

RESOLUTION NO. R-2024-15

AUTHORIZING EXECUTION OF A MASTER AGREEMENT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AUTHORIZING EXECUTION OF A MASTER AGREEMENT BETWEEN AQUA WATER SUPPLY CORPORATION AND THE CITY OF BASTROP REGARDING CONSENT TO TRANSFER PORTIONS OF ITS CERTIFICATED RETAIL WATER SERVICE AREA TO THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Bastrop holds retail water Certificate of Convenience and Necessity (“CCN”) No. 11198 regulated by the Public Utility Commission of Texas (“PUC”), or its predecessors or successors in interest (“Bastrop Water CCN”); and

WHEREAS, Bastrop holds retail wastewater Certificate of Convenience and Necessity (“CCN”) No. 20466 regulated by the Public Utility Commission of Texas (“PUC”), or its predecessors or successors in interest (“Bastrop Wastewater CCN”); and

WHEREAS, Aqua holds retail water Certificate of Convenience and Necessity (“CCN”) No. 10294 regulated by the PUC, or its predecessors or successors in interest (“Aqua Water CCN”) which is adjacent to Bastrop Water CCN; and

WHEREAS, a number of new subdivisions are currently being developed and/or are planned to be developed inside the Aqua Water CCN and the Bastrop Wastewater CCN and there could be specific situations where certain subdivisions may be better served by Bastrop in regards to water service based on existing infrastructure currently available to meet all standards for residential and commercial development; and

WHEREAS, some or all of the land under consideration, and subject to potential conveyance is shown in Exhibit “A” to the Master Agreement, located within the Aqua Water CCN and the Bastrop Wastewater CCN (“Subject Territory”): and

WHEREAS, Chapter 13 of the Texas Water Code and the PUC rules allow for the transfer or assignment of CCN service areas from a water supply corporation to a municipally owned utility; and

WHEREAS, it is found to be in the best interests, both operationally and financially, of Aqua and Bastrop to transfer portions of the Aqua Water CCN located within the Subject Territory to Bastrop from time to time, under terms and

conditions stated in this Agreement as well as Amendments to this Agreement that describe the specific portions, certain tracts or parcels; and

WHEREAS, Bastrop and Aqua agree that a determination will be made by Bastrop that Bastrop has sufficient water supply available to provide water service to a specific portion of the Aqua Water CCN located within the Subject Territory and Bastrop will provide written notification of Bastrop's interest in serving the specific portion along with a written determination of Bastrop's ability to serve; and

WHEREAS, after receiving Bastrop's written notification of Bastrop's interest in serving a specific portion of the Aqua Water CCN within the Subject Territory, Aqua will determine if Aqua will agree to transfer that specific portion of the Aqua Water CCN to Bastrop in accordance with the terms and conditions provided in this Agreement; and

WHEREAS, each amendment to this Agreement shall address any issues unique to the specific portion of the Aqua Water CCN subject to transfer to Bastrop, including, but not limited to, issues related to any stranded assets for Aqua, easement acquisition, and existing customers located within the specific portion to be transferred.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, THAT:

Section 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Bastrop, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Section 2. The City Council authorizes the execution of the Master Agreement (attached and incorporated herein as Exhibit "A").

Section 1: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 5. Should any portion or part of this Resolution be held for any reason invalid or unenforceable by a court of competent jurisdiction, the same shall not be construed to affect any other valid portion hereof, but all valid portions hereof shall remain in full force and effect.

Section 6. This Resolution shall be in full force and effect from and after its passage.

Section 7. The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

RESOLVED this, the 23rd day of January 2024.

APPROVED:

Lyle Nelson, Mayor

ATTEST:

Ann Franklin, City Secretary

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney