

St. Louis City Ordinance 63485

FLOOR SUBSTITUTE

BOARD BILL NO. [95] 80

INTRODUCED BY ALDERMAN FRED WESSELS

AN ORDINANCE recommended by the Board of Public Service authorizing a contract between the City of St. Louis and the Missouri-American Water Company for the sale and purchase of water from the City for distribution by Missouri-American Water Company in its general system; authorizing connections between the City of St. Louis system and the Missouri-American Water Company system, setting forth the terms of the contract, and containing an emergency clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Mayor and Comptroller of the City of St. Louis, acting on behalf of said City, are hereby authorized to enter into a contract with Missouri-American Water Company for the sale of water for general system purposes, and to make all necessary connections between the water systems for these purposes, which said contract shall read as follows:

CONTRACT

This Contract made and entered into this _____ day of _____, 1995, by and between the City of St. Louis, Missouri, a municipal corporation, also referred to as "CITY", and the Missouri-American Water Company, a Missouri Corporation, also referred to herein as "COMPANY", witnesseth:

WHEREAS, the CITY is a municipal corporation of the State of Missouri and is authorized by its charter to maintain waterworks for the furnishing of water to the CITY, its property, its inhabitants and the places and people along or in the vicinity of the pipes, conduits and aqueducts constructed or used for that purposes, and

WHEREAS, Company is a Missouri Corporation and authorized by the Missouri Public Service Commission to provide water service, and

WHEREAS, in the spirit of regional cooperation, coordination between the City of St. Louis and the Missouri-American Water Company will be mutually beneficial to all parties, while improving the viability of the St. Louis Region.

NOW THEREFORE, it is mutually agreed:

ITEM 1. NATURE OF SERVICE

CITY agrees to furnish and sell and COMPANY agrees to purchase water as needed at an interconnecting point as defined in Item 4. CITY agrees to exercise reasonable diligence and foresight to repair, replace and maintain its water system so as to provide the flow of water as defined in Item 5 herein at the point of the COMPANY'S interconnection during the life of this Contract. CITY also agrees that supply of water to COMPANY shall be reduced only in proportion to the extent water supply to CITY customers is, at that time, inadequate and curtailed. COMPANY further recognizes and agrees that no liability for damages are attached to the CITY hereunder on account of an actual failure of supply due to Acts of God or other occurrences beyond the reasonable control of the CITY.

ITEM 2. PRICING

COMPANY agrees to pay for water at a rate based on the CITY'S annual cost of production, as defined in Appendix A, attached hereto and made a part of this CONTRACT, at the CITY of St. Louis' Howard Bend Water Treatment Plant, plus the cost of operation and maintenance of the Stacy Park Reservoir, and interconnecting conduits, as verified by the CITY'S independent audit. In addition, the rate shall include a component for depreciation of existing Plant and future capital investments, when made by the CITY on these facilities, plus eighteen percent (18%) for margin above cost. All audits shall be in accordance with the accounting principles set forth in Appendix A, attached hereto and made a part of this Contract. Costs shall be determined in accordance with Appendix B each fiscal year by the CITY'S Water Division, based on the number of gallons of water actually produced and the expenses incurred at Howard Bend during that given year. In calculating these costs, should the percent of pumping for the year at Howard Bend be less than thirty-three percent (33%) of the total pumpage from the CITY'S two treatment facilities, then the value of thirty-three percent (33%) of the total CITY pumpage shall be used in lieu of actual Howard Bend filtered water pumpage in Appendix B, Paragraph VIII, "Total Cost for Howard Bend Water Sales." These costs shall be the basis for determining the rate COMPANY will pay during the following calendar year. The applicable rate to be paid by COMPANY shall be \$0.4168

per 1,000 gallons through December 31, 1995. COMPANY shall have the right to conduct its own independent audit of the above costs at its own expense. In the event of a dispute between CITY and COMPANY, concerning audit results and/or the development of water pricing as described herein, the adjudication of such dispute shall be as defined in ITEM 9. Change in State or Federal law, or State or Federal regulatory action, may be grounds for renegotiation of factors shown in Appendices A and B. Failure to agree upon impacts of such changes shall be adjudicated as defined in ITEM 9.

