



DATA SHEET
Agenda Item No. 18.

Meeting Date: June 1, 2017

Agenda Item:

Consider approval of Interlocal Agreement with City of Corinth regarding the City's planned extension of Lake Sharon Drive over existing District easements, including making certain improvements to District's existing water transmission pipeline.

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

Background:

The City of Corinth is making plans to extend Lake Sharon Drive between Oakmont and FM 2499. The planned extension is within the same easement area as the District's 20-inch water transmission pipeline that serves Corinth and Lake Cities Municipal Utility Authority (LCMUA). To avoid potential conflicts, Corinth is planning to make certain improvements and modifications to the District's water pipeline at a creek crossing. Both parties have worked together to design the improvements to the District's water pipeline, which Corinth plans to bid this summer.

Following are the major components of the proposed Interlocal Agreement with Corinth regarding the City's planned extension of Lake Sharon Drive over existing District easements, including making certain improvements and modifications to the District's water transmission pipeline.

- Corinth has designed and will construct, at its expense, the improvements to the District's water pipeline according to District standards and specifications.
- District will have the right to inspect the improvements as work progresses.
- To minimize interruption of water service to Corinth or LCMUA, Corinth will coordinate the construction of the improvements during the District's off-peak months.
- The District retains all rights granted to it in the District's easement; except the District agrees to replace or repair any roadway paving, including curbs, damaged or removed by the District.

Corinth plans to make the improvements within the existing District easement, and no additional right-of-way is needed.

Financial:

None.

Recommendation:

Corinth's City Council is scheduled to consider the enclosed proposed Interlocal Agreement at its June 15 meeting. Staff recommends approval of said agreement subject to any non-substantive changes that may be mutually agreed by the parties.

Enclosures:

Draft of proposed Interlocal Cooperation Agreement with City of Corinth regarding the City's planned extension of Lake Sharon Drive over existing District easements, including making certain improvements to District's existing water transmission pipeline.

Submitted By: 

Jason Pierce, Manager, Customer Contracts & Support Services

Date: May 26, 2017

INTERLOCAL AGREEMENT BETWEEN

CITY OF CORINTH

AND

UPPER TRINITY REGIONAL WATER DISTRICT

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

This **INTERLOCAL AGREEMENT FOR CONSTRUCTION AND INSTALLATION OF CERTAIN FACILITIES** (the "Agreement") is made and entered into as of the _____ day of _____, 2017, 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, UTRWD obtained certain easements in 1995 in Corinth, generally along Lake Sharon Drive to construct pipelines as part of its Regional Treated Water System, which easements are recorded in the Denton County Deed Records as 95-16936 and 95-29807, and are shown in Exhibit A attached hereto (both easements being hereinafter referred to as the "UTRWD Easements"); and

WHEREAS, UTRWD has been granted certain rights within the UTRWD Easements; which rights are hereby retained except as specially modified by this Agreement and

WHEREAS, on October 4, 2000, Corinth obtained right-of-way from The Lake Sharon Christian Center, Inc. by deed as recorded in Volume 4688, Page 2546 of the Denton County Deed Records which is reflected in Exhibit A (herein referred to as "Lake Sharon Extension Area"); and

WHEREAS, UTRWD constructed and is currently operating a twenty-inch (20") water transmission pipeline within the UTRWD Easements, enabling UTRWD to provide treated water to Corinth and other UTRWD customers; and

WHEREAS, Corinth is moving forward with plans to extend Lake Sharon Drive between Oakmont Drive and FM 2499 (herein "Lake Sharon Improvements"), a portion of which will be constructed within the UTRWD Easements and over UTRWD's existing water transmission pipeline; and

WHEREAS, to avoid potential conflicts with UTRWD's water pipeline, Corinth is planning to make certain improvements and modifications to said pipeline (herein "UTRWD Improvements"); and

WHEREAS, Corinth has prepared construction plans and specifications for extension of the Lake Sharon Drive and the construction of the UTRWD Improvements (collectively herein referred to as the "Project"), which plans and specifications are attached hereto as Exhibit "B"; and

