revise and reallocate the City’s payments in a manner that the City or the District will recover the amount due.

2.3 If a court, the Texas Commission on Environmental Quality (“*TCEQ*”), or any federal or state regulatory authority finds that the District’s rates or policies for delivering water to the City under this Contract are unreasonable or otherwise unenforceable, the District has the option to terminate this Contract without liability to the City. By signing this Contract, the City stipulates and agrees that the District and its other customers will be prejudiced if the City avoids the obligation to pay the rates for water specified in this Contract while accepting the benefits of obtaining water from the District.

2.4 Nothing in this Contract shall be construed as constituting an undertaking by the District to furnish water to the City except pursuant to the terms of this Contract. If the City initiates or participates in any proceeding regarding the District’s rates and policies under this Contract and advocates a position that is adverse to the District and the District prevails, the City shall pay the District for its expenses, including court costs and attorneys’ fees, in the proceeding within fifteen (15) calendar days after the District’s demand for payment. The City stipulates and agrees that the rates and policies specified in this Contract are just, reasonable, and without discrimination.

2.5 All amounts due and owing to the District by the City hereunder shall, if not paid when due, bear interest at the maximum rate permitted under Texas law from the date when due until paid. If any amount due and owing by the City to the District is placed with an attorney for collection, the City shall pay to the District, in addition to all other payments provided for by this Contract, including interest, the District’s collection expenses, including court costs and attorneys’ fees. The District shall, to the extent permitted by law, suspend delivery of water to the City if the City remains delinquent in any payments due hereunder for a period of sixty (60) calendar days and shall not resume delivery of water while the City is so delinquent and may, at its option, terminate this Contract without further liability to the City. The District shall pursue all legal

remedies against the City to enforce and protect the rights of the District, the District's customers, and the holders of the District's bonds. It is understood that the foregoing provisions are for the benefit of the holders of the District's bonds.

SECTION 3 RATE AND RATE ADJUSTMENT

3.1 The price of water to be sold hereunder shall be as reflected in **Table 1** herein above, with a starting price on January 1, 2025, of (i) **\$98.00/acre-foot for Diverted Water**; and (ii) **\$3.00/acre-foot for Reservation Water**.

3.2 It is hereby mutually agreed that once each year for the Term of this Contract, the rate for Diverted Water and the rate for Reservation Water may be adjusted by action of the District's Board of Directors to reflect changes in the District's operation and maintenance and repair and replacement costs and as required by the provisions relating to the establishment of rates for the sale of water set forth in the statutes of the State of Texas creating and governing the operation of the District. The rate may also be adjusted under the provisions of any other applicable federal, state, or local laws, rules, or regulations.

3.3 The City stipulates and agrees that the District's rates, rate setting methods, and policies specified in this Contract are fair, just, and reasonable, and without discrimination.

SECTION 4 POINT OF DELIVERY

4.1 The City shall maintain its intake structure at the location described in **Exhibit A** (which Exhibit A is attached hereto and incorporated herein for all intents and purposes) and generally located at a point bearing North 27 deg. 25 min. West, 1,394 feet from the southeast corner of the J.C. Miller Survey, Abst. No. 311, Franklin County, Texas, approximately 9.1 miles South of Mount Vernon, Texas (collectively, the "*Point of Delivery*"), said Point of Delivery is described and depicted in a separate Amended and Restated Lease Agreement by and between the District and City, which Amended and Restated Lease Agreement is incorporated by reference herein for all intents and purposes.

4.2 The City shall maintain required markers and make other provisions as are necessary to prevent motorboat traffic and other public use within two hundred feet (200') of the Point of Delivery or as then may be required by applicable laws, regulations, or appropriate safety precautions.

4.3 All diversions shall be performed consistent with the maximum diversion rate and the provisions of the Water Permit and Certificate, as amended. If the City adds or changes the location of a Point of Delivery, the City shall deliver to the District the location of the additional or relocated Point of Delivery on a reproducible vicinity map with a narrative and graphic description of the location of the additional or relocated Point of Delivery which shall be attached to this Contract, and, subject to the District's written approval, this Contract will be modified by attaching the map to this Contract as an exhibit. Upon the District's filing of this Contract, as

modified, with the TCEQ, the modification shall become effective upon regulatory approval of the location of the additional or relocated Point of Delivery.

4.4 Title for liability purposes to all water supplied hereunder to the City shall be in the District up to the Point of Delivery, at which point title shall pass to the City. While title for liability purposes remains in a party, that party hereby agrees to save and hold the other party harmless from all claims, demands, and causes of action which may be asserted by anyone on account of the transportation and delivery of said water.

SECTION 5 PURPOSE AND PLACE OF USE

5.1 Except as provided herein, or by subsequent Contract, the City shall use water purchased from the District under this Contract for **municipal purposes only** and within the City's duly authorized and certified water service area (the "Service Area" herein). The City is hereby prohibited from selling raw water provided under this Contract on a wholesale basis.