ITEM 3. PAYMENT

COMPANY agrees to pay the CITY on a monthly basis (i.e., Billing Month) for all purchases of water under this CONTRACT. All purchases shall be billed monthly, within fifteen (15) days after rendition of service, and all such bills shall be due and payable without discount within thirty (30) days after date of bill. Should any bill remain unpaid for a period of thirty (30) days after written notice by the CITY to COMPANY that the same is past due, and failure of COMPANY to make such payment within the period of such notice, then the CITY may, at its option and upon ten (10) days written notice to COMPANY discontinue all service to COMPANY and all bills then delinquent shall carry interest at the rate of ten percent (10%) per annum from the date due. Should a billing dispute arise between COMPANY and CITY, CITY agrees that it will not discontinue service during the period of good faith discussions and during any period in which COMPANY disputes said billing before an administrative or judicial body.

ITEM 4. CONNECTIONS AND METERING

A. Point of Interconnection - Water to be supplied hereunder by the CITY to COMPANY shall be supplied on CITY'S land, at a point of connection on the CITY'S Howard Bend Plant property or on the CITY's treated water conduits between the Howard Bend Water Treatment Plant and the Stacy Park Reservoir. In order to permit said delivery:

1. CITY agrees at its own cost and expense to furnish, install and maintain all necessary meters to be located in facilities to be constructed by COMPANY at COMPANY's sole cost and expense. COMPANY has the right at all times to test the meter which registers the amount of water for which the CITY will bill COMPANY. Should said meter test show that said meter is recording with less than 98 percent accuracy (higher or lower), an adjustment shall be made to the billings to the COMPANY for the prior one-year period to either credit or debit the next billing to the COMPANY by the amount of the over or underbilling.

2. CITY shall grant to COMPANY such easements on City property as COMPANY and CITY mutually agree are necessary to construct the facilities required for interconnection. Granting of said easement by CITY shall not be unreasonably withheld.

3. COMPANY agrees, at its own cost and expense, to furnish and install all pipe, valves, fittings, meter pits, pump station and appurtenances necessary to connect its water distribution system with said connection point on the CITY'S system. All pipe, valves, fittings, meter pit, pump station and appurtenances which are paid for and installed by the COMPANY shall be owned and maintained by the COMPANY. CITY shall have the right to operate such valves as necessary to maintain meters and will assume operating and improvement responsibility for the isolation valves at the point of interconnection with the CITY conduits. CITY may install such equipment as needed to obtain continuous information on flows and pressures. All pipe, valves, fittings and appurtenances installed on CITY property shall be designed and constructed in accordance with recognized water works industry standards. CITY shall have the right to review and approve all plans and specifications of the pipe, valves, fittings, meter pit, pump station and appurtenances which COMPANY proposes to install on CITY property. IN addition, all work or construction performed or undertaken by COMPANY on CITY property shall be subject to the supervision and approval of the Water Commissioner of the CITY.

ITEM 5. QUANTITY AND QUALITY OF WATER

1. The CITY agrees to sell water to COMPANY as COMPANY desires to purchase up to a supply rate not to exceed 35 million gallons per day without approval of the Water Commissioner.

2. Water supplied by the CITY to COMPANY shall meet the treated water quality standards of the Missouri Department of Natural Resources and/or United States Environmental Protection Agency, or such other successor agency.

3. Water will be supplied by CITY to COMPANY at the pressure residual at the point of interconnection to the CITY's metering. Pressure at the point of interconnection shall be maintained at 109 psi, minimum, as measured in the discharge headers at the Howard Bend Plant.

ITEM 6. COMMUNICATION BETWEEN CITY AND COMPANY

In order to assure the COMPANY has adequate information relative to the operation of the CITY'S Water Division, as a minimum the following documents shall be provided to the COMPANY.

