



RESOLUTION NO. 20140722-12

A RESOLUTION AUTHORIZING THE EXECUTION OF A LETTER OF INTENT WITH RIVERBEND WATER RESOURCES DISTRICT FOR THE SALE OF THE WET UTILITY SYSTEMS

WHEREAS, TexAmericas Center is a political subdivision of the State of Texas with the powers and authorities specified in Chapter 3503 of the Special District Local Laws Code of the State of Texas; and

WHEREAS, Riverbend Water Resources District is a political subdivision of the State of Texas with the powers and authorities specified in Chapter 9601 of the Special District Local Laws Code of the State of Texas; and

WHEREAS, TexAmericas Center and Riverbend Water Resources District have entered into negotiations for the potential sale by TexAmericas Center and purchase by Riverbend Water Resources District of the Water Utility System, Wastewater Utility System, and Industrial Wastewater Treatment Utility System currently owned and operated by TexAmericas Center; and


WHEREAS, the parties believe that the discussions have reached the point that they should enter into direct negotiations to accomplish the transfer of said Utility Systems to Riverbend Water Resources; and

WHEREAS, the parties believe that it is appropriate to enter into a Letter of Intent with regard to the transaction;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of TexAmericas Center that it enter into a Letter of Intent with Riverbend Water Resources District to pursue definitive agreements and contracts for the sale of the Water Utility System, Wastewater Utility System and Industrial Wastewater Utility System to Riverbend Water Resources District in the form of the Letter of Intent attached hereto as Exhibit "A" and incorporated herein;

BE IT FURTHER RESOLVED that Scott Norton, Executive Director/CEO of TexAmericas Center shall be and he is hereby authorized to execute the Letter of Intent on behalf of TexAmericas Center.

PASSED and APPROVED this 22nd day of July, 2014.



Denis Washington, Chairman of the Board

ATTEST:



Boyd Sartin, Secretary/Treasurer

Attachment: Exhibit "A" – Letter of Intent

Background / History:

This letter will serve as confirmation of the intent of the parties hereto to actively negotiate and enter into a written contract for the transfer of the goods and services set forth herein.

On or about April 15, 2002, TexAmericas Center, f/k/a Red River Redevelopment Authority (RRRA), hereinafter (TAC), entered into a Solicitation, Offer and Award with Red River Army Depot (RRAD) for the supply of water and wastewater treatment, hereinafter (WET Contract.) The Solicitation number assigned to the WET Contract is DAAE32-00-R-7016 and the Contract number is DAAE32-02-D-0008. Therein, TAC was to provide RRAD with Wet Utility Services to include water, wastewater and industrial wastewater systems which entailed the operation and maintenance of potable water storage, treatment and distribution system; domestic wastewater treatment plant, pumping stations and collection lines; and industrial wastewater treatment plant and collection lines. The initial term of the WET Contract was twenty (20) years.

As part of the WET Contract, RRAD transferred ownership of the potable water system, domestic wastewater system and industrial wastewater system to TAC. Additionally, RRAD transferred all intake structures, pump stations, water treatment, storage and distribution facilities, together with easements for transmission and distribution lines in place.

The WET Contract was subsequently amended, to include an amendment effective September 24, 2013, which modified in part the scope of work for the provision of external water supply and the special contract requirements regarding the rate model used to determine payment due for services performed. The term of the WET Contract was also renewed/extended through April 30, 2032. The Amendment/Modification number assigned to the Amendment of Solicitation/Modification of Contract is P00016.

Presently, TAC is comprised of 12,000 acres divided into three areas known as TAC – East Campus, TAC – Central Campus and TAC – West Campus. TAC – East Campus is 8,900 acres of the former Lone Star Ammunition Plant; TAC – Central Campus is 765 acres which is a mixed-use campus including TAC headquarters; and TAC – West is 2,800 acres of mostly forested land.

TAC currently provides Water System services to the TAC – Central Campus and RRAD; Domestic Wastewater Treatment services to the TAC – Central Campus, TAC – East Campus (Day & Zimmermann Lonestar, LLC) and RRAD; and Industrial Wastewater Treatment services to RRAD. Additionally, TAC owns all water distribution lines having a diameter of less than 10 inches located on TAC – East Campus.

General Terms & Conditions of Agreement:

RWRD and TAC have each conducted an initial due diligence assessment as to the feasibility of TAC transferring the existing Water System, Domestic Wastewater Treatment System and Industrial Wastewater Treatment System to RWRD, with RWRD assuming the WET Contract with RRAD as well as other obligations in reference thereto. Based on the aforementioned, neither RWRD nor TAC has encountered any impediments prohibiting such a transfer at this point in time, although certain consents to the transaction are required. Accordingly, it is the intent of both parties to work toward consummating a contract outlining the specific terms and conditions of such a transfer. Any such written contract will necessarily include, but is not limited to, addressing the following items:

