

FIRST AMENDMENT TO
NORTH TEXAS MUNICIPAL WATER DISTRICT
REGIONAL WATER SUPPLY FACILITIES AMENDATORY CONTRACT

THE STATE OF TEXAS :
NORTH TEXAS MUNICIPAL WATER DISTRICT:

THIS FIRST AMENDMENT TO NORTH TEXAS MUNICIPAL UTILITY DISTRICT REGIONAL WATER SUPPLY FACILITIES AMENDATORY CONTRACT (this "Amendment") made and entered into by and between North Texas Municipal Water District (the "District"), a conservation and reclamation district and political subdivision of the State of Texas, created and functioning under Article 16, Section 59 of the Texas Constitution and the following municipalities under the Constitution and laws of the State of Texas: City of Allen, City of Farmersville, City of Forney, City of Frisco, City of Garland, City of McKinney, City of Mesquite, City of Plano, City of Princeton, City of Richardson, City of Rockwall, City of Royse City, and City of Wylie (collectively, the "Contracting Parties").

WITNESSETH:

WHEREAS, the District has entered into a "North Texas Municipal Water District Regional Water Supply Facilities Amendatory Contract," dated as of August 1, 1988, a "North Texas Municipal Water District – City of Allen Regional Water Supply Facilities Agreement", dated October 1, 1998, and a "North Texas Municipal Water District – City of Frisco Regional Water Supply Facilities Agreement", dated October 1, 2001 (collectively, the "Contracts") with the Contracting Parties;

WHEREAS, as permitted by Section 14 of the Contracts and Section 24(m) of the Bond Resolutions authorizing the issuance of the District's outstanding bonds, the District and the Contracting Parties desire to amend the Contracts to change the allocation of the Annual Requirement (as defined in the Contracts) among the Contracting Parties by changing the basis for determination of each Contracting Party's minimum amount for purposes of calculating such Contracting Party's proportionate share of each Annual Requirement;

WHEREAS, the District and the Contracting Parties have agreed to amend the Contracts to accomplish such change of allocation together with certain updating changes pursuant to the terms of this Amendment; and

WHEREAS, capitalized terms used in this Amendment and not otherwise defined herein shall have the meanings assigned to them in the Contracts.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the District and the Contracting Parties agree that the Contracts shall be amended and modified as follows:

Section 1. Amend Subsection 1(f) of the Contracts to read as follows:

(f) "Bonds" means the Outstanding Bonds listed in the preamble to this Contract, and all bonds, notes, or other obligations hereafter issued by the District, whether in one or more series or issues, and the interest thereon, to acquire, construct, complete, improve, and/or extend the System or any System facilities, including the Projects, and/or otherwise to improve or extend the System, and any bonds, notes or other obligations issued to refund any Bonds or to refund any such refunding bonds, notes, or other obligations.

Section 2. Amend Subsection 9(c) of the Contracts by adding a new Clause (3) after Clause (2), as follows:

(3) Updated Calculation Methods. Notwithstanding any provisions of this Contract to the contrary, other than reduction of minimum amounts related to sales by Contracting Parties to other entities as set out in Section 9(c), commencing October 1, 2020, and ending on September 30, 2028 (the "Natural Drawdown Period"), a Contracting Party's minimum amount (for purposes of calculating its proportionate share of the Annual Requirement), shall be calculated on the basis of the Natural Drawdown Method (hereinafter defined) and commencing October 1, 2028, and thereafter, such minimum amount will be calculated on the basis of the 5|5|1 Process (hereinafter defined).

