

RESOLUTION NO. 26-03

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ANNETTA CREATING THE PARKER COUNTY PUBLIC UTILITY AGENCY; MAKING FINDINGS OF FACT; PROVIDING FOR RELATED MATTERS; PROVIDING FOR AN EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

* * *

WHEREAS, Subchapter C of Chapter 572, Texas Local Government Code, as amended (the "PUA Act") authorizes two or more public entities that have the authority to engage in the conservation, storage, transportation, treatment, or distribution of water, to join together to create a public utility agency by adoption of concurrent ordinances or resolutions; and

WHEREAS, the PUA Act authorizes a public utility agency to, among other things, (i) acquire, plan, finance, construct, own, operate, or maintain facilities necessary or incidental to the conservation, storage, transportation, treatment, or distribution of water, including plant sites, rights-of-way, and property, equipment, or rights of any kind useful in connection therewith (collectively, "facilities"); (ii) enter into a contract, lease, or agreement, with or accept a grant or loan from a department or agency of the United States, a municipality or political subdivision of this state, or a public or private corporation or person for the management and operation of agency facilities or the acquisition, construction, financing, maintenance, operation, provision, or receipt of a facility, service, or product; (iii) sell, lease, convey, or otherwise dispose of all or a portion of any right, interest, or property the agency considers to be unnecessary for the efficient operation or maintenance of its facilities; and (iv) adopt rules to govern the operation of the agency and its employees, facilities, and services; and

WHEREAS, the PUA Act provides that a public utility agency is (i) a separate agency; (ii) a political subdivision of this state; (iii) a political entity and corporate body; (iv) a retail public utility for the purposes of Chapter 13 of the Texas Water Code, as amended; (v) conferred all the other powers and obligations that are related to facilities and that are provided by law to a municipality that owns a facility, except as limited therein; and

WHEREAS, the Parker County Hydrology 2050 Committee was created to plan for the development of water supply solutions needed to meet the significant growth in water demands occurring in Parker County and, as part of its efforts, said Committee has recommended that interested public entities come together to create and participate in a public utility agency under the PUA Act; and

WHEREAS, the Town of Annetta is a Type A general-law municipality, a political subdivision of the State of Texas authorized by the general laws of this state to engage in the conservation, storage, transportation, treatment, or distribution of water, and a "public entity" for purposes of the PUA Act; and

WHEREAS, the City of Aledo, the Town of Annetta, the Town of Brock, the City of Cool, the City of Cresson, the City of Hudson Oaks, the City of Millsap, Parker County, the Town of Peaster, the City of Springtown, the Upper Trinity Groundwater Conservation District, the Walnut Creek Special Utility District, the City of Weatherford, and the City of Willow Park (collectively, the "Participants"), each of which is a "public entity" under the PUA Act, have considered the creation of a public utility agency to be designated the "Parker County Public Utility Agency"; and

WHEREAS, the Participants believe that the creation of the Parker County Public Utility Agency (the "Agency") will serve the best interests of their citizens and residents, and promote regional coordination among water providers in Parker County, the development of additional drinking water supplies, and the provision of potable drinking water throughout Parker County, Texas; and

WHEREAS, notice of intent to create the Agency and the proposed adoption of this Resolution has been published as required by law including, but not limited to, Section 572.024 of the PUA Act, as amended; and

WHEREAS, the City Council of the Town of Annetta has not been presented with a petition meeting the requirements of Section 572.056(a) of the PUA Act and requesting that a referendum be called on the adoption of this Resolution and the creation of and participation in the Agency by the Town of Annetta;

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

Section 1. Finding of Facts. The above and foregoing recitals are incorporated herein as findings of fact.

Section 2. Creation of Agency. The Parker County Public Utility Agency is hereby created and approved by each and all of the Participants named hereinabove, subject to each of the Participants named hereinabove approving an ordinance or resolution substantially identical to this Resolution no later than May 31, 2027.

Section 3. Nature of the Agency. The Agency is a political subdivision of this state, a political entity and corporate body, and a governmental unit within the meaning of Subdivision (2) of Section 101.001, Texas Civil Practice & Remedies Code, as amended, separate and distinct from each and all of the Participants. Further, the Agency is a retail public utility for the purposes of Chapter 13 of the Texas Water Code, as amended, and the operations of the Agency are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Sec. 101.001 *et seq.*, Texas Civil Practice & Remedies Code, as amended.