SECTION 6 MEASURING WATER AND LOSSES

6.1 The City, at its sole cost and expense, shall install and maintain (i) an appropriate intake structure; and (ii) such ancillary equipment as is needed including, but not limited to, such meters and recording devices as are approved by the District, such meters to permit accurate determination of quantities of raw water to be withdrawn hereunder in units of 1,000 gallons. The City will maintain all meters in accurate operating condition and shall recalibrate, at its sole cost and expense, all metering equipment at three (3) year intervals or when required by the District. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be incorrect shall be corrected for the six (6) months previous to such test in accordance with the percentage of inaccuracy found by such test.

6.2 The District shall have reasonable access to such measuring equipment so installed. The District shall have access to all records pertinent to determining the measurement and quantity of water actually delivered. The City agrees that the design and construction of any new diversion facility and/or metering equipment will facilitate the District's installation and operation of check meters.

6.3 If a meter fails to register for any period, the amount of water deemed to have been taken by the City shall be not less than the greater of the amount delivered in the corresponding period (i) immediately prior to the failure; or (ii) in the preceding year, unless the District and the City shall agree upon a different amount in writing. Should a malfunction be found in the metering equipment, the equipment shall be repaired with due diligence.

6.4 Nothing herein shall prevent the District from installing a check meter and the City shall cooperate with the District should the District wish to do so.

SECTION 7 TERM

7.1 This Contract shall commence on the Effective Date (hereinafter defined) and continue in full force and effect until December 31, 2029, and thereafter may be renewed or extended upon such terms and conditions as may be agreed upon by the Parties in writing, unless this Contract is terminated sooner by the District in accordance with the terms of this Contract (the "Term" herein).

7.2 The Parties may agree in writing to extend this Contract through December 31, 2035, upon the same or similar terms and at the then-prevailing rates for Diverted Water and Reservation Water, as same may be amended from time to time, per Section 3.2 of this Contract.

7.3 Subject to Section 9 herein, the Parties agree and acknowledge that this Contract shall not take effect until the date on which the latter of all the following have occurred: (i) the District's governing body has formally approved and the District has duly executed this Contract; and (ii) the City's governing body has formally approved and the City has duly executed this Contract (the "Effective Date").

SECTION 8 TERMINATION

8.1 In the event that the City shall fail to make any payment required by this Contract or shall otherwise be in material breach hereunder for a period of ninety (90) calendar days following written Notice by the District to the City of such breach, the District may terminate this Contract and, upon termination, all rights of the City hereunder shall immediately end. The selection of one remedy by the District shall not be a waiver of any other remedy available to the District to which it may be entitled by law.

SECTION 9 REGULATORY AUTHORITY

9.1 This Contract is subjected to such rules, regulations, or law as may be applicable to similar agreements in the State of Texas. The Parties agree to collaborate in the filing of a copy of this Contract along with any appropriate application with the TCEQ, or its successor, immediately. The City understands and agrees that no amounts of water not previously permitted shall be withdrawn under this Contract if any applicable governmental entity shall refuse or fail to provide any necessary consent or approval. However, nothing contained in this Contract shall be construed as a waiver of any right to question or contest any law, ordinance, order, rule, or regulation in any forum having jurisdiction, and the District and the City each agree to make a good faith effort to support proposed laws and regulations which would be consistent with the performance of this Contract in accordance with its terms.

9.2 The effectiveness of this Contract is dependent upon the District and the City complying with the rules of the TCEQ, specifically including the rules codified as Texas Administrative Code, Title 30, §§ 295.101 and 297.101–.108 as of the Effective Date of this Contract. The District will file a signed copy of this Contract with the Executive Director of the

TCEQ as required by the rules of the TCEQ. The City may continue diverting water unless the District notifies the City that the District has received written notification from the TCEQ that a copy of this Contract has been received by the TCEQ but not accepted for filing. The City shall submit written reports annually to the TCEQ, with a copy to the District, on forms provided by the TCEQ, indicating the total amount of water diverted pursuant to this Contract each week and each month. The City also shall submit to the District written reports each month indicating the total amount of water diverted under this Contract each week and each month.

SECTION 10

WATER CONSERVATION MEASURES

10.1 The City agrees to adopt, implement, and enforce any and all ordinances and policies related to water conservation and drought management as required by the Texas Water Code, rules of the TCEQ, rules or best practices of the Texas Water Development Board, and/or as may be adopted by the District. The District's obligations pursuant to this Contract shall be subject to the City preparing and implementing a water conservation plan or water conservation measures, as well as implementing any water conservation plans and drought contingency plans adopted by the District and required or approved by the TCEQ, the District, or any other federal, state, or local regulatory authority with power to require or approve water conservation and drought contingency plans. Upon execution of this Contract, the City shall submit its water conservation plan or water conservation measures, and drought contingency plan, to the District for review and approval, and the City agrees to amend its water conservation plan or water conservation measures, and drought contingency plan as requested by the District, in order to comply with requirements of the District's water conservation plan and drought contingency plan or related rules/programs. The City shall also submit any changes or amendments to its water conservation plan or water conservation measures, and drought contingency plan, to the District for review and approval.

SECTION 11

SOURCE AND ADEQUACY OF SUPPLY

11.1 Water supplied by the District to the City under this Contract shall be water stored by the District and from no other source, unless the District, at its sole and absolute discretion, decides to supply water from another source available to the District. The District and the City hereby agree that the City shall have no right or entitlement to any portion of the District's water after the expiration of the Term of this Contract, unless this Contract is renewed or extended upon such terms and conditions as may be agreed upon by the Parties in writing.

