

RESOLUTION NO. R-2015 - 20

A RESOLUTION OF THE BASTROP CITY COUNCIL EXPRESSING ITS ONGOING SUPPORT AND CONTINUED AUTHORIZATION FOR THE CITY MANAGER'S, THE CITY'S CONSULTANTS' AND THE CITY ATTORNEY'S WORK TO APPLY FOR AND OBTAIN A PRODUCTION PERMIT FROM THE LOST PINES GROUNDWATER CONSERVATION DISTRICT FOR A MUNICIPAL WATER WELL; RATIFYING ALL PAST ACTIONS BY THE CITY MANAGER, CITY CONSULTANTS AND CITY ATTORNEY TAKEN TO ACCOMPLISH THIS OBJECTIVE; AND PROVIDING CONTINUED SUPPORT AND AUTHORIZATION FOR ALL NECESSARY FUTURE ACTIONS TO SUCCEED WITH OBTAINING THE NECESSARY PERMITS AND APPROVALS TO ALLOW THE CITY'S PERMITTING, DRILLING, AND OPERATION OF ITS WATER WELLS TO ACCESS GROUNDWATER OWNED BY THE CITY.

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**WHEREAS**, the City of Bastrop, Texas, ("City") is a Home Rule municipality incorporated and operating under the Laws of the State of Texas and, accordingly, has been granted full legal authority to take actions, as deemed necessary, in its reasonable judgment, to protect the public health, safety and welfare; and

**WHEREAS**, pursuant to authority granted to the City by the State of Texas, and pursuant to the City's Home Rule Charter, the City Council is authorized to exercise its powers on all matters of policy and, without limitation, may exercise the power to carry out its plan to provide for a water system for the provision of a municipal water supply to the citizens of the City and its jurisdiction; and

**WHEREAS**, in keeping with this power, on or before January 2013, the City Council directed Michael H. Talbot, the City Manager, to commence all work that was necessary to evaluate and assess, the status of the City's municipal water supply, vis-à-vis the current well field operations, the drought experienced by the State of Texas and the City's future water demands; and

**WHEREAS**, on or about September 2013, the City Council took formal action to direct the City Manager to take actions necessary to proceed with the process of filing, on its own or jointly, an application or applications for water production and operating permits from the Lost Pines Ground Water conservation District required to access and produce *in situ* groundwater owned or to be purchased by the City of Bastrop; and

**WHEREAS**, from January 2013 to present, upon consideration of the information provided by the City Manager in his work related to the operation of the City's current water well system, which is an alluvial well system, in conjunction with the information developed by the City Manager related to the short- and long-term water supply and study

for the City, the Council has consistently and continuously, through various actions, updates, meetings, reports and approvals, authorized the City Manager to continue to act to negotiate and take actions necessary to acquire *in situ* water supplies from property owners for the City future use; and

**WHEREAS**, commensurate with this responsibility regarding the municipal water supply, from January 2013 to present, the City Council has consistently and continuously authorized the City Manager, to initiate and prosecute whatever actions were determined to be in the best interest of the City to continue all work necessary to develop information on the City's long- and short-term water supply, including the retention of professionals to provide studies related to same, and further, for the City Manager to delegate to such experts and professional consultants the responsibilities related to the City's water supply development and acquisition, as well as the permit application and processing, that the City Manager determined, in his sole judgement, to be appropriate; and

**WHEREAS**, in conjunction with the work being overseen by the City Manager to evaluate the City's growth projections and future water supply needs, through a variety of ongoing actions and approvals from January 2013 to present, the City Council has authorized the City Manager to retain the services of consulting engineers, including Gene Kruppa, PE (of BEFCO Engineering), and James Dwyer, PE (of CH2MHill Engineering), and other professionals, and working with the City Attorney, to jointly apply to the Lost Pines Ground Water Conservation District ("District") to obtain necessary approvals, and production or operating permit(s) for the future operation of the City's water production, and to move forward to obtain such permit or permits, as necessary, including making various amendments to the application or applications; and