WHEREAS, Corinth and UTRWD desire to enter into this Agreement to allow Corinth to construct the Project, including the UTRWD Improvements within the UTRWD Easements; and

WHEREAS, Corinth and UTRWD desire to mutually agree to protect each other's facilities within the common area of the Project, to enable UTRWD to continue safe and reliable operation and maintenance of its water transmission pipeline and to enable Corinth to operate and maintain Lake Sharon Improvements in a safe and efficient manner; and

WHEREAS, Corinth and UTRWD are authorized to enter into this Agreement 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 as follows:

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

Section 2.0 Construction of Certain Facilities. Corinth is authorized to design and construct 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, Corinth agrees to design and construct the UTRWD Improvements, as part of the Project, generally according to the following provisions:

- A. The parties hereby agree that Corinth will be responsible for paying all costs to design and construct the UTRWD Improvements. UTRWD hereby approves the final plans and specifications for the UTRWD Improvements, which plans are included as part of Exhibit B. UTRWD will also review and approve shop drawings, change orders, field changes and material submittals or other documents related to the UTRWD Improvements. Pursuant to state law Corinth shall require its contractor to provide bid, performance and maintenance bonds. UTRWD shall be an "additional insured" on all insurance policies contractor is required to provide. UTRWD shall review and approve all such required bonds and insurance policies.
- B. Corinth agrees to construct the UTRWD Improvements, in conformance with the approved plans and specifications. Corinth shall perform all inspections of work to assure the UTRWD Improvements are constructed in accordance with said plans and specifications. UTRWD shall have the right to inspect the UTRWD Improvements as the work progresses and provide quality assurance activities to Corinth regarding the UTRWD Improvements. If during construction of the UTRWD Improvements, UTRWD determines that any portion is not consistent with the approved construction plans and specifications, UTRWD shall immediately notify Corinth and Corinth agrees to notify its contractor. Corinth agrees not to make final acceptance of the Project, including the UTRWD Improvements, until UTRWD provides its consent in writing, which shall not be unreasonably withheld.
- C. 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 any 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 any and all necessary repairs itself 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 reasonably practical. Regardless of which party completes the repairs, the repair costs shall be paid by Corinth.

- D. After completion of construction of the Lake Sharon Improvements and final acceptance of the UTRWD Improvements by UTRWD, full fee simple ownership of said improvements shall be vested in UTRWD without any further action being necessary by the parties. At that time, all maintenance of the UTRWD Improvements shall become the sole responsibility of UTRWD.
- E. During the warranty period for the Project, Corinth agrees to use its best efforts to cause the contractor to repair or replace any defects in the UTRWD Improvements as reported by UTRWD to Corinth and as required by the maintenance bond.

Section 3.0. Operation and Maintenance of Infrastructure. Recognizing that both parties have critical infrastructure within the Lake Sharon Extension Area and within the UTRWD Easements, both parties agree to coordinate and cooperate with the other party regarding the operation and maintenance of their respective infrastructure within the Project area, generally as follows:

- A. UTRWD shall retain all rights granted to it in the UTRWD Easements, which easements shall remain for the exclusive use of UTRWD. Except however, UTRWD agrees to replace or repair, in accordance with Corinth requirements, any roadway paving including curbs damaged or removed by UTRWD in the course of UTRWD's operation and maintenance of its facilities. Further, UTRWD reserves the right to install a parallel water transmission pipeline in the future within the UTRWD Easements.
- B. As part of UTRWD's routine operation and maintenance of its water transmission pipeline, UTRWD agrees to use its best efforts to protect that portion of Lake Sharon Drive and the associated facilities, including curbs, sidewalks, landscape, and irrigation system adjacent to the UTRWD water transmission pipeline; and, to avoid damaging the roadway or interrupting the flow of traffic. Except in an emergency, UTRWD shall notify Corinth at least 48-hours prior to any excavation, maintenance or repairs to UTRWD's water transmission pipeline. In the event of an emergency, UTRWD shall notify Corinth within 24-hours of commencing the emergency work. UTRWD further agrees to notify Corinth at least 48-hours in advance of any planned lane closures on Lake Sharon Drive for any reason, except in the event of an emergency. All lane closures by UTRWD shall be accomplished with signs and barricades / delineators in accordance with Corinth requirements.
- C. As part of the Project and during on-going operation and maintenance of Lake Sharon Drive, Corinth agrees to use its best efforts to protect UTRWD's water transmission pipeline and associated appurtenances, and to avoid any interruption of service to Corinth or other UTRWD customers. If UTRWD's water pipeline is damaged by Corinth, its employees, contractors or assigns, Corinth shall be responsible for repairs or replacement, including reasonable cost thereof, to restore said facilities to original condition.. Except in an emergency, Corinth shall notify UTRWD at least 48-hours prior