1. A portion of the Annual Audit concerning Howard Bend and Stacy Park operations;
2. monthly operating reports consisting of all reports submitted to the State of Missouri Department of Natural Resources and which relate to finished water quality; and
3. other pertinent documents as mutually agreed.

ITEM 7. EFFECTIVE DATE OF CONTRACT

This Contract for the sale of water, subject to ITEM 8, shall be in full force and effect for a period of twenty (20) years from and after its date of execution. COMPANY, in the event the CITY does not give notice as provided in ITEM 8.1 to terminate this Contract, shall have the option of extending this Contract for ten (10) years from the end of the above period, upon six (6) months prior notice to the CITY. This contract shall be subject to the approval of the Missouri Public Service Commission to the extent required by law.

ITEM 8. TERMINATION

1. CITY has the right and option to cancel and terminate this Contract upon expiration and thereafter all rights and obligations hereunder shall cease, provided, CITY provides COMPANY three (3) or more years notice of such decision to cancel and terminate upon expiration.
2. COMPANY has the right and option, upon one (1) or more years written notice to the CITY, to cancel and terminate this Contract, and thereafter all rights and obligations hereunder, other than easement rights conveyed by separate instruments, shall cease.

ITEM 9. THIRD PARTY AUDIT

In the event of disagreement concerning audit results, and/or the calculations necessary for ITEM 2, the parties agree to submit the matter to binding determination to a mutually agreed upon "Big Six" accounting firm not previously engaged in the audit. In the event of inability to mutually agree on any such firm, said firm shall be selected by lot from each party's single nominee.

ITEM 10. DISPUTES OR CLAIMS

It is expressly understood between the parties that any disputes or claims arising out of this Contract, other than described in ITEM 9, resulting in a cause or causes of action, shall only be brought in the Missouri Circuit Court, Twenty- Second Judicial Circuit, the City of St. Louis.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers as of the day and year first above written.

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement as of the day and year first above written.

CITY OF ST. LOUIS, MISSOURI MISSOURI-AMERICAN WATER CO.

By: _____ By: _____
Mayor William F. L'Ecuyer
Vice President & Manager
By: _____
Comptroller

Approved as to form: ATTEST:

City Counselor Secretary
ATTEST:

City Register

SECTION TWO. This ordinance, being deemed necessary for the immediate preservation of the public health, safety and general welfare, shall be and is hereby declared to be an emergency measure within the meaning of Article IV, Section 20, of the Charter of the City of St. Louis, and as such shall take effect immediately upon its approval by the Mayor.

APPENDIX A
SUMMARY OF ACCOUNTING POLICES

- I. Revenues and expenses of the St. Louis City Water Division must be reported in accordance with generally accepted accounting principles.
- II. Direct costs to be included:

A. Direct costs of Supply and Purification at the Howard Bend Plant to be summarized as follows:

1. Labor - Actual wages and fringes associated with employees working full-time at the Howard Bend Plant.
2. Support Services - Actual Water Division costs for services provided directly to Supply and Purification at the Howard Bend Plant.
3. Chemicals - Actual costs of chemicals utilized at the Howard Bend Plant.
4. Other Materials and Services - Actual cost of materials and services utilized at the Howard Bend Plant.

B. Direct costs of Power and Pumping Section at the Howard Bend Plant to be summarized as follows:

1. Labor - Actual wages and fringes associated with employees working full-time at the Howard Bend Plant.
2. Support Services - Actual Water Division costs for services provided directly to power and pumping at the Howard Bend Plant.
3. Power - Cost of power for actual pumping at the Howard Bend Plant.
4. Other Materials and Services - Actual cost for materials and services utilized at the Howard Bend Plant.

C. Depreciation of Howard Bend Facilities and Stacy Reservoir Facilities - Amount should be equal to the actual amounts recorded in the accounting records of the Water Division for these facilities. Depreciation will be calculated under the straight line method utilizing the following useful lives:

1. Building and Improvements - Fifty (50) years.
2. Pumping equipment - Thirty-three (33) years.

III. Allocated Costs to be included:

A. General Office Expenses:

1. One third Supply and Purification general office expense. Charges to this expense category are wages and fringes for the staff that oversees the Supply

and Purification function at the Howard Bend Plant and Chain of Rocks Plant and related miscellaneous expenses.