- Transfer and/or assumption of the WET Contract. [It is expressly noted and understood by the parties that any such assignment and/or transfer is subject to the written consent of RRAD.]
- Transfer of all easements necessary to operate and maintain the Water System, Domestic Wastewater Treatment System and Industrial Wastewater Treatment System.
- Conveyance and transfer of real property associated with the operation and maintenance of the Water System, Domestic Wastewater Treatment System and Industrial Wastewater Treatment System; along with the conveyance and transfer of approximately 50 acres for potential future use as a regional water plant.
- Conveyance and transfer of personal property necessary to operate and maintain the Water System, Domestic Wastewater Treatment System and Industrial Wastewater Treatment System such as buildings, treatment facilities, distribution facilities, storage facilities, pumping stations and collection and/or distribution lines to include, but not limited to, the following:

- Water Facility Assets
 - 59 retail service connections
 - 1 wholesale service connection
 - 2 master meter stations – Red River Meter Station and Elliott Lake Meter Station
 - 500,000 gallon elevated tank
- Wastewater Facility Assets
 - Conventional wastewater treatment plant
 - Industrial wastewater treatment plant (phosphate & chromate plants)
 - 36 lift stations (7 of the 36 are major lift stations)
 - 70,000 linear feet gravity mains
 - 280 manholes
- Conveyance and transfer of inventory of stock, parts and consumables used to operate and maintain the Water System, Domestic Wastewater Treatment System and Industrial Wastewater Treatment System.
- Transfer of employment of existing TAC employees necessary for the continued operation and maintenance of the Water System, Domestic Wastewater Treatment System and Industrial Wastewater Treatment System; along with the conveyance and transfer of personal property necessary for the performance of their duties to include, but not limited to, vehicles, equipment tools and office equipment/supplies.
- Cooperation and assistance of TAC in co-permitting with RWRD to facilitate the transfer of necessary permits and Certificates of Convenience and Necessity (CNN) from the Texas Commission on Environmental Quality for the operation of the Water System, Domestic Wastewater Treatment System and/or Industrial Wastewater Treatment System. [It is expressly noted and understood by the parties that any such assignment and/or transfer is subject to the written consent of the Texas Commission on Environmental Quality.]
- During the transition period, TAC will provide RWRD the opportunity to work with TAC personnel to obtain information and instruction on the operation and maintenance of the Water System, Domestic Wastewater Treatment System and/or Industrial Wastewater Treatment System.
- Assignment of the Water Supply Contract between TAC and the City of Texarkana to provide potable water. [It is expressly noted and understood by the parties that any such assignment and/or transfer is subject to the written consent of the City of Texarkana.]
- Assignment of the Agreement for Water Supply and Waste Water Treatment between TAC and Day & Zimmermann Lonestar, LLC (D&Z) dated September 1, 2010.
- Assignment and assumption of outstanding Revenue Refunding Bonds, Taxable Series 2014A and Revenue Improvement Bonds, Taxable Series

2014B. [It is expressly noted and understood by the parties that any such assignment and/or transfer is subject to the written consent of the holders of said bonds.]

- Transfer of the balance of available funds generated from the sale of the referenced bonds from TAC to RWRD; and
- Pursuit of the Release of TAC from any further liability on the bonds.
- The parties will jointly cooperate to the extent necessary to facilitate the assignment and/or transfer of property, services and/or permits necessary to operate and maintain the Water System, Domestic Wastewater Treatment System and Industrial Wastewater Treatment System.
- In consideration of the obligations set forth herein, TAC agrees to negotiate only with RWRD for the transfer and acquisition of the Water System, Domestic Wastewater Treatment System and Industrial Wastewater Treatment System during the term of this letter of intent. Further, TAC agrees to abate any marketing efforts and solicitation of prospective buyers regarding the transfer/acquisition of said systems during the term of this letter.
- In consideration of the transfer of the Water System, Domestic Wastewater Treatment System and Industrial Wastewater Treatment System and all real property, personal property and inventory associated therewith, RWRD and TAC will negotiate the terms, conditions and financial terms to be paid by RWRD to TAC for said transfer and the market value associated therewith.
- In conjunction with RWRD's water supply contract with the City of Texarkana, TAC will execute an inter-local agreement with RWRD for the supply of water to TAC at a rate TBD by the parties and subject to other mutually agreeable terms and conditions.

In the pursuit of such a transfer, it is intended that the parties will negotiate in good faith to form a written agreement as soon as is practical, noting however that certain approvals must be sought for the transfer and/or assignment of certain contracts, permits, bonds and other such obligations as further set forth herein above.

Conclusion:

This letter of intent is valid through 5:00 p.m. on November 30, 2014, at which time it will automatically expire in the event a written contract has not been executed by the parties or unless said deadline is otherwise extended by written agreement.

Sincerely,

Acknowledged and Agreed, for Riverbend Water Resources District:

Scott L. Albert 7-25-14

Scott Albert, Executive Director

Acknowledged and Agreed, for TexAmericas Center:

Scott Norton 7/25/14

Scott Norton, Executive Director