11.2 The District will use its best efforts to remain in a position to furnish water sufficient for the reasonable demands of the City. The provision of water to the City hereunder shall not be deemed a guarantee on the District's part that any particular quantity of water will be available, and the quantity of water taken shall at all times be subject to the right of the District to reduce said quantity of water as the District may deem necessary in order to meet the District's commitments under its existing contracts, comply with any order of any court or administrative body having appropriate jurisdiction, reduce flooding, or prevent injury.

SECTION 12
RIGHTS OF WAY

12.1 The District has provided the City with an easement across the District's property for the purposes of constructing, maintaining, operating and repairing the City's necessary facilities hereunder, including, without limitation, the Improvements (hereinafter defined), for so long as this Contract shall remain in effect. The City shall keep and maintain, at its sole cost and expense, the facilities, pipelines, and Improvements and all access thereto.

SECTION 13
WATER AVAILABILITY AND QUALITY

13.1 The District hereby represents to the City that the District has been advised that it should have sufficient water in the Lake to allow it to comply with the terms of this Contract, and the City has made such investigation of such facts as it has deemed necessary to assure itself of the District's ability to comply herewith. In the event that sufficient water may not be available for the District to comply with the terms of this Contract, water will be distributed in accordance with Section 11.039 of the Texas Water Code. **THE DISTRICT MAKES NO GUARANTEE THAT WATER WILL BE AVAILABLE AT ANY PARTICULAR TIME OR PLACE OR THAT THE LAKE WILL BE RETAINED AT ANY SPECIFIC LEVEL AT ANY PARTICULAR TIME.**

13.2 **THE WATER WHICH THE DISTRICT OFFERS TO SELL TO THE CITY IS NON-POTABLE, RAW, AND UNTREATED. THE CITY HAS SATISFIED ITSELF THAT SUCH WATER IS SUITABLE FOR ITS NEEDS. THE DISTRICT EXPRESSLY DISCLAIMS ANY WARRANTY AS TO THE QUALITY OF THE RAW WATER OR SUITABILITY OF THE RAW WATER FOR ITS INTENDED PURPOSE. THE DISTRICT EXPRESSLY DISCLAIMS THE WARRANTIES OF MERCHANTABILITY AND FITNESS. THE CITY AGREES THAT ANY VARIATION IN THE QUALITY OR CHARACTERISTICS OF THE RAW WATER OFFERED FOR SALE AS PROVIDED BY THIS CONTRACT SHALL NOT ENTITLE THE CITY TO AVOID OR LIMIT ITS OBLIGATION TO MAKE PAYMENTS PROVIDED FOR BY THIS CONTRACT. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION CONTAINED IN THIS CONTRACT. THE CITY ASSUMES FULL RESPONSIBILITY WITH RESPECT TO THE TREATMENT OF THE WATER PRIOR TO ITS DISTRIBUTION FOR HUMAN CONSUMPTION OR ANY OTHER USES.**

SECTION 14
RETURN FLOWS

14.1 The City acknowledges that some of the water supplied to it by the District and used in the City's Service Area may be returned to watercourses in the Cypress Creek River Basin as return flows. The City agrees that the District has the right, subsequent to the City's use of water purchased from the District and the return of such water to watercourses in the Cypress Creek River Basin, to make whatever reuse of the water the District deems desirable. The City will receive no compensation, credit, or off-set for making return flows available to the District.

**SECTION 15
IMPROVEMENTS AND EQUITY**

15.1 The City hereby acknowledges that it has been given the opportunity to inspect any property owned by the District and allowed to be used by the City for acquiring the City’s water supply and the City hereby accepts such property AS IS, WHERE IS, WITH ALL FAULTS. The District makes no warranties or representations of any kind, express or implied, with respect to the property including, without limitation, as to habitability, fitness or suitability for a particular purpose. Any and all improvements, including, without limitation, buildings associated with the pumping equipment and meters (collectively the “*Improvements*”) placed on any District property by the City shall be considered and treated as personal property of the City during the Term. The City shall be solely responsible, at its own cost and expense, for the construction, maintenance, and repair of the Improvements and any taxes, assessments or other costs and charges assessed on or because of the Improvements. The District shall have no liability whatsoever, either to the City, the City’s successors, assigns, guests, invitees or any other third party, for property damage to the Improvements or the contents thereof; even if caused by the District’s negligence.

15.2 The City acknowledges that it will accrue no equity or any other interest in the property owned by the District or any other assets of the District as a result of payment or other performance of the City under this Contract.

15.3 Provided the City is not then in default of the payment of any sums due to the District hereunder, the City shall have one hundred eighty (180) calendar days from the expiration of the Term or the earlier termination of this Contract in which to remove all the Improvements from the District’s property. All the Improvements remaining on the District’s property after such one hundred eighty (180) day period shall be designated as fixtures on the District’s property and shall become the property of the District.

