

RESOLUTION No. 18-024

A RESOLUTION AUTHORIZING AN APPLICATION TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) FOR EXTENSION OF TIME TO COMPLETE CONSTRUCTION OF THE BRUSHY CREEK DAM AND RESERVOIR AUTHORIZED UNDER WATER RIGHTS CERTIFICATE OF ADJUDICATION NO. 12-4355; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT:

Whereas, the City of Marlin (“City”) has the responsibility and duty to provide a clean and plentiful supply of potable water to its residents, and

Whereas, existing sources of raw water have a limited supply, often forcing drought contingency limitations on water use to be imposed, and

Whereas, the City possesses a permit from the State of Texas to construct a new dam and reservoir on Brushy Creek in Falls County, Texas (“the Brushy Creek Reservoir”), and

Whereas, the Texas Legislature in 2007 designated the Brushy Creek Reservoir as a site of unique value for the construction of a reservoir, and

Whereas, the 2017 State Water Plan finds that the City’s current supplies are inadequate to meet projected water demands during either the near-term or for any decade in the 50-year planning horizon of the State Water Plan, and

Whereas, the 2017 State Water Plan identifies construction and use of the Brushy Creek Reservoir and conservation as recommended water supply strategies that will both be necessary in order to meet current and future demands of the City, and

Whereas, the City has acquired the land for the Brushy Creek Reservoir, and

Whereas, the City’s efforts to complete the project have been hindered due to numerous reasons, including without limitation litigation with the Falls County Water Control Improvement District No. 1 (“District”) that has been associated with the acquisition of upstream sediment control impoundments identified in feasibility studies associated with the Brushy Creek Reservoir project, and

Whereas, the City successfully settled the litigation with the District in 2017, and

Whereas, the Texas Legislature passed Senate Bill 976 in its regular session in 2017, which became law, and which dissolved the District and transferred all of its assets to the City, including assets associated with the Brushy Creek Reservoir project that will be of great benefit to the City in moving forward with the project,

Whereas, the litigation hindered discussions that had been ongoing with other potential partners in the region near the Brushy Creek Reservoir project that may have participated in pursuing the project with the City or purchasing water from the project, and

Whereas, because of the delays described above, the City has not yet completed construction of the Brushy Creek Reservoir, and

Whereas, the City continues to diligently pursue the project, and is currently beginning work on pursuing the Section 404 permit for the Brushy Creek Reservoir project with the U.S. Army Corps of Engineers;

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

Section 1. The matters and facts recited in the preamble of this Resolution are hereby found to be true and correct.

Section 2. Representatives of the City of Marlin are authorized to continue discussions with potential partners for the Brushy Creek Reservoir project related to project financing and implementation, possible purchases of water from the project, and cost, feasibility, technical, or other studies related to project implementation.

Section 3. The Mayor of Marlin is authorized to execute an extension of time application with the Texas Commission on Environmental Quality for construction of the Brushy Creek Reservoir under the water rights permit, Certificate of Adjudication No. 12-4355, and all other necessary documents to extend the city's permit to construct and operate the proposed Brushy Creek Reservoir (collectively "the application").

Section 4. The Mayor and designated members of the City Council, the City Manager, attorneys, engineers and other technical consultants, and other authorized representatives of the City are directed to testify and represent the City at meetings, hearings and other proceedings with or before the Texas Commission on Environmental Quality and other state and federal agencies concerning the application and to undertake and perform any other actions appropriate to their respective positions as may be necessary and helpful in prosecuting and obtaining the approval of the application.

Approved and signed this 13 th day of November, 2018.





John Keefer, Mayor



Sandra Herring, City Secretary