to any excavation or maintenance activity within UTRWD's Easements that could adversely affect the safety of UTRWD's said pipeline. In the event of an emergency, Corinth agrees to notify UTRWD within 24-hours of commencing the emergency work.

Section 4.0 Force Majeure. If by force majeure any party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then if such party shall give notice and full particulars of such force majeure in writing to the other parties within reasonable time after occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "**Force Majeure**" as employed herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States or the State of Texas, or any Civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of electric power supply, or on account of any other causes not reasonably within the control of the party claiming such inability.

Section 5.0 Term of Agreement. This Agreement shall be effective on and from the date first above written, and shall continue in force and effect for such period of time that the roadway, the water transmission pipeline and the facilities being installed hereunder remain in public use and the Right-of-Way and easements remain in place. This Agreement constitutes the sole agreement between the parties hereto. Further, this Agreement may be supplemented from time to time in writing by the parties as reasonably necessary to carry out the intent of the Agreement.

Section 6.0 Address and Notice. Unless otherwise provided herein, any notice, communication, request, reply or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made or accepted by any party to any other party must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party notified, with return receipt requested, or by delivering the same to an officer of such party, or by prepaid telegram when appropriate, addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated herein, from and after the expiration of three days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to UTRWD:	Executive Director Upper Trinity Regional Water District P.O. Drawer 305 Lewisville, TX 75067
If to Corinth:	City Manager City of Corinth 3300 Corinth Parkway Corinth, TX 76208

The parties hereto shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least fifteen (15) days' written notice to the other parties hereto.

Section 7.0 State or Federal Laws, Rules, Orders or Regulations. This Agreement is subject to all applicable Federal and State laws and any applicable permits, ordinances, rules, orders and regulation of any local, state or federal governmental authority having or asserting jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule or regulation in any forum having jurisdiction.

Section 8.0 Term of Use. The parties hereto specifically agree that in case any one or more of the sections, subsections, provisions, clauses or words of this Agreement or the application of such sections, subsections, provisions, clauses or words to any situation or circumstance should be, or should be held to be, for any reason, invalid or unconstitutional, under the laws or constitutions of the State or the United States of America, or in contravention of any such laws or constitutions, such invalidity, unconstitutionality or contravention shall not affect any other sections, subsections, provisions, clauses or words to any other situation or circumstance, and it is intended that this Agreement shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, subsection, provision, clause or word had not been included herein, and the rights and obligations of the parties hereto shall be construed and remain in force accordingly.

Section 9.0 Venue. All amounts due under this Agreement shall be paid and be due in Denton County, Texas, which is the county in which the principal administrative offices of Corinth and UTRWD are located. It is specifically agreed among the parties to this Agreement that Denton County, Texas, is the place of performance of this Agreement or any provision hereto, the same be brought in Denton County, Texas.

[REMAINING PORTION LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused the Agreement 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 Effective Date of this Agreement.