(i) Natural Drawdown Method. For the purpose of calculating the minimum dollar amount of each Annual Requirement for which each Contracting Party is unconditionally liable during the Natural Drawdown Period, for each Annual Payment Period each Contracting Party's proportionate share of the Annual Requirement shall be calculated in accordance with the method described below, (the "Natural Drawdown Method")

(A) For the Annual Payment Period beginning October 1, 2020, each Contracting Party's annual minimum amount (in thousands of gallons) will be:

i.	City of Allen:	6,011,208
ii.	City of Farmersville:	280,467
iii.	City of Forney:	2,345,109
iv.	City of Frisco:	11,910,250
v.	City of Garland:	13,721,955

vi.	City of McKinney:	11,963,029
vii.	City of Mesquite:	8,297,666
viii.	City of Plano:	26,719,809
ix.	City of Princeton:	660,682
x.	City of Richardson:	11,019,311
xi.	City of Rockwall:	4,190,133
xii.	City of Royse City:	565,932
xiii.	City of Wylie:	1,877,558

- (B) For each subsequent Annual Payment Period through the end of the Natural Drawdown Period, and where a Contracting Party's volume of water actually delivered by the District during the most recent Water Year is less than the Contracting Party's then-current minimum amount (such under-usage of water referred to as the Contracting Party's "Under-Usage Water"), that Contracting Party's minimum amount (for purposes of calculating its proportionate share of the Annual Requirement) will be reduced for purposes of payment in subsequent payment periods by that Contracting Party's proportionate share of one-third (1/3) of the total Excess Water Usage (hereinafter defined) used by all Contracting Parties and parties to other Contracts (as described in Section 4(c) hereof) who are not Contracting Parties (such Contracting Parties and other parties, collectively, "System Customers"); provided, however, that in no event shall a Contracting Party's minimum amount be reduced to an amount that is less than the gallons actually delivered to that Contracting Party during the prior Water Year. For these purposes "Excess Water Usage" means gallons of water delivered to any System Customer that exceed its then-current minimum amount.
- (C) A Contracting Party's proportionate share of the Excess Water Usage is calculated as the ratio of that Contracting Party's Under-Usage Water, to the sum of that Water Year's Under-Usage Water by all System Customers eligible for reduction in their minimum amount.
- (D) The minimum amount of a Contracting Party that has Under-Usage Water shall be drawn down at a 3:1 ratio such that for every three (3) gallons of Excess Water used by all System Customers with Excess Water Usage, one (1) gallon of water is drawn down, on a proportionate share basis, as determined in (C) above, thereby reducing the respective minimum amounts for those Contracting Parties.
- (E) For a Contracting Party that has Excess Water Usage in a Water Year during

the Natural Drawdown Period, that Contracting Party's minimum amount for the next Annual Payment Period will be determined based on that Contracting Party's usage in the immediately preceding Water Year.

An example of the calculations of the reduction minimum amounts under the Natural Drawdown Method described in this Subsection 9(c)(3)(i) is found on Attachment I hereto and incorporated herein for all purposes

(ii) 5|5|1 Process. Starting October 1, 2028, each Contracting Party's minimum amount (for purposes of determining its proportionate share of the Annual Requirement) shall be calculated based on a five-year rolling average of water usage, phased-in over five (5) years (the "5|5|1 Process") to be implemented as follows:

- (A) In the first year of the 5|5|1 Process, a Contracting Party's minimum amount shall be calculated by taking the sum of a Contracting Party's actual usage in the preceding Water Year and four (4) years of that Contracting Party's then-current minimum amount as adjusted at the end of the Natural Drawdown Period (the "Base Minimum"), and dividing that sum by 5.
- (B) In the second year of the 5|5|1 Process, a Contracting Party's minimum amount shall be calculated by taking the sum of a Contracting Party's actual usage in the immediately preceding two (2) Water Years and three (3) years of that Member City's Base Minimum, and dividing that sum by 5.
- (C) In the third year of the 5|5|1 Process, a Contracting Party's minimum amount shall be calculated by taking the sum of a Contracting Party's actual usage in the preceding three (3) Water Years and two (2) years of that Member City's Base Minimum, and dividing that sum by 5.
- (D) In the fourth year of the 5|5|1 Process, a Contracting Party's minimum amount shall be calculated by taking the sum of a Contracting Party's actual usage in the preceding four (4) Water Years and one (1) year of that Member City's Base Minimum, and dividing that sum by 5.
- (E) Finally, in the fifth year of the 5|5|1 Process (that is, the rate year commencing October 1, 2032), and each year thereafter, a Contracting Party's minimum amount shall be calculated by taking the sum of a Contracting Party's actual usage in the immediately preceding five (5) Water Years and dividing that sum by 5.