**WHEREAS**, it has recently been brought to the attention of the City Council, through dispositive pleadings filed with the Honorable Michael J. O'Malley, in SOAH Docket No. 952-15-3851, that it is a contention of the Protestants to the City's pending permit before the District that the City Council has not, in the past, acted to formally authorize the City Manager to take the actions, on behalf of the City which he has taken, since January 2013, in acquiring *in situ* groundwater rights for the City, in authorizing experts and consultants to act on behalf of the City to prepare studies, plans, District forms and communications on behalf of the City, and in filing applications for production and operating permit(s) with the District and amendments to those applications to enable the City to construct a water well to obtain the groundwater for the future use of the citizens of Bastrop; and

**WHEREAS**, in response to this vacuous contention, the City Council determined that it would hold a special meeting to approve this Resolution demonstrating its past, current and future support for, and ratifying in all respects, the actions of the City Manager, as well those taken by the various experts, consultants and contractors working on behalf of the City to obtain the production and operating permit, including acquiring the necessary groundwater rights and authority to construct and operate the well, sought in the pending SOAH Docket No. 952-15-3851, pending before the Honorable Michael J. O'Malley.



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

1. The City Council hereby formally finds that the Recitals set forth above are true and correct and incorporates and adopts them as factual findings of the Council, for all purposes.
2. The City Council hereby formally confirms that it has, in all respects, authorized the actions, negotiations, communications filings, and all other work done by Michael H. Talbot, as the City Manager, from the date of his hiring by the City in 2006 to the effective date of this Resolution, with regards to all of his efforts on behalf of the City to study, analyze, evaluate, assess, and retain experts and consultants to negotiate and acquire *in situ* groundwater rights, to make recommendations to the Council related to same, to authorize the filing of paperwork, forms, application(s), and amendments with the District, and to continue to move forward with same both before the District and during the administrative SOAH hearing that is currently underway, to vigorously attempt to secure an on-going municipal water supply for the citizens of the City of Bastrop, Texas, and to authorize an delegate work to the City's experts, consultants and contractors to complete the work needed to accomplish same.
3. Further, the City Council hereby acts to formally ratify all past recommendations, decisions, negotiations, contracts, actions, filings, applications, and amendments, authorizations and delegations of work to the City's experts, consultants and contractors, and the professional work, in general of Michael H. Talbot, as the City Manager, from the date of his hiring by the City in 2006 to the effective date of this Resolution, related to his work and the work of the City's experts, consultants and contractors to obtain *in situ* ground water rights and to apply for and obtain production and operating permits for the operation of a well or wells to provide the City with municipal water supply.
4. Moreover, the City Council hereby acts to formally acknowledge and provide its continuing, future support and authorization to the City Manager to continue all work he deems necessary in his judgement, to accomplish the task of ensuring a future long term water supply for the City, including, but not limited to, prosecuting the administrative hearing to a conclusion, following up with any necessary legal or administrative matter, working with the District to conclude the permit rights to operate the City's proposed well and utilize the *in situ* ground water owned by the City, and authorizing and delegating work to the City's experts, consultants and contractors to complete the work needed to accomplish same.
5. The terms of this Resolution shall become effective immediately upon passage of this Resolution.

**PASSED, ADOPTED AND APPROVED this the 8th day of OCTOBER 2015.**

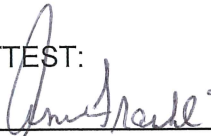
APPROVED:



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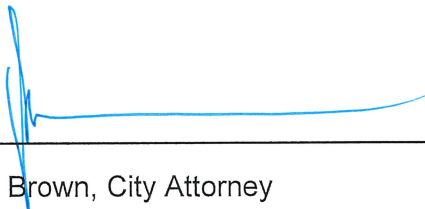
MAYOR KEN KESSELUS

ATTEST:



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ANN FRANKLIN, CITY SECRETARY



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JC Brown, City Attorney