



**DATA SHEET**  
**Agenda Item No. 17. A. & B.**

**Meeting Date: December 6, 2018**

**Agenda Item:**

Consider actions regarding the adjustment of District facilities in conflict with the City of Corinth's Lake Sharon Drive Extension Project.

- A. Amendment to Interlocal Agreement with Corinth regarding relocation of the District facilities in advance of construction of the Lake Sharon Drive Expansion Project.
- B. Resolution finding and declaring an emergency to complete the relocation of the District's facilities in conflict with Corinth's Lake Sharon Extension Project and authorizing the expenditures for performance of said work.

<b>Placement:</b>	<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Individual Consideration	<input type="checkbox"/> Executive Session
<b>Vote:</b>	<input type="checkbox"/> Non-Weighted	<input checked="" type="checkbox"/> Weighted Capital	
<b>Recommending Department:</b>	Administration & Engineering		

**Background:**

The City of Corinth has started its planned extension of Lake Sharon Drive between Oakmont and FM 2499. A portion of the new extension is within the same area as the District's 20-inch water transmission pipeline that serves Corinth and Lake Cities Municipal Utility Authority. During design, Corinth identified the need to relocate and make certain modifications to the District's pipeline to avoid conflicts with proposed drainage improvements. In June 2017, the Board approved an Interlocal Agreement with Corinth to provide for the design and construction of the relocation and modifications, with Corinth paying the costs thereof.

Corinth has designed the relocation and modification to the District's water pipeline; and, has started construction of said improvements, as well as the extension of Lake Sharon Drive. However, Corinth has been unable to timely and effectively complete the relocation and modification to the District's water pipeline due to performance and quality issues with its contractor.

A portion of the District's water pipeline was exposed by Corinth's contractor during work for the drainage improvements. Said portion remains exposed, and presents a threat to the integrity and stability of the pipeline and the District's ability to provide drinking water to Corinth and Lake Cities MUA. To avoid any service disruption, the relocation and modifications to the water pipeline must be completed in an expeditious manner.

Corinth has requested that the District complete the necessary relocation and modifications due to performance issues of its contractor, in advance of the City finishing its extension of Lake Sharon Drive. The enclosed draft amendment to the Interlocal Agreement provides:

- The District will complete the relocation and modifications to the District's water pipeline generally in accordance with the previously prepared and approved plans,

- Corinth will be responsible for reimbursing the District's cost to complete the construction, including actual cost for engineering, inspection and project coordination. The District will pay for its normal and regular overhead costs; and,
- To help minimize construction costs, Corinth may be able to provide certain pipeline materials and appurtenances, which are acceptable to the District, as part of a resolution of the construction contract with its current contractor.

Recognizing the need to complete the relocation and modifications in an expeditious manner, the enclosed draft Resolution finds and declares said improvements to be an emergency - - to protect the public health and safety of Corinth's residents and those served by Lake Cities MUA. The draft Resolution would also authorize the Executive Director to enter into contracts and to take all necessary measures to complete the relocation of the water pipeline.

**Financial:**

District plans to use non-bond or commercial paper to complete the relocation and modifications to the District's facilities, subject to reimbursement of costs by Corinth as outlined in the amendment.

**Recommendation**

Staff will continue to coordinate with Corinth, and plans to make a recommendation at the Board meeting.

**Enclosures:**

1. Draft Amendment to Interlocal Agreement with City of Corinth.
2. Draft Resolution declaring an emergency to complete the relocation of the District's facilities in conflict with Corinth's Lake Sharon Extension Project and authorizing the expenditures for performance of said work.

Submitted By:   
Jason Pierce, Manager of Customer Contracts & Support Svs.

Date: November 30, 2018

**AMENDMENT TO  
INTERLOCAL AGREEMENT BETWEEN  
CITY OF CORINTH  
AND  
UPPER TRINITY REGIONAL WATER DISTRICT**

**THE STATE OF TEXAS     §  
  §  
COUNTY OF DENTON     §**

This **AMENDMENT** (the "Amendment") to the **INTERLOCAL AGREEMENT FOR CONSTRUCTION AND INSTALLATION OF CERTAIN FACILITIES** (the "Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the **CITY OF CORINTH** ("Corinth"), a municipal corporation of the State of Texas, and the **UPPER TRINITY REGIONAL WATER DISTRICT** ("UTRWD"), a conservation and reclamation district created pursuant to Article XVI, Section 59 of the Constitution of the State of Texas.