**SECTION 16
INDEMNIFICATION**

16.1 THE DISTRICT SHALL NOT BE LIABLE TO THE CITY OR THE CITY’S GUESTS, VISITORS, INVITEES OR TO ANY OTHER PERSON WHOMSOEVER, FOR ANY INJURY TO PERSON OR DAMAGE TO PROPERTY ON OR NEAR THE CITY’S INTAKE STRUCTURE, POINT OF DELIVERY, IMPROVEMENTS, OTHER REAL PROPERTY INTERESTS, OR CONVEYANCE FACILITIES ABOUT THE LAKE DUE TO ANY CAUSE WHATSOEVER, INCLUDING WITHOUT LIMITATION, INUNDATION OR FLOODING, AND THE CITY AGREES TO INDEMNIFY THE DISTRICT AND HOLD IT HARMLESS FROM ANY AND ALL LOSSES, EXPENSES, OR CLAIMS, INCLUDING, WITHOUT LIMITATION, ATTORNEYS’ FEES, ARISING OUT OF ANY SUCH DAMAGE OR INJURY, INCLUDING, WITHOUT LIMITATION, INJURY TO PERSONS OR DAMAGE TO PROPERTY, EVEN IF THE SOLE OR CONTRIBUTING CAUSE OF WHICH IS THE NEGLIGENCE OF THE DISTRICT. IF ANY ACTION OR PROCEEDING IS BROUGHT AGAINST THE DISTRICT BY REASON OF ANY SUCH CLAIM, THE CITY, UPON NOTICE FROM THE DISTRICT, WILL DEFEND SUCH ACTION OR PROCEEDING WITH LEGAL COUNSEL ACCEPTABLE

TO THE DISTRICT.**SECTION 17
NOTICES**

17.1 All notices, payments, and communications (collectively “*Notices*” and each individually a “*Notice*”) required or allowed by this Contract shall be in writing and be given by depositing the Notice in the United States mail postpaid and registered or certified with return receipt requested and addressed to the Party to be notified. Notice deposited in the mail in the previously described manner shall be conclusively deemed to be effective from and after the expiration of three (3) business days after the Notice is deposited in the mail. Either Party may change their address by giving Notice to the other as provided in this Section 17. For the purposes of Notice, the addresses of and the designated representative for receipt of Notice for each of the Parties shall be as follows:

To the **District**: Franklin County Water District
ATTN: General Manager
P.O. Box 559
Mount Vernon, TX 75457

To the **City**: City of Mount Vernon, Texas
ATTN: City Administrator
P.O. Box 597
Mount Vernon, TX 75457

**SECTION 18
SEVERABILITY, SUCCESSORS, AND ASSIGNMENT**

18.1 In the event any provision of this Contract shall be held to be invalid or unenforceable, the remaining provisions shall be valid. A waiver by either Party of any provision, term, condition or covenant hereof shall not be construed as a waiver of a subsequent breach or the enforcement thereof by the other Party. The successors and assigns of each Party shall be bound to the terms of this Contract. This Contract may not be assigned in whole or in part for any purpose by either Party without the prior written consent of the other Party.

**SECTION 19
FORCE MAJEURE**

19.1 If, for any reason of force majeure, either the District or City shall be rendered unable, wholly or in part, to carry out its obligation under this Contract, other than the obligation of the City to make the payments required under the terms and conditions of this Contract, then if the Party shall give Notice of the reasons in writing to the other Party within a reasonable time after the occurrence of the Force Majeure Event or cause relied on, the obligation of the Party giving the Notice, so far as it is affected by the Force Majeure Event, shall be suspended during the continuance of the inability then claimed, 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 Event*,” as used in this Contract, shall mean acts of God, strikes, lockouts, or other industrial disturbances,

acts of public enemy, orders or actions of any kind of government of the United States or State of Texas, or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accident to dams, machinery, pipelines, canals, or other structures, partial or entire failure of water supply, including pollution (accidental or intentional), and any inability on the part of the District to deliver water, or of the City to receive water, on account of any other cause not reasonably within the control of the Party claiming the inability.

SECTION 20
ENTIRE AGREEMENT; AMENDMENT

20.1 This Contract constitutes the entire Contract of the Parties regarding the subject matter set forth herein and supersedes any prior agreements, understandings, or oral or written contracts between the District and City respecting the subject matter of this Contract, including, but not limited to, any oral or written agreement with the District that the City obtained by assignment.

20.2 Unless otherwise provided herein, the terms of this Contract may only be amended or modified upon written approval by each of the Parties hereto.

SECTION 21
NO THIRD-PARTY BENEFICIARIES; NO JOINT VENTURES

21.1 The Parties are entering into this Contract solely for the benefit of themselves and agree that nothing in this Contract shall be construed to confer any right, privilege, or benefit on any person or entity other than the Parties.

21.2 The Parties agree and acknowledge that (i) this Contract does not create a joint venture, partnership, customer relationship, or any joint enterprise amongst the Parties; (ii) each Party is not an agent of the other entity; and (iii) each Party is responsible in accordance with the laws of the State of Texas for its own negligent or wrongful acts or omissions and for those of its officers, agents, or employees in conjunction with the performance of services covered under this Contract, without waiving any governmental immunity available to the District or City under Texas law and without waiving any defenses of the District or City under Texas law.

