

**City Council  
Agenda Memo**



**City Council  
Meeting Date: February 12, 2015**

**TO: David A. Vela, Interim City Manager**

**FROM: Tommy O'Brien, Director of Water Utilities**

**SUBJECT: Written Resolution Authorizing the Mayor to Execute an Amendment to the 2005 Interlocal Agreement between Abilene, the Brazos River Authority and the West Central Texas Municipal Water District**

**GENERAL INFORMATION**

On March 10, 2005, the City of Abilene, the West Central Texas Municipal Water District (District), and the Brazos River Authority (BRA) entered into an Interlocal Agreement to resolve existing and potential conflicts between each entity's respective water rights and each entity's pending/proposed water right applications, including the City's proposed Cedar Ridge Reservoir project. Key provisions in the 2005 Interlocal Agreement are tied to the granting by the Texas Commission on Environmental Quality (TCEQ) of the proposed BRA System Operation Permit.

Processing and obtaining final action on the BRA's System Operation Permit application has taken significantly longer than was anticipated by the City, District and BRA when the 2005 Interlocal Agreement was developed and executed. Additionally, Possum Kingdom Lake has experienced record low inflow levels since 2011 that may ultimately result in a new critical drought period and reduced yield of the lake. Provisions in the 2005 Interlocal Agreement included dates where certain actions are required, including a March 10, 2015 date for beginning payments to BRA for continuing the option held by the City/District for up to 20,000 acre-feet per year of water from Possum Kingdom. The quantity of the option held by the City/District cannot be determined until the BRA receives final action on the System Operation Permit.

The proposed Amendment to the 2005 Interlocal Agreement provides for the following:

- Extension of the dates for actions related to the City's proposed Cedar Ridge Reservoir project.
- Clarification of the option to contract for up to 20,000 acre-feet per year of Possum Kingdom water based on the final action on the BRA's System Operation Permit.
- No payment for contracted water until one year after final action on the BRA's System Operation Permit and BRA's written notification to the City and District of the water available under the option.
- The ability to return all or a part of the water, once contracted, without penalty or further financial obligation at the sole discretion of the City and/or District

The District considered the Amendment to the 2005 Interlocal Agreement at its Board Meeting on February 4, 2015. As a result, the District's Board of Directors voted to authorize its President to sign the Amendment. The BRA's General Manager was authorized by the BRA Board of Directors to execute the Amendment.

**FUNDING/FISCAL IMPACT**

The proposed Amendment to the 2005 Interlocal Agreement has no immediate funding/fiscal impact.

**STAFF RECOMMENDATION**

Staff recommends approval of a Written Resolution authorizing the Mayor to execute an amendment to the 2005 Interlocal Agreement between Abilene, the WCTMWD and the BRA.

**ATTACHMENT**

Written Resolution.

Prepared by: Name <u>Tommy O'Brien</u> Title <u>Director of Water Utilities</u>	Item No. <u>7.4</u>	Disposition by City Council <input type="checkbox"/> Approved Ord/Res# _____ <input type="checkbox"/> Denied _____ <input type="checkbox"/> Other _____ _____ City Secretary
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**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE 2005 INTERLOCAL AGREEMENT BETWEEN THE CITY OF ABILENE, THE BRAZOS RIVER AUTHORITY, AND THE WEST CENTRAL TEXAS MUNICIPAL WATER DISTRICT.**

**WHEREAS**, On March 10, 2005 the City of Abilene (City) along with the West Central Texas Municipal Water District (District) entered into an Interlocal Agreement with the Brazos River Authority (BRA) to resolve existing and potential conflicts between each entity's respective water rights and each entity's pending or proposed water right applications including the City's proposed Cedar Ridge Reservoir; and

**WHEREAS**, processing and obtaining final action on the BRA's System Operation permit has taken significantly longer than was anticipated and Possum Kingdom Lake has experienced record low inflow levels since 2001 that may result in reduced yield from the lake; and

**WHEREAS**, because of the processing delay and potential for reduced yields, the City and District cannot determine the quantity of the option held by the entities under the 2005 agreement; and

**WHEREAS**, the parties have agreed to amend the 2005 Interlocal Agreement to extend dates related to the Cedar Ridge project; clarify the City's and District's option under the 2005 agreement will be based on final action on the BRA System Operation Permit; agree there will be no payment for the option until one year after final action on the System Operation Permit and notification water is available under the option; and the ability to return all or part of the water with no penalty.

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

The Mayor is hereby authorized to execute an amendment to the 2005 Interlocal Agreement between the City of Abilene, the Brazos River Authority, and the West Central Texas Municipal Water District as outlined above.

**ADOPTED this 12<sup>th</sup> day of February, 2015.**

ATTEST:

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Danette Dunlap, City Secretary

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Norman Archibald, Mayor

APPROVED:

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T. Daniel Santee, City Attorney