Section 3. Amend the last sentence of Section 9(d) and amend Section 9(f) of the Contracts to read as follows:

(d) ... Such Excess Water Charges, after payment of any rebates pursuant to policies of the District, shall be distributed to the Contracting Parties in the same manner as surplus budgeted funds as provided in Subsection 9(g).

(f) **Other Revenues.** During each Annual Payment Period, the revenues derived from sales of System water, other than sales of treated water to Contracting Parties, shall be credited to and be used for paying part of the Annual Requirement in the manner determined by the District, with the result that such credits shall reduce, to the extent of such credits, the amounts which otherwise would be payable by the Contracting Parties pursuant to the methods prescribed in subsections (a), (b), (c), and (e) above. The District shall estimate all such credits which it expects to make during each Annual Payment Period in calculating each Annual Payment. To the extent the District collects such other revenues in an amount in excess of the estimated credits, such excess amount shall be distributed to the Contracting Parties in the same manner as surplus budgeted funds as provided in Subsection 9(g).

Section 4. Amend Subsection 9(g) of the Contracts in its entirety to read as follows:

(g) **Annual Budget.** On or before the first day of the fourth calendar month prior to the beginning of each Annual Payment Period hereafter the District shall furnish each Contracting Party with a tentative or preliminary estimated schedule of the monthly payments to be made by such party to the District for the ensuing Annual Payment Period. On or before the first day of the second calendar month prior to the beginning of each Annual Payment Period hereafter the District shall furnish each Contracting Party with an updated estimated schedule of the monthly payments to be made by such Party to the District for the next ensuing Annual Payment Period. Prior to the first day of each Annual Payment Period hereafter the District shall furnish each Contracting Party with a final estimated schedule of the monthly payment to be made by such Party to the District for the next ensuing Annual Payment Period, together with the supporting budgetary data showing the basis for arriving at such schedule.

Any surplus budgeted funds remaining on hand at the end of any Annual Payment Period in excess of amounts necessary to pay the Annual Requirement, including, to the extent reasonable, any operation and maintenance fund balances and other reserves established by the District, shall be distributed no later than May 1 of the following Annual Payment Period to the Contracting Parties proportionately based upon the respective amounts of treated water actually

delivered to the Contracting Parties for the preceding Water Year. Nothing in Subsection 9(g) shall be construed to limit the budgeting and rate-making authority of the District. Each Contracting Party hereby agrees that it will make payments to the District on or before the 10th day of each month of the Annual Payment Period. If any Contracting Party at any time disputes the amount to be paid by it to the District, such complaining party shall nevertheless promptly make such payment or payments, but if it is subsequently determined by agreement or court decision that such disputed payments made by such complaining party should have been less, or more, the District shall promptly revise and reallocate the charges among all Contracting Parties in such manner that such complaining party will recover its overpayment or the District will recover the amount due it.

Section 5. Amend Section 15 of the Contracts by adding a second paragraph as follows:

In particular, but not by way of limitation, in accordance with 30 Tex. Admin. Code Section 288.5(1)(f), as amended, the Contracting Parties agree and the District shall require each party to an Other Contract, as described in Section 4 of this Contract to agree to develop and implement a water conservation plan or water conservation measures using the applicable elements of Chapter 288, Subchapter A of Title 30 of the Texas Administrative Code, to the extent that it has not already done so. Any contract for resale of water provided hereunder or resale of such resold water by a Contracting Party or a party to an Other Contract shall contain provisions requiring water conservation measures using the applicable elements of such Administrative Code Section. In accordance with Rule 15c2-12 of the United States Securities and Exchange Commission, as it may be amended from time to time, the Contracting Parties agree to file, or provide to the District for filing, all information required by such Rule 15c2-12.