SECTION 22
DUPLICATE ORIGINALS; AUTHORIZED SIGNATORIES

22.1 The Parties, acting under the authority of their respective governing bodies, shall authorize the execution of this Contract in several counterparts, each of which shall be an original.

22.2 The Parties represent and warrant that they fully and completely understand the scope and purpose of this Contract and terms contained herein, and, with this full and complete understanding, voluntarily enter into this Contract as evidenced by signing and executing it below. The person signing this Contract on behalf of each Party has been properly authorized by the Party's respective governing body to sign and execute this Contract.

SECTION 23

PLACE OF PERFORMANCE; GOVERNING LAW; VENUE

23.1 All acts performable under the terms of this Contract and all amounts due under this Contract, including, but not limited to, payments due under this Contract or damages for the breach of this Contract, shall be paid and due in Franklin County, Texas, said Franklin County, Texas, being the place of performance agreed to by the Parties to this Contract.

23.2 This Contract shall be governed by the laws of the State of Texas.

23.3 In the event that any legal proceeding is brought to enforce this Contract or any provision hereof, the same shall be brought exclusively in Franklin County, Texas.

SECTION 24

PLEDGE OF REVENUES

24.1 The City represents and covenants that all payments to be made by it under this Contract shall constitute reasonable and necessary “operating expenses” of its system, as defined in Chapter 1502 of the Texas Government Code, and that all such payments will be made from the revenues of its water system.

24.2 The City agrees throughout the Term of the Contract to continuously operate and maintain its water system and to fix and collect such rates and charges for water services to be supplied by its water system as will produce revenues in an amount equal to at least (i) all of its payments under this Contract; and (ii) all other amounts as required by the provisions of the ordinances or resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding.

24.3 Unless otherwise specifically provided in writing by subsequent Contract between the District and City, the District shall never have the right to demand payment by the City of any obligation assumed or imposed on it under this Contract from funds raised or to be raised by taxation, it being expressly understood by the Parties that all payments due by the City are to be made from the revenues and income received by the City from the ownership and operation of its water system.

SECTION 25

CONTRACT FOR GOODS AND SERVICES

25.1 The Parties agree, warrant, and represent that this Contract is a contract for goods and services pursuant to Chapter 271 of the Texas Local Government Code.

HAVING READ AND UNDERSTANDING ALL THE PROVISIONS OF THIS CONTRACT, THE PARTIES AGREE TO ITS TERMS. THIS CONTRACT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS DEFINED HEREIN.

*[REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK;
EXECUTION PAGES TO IMMEDIATELY FOLLOW.]*

FCWD:

FRANKLIN COUNTY WATER DISTRICT
a conservation and reclamation district and political
subdivision of the State of Texas

By: _____

Name: _____

Title: President

Date: _____

ATTEST:

By: _____

Name: _____

Title: Secretary

THE STATE OF TEXAS §
 §
COUNTY OF FRANKLIN §

BEFORE ME, the undersigned, a Notary Public in and for the said County and State, on this the _____ day of _____, 2024, personally appeared _____, the President of the District, known to me and to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the official act of the **FRANKLIN COUNTY WATER DISTRICT**, and that he/she executed the same as the act of the **FRANKLIN COUNTY WATER DISTRICT** for the purposes and consideration therein expressed and in the capacity therein stated.

Notary Public in and for the State of Texas

(NOTARY SEAL)

CITY:

CITY OF MOUNT VERNON, TEXAS
a general law Type A municipality in Franklin
County, Texas

By: _____

Name: _____

Title: Mayor

Date: _____

ATTEST:

By: _____

Name: _____

Title: City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF FRANKLIN §

BEFORE ME, the undersigned, a Notary Public in and for the said County and State, on this the _____ day of _____, 2024, personally appeared _____, the Mayor of the City, known to me and to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the official act of the **CITY OF MOUNT VERNON, TEXAS**, and that he/she executed the same as the act of the **CITY OF MOUNT VERNON, TEXAS**, for the purposes and consideration therein expressed and in the capacity therein stated.

Notary Public in and for the State of Texas

(NOTARY SEAL)

EXHIBIT A
POINT OF DELIVERY

JOHN C. MILLER SUR.
Abst. No. 311

0.30 Ac.
J. G. Majors
10
Peoples Telephone Co.
Vol. 117, p. 523

Jessie R. Pitcock, Sr. et al.
5.261 Ac.
To Franklin National Bank
Vol. 179, p. 689

Mrs. Mary Majors
6.0 Ac.
M.D. Corlock & Marcus D. Taylor, Trustees & Clyde Elliott
Vol. 60, p. 174

To L. T. Miller
Vol. 164, p. 128

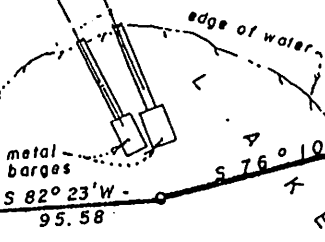
ROAD

Robert Brannon
NO. 115

2.299 Ac. Lease
Franklin National Bank
Mt. Vernon, Texas

Begin South - 2517.2
& West - 341.5 from
U. E. C. Miller Sur.

