

**AN ORDINANCE APPROVING AND AUTHORIZING A FIRST AMENDMENT TO THE UNTREATED WATER SUPPLY CONTRACT BETWEEN THE CITY OF HOUSTON AND ENTERPRISE PRODUCTS OPERATING, LLC (APPROVED BY ORDINANCE NO. 1996-880); CONTAINING PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EMERGENCY.**

\* \* \* \*

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

Section 1. The City Council hereby approves and authorizes the contract, agreement or other undertaking described in the title of this Ordinance, in substantially the form as shown in the document which is attached hereto and incorporated herein by this reference. The Mayor, or, in the absence of the Mayor, the Mayor Pro Tem is hereby authorized to execute such document and all related documents on behalf of the City of Houston. The City Secretary, or in the absence of the City Secretary, any Assistant City Secretary is hereby authorized to attest to all such signatures and to affix the seal of the City to all such documents.

Section 2. The Mayor is hereby authorized to take all actions necessary to effectuate the City's intent and objectives in approving such agreement, agreements or other undertaking described in the title of this ordinance, in the event of changed circumstances.

Section 3. The City Attorney is hereby authorized to take all action necessary to enforce all legal obligations under said contract without further authorization from Council.

Section 4. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 3rd day of June, 2020.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor of the City of Houston, Texas

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JUN 09 2020.

Asst. J. Daniel  
City Secretary

(Prepared by Legal Dept.  
 (GHW/dg 5/21/2020)  
 (Requested by Carol Ellinger Haddock, P.E., Director, Houston Public Works)  
 (L.D. File No. 0809900035004)

*Gwendolyn Lee Webb*  
 Assistant City Attorney

AYE	NO	
✓		<b>MAYOR TURNER</b>
••••	••••	<b>COUNCIL MEMBERS</b>
✓		PECK
✓		DAVIS
✓		KAMIN
✓		EVANS-SHABAZZ
✓		MARTIN
✓		THOMAS
✓		TRAVIS
✓		CISNEROS
✓		GALLEGOS
✓		POLLARD
✓		MARTHA CASTEX-TATUM
✓		KNOX
✓		ROBINSON
✓		KUBOSH
✓		PLUMMER
✓		ALCORN
CAPTION	ADOPTED	

**FIRST AMENDMENT TO  
UNTREATED WATER SUPPLY CONTRACT BETWEEN  
THE CITY OF HOUSTON, TEXAS AND  
ENTERPRISE PRODUCTS OPERATING LLC  
[Contract No. 036877]**

**THIS FIRST AMENDMENT** to the Untreated Water Supply Contract No. 036877 between the **CITY OF HOUSTON, TEXAS** and **ENTERPRISE PRODUCTS OPERATING LLC** ("First Amendment"), is made and entered into by and between the City of Houston, Texas, a municipal corporation and home-rule city which is principally located and has its City Hall in Harris County, Texas ("Houston" or "Seller"), and Enterprise Products Operating LLC, ("Buyer" or "Enterprise Products"), (each a "Party" and together, "Parties").

**RECITALS**

**WHEREAS**, on September 9, 1996, Seller and EGP Fuels Company, the original buyer, entered into Untreated Water Supply Contract No. 036877 ("Contract 036877"), which contract was approved by the Houston City Council by Ordinance No. 96-880, authorizing the sale of 0.8 million gallons per day ("MGD") of untreated water at the EGP Fuels Company facilities at 1200 N. Broadway, La Porte, Texas 77871; and

**WHEREAS**, under Contract No. 036877, EGP Fuels Company and Seller agreed that Seller would deliver up to 0.8 MGD of untreated water to Buyer at Buyer's facilities at the 1200 N. Broadway, La Porte, Texas 77871 (sometimes referred to as "Morgan's Point") to begin on September 9, 1996, as specified in Contract No. 036877; and

**WHEREAS**, Buyer subsequently acquired EGP Fuels Company, including its Morgan's Point facilities and its rights, privileges and duties under Contract No. 036877; and

**WHEREAS**, Buyer submitted a request to Seller by email on October 28, 2014, which request was approved in part by letter agreement by Houston Public Works and signed by its duly authorized representative, to amend the Contract to increase the amount of water supplied from Seller from 0.8 MGD to 1.88 MGD effective March 1, 2015 ("First Volume Increase"); and

**WHEREAS**, Buyer submitted a request to Seller by Draft Contract Amendment on October 11, 2018, and also subsequently by completing an *Existing Contract Action Request Form* dated November 7, 2019, which form is attached hereto as Exhibit "A," requesting a "Second Volume Increase" from 1.88 MGD to 2.30 MGD.