Section 4. Board of Directors. (a) The Agency shall be governed by a Board of Directors (the "Board"). The Board is responsible for the management, operation, and control of the property belonging to the Agency.

(b) Members of the Board shall be appointed by the Participants by place as follows:

- Place 1 representing the City of Aledo;
- Place 2 representing the Town of Annetta;
- Place 3 representing the Town of Brock;
- Place 4 representing the City of Cool;
- Place 5 representing the City of Cresson;
- Place 6 representing the City of Hudson Oaks;
- Place 7 representing the City of Millsap;
- Place 8 representing Parker County;
- Place 9 representing the Town of Peaster;
- Place 10 representing the City of Springtown;
- Place 11 representing the Upper Trinity Groundwater Conservation District;
- Place 12 representing the Walnut Creek Special Utility District;
- Place 13 representing the City of Weatherford; and
- Place 14 representing the City of Willow Park.

Further, each Participant shall have the right to appoint an alternate Director to attend meetings and, to the maximum extent allowed by law, vote and otherwise exercise the powers of the regular Director appointed by such Participant when the regular Director member is absent, incapacitated, or otherwise unable to participate in Board meetings. The Board may adopt bylaws consistent with the foregoing to establish procedures for the appointment of regular and alternate Directors by Participants.

Section 5. Director Qualifications; Conflicts; Fees of Office and Expenses. (a) To be qualified to serve as a director, a person shall be at least 18 years old and a qualified voter within the State of Texas.

(b) A Director may not have a personal interest in a contract executed by the Agency other than as an employee, officer, or member of the governing body of the Participant that appointed the Director.

(c) Subject to provisions of bylaws to be adopted by the Directors, a Director is entitled to compensation by the Agency only as permitted by Section 572.057(c)&(e) of the PUA Act.

Section 6. Terms of Directors; Removal. (a) The terms of office of the initial Directors shall be determined by lot at the organizational meeting of the Board, with a simple majority of the Directors serving a four-year term of office ending on the uniform election date in May 31, 2030 and the remaining Directors serving a two-year term of office ending on May 31, 2028. Thereafter, Directors shall serve staggered four-years terms of office. A person may be appointed to consecutive terms of office. The Board is specifically authorized and directed to adopt procedures in its bylaws for the regular appointment of Directors, and for the timely appointment of a Director to fill the unexpired term of a Director in the event of a vacancy due to ineligibility, removal, resignation, incapacity, or death.

(b) Any Director may be removed from office at any time, with or without cause, by the Participant that appointed such Director. In addition, the Board by unanimous vote of its remaining Directors may remove a Director only if that Director has missed one-half or more of the regular meetings of the Agency scheduled during the prior twelve months. In its bylaws, the Board shall establish policies and procedures to notify a Director, and the Participant that appointed the Director, of a Board meeting at which removal will be considered.

Section 7. Board Officers; Ex Officio Directors. (a) The officers of the Board shall consist of the President, one or more Vice-Presidents, a Secretary, one or more Assistant Secretaries, and a Treasurer, which officers shall be elected by the Board. The President shall be the chief executive officer of the Agency and shall preside over the meetings of the Board. Any Vice-President may perform all duties and exercise all powers conferred on the President when the President is absent or fails, refuses, or is unable to act. The Secretary of the Board or one of the Assistant Secretaries is responsible for keeping the minutes of the meetings of the Board and all official records of the Board and may certify as to the accuracy or authenticity of any actions, proceedings, minutes, or records of the Board or of the Agency. The duties of the other Officers may be provided in the bylaws of the Agency.

(b) The Board shall establish a category of Ex Officio Directors to represent retail public utilities that, by agreement entered into with the Participants, financially contribute to the creation and operation of the Agency. The Board may establish other categories of Ex Officio Directors at its discretion. The Board shall provide for the duties and responsibilities of the Ex Officio Directors in bylaws, rules, or regulations to be adopted by the Board. Any person designated as an Ex Officio Director is entitled to notice of, and to attend, meetings of the Board, but shall not be entitled to vote on business before the Board.

