

RESOLUTION

To Authorize the Mayor to Sign a Wholesale Contract Renewal with Jackson’s Gap Water Authority

WHEREAS, the City Council of Alexander City, Alabama entered into a forty (40) year contract with Jackson’s Gap Water Authority on December 10, 1982; and

WHEREAS, the contract is past due for renewal; and

WHEREAS, the Alexander City Water Department wishes to renew the contract for a period of ten (10) years; and

WHEREAS, the monthly limit will increase from 18 million gallons/day (mgd) to 20 mgd per month.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Alexander City hereby authorizes the mayor to execute the renewal of the wholesale contract with Jackson’s Gap Water Authority for a period not to exceed ten (10) years.

ADOPTED THIS 16TH DAY OF OCTOBER, 2023.

FOR PUBLIC RELEASE

By: Audrey “Buffy” Colvin, President
Alexander City Council

AUTHENTICATED THIS 16TH DAY OF OCTOBER, 2023.

FOR PUBLIC RELEASE

By: Stephanie J. Southerland
City Clerk

APPROVED:

FOR PUBLIC RELEASE

By: Curtis “Woody” Baird
Mayor

Yeas: Tapley, Hardy, Colvin, E. Brown, Keel

Nays: None

WATER PURCHASE CONTRACT

This Water Purchase Contract (Contract) for the sale and purchase of water is entered into as of the 27 day of October, 2023 between the City of Alexander City, Alabama, a municipal corporation hereinafter referred to as the "Seller" and Jackson Gap Water Authority hereinafter referred to as the "Purchaser"

WITNESSETH:

Whereas the Seller and Purchaser are properly organized under the laws of the state of Alabama for the purpose of constructing and operating a water supply and distribution system; and

Whereas by Resolution No. 23-117 enacted on the 16 day of October, 2023 by the Seller, the sale of water to the Purchaser in accordance with the provisions of this Water Purchase Contract was approved, and the execution of this contract by the Mayor of the City of Alexander City was duly authorized; and

Whereas by Resolution of Jackson Gap Water Authority, enacted on the 27 day of September, 2023, the purchase of water from the Seller in accordance with this Water Purchase Contract was approved and the execution of this contract by the Jackson Gap Water Authority was duly authorized;

Now therefore, in consideration of the foregoing and the mutual agreements hereinafter set forth,

A. THE SELLER AGREES

1. To furnish the Purchaser at the point of delivery hereinafter specified, during the term of this Contract or any renewal or extension thereof, potable water meeting applicable standards of the Alabama Department of Environmental Management (ADEM). The quantity of water supplied by the Seller shall not exceed 20,000,000 gallons per month (Maximum Month). The maximum amount of water supplied by the Seller in any 24 hour period shall not exceed 1/30th of the Maximum Month amount. The maximum rate of water to be supplied by the Seller shall not exceed 463 gallons per minute.

2. Water furnished under this Contract shall be at the normal operational pressure of the Seller's system. The point of delivery from the Seller's system shall be Hwy 280 Jackson Gap. Additional points of delivery may be established between the Seller and the Purchaser. Water delivered through additional points of delivery shall be governed by the terms and conditions of this Contract. The sum of all water supplied at all points of connection shall not exceed the Maximum Month.

If a greater pressure than that normally available at a point of delivery is required by the Purchaser, the cost of such greater pressure shall be borne by the Purchaser. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire, use of water to fight fire(s), earthquake or other catastrophe or force majeure event shall excuse the Seller from all water supply requirements for such reasonable period of time as may be necessary to restore service.

3. To furnish, install, operate, own and maintain at its own expense at each point of delivery, the necessary metering equipment, including meter pit and required devices of standard type for properly measuring the quantity of water delivered to the Purchaser. Metering devices shall be calibrated whenever requested by the Purchaser, but not more frequently than once every twelve (12) months. A meter registering not more than 2% above or below the test results shall be deemed to be accurate.

The previous readings of any meter determined by calibration testing to be inaccurate shall be corrected for the 6 months previous to such test or the last satisfactory test, whichever amount of time is less. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless Seller and Purchaser shall agree upon a different amount. The metering equipment shall be read on or about the last day of each month. An appropriate official of the Purchaser shall at all reasonable times, have access to the meter for the purpose of verifying its readings.

4. To furnish Purchaser, prior to the 10th day of each month, an itemized statement of water delivered and amounts due under this Contract. Statement to be delivered to the Purchaser's mailing address. Statement may be delivered electronically if mutually agreed to between the Seller and the Purchaser.

5. Seller does not make any expressed or implied warranties regarding the quality of water provided under this agreement except that the water shall be potable water meeting the applicable standards of quality established by ADEM at the point(s) of delivery. Seller expressly disclaims any warranties or agreements that it will provide special use water or any other water than potable water as defined herein.