**WHEREAS**, Seller has adequate capacity in its water system to provide Buyer with the requested additional untreated water supply, effective as of the date of Counter Signature by the City Controller of this First Amendment; and

**WHEREAS**, both Buyer and Seller desire to and are authorized to enter into this First Amendment to revise and confirm the Contract Quantity under applicable law, including the Houston City Charter, the Texas Water Code, and the Texas Local Government Code;

**NOW, THEREFORE**, in recognition of the Recitals set forth above, the truth of which the Parties readily acknowledge; and for and in consideration of the mutual promises and agreements set forth in Contract No. 036877 and in this First Amendment, the Parties agree as follows:

#### AMENDMENTS

1. **Contract No. 036877.** The Parties acknowledge that Seller continues to sell untreated water to Buyer, and Buyer continues to purchase untreated water from Seller in accordance with Contract No. 036877, which remains in effect until the termination date of December 31, 2020, as specified in the Contract.

2. **Change to Article II, Sale and Delivery of Water.** Paragraph 2.1 shall be deleted in its entirety and replaced with the following provision 2.1:

2.1. Subject to the terms and conditions of this Contract, during the Contract Term Seller hereby agrees to sell and deliver to Buyer, and Buyer agrees to purchase from Seller Untreated Water at the Point of Delivery shown on Exhibit "B," attached to this First Amendment, at daily rates of delivery as may be needed by Buyer,

provided, however, that under no circumstances shall Seller be obligated to deliver to Buyer Untreated Water in excess of the Contract Quantity of 2.30 MGD.

3. Change to Article XIII, Addresses and Notices. Section 13.1 and Section 13.2 shall be deleted in their entirety and replaced with the following provisions 13.1 and 13.2:

13.1 Until Buyer is otherwise notified in writing by Seller, Buyer shall communicate with Houston on matters involving this Contract as follows:

For Billing and Payment Issues:

Houston Public Works  
Customer Account Services  
4200 Leeland  
Houston, Texas 77023  
Email address: [Contract.Water@houstontx.gov](mailto:Contract.Water@houstontx.gov)

For all Notices:

Houston Public Works  
Attn: Director  
611 Walker, 25<sup>th</sup> Floor  
Houston, Texas 77002  
Email address: [PublicWorks@houstontx.gov](mailto:PublicWorks@houstontx.gov)

Until Houston is otherwise notified in writing by Buyer, the address of Buyer is and shall remain as follows:

Enterprise Products Operating LLC  
ATTN: Roger B. Seward  
1100 Louisiana Street  
Suite 1000  
Houston, TX 77002  
Email address: [RSeward@~~erped~~.com](mailto:RSeward@<del>erped</del>.com)

13.2 All written notices required or permitted to be given under this Contract from one Party to the other Party shall be deemed given when transmitted by certified or registered mail by placement in a United States Postal Service mail box or receptacle, with proper postage affixed thereto and addressed to the respective other Party at the address set forth above or at such other address as the parties respectively shall designate by written notice. Notices required under this Contract sent by U.S. Mail as specified herein must also be simultaneously transmitted by electronic mail to the other Party.

**MISCELLANEOUS**

5. **Effect of Amendment.** Except as expressly modified by this First Amendment, all terms and conditions of Contract No. 036877 shall remain in full force and effect.

6. **Conflicts.** In the event of a conflict between Contract No. 036877 and this First Amendment as to the Contract Quantity, this First Amendment shall prevail.

7. **Term and Effective Date.** This First Amendment shall be in force and effect beginning on the date of Countersignature of this First Amendment by the City Controller shown below and shall remain in effect until December 31, 2020 at 8:00 a.m. Contract No. 036877 may be terminated by Seller for nonpayment as provided in Article XI.

8. **Signatures.** The Parties have executed this First Amendment in multiple copies, each of which is an original. This First Amendment is binding only among those parties who have signed this First Amendment. Each person signing this First Amendment represents and warrants to the other that he or she is duly authorized and has legal capacity to execute and deliver this First Amendment. Each Party represents and warrants to the other that the execution and delivery of this First Amendment and the performance of such Party's obligations hereunder have been duly authorized and that this First Amendment is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

**IN WITNESS WHEREOF**, the Parties have executed this First Amendment in multiple copies, each of which shall be deemed to be an original, effective as of the date of countersignature by the City of Houston Controller.

**Exhibits:**

A – Existing Contract Action Request Form by Enterprise Products Operating LLC

B – Buyer's Map of Point of Delivery

(Signatures appear on the following page.)

ENTERPRISE PRODUCTS  
OPERATING LLC *RBS JB*

ATTEST:

By: *Roger B. Seward*  
Name: *ROGER B. SEWARD*  
Title: *V.P. Asset Optimization*  
Date: *12-9-19*

By: *[Signature]*  
Name: *GRAHAM W BACON*  
Title: *EVP and COO of its Manager*  
Date: *12/5/19*

CITY OF HOUSTON, TEXAS

ATTEST/SEAL:

Signed by:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

APPROVED:

COUNTERSIGNED BY:

DocuSigned by:  
*Carol Haddock* 5/18/2020  
A93C410B72B3453... DS  
Director, Houston Public Works *ED*

\_\_\_\_\_  
City Controller

APPROVED AS TO FORM:

DATE COUNTERSIGNED:

DocuSigned by:  
*Gwendolyn Hill Webb*  
Senior Assistant City Attorney  
L.D. File No. \_\_\_\_\_

\_\_\_\_\_