1.353 AC.



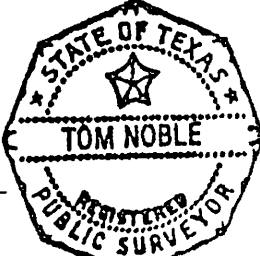
SURVEY PLAT
SHOWING A PORTION OF THE
JOHN C. MILLER SURVEY, A-311
FRANKLIN COUNTY, TEXAS

We, Noble Land Surveyors, a Professional Corporation, do hereby certify that the plat hereon was prepared from an actual and accurate survey made on the ground under our supervision.

Given under my hand and seal this 7th day of June, 1985.

Tom Noble

REGISTERED PUBLIC SURVEYOR NO. 2097





Lake Shore Drive

HWY. 115

FCWD

Tract One
2.29 Acres

PG 2330
COMMON AREA
0.500 ACRES
5510

PLAT C&B 2330
LOT 110-R
0.51 ACRES

20257

19689

19671

19670

15964

15971

9J

9K

**FRANKLIN COUNTY WATER DISTRICT, AND
CITY OF MOUNT VERNON, TEXAS**

AMENDED AND RESTATED LEASE AGREEMENT

This **AMENDED AND RESTATED LEASE AGREEMENT** (the “Lease”) is made and entered on the Effective Date (hereinafter defined) by and between the **FRANKLIN COUNTY WATER DISTRICT**, a conservation and reclamation district and political subdivision of the State of Texas (the “Lessor” or “District”), and the **CITY OF MOUNT VERNON, TEXAS**, a general law Type A municipality in Franklin County, Texas (the “Lessee” or “City”) (each individually a “Party” and collectively the “Parties” herein).

RECITALS

WHEREAS, the District and City have entered into an Amended and Restated Water Purchase Contract, dated on or about December 17, 2024, whereby the District has agreed to sell water to the City and the City has agreed to purchase water from the District upon certain terms, conditions, and provisions, as amended (the “Water Purchase Contract” herein), which Water Purchase Contract, as amended, is incorporated by reference herein as though fully set forth herein;

WHEREAS, the City presently has a permanent pumping station and intake structure, as well as other associated lines, facilities, equipment, infrastructure, and appurtenances, located on the Premises (hereinafter defined), which Premises serves as the “Point of Delivery” under the Water Purchase Contract, as amended;

WHEREAS, the District and City entered into that certain Lease Agreement, dated on or about January 14, 1985, recorded in Volume 192, Page 493 of the Real Property Records of Franklin County, Texas, for the Premises (hereinafter defined) (the “Original Lease” herein);

WHEREAS, the Parties hereby desire to supersede, restate, and amend the Original Lease in its entirety and enter into this Lease upon the terms, conditions, and provisions herein expressed; and

WHEREAS, this Lease is binding on the Parties, same to include its lawful successor and assigns.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereto mutually agree as follows:

1. **Original Lease Superseded.** Upon the Effective Date of this Lease, the Original Lease and any and all amended or prior leases shall be completely merged into, amended, restated, and superseded by this Lease for all intents and purposes.
2. **Demised Premises; Lease Purpose.** Subject to the covenants, conditions, reservations, restrictions, rules, and regulations, herein contained or incorporated herein by reference, the District, as Lessor, hereby leases and demises unto the City, and the City, as Lessee, hereby leases and takes from the District the surface only of that certain 1.353-acre tract or parcel of land to function and serve as the “Point of Delivery” under the Water Purchase Contract, as amended, and for no other purposes (the “**Premises**” herein), which Premises are more particularly depicted and described in the attached **Exhibit A** and **Exhibit B**, which Exhibit A and Exhibit B are incorporated herein for all intents and purposes. LESSEE ACKNOWLEDGES THAT IT HAS BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PREMISES PRIOR TO THE EXECUTION OF THIS LEASE, AND LESSEE IS RELYING SOLELY UPON ITS OWN EXAMINATION AND INSPECTION OF THE PREMISES IN ENTERING INTO THIS LEASE, AND NOT ANY REPRESENTATION, WARRANTY, OR OTHER STATEMENT, WRITTEN OR ORAL, MADE BY LESSOR OR ANY LESSOR REPRESENTATIVE.
3. **Non-Exclusive Lease.** The Parties hereto agree, understand, and acknowledge that the Lease is a non-exclusive lease in that the District may allow other parties to cross the Premises or place structures on the Premises so long as such crossing or placing of structures does not materially interfere with or endanger the City’s use of the Premises for the purposes herein expressed.
4. **Term.** The Parties hereto agree, understand, and acknowledge that this Lease shall run concurrently with the term set forth in the Water Purchase Contract, and shall renew for a like period of time as any subsequent amendment or renewal of said Water Purchase Contract. The Parties further agree, understand, and acknowledge that in the event the Water Purchase Contract, or any amendment thereto, is terminated, or this Lease, or any amendment hereto, is terminated, the City may continue to use the Premises for the purposes herein expressed for so long as the City continues to purchase water from the District.
5. **Consideration.** The Parties hereto agree, understand, and acknowledge that the City via the Water Purchase Contract, as amended, is providing sufficient consideration and compensation to the District and, accordingly, no additional consideration or compensation shall be paid by the City to the District for the lease granted hereby.
6. **Lessor’s Access to Premises.** As a material consideration and condition for entering into this Lease, Lessee hereby acknowledges that Lessor expressly reserves to itself the right to enter upon the Premises at any and all reasonable times for the purposes of (i) inspecting the Premises to determine whether Lessee is complying with the provisions of this Lease; (ii) performing any obligations or duty which Lessor may have to the public in general; (iii) enforcing and assisting in the enforcement of all valid laws, rules, codes, ordinances,

and other regulations governing Lessor, Lessee, or the Premises; and (iv) exercising any other right of Lessor hereunder.