2. One third of Power and Pumping general office expense. Charges to this expense category are wages and fringes for this staff that oversees the Power and Pumping function at Howard Bend and Chain of Rocks and related miscellaneous expense.

B. Administration and Finance Expense:

1. Costs will be allocated by taking one third of the ratio of the budgeted positions in Supply and Purification (including construction and maintenance) and Power and Pumping to the budgeted positions in Supply and Purification (including construction and maintenance), Power and Pumping, Transmission and Distribution and Customer Accounting and applying this factor to certain Administration and Finance expenses.

2. Certain Administration and Finance expenses in (1) above include the following:

a. Labor - Actual wages and fringes for employees working in the Administration and Finance Departments of the Water Division.

b. Worker's Compensation - Worker's Compensation insurance for all employees of the Water Division.

c. Support Services - Only those support services directly for the operation of the Administration and Finance Section of the Water Division.

d. City Services - City of St. Louis costs allocated to the Water Division according to the "Central Service Cost Allocation Plan". This plan allocates City of St. Louis expenses to various City departments, including the Water Division, based upon each department's relative use of that city service. This allocation must be deemed fair by the Water Division's Certified Public Accountant.

e. Other Services and Miscellaneous - Charges for utilities, telephone, supplies and other miscellaneous expenses of operating the Administration and Finance Section.

3. Administration and Finance expenses specifically excluded from the costs in (2) above are charges for judgements, Bad Debt Expense and Support Services

not directly for the operation of the Administration and Finance Section of the Water Division.

C. Stacy Reservoir Costs:

1. The City of St. Louis has two reservoirs, Compton and Stacy. The Missouri-American Water Company will be served by the Stacy Reservoir. The costs of maintenance of the above reservoirs are not recorded separately by specific reservoir in the City's accounting records.

2. As a result of the situation in (1) above, one half of these costs will be included in the formula.

IV. Return on Investment - Calculated by taking the sum of costs in II and III above, times 18%. This amount includes any and all taxes to be paid to both the Water Division and the City of St. Louis.

V. The Missouri-American Water Company's cost per 1,000 gallons - Calculated by totaling Items II, III, and IV above and dividing this total cost by the actual total gallons of filtered water pumped at Howard Bend including water pumped to the Missouri-American Water Company, except as set forth in Item 2, Pricing.

VI. Specifically excluded costs included the following:

A. Transmission and Distribution costs.

B. Customer Accounting costs.

C. Debt Service.

D. Any other cost item not specifically included in II, III or IV above.

VII. See Appendix B as an example of the above formula for Fiscal year 1993 - 94.

VIII. The costs per 1,000 gallons purchased should be calculated on expenses for years ending June 30, and audited by the Water Division's Certified Public Accountant. The cost so calculated will become effective for the subsequent calendar year.

IX. The Audit Report of the Water Division for the years ending June 30 should separately state the following (as previously defined):

- A. Direct costs of Supply and Purification - Howard Bend.
- B. Direct costs of Power and Pumping - Howard Bend.
- C. General Office Expenses - Power and Pumping.
- D. General Office Expenses - Supply and Purification.
- E. Reservoir Maintenance Expenses.
- F. Support services charged to Administration and Finance that are directly related to the operation of the Administration and Finance Section of the Water Division.
- G. Labor Cost used to calculate percent allocation in III, B. 1. above.
- X. Water Division personnel will furnish interim Financial Statement information equivalent to that included as Appendix B of this agreement on a quarterly basis.
- XI. Missouri-American Water Company reserves the right to audit the Water Division at its own expense.

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
05/12/95	05/12/95	PU		
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
05/26/95			06/02/95	06/02/95
ORDINANCE	VETOED		VETO OVR	
63485				