

**Texarkana Resolution No. 2019-106**

**Riverbend Resolution No. 20191024-03**

**A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AND THE BOARD OF DIRECTORS OF RIVERBEND WATER RESOURCES DISTRICT, AUTHORIZING THE FILING OF AN APPLICATION FOR ADDITIONAL WATER RIGHTS FROM WRIGHT PATMAN LAKE WITH TEXARKANA AS PERMITTEE; AUTHORIZING TENDER OF THE APPLICATION FILING FEE; DESIGNATING RIVERBEND AS THE POINT OF CONTACT DURING THE APPLICATION REVIEW PROCESS; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Texarkana, Texas (“Texarkana”), formed in 1873, is a home-rule municipality operating under a municipal charter adopted as authorized by Article XI, Section 5, of the Texas Constitution and as recognized by Texas Local Government Code Section 5.004 and having full power of local self-government.

**WHEREAS**, Riverbend Water Resources District (“Riverbend”) is a conservation and reclamation district created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution, as set forth in Title 6, Special District Local Laws Code, Subtitle L, Municipal Water Districts, Chapter 9601, with statutory powers including the authority to acquire any and all storage rights and storage capacity in a reservoir or other water source inside or outside the boundaries of the district, and to acquire the right to take water from that reservoir or source, subject to the rights or permits held by municipalities or other persons.

**WHEREAS**, in 2011, the Texas Legislature reconstituted the Board of Directors of Riverbend to be composed of five qualified voters who are residents of the district, not otherwise serving as an elected official or as an employee of a Riverbend member, selected by the local governing bodies of the Riverbend members (the Counties of Bowie, Cass, and Red River, TexAmericas Center, and the Cities of Annona, Atlanta, Avery, DeKalb, Hooks, Leary, Maud, Nash, New Boston, Redwater, Texarkana, and Wake Village) as provided by law.

**WHEREAS**, Texarkana holds rights to appropriate, divert, and use waters of the State of Texas in the Sulphur River Basin under multiple permits issued by the State of Texas and recognized by final decree of the 202nd Judicial District Court of Bowie County, Texas, Cause No. 86-C1702-202, In re: The Adjudication of Water Rights in the Sulphur River Basin dated December 17, 1986, with those rights and the priority dates associated with those rights certified by the Texas Water Commission in *Certificate of Adjudication* No. 03-4836, issued on March 31, 1987, and amended in 2018 to authorize, in lieu of previous authorizations, diversion anywhere along the perimeter of Wright Patman Reservoir; and

**WHEREAS**, Texarkana holds valid contracts with the United States Government entered into in 1953 (Contract No. DA-16-047-eng-2033) and 1968 (Contract No. DACW29-69-C-0019 [interim] and Contract No. DACW29-68-A-0103 [permanent or “Ultimate Rule Curve”]) for water storage space and the operation of Wright Patman Lake; and

**WHEREAS**, there appears to be additional firm yield water supply available within the established conservation pool of Wright Patman Lake as defined for water supply impoundment in Texarkana’s *Certificate of Adjudication* No. 03-4836, as amended; and

**WHEREAS**, State and Regional Water Plans identify future water supply needs which can be met with additional yield from Wright Patman Lake, and the region's anticipated growth has identified additional future needs not previously captured in State and Regional Water Plans; and

**WHEREAS**, the City Council of Texarkana and the Board of Directors of Riverbend, by joint resolution (Texarkana Res. No. 2017-038 and Riverbend Res. No. 20170510-04), have previously identified Riverbend's role to apply for future water rights between the interim and permanent or "Ultimate Rule Curve" on behalf of Riverbend's member entities; and

**WHEREAS**, after making inquiry with regulatory authorities, Riverbend has determined that the best interests of its member entities and the region would be best served with Texarkana applying for such future and additional water rights within and up to the Ultimate Rule Curve; and

**WHEREAS**, Texarkana is willing to act on its own behalf as Permittee and on behalf of Riverbend and its member entities in making application for such water rights, and any future water rights acquired for this purpose shall be contracted with Riverbend for the purpose of serving the needs of Texarkana, Riverbend, and all of Riverbend's member entities equitably as their requirements may develop; and

**WHEREAS**, after all of the needs of Riverbend's member entities have first been met, Riverbend may further provide water to meet the needs outside of this region for the benefit of Riverbend's member entities equitably as each member has proportionally contributed to the development of such water; and

**WHEREAS**, by Ordinance No. 2019-032, the City Council of Texarkana prescribed additional powers and duties of the City Manager to take any and all action within budgeted parameters to implement the Ultimate Rule Curve Contract and the Council's strategy for utilization of Wright Patman Lake, and the City Council delegated express authority to the City Manager to accomplish such duties; and

**WHEREAS**, by this resolution, both Texarkana and Riverbend intend to prepare and file with the Texas Commission on Environmental Quality (TCEQ) an application for rights to additional water supply from Wright Patman Lake, with Texarkana as Permittee, for any water available in Wright Patman Lake within the conservation pool as defined for water supply impoundment in Texarkana's *Certificate of Adjudication* No. 03-4836, as amended, for Riverbend's Executive Director to be designated as the point of contact during the application review process, and for Texarkana's City Manager to sign the application and tender payment of the application fee to TCEQ.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AND THE BOARD OF DIRECTORS OF RIVERBEND WATER RESOURCES DISTRICT:**

**Section 1.** Texarkana and Riverbend shall prepare and file with the Texas Commission on Environmental Quality (TCEQ) an application for rights to additional water supply from Wright Patman Lake, with Texarkana as Permittee, for any water available in Wright Patman Lake within the conservation pool as defined for water supply impoundment in Texarkana's *Certificate of Adjudication* No. 03-4836, as amended. Texarkana's City Manager shall sign the application. Riverbend's Executive Director shall be designated as the point of contact for TCEQ during the application review process.

**Section 2.** Texarkana's City Manager is authorized to expend City funds and make payment to TCEQ of the application fee not to exceed Ninety Thousand Dollars (\$90,000.00) at the time of filing the application.

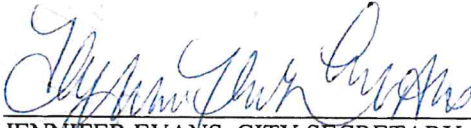
**Section 3.** Texarkana and Riverbend find and determine that Texarkana's application for water rights to serve the needs of Texarkana, Riverbend, and all of Riverbend's member entities equitably as their requirements may develop is not inconsistent with the Region D Water Plan and does not adversely affect any strategies of the Plan.

**Section 4.** This joint resolution shall be effective immediately upon approval and signature by Texarkana and Riverbend.

**TEXARKANA: PASSED AND APPROVED** in Regular Council Session on this the 28<sup>th</sup> day of October, 2019.

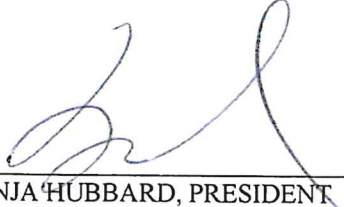
  
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BOB BRUGGEMAN, MAYOR

ATTEST:

  
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JENNIFER EVANS, CITY SECRETARY

6:55 p.m.

**RIVERBEND: PASSED AND APPROVED** in Regular Board Meeting on this the 24<sup>th</sup> day of October, 2019.

  
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SONJA HUBBARD, PRESIDENT

ATTEST:

  
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MARSHALL WOOD, SECRETARY