7. **Assignment**. The Parties hereto agree, understand, and acknowledge that the Lease may not be assigned in whole or in part for any purpose by either Party without the prior written consent of the other Party hereto.
8. **Amendment; Modification**. The Parties hereto agree, understand, and acknowledge that the Lease may be amended or modified at any time by written agreement of the Parties hereto.

HAVING READ AND UNDERSTANDING ALL THE PROVISIONS OF THIS LEASE, THE PARTIES AGREE TO ITS TERMS. THIS LEASE IS EFFECTIVE AS OF THE LATTER OF THE SIGNATURES HEREINAFTER PROVIDED (THE "EFFECTIVE DATE" HEREIN).

*[REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK;
EXECUTION PAGES TO IMMEDIATELY FOLLOW.]*

LESSOR:

FRANKLIN COUNTY WATER DISTRICT
a conservation and reclamation district and political
subdivision of the State of Texas

By: _____

Name: _____

Title: President

Date: _____

ATTEST:

By: _____

Name: _____

Title: Secretary

THE STATE OF TEXAS §
 §
COUNTY OF FRANKLIN §

BEFORE ME, the undersigned, a Notary Public in and for the said County and State, on this the _____ day of _____, 2024, personally appeared _____, the President of the District, known to me and to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the official act of the **FRANKLIN COUNTY WATER DISTRICT**, and that he/she executed the same as the act of the **FRANKLIN COUNTY WATER DISTRICT** for the purposes and consideration therein expressed and in the capacity therein stated.

Notary Public in and for the State of Texas

(NOTARY SEAL)

LESSEE:

CITY OF MOUNT VERNON, TEXAS
a general law Type A municipality in Franklin
County, Texas

By: _____

Name: _____

Title: Mayor

Date: _____

ATTEST:

By: _____

Name: _____

Title: City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF FRANKLIN §

BEFORE ME, the undersigned, a Notary Public in and for the said County and State, on this the _____ day of _____, 2024, personally appeared _____, the Mayor of the City, known to me and to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the official act of the **CITY OF MOUNT VERNON, TEXAS**, and that he/she executed the same as the act of the **CITY OF MOUNT VERNON, TEXAS**, for the purposes and consideration therein expressed and in the capacity therein stated.

Notary Public in and for the State of Texas

(NOTARY SEAL)

EXHIBIT A
PREMISES – LEGAL DESCRIPTION

1.353 Acre Tract:

All that certain tract or parcel of land situated in the County of Franklin, State of Texas, being a portion of the John C. Miller Survey, Abstract No. 311, and being a portion of that certain 202.6 acre Tract No. 13 conveyed by Robert Brannon to Mrs. Mary Majors by deed recorded in Volume 60, page 174 of the Deed Records of Franklin County, Texas, and further being described as being a portion of the land presently owned by the Franklin County Water District, and bounded as follows:

- BEGINNING at a 4-inch iron pipe set in concrete found in the 390 Contour Line of Lake Cypress Springs, same being the southwest corner of a 5.261 acre tract conveyed by Jessie R. Pitcock, Sr., et ux to Franklin National Bank by deed recorded in Volume 179, page 689 of the Deed Records of Franklin County, Texas, same also being the most Westerly northwest corner of a 2.299 acre tract described in Lease Agreement from Jessie R. Pitcock to Franklin National Bank, said beginning stake lies South, 2517.2 feet, and West, 341.5 feet from the northeast corner of the Miller Survey;
- THENCE South 42 deg. 22 min. East along the west boundary line of the said 2.299 acre tract, 150.6 feet to a 4-inch iron pipe set in concrete;
- THENCE South 20 deg. 33 min. East continuing along the west boundary Line of the said 2.299 acre tract, 99.9 feet to an iron rod for corner, same being the south west corner of the said 2.299 acre tract;
- THENCE South 76 deg. 10 min. West, 186.62 feet to an angle point;
- THENCE South 82 deg. 23 min. West, 95.58 feet to an iron rod for corner in the east right of way line of Farm Road No. 115;
- THENCE North 19 deg. 37 min. West along said Highway right of way line, 207.58 feet to an iron rod for corner in the 390 Contour Line of Lake Cypress Springs;
- THENCE North 57 deg. 01 min. East along said 390 Contour Line, 8.72 feet to an iron rod for angle point;
- THENCE North 72 deg. 58 min. East continuing along said 390 Contour Line, 211.03 feet to the place of beginning, and containing 1.353 acres of land.