**WITNESSETH:**

**WHEREAS**, Corinth and UTRWD previously entered into the Agreement dated June 15, 2017, to allow Corinth to design and construct the Project, including the UTRWD Improvements, and to pay all costs thereof; and

**WHEREAS**, Corinth has prepared the necessary plans and specifications for the Project, which plans and specifications have been approved by both parties and are attached as Exhibit B to the Agreement; and

**WHEREAS**, Corinth is moving forward with plans to construct the Project, including the UTRWD Improvements; and

**WHEREAS**, Corinth has been unable to timely and effectively complete the UTRWD Improvements due to performance and quality issues with its contractor; and

**WHEREAS**, in order to complete the Project in a timely manner, Corinth has requested that UTRWD complete the UTRWD Improvements prior to the City completing its Lake Sharon Improvements; and

**WHEREAS**, Corinth and UTRWD desire to amend the Agreement to allow UTRWD to complete the UTRWD Improvements as previously designed, and providing for Corinth to reimburse UTRWD all reasonable costs of said improvements as provided in the Agreement and this Amendment; and

**WHEREAS**, Corinth and UTRWD are authorized to enter into this Amendment pursuant to Texas Government Code, Chapter 791 (the "Interlocal Cooperation Act"), and other applicable laws.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, Corinth and UTRWD agree to the following additional or amended provisions to the terms and conditions set forth in the Agreement, to wit:

**Section 1.0 Preamble.** The parties agree and represent that all of the matters stated in the preamble of this Amendment are true and correct and are hereby incorporated into the body of this Amendment as if fully set forth in their entirety herein.

**Section 2.0 Definitions.** Capitalized terms not otherwise defined herein shall have the same meaning as those set forth in the Agreement.

**Section 3.0 Construction of UTRWD Improvements.** Section 2.0 of the Agreement is hereby amended and replaced with this Section 3.0. Corinth has designed and started construction of the UTRWD Improvements and the Lake Sharon Improvements, a portion of which will be within the UTRWD Easements and over UTRWD's existing water transmission pipeline. To avoid potential conflicts and to enable safe and reliable operation and maintenance of UTRWD's water pipeline, UTRWD agrees to complete modification and the construction of the UTRWD Improvements, generally according to the following provisions:

- A. UTRWD agrees to complete the modification and construction of the UTRWD Improvements, generally in accordance with the approved plans and specifications. UTRWD will perform all inspections of the work to assure the UTRWD Improvements are constructed in accordance with said plans and specifications. UTRWD agrees to use its best effort to complete the UTRWD Improvements in an expeditious manner to avoid undue conflict with Corinth's construction of its Lake Sharon Improvements.
- B. Corinth agrees to be responsible for obtaining all necessary local, state and federal permits that may be required to construct the UTRWD Improvements. If Corinth has previously obtained any such permits related to the UTRWD Improvements, Corinth agrees to transfer said permit(s) to UTRWD prior to UTRWD commencing construction of said UTRWD Improvements.
- C. The Agreement provides that Corinth shall pay all costs to design and construct the UTRWD Improvements. Since UTRWD is completing the construction of the UTRWD Improvements at Corinth's request, Corinth hereby agrees to reimburse UTRWD all reasonable costs UTRWD incurs for modifying and constructing said improvements, including UTRWD's actual cost for engineering, construction inspection and project coordination. However, UTRWD will be responsible for covering and paying UTRWD's normal and regular overhead costs.
- D. Upon notice by UTRWD, Corinth agrees to deposit one-half of the estimated cost to complete the UTRWD Improvements within thirty (30) days of such request as an initial payment toward the total cost thereof. Upon completion of construction, Corinth agrees to pay the remainder of said costs. UTRWD will prepare and provide to Corinth an accounting of all applicable costs for the UTRWD Improvements, and will conduct a settle-up of said costs. Any excess funds will be reimbursed to Corinth and likewise if there is a shortfall, Corinth agrees to promptly pay said costs upon notice by UTRWD.
- E. Corinth agrees to use its best efforts to provide certain pipeline materials and appurtenances, which are acceptable to UTRWD, that could reduce costs or improve results for the UTRWD Improvements as part of resolution or settle-up of the construction contract with its current contractor. Corinth hereby agrees to provide said materials and appurtenances to UTRWD, at no cost, in a timely manner; provided that as part of its settle-up, UTRWD will grant appropriate credit to Corinth for the reasonable cost or value of any such equipment and materials so transferred to UTRWD.
- F. Recognizing that UTRWD depends on the water transmission pipeline to serve Corinth and other customers, Corinth agrees to use its best efforts to coordinate the construction of the Lake Sharon Improvements to avoid the interruption of water service to Corinth and

other UTRWD customers. In the event that service is interrupted, Corinth shall immediately notify UTRWD of such interruption. At UTRWD's sole discretion, UTRWD may choose to make the necessary repairs to restore service. If requested by UTRWD, Corinth agrees to complete the necessary repairs in accordance with UTRWD's requirements and to restore service as soon as reasonable practical. Regardless of which party completes such repairs, the costs thereof shall be paid by Corinth.

**Section 4.0 Agreement Provisions.** All other provisions of the Agreement shall continue in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto acting under authority of their respective governing bodies have caused this Amendment to be duly executed in several counterparts, each of which shall constitute an original, all as of the day and year first above written, which is the Effective Date of this Amendment.

