

RESOLUTION NO. 19 - 29

A RESOLUTION APPROVING AN AMENDMENT TO THE CITY'S WATER SALE CONTRACT WITH UPPER TRINITY REGIONAL WATER DISTRICT AND AUTHORIZING THE CITY MANAGER TO EXECUTE ANY NECESSARY, ASSOCIATED DOCUMENTATION

A regular meeting of the City Council of the City of Commerce, Texas, was held in Commerce, Texas, at City Hall, on the 21st day of May 2019, at 6:00 p.m.; a majority of council members being present and constituting a quorum, the following resolution was adopted:

WHEREAS, the City of Commerce (herein "Commerce") and Upper Trinity Regional Water District (herein "UTWRD") executed a contract for mutually beneficial purposes, and the contract as implemented as served the best interest of both parties;

WHEREAS, the contract provides for sale to, and use by UTWRD of water from Cooper Lake (sometimes referred to as Chapman Lake) (herein "Reservoir") over a period of time up to one hundred fifty (150) years, subject to certain specific options by the City ; and

WHEREAS, after the Parties have been following the terms of the Contract for more than a quarter century, it is prudent for Commerce and UTRWD to review the provisions of the Contract and to consider appropriate updates and modifications thereof for mutual convenience and benefit; and

WHEREAS, the Contract provides for Commerce to have a series of options starting fifty (50) years after Completion Date of the Reservoir (generally accepted to be September 28,1991), to "reacquire the right to use" water from the Reservoir in not-to-exceed specified quantities, generally at twenty-five year intervals, starting in the year 2041; and

WHEREAS, Commerce currently has a contract with Sabine River Authority for use of water from Lake Tawakoni, which contract is subject to renegotiation or renewal; and

WHEREAS, to protect the best interest of Commerce for a secure source(s) of water supply, Commerce desires to amend the Contract to provide for more convenient and timely options for access to water from the Reservoir; and

WHEREAS, to provide for a more predictable and secure source of water for its service area pursuant to Texas statutory requirements for long-range water supply planning, UTRWD desires to amend the Contract to provide for long-term access to water from the Reservoir and

for Commerce to have access to, and the option to use, water from the Reservoir in more predictable quantities on a timely basis for the water supply needs of Commerce's retail customers within the City; and

WHEREAS, the Contract provides for UTRWD to make payments to Commerce of principal and interest and maintenance expenses owed by Commerce to Sulphur River Municipal Water District (herein "SRMWD") under the Commerce/SRMWD Contract for Commerce's Initial and Future Water Storage Rights in the Reservoir under the COE/SRMWD Contract; and

WHEREAS, it is the mutual desire of Commerce and UTRWD to continue to honor and uphold the provision of the Contract in Section 2.01 for UTRWD to purchase "... raw water from the Reservoir equal to the total amount of water to which Commerce is entitled to receive from Commerce's Initial Water Storage Rights and Future Water Storage Rights in the Reservoir under the COE/SRMWD Contract . . ."; and,

WHEREAS, as required by the Contract, Commerce and UTRWD have fulfilled, and did jointly secure, the necessary regulatory approvals to enable UTRWD to use water from the Reservoir for "municipal" purposes and to divert the water to UTRWD's service area in the Trinity River basin; and

WHEREAS, on November 18, 1992 the Texas Water Commission by issuance of Certificate of Adjudication No. 03-4797A (an amendment to CA. No. 03-4797) authorized the SRMWD and Commerce to divert water, and to allow UTRWD to divert and to use water from Chapman Lake ("Reservoir") in the Trinity River Basin; and

WHEREAS, UTRWD is responsible for pumping and delivery of water from the Reservoir to the UTRWD service area in the Trinity River basin; and

WHEREAS, since operation of the Reservoir began, sediment has accumulated around the water intake structure (Delivery Point) requiring considerable dredging and expense by UTRWD to maintain pumping capability; and

WHEREAS, no additional regulatory approvals are expected to be required by operation of this Amendment or by implementation of provisions thereof; however, if such regulatory approvals are or become a requirement, the parties desire to jointly act to secure such approvals; and

WHEREAS, the Contract states that both parties desire to contract for the sale of water "on a temporary, interim basis", and

WHEREAS, UTRWD desires to amend the Contract to confirm that the contracted water from the Reservoir shall be available to UTRWD on a long-term basis (rather than a “temporary, interim basis”), subject to a continuing option by Commerce to use water from the Reservoir to meet water supply needs of its retail customers within the City; and

WHEREAS, Commerce desires to sell to UTRWD, water from the Reservoir on a long-term basis and to amend the Contract accordingly; and further, to amend the Contract to provide for Commerce to have a continuing option to receive water from the Reservoir as needed to meet the reasonable needs of its retail water customers within the City.

THEREFORE, BE IT RESOLVED, that the City of Commerce approves the proposed amendments to the water sale contract between the City of Commerce and the Upper Trinity Regional Water District;

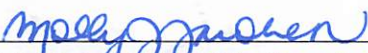
BE IT FURTHER RESOLVED, that the City Manager is authorized to execute all necessary contract documents; and

BE IT FURTHER RESOLVED, that the Mayor of the City of Commerce, Texas, be authorized and he is hereby authorized to execute this resolution;

BE IT FURTHER RESOLVED, that the City Secretary be authorized, and she is hereby authorized to attest to the signature of the Mayor to this resolution;

PASSED BY THE GOVERNING BODY of the City of Commerce, Texas, at a regular meeting of the City Council of the City of Commerce, Texas, on the 21st day of May 2019.

ATTEST:

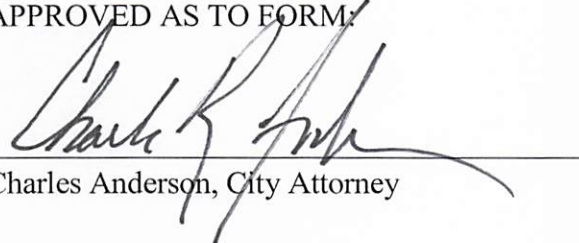

Molly Jacobsen, City Secretary

(Seal)

CITY OF COMMERCE, TEXAS

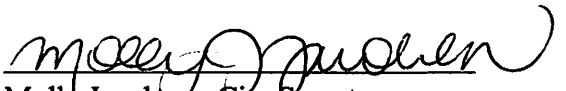

Gene Lockhart, Mayor Pro Tempore

APPROVED AS TO FORM:


Charles Anderson, City Attorney

I, Molly Jacobsen, City Secretary of the City of Commerce, Texas, do hereby certify that the above is a true and correct copy of a resolution and that the same has not been repealed and is in full force and effect.

(Seal)


Molly Jacobsen, City Secretary
City of Commerce, Texas