

RESOLUTION NO. R-2019-32

A RESOLUTION APPROVING SECOND ADDENDUM TO WATER PURCHASE CONTRACT BETWEEN LONOKE WHITE PUBLIC WATER AUTHORITY OF THE STATE OF ARKANSAS AND THE CITY OF WARD, ARKANSAS; AUTHORIZING THE MAYOR TO EXECUTE SUCH ADDENDUM; AND PRESCRIBING OTHER MATTERS RELATING THERETO

WHEREAS, the City of Ward ("Ward") is a participating utility in the Lonoke White Public Water Authority of the State of Arkansas ("LWPWA"); and

WHEREAS, LWPWA and Ward entered into a Water Purchase Contract (the "Agreement") dated November 9, 2010, (the "Original Contract"), as amended by an Addendum to Water Purchase Contract dated November 14, 2011, (the "First Addendum") pursuant to which LWPWA sells water on a wholesale basis to Ward and Ward buys such water from LWPWA; and

WHEREAS, LWPWA and Ward hereto desire to further clarify Ward's obligation to purchase water under the Original Contract, as amended by the First Addendum, and does so by this Second Addendum herein (collectively, the "Contract").

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ward, State of Arkansas:

Section 1. The Second Addendum, in substantially the form presented at the meeting at which this Resolution is addressed, between LWPWA and Ward is hereby approved.

Section 2. Ward is authorized to enter into the Second Addendum, and the Mayor of the City of Ward, Arkansas, is authorized to execute the Addendum and take such actions as may be appropriate to carry out the terms of this Resolution.

Section 3. Action heretofore taken by the Mayor of the City of Ward, Arkansas, and consistent with, and necessary to effect, the purposes of this Resolution is hereby authorized and ratified.

Section 4. This Resolution, being necessary for the preservation of the public health and safety, shall be in effect on its adoption.

Said resolution has been properly introduced and the vote was:

PASSED/FAILED: September 16th, 2019 YEAS 5 NAYS 0

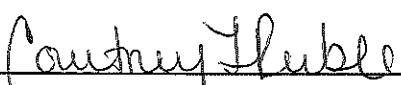
DATE:

APPROVED:

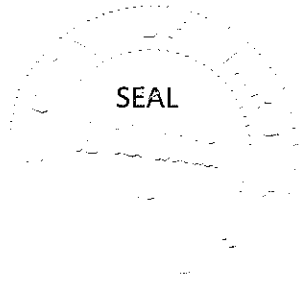


Charles Gastineau, Mayor

ATTEST:



Courtney Ruble, City Clerk



SECOND ADDENDUM TO WATER PURCHASE CONTRACT

THIS SECOND ADDENDUM TO WATER PURCHASE CONTRACT (this "Second Addendum"), made and entered into as of the 16th day of September, 2019, by and between Lonoke/White Public Water Authority of the State of Arkansas (the "Seller"), and the City of Ward, Arkansas (the "Purchaser");

WITNESSETH:

WHEREAS, the parties hereto have entered into a Water Purchase Contract dated as of November 9, 2010 (the "Original Contract"), as amended by an Addendum to Water Purchase Contract dated as of November 14, 2011 (the "First Addendum"), pursuant to which the Seller sells water on a wholesale basis to the Purchaser and the Purchaser purchases such water from the Seller; and

WHEREAS, the parties hereto desire to clarify the Purchaser's obligations to make payments under the Original Contract, as amended by the First Addendum and by this Second Addendum (collectively, the "Contract"); and

WHEREAS, the Seller has determined to refund certain bonds (the "USDA Bonds") that are owned by the United States Department of Agriculture – Rural Development ("USDA"); and

WHEREAS, the parties hereto desire to remove certain rights of USDA since the USDA Bonds will no longer be outstanding and thus USDA will no longer own bonds issued by the Seller; and

WHEREAS, the parties hereto desire to enter into this Second Addendum in order to accomplish the foregoing;

NOW, THEREFORE, for and in consideration of the foregoing and the mutual agreements hereinafter set forth, including the original terms, covenants, privileges, and conditions set forth in the Original Contract and the First Addendum (as further amended hereby), and in further consideration of the continuing and enhanced performance of the Contract on the part of each of the parties, it is understood and agreed that the Original Contract, as amended by the First Addendum, is hereby further amended as follows:

1. Paragraph C.5.b.4. shall be amended to read as follows:

"4. Subject to the provisions of Paragraph C.10. (Funding of Purchaser) hereof, to exercise all other remedies of every nature that may be available to Seller either at law or in equity that may arise as a result of the default of Purchaser under this Contract."

2. Paragraph C.6.2. (Retention of Existing Water Purchase Contracts) shall be amended (effective on the date that the USDA Bonds are refunded, redeemed, retired, or otherwise paid in full) to read as follows:

"6.2. (Retention of Existing Water Purchase Contracts) That Purchaser has the ability to retain existing water purchase contracts that are required for it to meet its water demands."

3. A new paragraph provision, Paragraph C.10. (Funding of Purchaser), shall be inserted and added and shall read as follows:

"10. (Funding of Purchaser) The parties hereto agree that all Purchaser revenues associated with the funding of the Contract shall be derived solely from revenues generated by the sale of Purchaser's water to its customers and that except for a pledge of said revenues that Purchaser does not otherwise further guarantee the obligations hereunder with its full faith and credit."

4. Paragraph C.8.2. is hereby deleted in its entirety. This provision shall be effective on the date that the USDA Bonds are refunded, redeemed, retired, or otherwise paid in full.

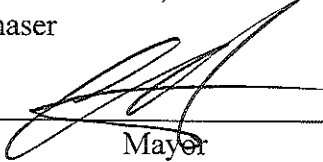
5. The Original Contract, as amended by the First Addendum and as further amended hereby, is in all respects ratified, confirmed and continued for the benefit of the parties hereto and shall remain in full force and effect through the effective term of the Contract.

IN WITNESS WHEREOF, the parties hereunto, acting under the authority of their respective governing bodies, have caused this Second Addendum to be executed in counterparts, each of which will constitute originals, as of the date first hereinabove written.

[Signature page to follow.]

CITY OF WARD, ARKANSAS, as
Purchaser

By:



Mayor

ATTEST:



City Clerk

LONOKE/WHITE PUBLIC WATER
AUTHORITY OF THE STATE OF
ARKANSAS

By:

President

ATTEST

Secretary