B. THE PURCHASER AGREES

1. To pay the Seller, no later than the 20th day of each month in accordance with the following schedule of rates:

a. The agreed minimum monthly gallons of water purchased shall be 50% of the Maximum Month (10,000,000 gallons per month) as defined herein or as modified by any subsequent request for an increase in the Maximum Month provided by this contract.

b. Purchaser to pay an Initial Rate of \$1.58 for each 1000 gallons of water purchased.

C. IT IS FURTHER MUTALLY AGREED BETWEEN THE SELLER AND PURCHASER AS FOLLOWS:

1. That this Contract shall extend for a term of 10 years from the date of the initial delivery of any water as indicated by the first bill submitted by the Seller to the Purchaser. After the initial 10 year term, this Contract may be renewed or extended for such term or terms as may be agreed upon by the Seller and Purchaser.

2. Seller will at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with the quantities of water provided for in this Contract. Temporary or partial failures to deliver water shall be remedied with all practical dispatch. In the event of an extended shortage of water, or the supply of water available to the Seller is otherwise diminished over an extended period of time, the supply of water to Purchaser shall be reduced in accordance with the City's **Drought Management Plan**.

3. It is further agreed that the above referenced Initial Rate represents a fair and accurate cost for Seller to produce and deliver potable water to Purchaser. The Initial Rate is subject to an annual rate adjustment by Seller on **October 1st** of each year for the duration of this Contract and any subsequent renewals or extensions. Any annual rate adjustment to the Initial or subsequent rate shall be based on a cost of service analysis performed by the Seller. The cost of service analysis shall include the costs and expenses associated with producing, treating, delivering, operating and administering the Seller's water supply, treatment, and distribution system. Without limiting the generality of the foregoing and without being an exhaustive or all inclusive list, it is the intention of the parties that labor, salaries, professional expenses, overhead, taxes, licenses, insurance, utilities, supplies, chemicals, repairs, maintenance, bonding costs, depreciation and interest expenses of the Seller's water supply, treatment and distribution system that may be reasonably allocated to the class of customers containing the Purchaser are considered a cost of service. In lieu of a cost of service analysis, Seller may increase the Initial Rate and any subsequent rate by an amount equal to the Consumer Price Index (CPI), Southern Region, All Items and Major Group Figures for All Urban Consumers (base index year 1982-1984 = 100), provided, however that the maximum annual rate adjustment using the CPI shall not exceed **5** %.

Other Modifications to the Contract may be made as mutually agreed to by the Parties.

4. This Contract is subject to rules, regulations or laws which may be applicable to similar Contracts in the state of Alabama. Purchaser and Seller will collaborate in obtaining such permits, certificates, or like as may be required to comply herewith.

5. This Contract shall be binding upon and inure to the benefit of the Purchaser and the Seller and their respective successors and assigns. **Purchaser may assign this Contract but only upon the express written consent of the seller.**

6. In case any one or more of the provisions contained in this agreement or any amendment thereto, shall for any reason be held by a court of competent jurisdiction to be

invalid, illegal, or unenforceable in any respect, the invalidity, illegality or unenforceability of that provision shall not affect any other provision and this Contract shall be construed as if the invalid, illegal or unenforceable provision has never been contained in it.

7. In the event of any default in the performance of obligations of a party under the terms and conditions of this Contract, the defaulting party shall be required to pay all legal costs incurred by the non defaulting party for the enforcement of any provision of this Contract including reasonable attorney fees in addition to any other relief to which the non defaulting party may be entitled.

8. Any notice to be given under this Contract shall be in writing by registered or certified mail to:

Purchaser: Jacksons Gap Water Authority
567 Jacksons Gap Way
Jacksons Gap AL 36861

Seller: City of Alexander City
281 James D. Nabors Drive
Alexander City, AL 35010

9. Both Seller and Purchaser acknowledge and agree that any prior contracts or agreements entered into prior to the execution of this Contract, and any amendments thereto, are hereby canceled, voided, and held for naught and are of no force and effect whatsoever. This Contract supersedes any and all other agreements, either oral or in writing between the parties and represents the entire agreement of the parties.

In witness whereof, the parties hereto, acting under the authority of their respective governing bodies have caused this contract to be executed in two counterparts, each of which shall constitute and original.

SELLER:

~~CITY OF ALEXANDER CITY~~

FOR PUBLIC RELEASE

ITS: Mayor

FOR PUBLIC RELEASE

City Clerk

FOR PUBLIC RELEASE

FOR PUBLIC RELEASE

BY: *[Signature]*
ITS: *Chairman*

FOR PUBLIC RELEASE

AT: *Office Manager*

KRISTY DAVIS
My Commission Expires
February 5, 2025