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., General Counsel for the District

CITY OF CORINTH

By: _____
Bill Heidemann, Mayor

ATTEST:

Kimberly Pence, City Secretary

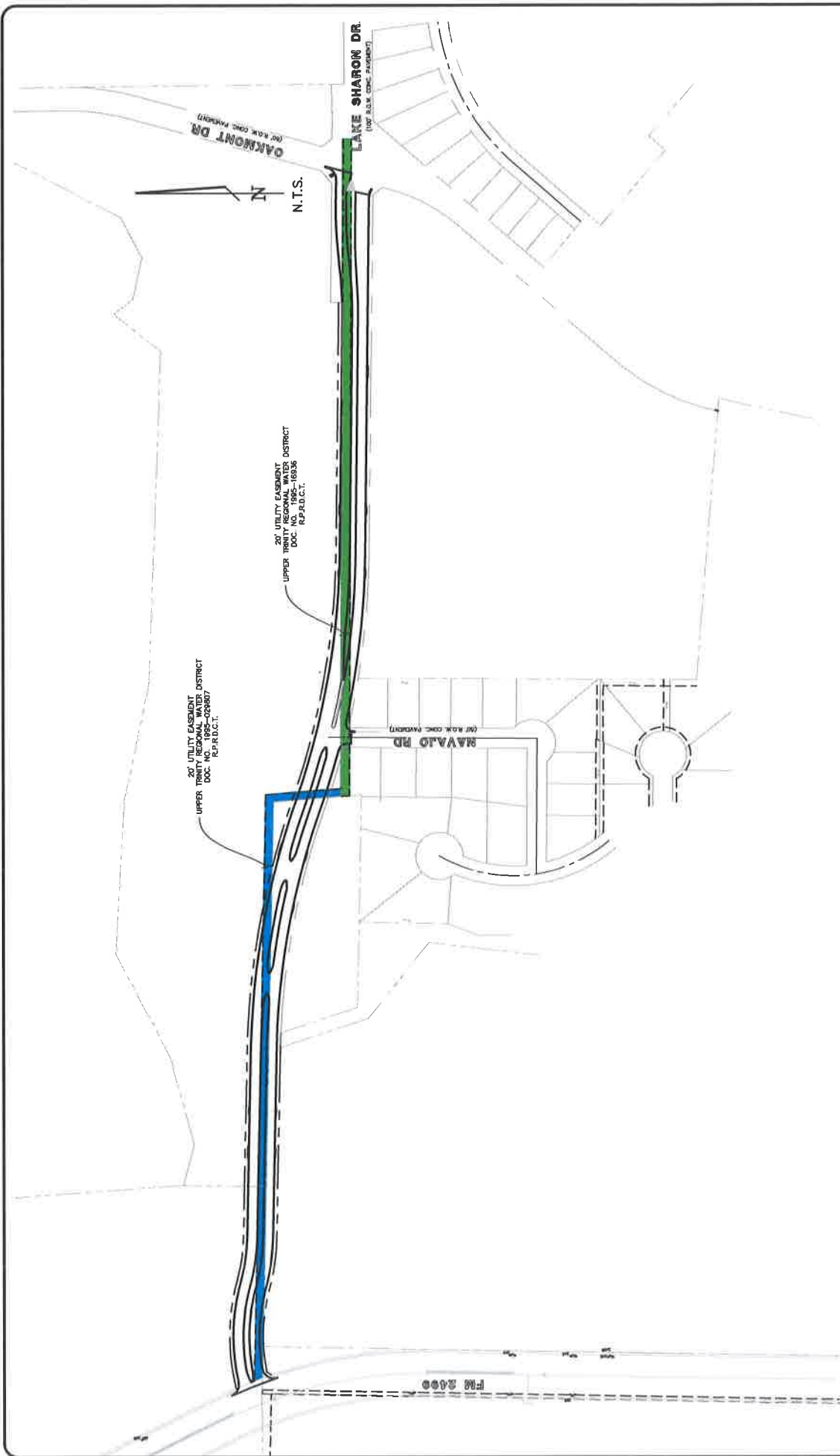
(District Seal)

APPROVED AS TO FORM:

Mack Reinwand, City Attorney

EXHIBIT "A"

DRAFT



teague nall & perkins

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**Lake Sharon Drive Easements
Upper Trinity Regional Water District**

EXHIBIT "B"
(Construction Plans and Specifications)

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