**UPPER TRINITY REGIONAL WATER DISTRICT**

By: \_\_\_\_\_  
Kevin Mercer, President, Board of Directors

**ATTEST:**

\_\_\_\_\_  
Mike Fairfield, Secretary, Board of Directors

(DISTRICT SEAL)

**APPROVED AS TO FORM:**

\_\_\_\_\_  
John F. Boyle, Jr., Counsel for the District

**CITY OF CORINTH**

By: \_\_\_\_\_  
Bill Heidemann, Mayor

**ATTEST:**

\_\_\_\_\_  
Kimberly Pence, City Secretary

(CITY SEAL)

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Mack Reinwald, City Attorney

# RESOLUTION

## RESOLUTION No. \_\_\_\_\_

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE UPPER TRINITY REGIONAL WATER DISTRICT (“DISTRICT”) FINDING AND DECLARING AN EMERGENCY TO PERFORM THE NECESSARY CONSTRUCTION WORK TO RELOCATE AND MODIFY DISTRICT FACILITIES IN CONFLICT WITH THE CITY OF CORINTH’S (“CORINTH”) LAKE SHARON DRIVE EXTENSION PROJECT AND AUTHORIZING EXPENDITURES FOR THE PERFORMANCE OF SAID WORK.**

**WHEREAS**, the District is a political subdivision of the State of Texas created by the Texas Legislature in 1989 by the passage of HB 3112 Chapter 1053, Acts of the 71<sup>st</sup> Legislature of Texas Regular Session 1989 as a conservation and reclamation district under Article 16, Section 59 of the Texas Constitution; and

**WHEREAS**, the District owns and operates a twenty-inch (20”) water transmission pipeline and an associated feeder line within District easements to provide wholesale treated water service to Corinth and other District customers (the “Pipeline”); and

**WHEREAS**, the Pipeline is adjacent to the proposed Lake Sharon Drive in Corinth; and

**WHEREAS**, Corinth is moving forward with plans to extend Lake Sharon Drive between Oakmont Drive and FM 2499, which plans have necessitated the relocation of a portion of the Pipeline; and

**WHEREAS**, the District previously entered into an Interlocal Agreement dated June 15, 2017, with Corinth concerning the City’s relocation of said portion of the Pipeline; and

**WHEREAS**, Corinth has been unable to timely and effectively complete the relocation and modification of the Pipeline, due to performance and quality issues with its contractor; and

**WHEREAS**, the Pipeline has been and remains partially exposed which represents a threat to the integrity and stability of the Pipeline and the District’s ability to provide drinking water to the Corinth and other District customers; and

**WHEREAS**, the relocation of the Pipeline must be completed prior to the high volume flow periods of late spring and early summer; and

**WHEREAS**, the Board of Directors finds and concludes that an emergency exists that requires the appropriation of funds to protect and preserve the Pipeline and the District’s provision of drinking water service to protect the public health and safety of Corinth’s residents and to preserve the safety of Corinth and its citizens; and,

**WHEREAS**, the District and Corinth desire to amend the Interlocal Agreement to allow the District to proceed with the relocation of the District’s Pipeline, subject to Corinth reimbursing the District’s reasonable costs thereof; and

**WHEREAS**, this emergency obligates the District to complete the relocation and modification of the affected portion of the Pipeline in the most efficient manner possible; and

**WHEREAS**, the Board of Directors finds and concludes that the public and the District's members and customers are best served by the District completing the relocation of the Pipeline without the necessity of seeking and accepting competitive bids pursuant to Chapter 252, Texas Local Government Code; and

**WHEREAS**, all prerequisites for the adoption of this Resolution, including but not limited to the Open Meetings Act and Chapter 252 of the Local Government Code, have been met; and

**WHEREAS**, the Board of Directors is fully authorized by law to adopt this Resolution.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE UPPER TRINITY REGIONAL WATER DISTRICT:**

**SECTION 1.** That all matters stated in the preamble are found to be true and correct and are hereby incorporated into the body of this resolution as if copied in their entity.

**SECTION 2.** That the Board of Directors declares that the current condition of the Pipeline being partially exposed to hazards constitutes an emergency. That the Executive Director is authorized to enter into contracts and to take all necessary measures to complete the relocation of the Pipeline prior to the approaching high water volume months without the necessity of seeking or obtaining competitive bids. The Executive Director is authorized to expend an amount not to exceed \_\_\_\_\_ to complete the relocation and modification of the Pipeline and to take all other necessary action to complete the related work.

**SECTION 3.** That this Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED THIS 6<sup>th</sup> DAY OF DECEMBER 2018.**

Recommended:

\_\_\_\_\_  
Larry N. Patterson, Executive Director

Executed:

\_\_\_\_\_  
Kevin Mercer, President

Attest:

\_\_\_\_\_  
Mike Fairfield, Secretary