EXHIBIT B
PREMISES – PROPERTY DEPICTION

JOHN C. MILLER SUR.
Abst. No. 311

0.30 Ac.
J. G. Majors
10
Peoples Telephone Co.
Vol. 117, p. 523

Jessie R. Pitcock, Sr. et al.
5.261 Ac.
To Franklin National Bank
Vol. 179, p. 689

Mrs. Mary Majors
6.0 Ac.
M.D. Corlock & Marcus D. Taylor, Trustees & Clyde Elliott
Vol. 60, p. 174

To L. T. Miller
Vol. 164, p. 128

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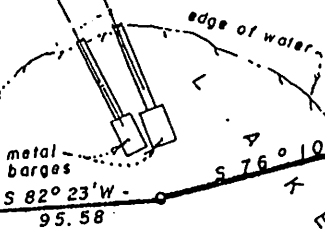
ROAD

Robert Brannon
NO. 115

2.299 Ac. Lease
Franklin National Bank
Mt. Vernon, Texas

Begin South - 2517.2
& West - 341.5 from
U. E. C. Miller Sur.

1.353 AC.



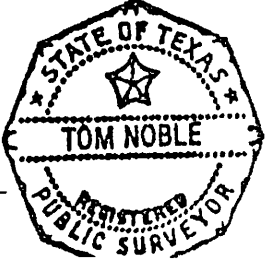
SURVEY PLAT
SHOWING A PORTION OF THE
JOHN C. MILLER SURVEY, A-311
FRANKLIN COUNTY, TEXAS

We, Noble Land Surveyors, a Professional Corporation, do hereby certify that the plat hereon was prepared from an actual and accurate survey made on the ground under our supervision.

Given under my hand and seal this 7th day of June, 1985.

Tom Noble

REGISTERED PUBLIC SURVEYOR NO. 2097



SCALE
1" = 100'



GOVERNMENT CAPITAL CORPORATION

345 MIRON DRIVE SOUTH LAKE, TEXAS 76092 Ph: 817.421.5400
WWW.GOVCAP.COM

December 11, 2024

Kathy Lovier/City Clerk
City of Mount Vernon
109 N Kaufman Street
Mount Vernon, TX 75457

via email: klovier@comvtx.com

Thank you for the opportunity to propose financing for the purchase of Public Works Technology. The following is submitted for your review and consideration.

LENDER:	Government Capital Corporation
ISSUER:	City of Mount Vernon, TX
FINANCING STRUCTURE:	Texas Public Property Financing Contract Issued Under Local Government Code Section 271.005
ESTIMATED COST:	\$80,000.00
TERM:	7 ANNUAL PMTS
INTEREST RATE:	5.310%
PAYMENT AMOUNT:	\$13,964.44
ASSUMED FUNDING DATE:	January 10, 2025
PAYMENTS BEGINNING:	September 13, 2024 to coincide with existing meter payment due date

The above proposal is subject to audit analysis, assumes bank qualification and mutually acceptable documentation. The terms outlined herein are based on current markets. Upon credit approval, rates may be locked for up to thirty (30) days. If funding does not occur within this time period, rates will be indexed to markets at such time. The above payment amount includes all applicable fees expressed as 0.015. These costs can include documentation fees, legal fees, issuance expenses, etc.

If you have any questions regarding other payment terms, frequencies, or conditions, please call me at (817) 722-0227 or email at Marti.Sauls@govcap.com

Submitted by

Marti Sauls
Municipal Finance Specialist
Government Capital Corporation

cc: D.C. Greer

The transaction described herein is an arm's length commercial transaction between you and Government Capital Corporation. The terms of the proposed financing are provided solely in response to your specific inquiry and for your professional consideration.



RESOLUTION 24-19

A RESOLUTION REGARDING A CONTRACT
FOR THE PURPOSE OF FINANCING A
"WATER METER PROJECT".

WHEREAS, the City of Mount Vernon (the "Issuer") desires to enter into that certain Public Property Finance Act Contract, by and between the Issuer and Government Capital Corporation for the purpose of financing a *Water Meter Project*. The Issuer desires to designate this Finance Contract as a "qualified tax-exempt obligation" of the Issuer for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT VERNON:

Section 1. That the Issuer will enter into a Finance Contract with Government Capital Corporation for the purpose of financing a *Water Meter Project*.

Section 2. That the Finance Contract, by and between the City of Mount Vernon and Government Capital Corporation is designated by the Issuer as a "qualified tax-exempt obligation" for the purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986, as amended.

Section 3. That the Issuer appoints the Mayor, or the mayor’s designee as the authorized signer of the Finance Contract by and between the City of Mount Vernon and Government Capital Corporation, as well as any other ancillary exhibit, certificate, or documentation needed for the Finance Contract.

Section 4. The Issuer will use loan proceeds for reimbursement of expenditures related to the Project, within the meaning of Treasury Regulation § 1.150-2, as promulgated under the Internal Revenue Code of 1986, as amended.

This Resolution has been PASSED upon Motion made by Board Member _____, seconded by Board Member _____, by a vote of _____ Ayes to _____ Nays, and is effective this _____ day of _____, 2024.

City of Mount Vernon

Attest:

Brad Hyman, Mayor

Kathy Lovier, City Secretary