Section 6. This Amendment shall become effective as of the date that an order(s) adopted by the Public Utility Commission of Texas dismissing or allowing withdrawal of PUC Docket Nos. 46662, 47863, 49043, and 50382 become(s) final and non-appealable.

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused this Amendment to be duly executed in several counterparts, each of which shall constitute an original.

NORTH TEXAS MUNICIPAL WATER DISTRICT

By: _____
President, Board of Directors

ATTEST:

Secretary, Board of Directors

(DISTRICT SEAL)

CITY OF ALLEN, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY OF FARMERSVILLE, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY OF FORNEY, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY OF FRISCO, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY OF GARLAND, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY OF MCKINNEY, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY OF MESQUITE, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY OF PLANO, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY OF PRINCETON, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY OF RICHARDSON, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY OF ROCKWALL, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY OF ROYSE CITY, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY OF WYLIE, TEXAS

By: _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

ATTACHMENT I

For illustrative purposes, the reduction in a Contracting Party's minimum amount (for purposes of calculating its proportionate share of the Annual Requirement) under the Natural Drawdown Method described in Subsection 9(e) of the Contracts, would be calculated as follows:

1. Determine the total gallons of Excess Water Usage by all System Customers

E.g., 9 System Customers have a total Excess Water Usage of 10 million gallons.

2. Determine the total gallons of Under-Usage Water by all System Customers

E.g., the only System Customers that have under-usage are Contracting Parties 1, 2, 3, and 4, which have total gallons of Under-Usage Water of 20 million gallons.

3. Determine each Contracting Party's gallons of Under-Usage Water, e.g.:

Contracting Party 1: 8 million gallons of Under-Usage Water

Contracting Party 2: 6 million gallons of Under-Usage Water

Contracting Party 3: 4 million gallons of Under-Usage Water

Contracting Party 4: 2 million gallons of Under-Usage Water

4. Determine each Contracting Party's proportion of Under-Usage Water to the total gallons of Under-Usage Water ("Contracting Party's Share of Under-Usage Water")

Contracting Party 1 = 40% (8 million gallons of Under Usage ÷ 20 million gallons of total Under Usage = 40%)

Contracting Party 2 = 30% (6 million gallons of Under Usage ÷ 20 million gallons of total Under Usage = 30%)

Contracting Party 3 = 20% (4 million gallons of Under Usage ÷ 20 million gallons of total Under Usage = 20%)

Contracting Party 4 = 10% (2 million gallons of Under Usage ÷ 20 million gallons of total Under Usage = 10%)

5. Determine the respective Contracting Party's then-current minimum amount (for purposes of calculating its proportionate share of the Annual Requirement) for each Contracting Party that has Under-Usage Water and reduce each such Contracting Party's minimum

amount by its proportionate share of 1 million gallons for each 3 million gallons of Excess Water Usage. Thus:

	[A]	[B]	[C]	[D]	[E]	[F]
	Current Annual Minimum [A]	Under Usage [B]	Share of Under Usage [C] = [B] / Total Under Usage	1/3 of Total Excess Usage [D]	Share of 1/3 rd of Excess Usage of 10 Million Gallons [E] = [C] x [D]	New Annual Minimum [F] = [A] – [E]
Contracting Party 1	50	8	40%	3.33	1.33	48.67
Contracting Party 2	40	6	30%	3.33	1.00	39.00
Contracting Party 3	30	4	20%	3.33	0.67	29.33
Contracting Party 4	<u>20</u>	<u>2</u>	<u>10%</u>	<u>3.33</u>	<u>0.33</u>	<u>19.67</u>
Total Under Usage	140	20	100%		3.33	136.67
Total Excess Usage	10					