Section 8. Votes of Directors. (a) Except as expressly provided in Section 5(b) hereof, or in the PUA Act or other law, a Director is entitled to vote on all matters before the Board including, without limitation, all projects to be considered by the Board in all service areas of the Agency, and all matters involving any Participant, including the Participant that appointed the Director.

(b) Except for matters requiring approval by Weighted Vote provided in subsection (c) hereinafter, approval by a majority of the Directors present at a meeting is sufficient for approval of any matter coming before the Board

(c) Approval by Weighted Vote of the Directors shall be required with respect to:

- (1) any contract with a value of \$500,000 or more;
- (2) the issuance of bonds, notes, or other obligations by the Agency; and
- (3) approval of the withdrawal of a Participant from the Agency as and if required under the PUA Act.

If a matter requires approval by Weighted Vote, approval by 66.7% of the Weighted Vote of all Directors eligible to vote is necessary .

(d) With respect to the approval of matters by Weighted Vote, the Weighted Vote of each Director shall be calculated as follows:

- (1) Each Director is initially allotted 1 vote.
- (2) A Director shall be allotted additional votes based on the population of the Participant appointing the Director, as provided hereinafter. If a Participant's population exceeds 3,000, then the Director appointed by that Participant shall be allotted 1 additional vote per 3,000-person increment that Participant's population exceeds 3,000. Except as further provided below with respect to certain Participants, populations shall include only persons residing or located within a Participant's service area (i) inside of Parker County, and (ii) outside of Parker County, if and to the extent the service area located outside of Parker County is served by a water supply system that also serves areas within Parker County during normal operation. A Participant's population shall be determined on an annual basis by reference to the following sources, in the priority stated: (1) the most recent data submitted by the Participant to the Texas Water Development Board ("TWDB") under the TWDB Annual Water Use Survey; (2) Intercensal population estimates available through the U.S. Census Bureau; or (3) other reliable population data provided by or applicable to the Participant and acceptable to the Board. With respect the votes allotted to the Director appointed by Parker County, the population of Parker County shall exclude persons residing or located within the boundaries of, or otherwise attributed to, other Participants. With respect to the votes allotted to the Director appointed by Walnut Creek Special Utility District, the population of Walnut Creek Special Utility District shall include only persons residing or located within Parker County. Notwithstanding anything above, no additional population votes shall be allotted to the Director appointed by Upper Trinity Groundwater Conservation District.
- (3) A Director shall be allotted additional votes based on the average daily water demand of the Participant appointing the Director, as provided herein after. If a Participant's average daily water demand exceeds 1 million gallons (1 MGD), then the Director appointed by that Participant shall be allotted 1 additional vote for each full 1 MGD increment that the Participant's average daily water demand exceeds 1 MGD. A Participant's average daily water use shall be determined on an annual basis by reference to the following sources, in the priority stated: (1) the most recent data submitted by the Participant to the TWDB under the TWDB Annual Water Use Survey, or (2) other reliable water usage data provided by or applicable to the Participant and acceptable to the Board.

- (4) Each Director's allotted number of votes shall be calculated as a percentage of the total number of votes allotted to all Directors. A Director's voting percentage shall be limited to not more than 25%. If a Director's voting percentage is so limited, the remaining voting percentage shall be equally distributed to the remaining Directors, providing, however, that no other Director's voting percentage may exceed 25% as a result of the distribution. Percentage calculations shall be rounded to the nearest 1/10th of 1%.

The Board is specifically authorized to adopt additional policies and procedures in its bylaws that are consistent with the above provisions in order to facilitate the calculation of each Director's percentage of the Weighted Vote.

Section 9. Board Procedures. The Board shall prepare and adopt bylaws for the Agency, and shall hold regular, special, or emergency meetings at times and on days or dates as specified in those bylaws. The Board shall provide in its bylaws for the method of execution for all contracts, the signing of checks, and the handling of any other matters approved by the Board.

Section 10. Fiscal Year. The fiscal year of the Agency shall begin October 1st of each calendar year; provided, however, that the first fiscal year shall begin upon the effective date of the Agency's creation and end September 30, 2027.

Section 11. Employees. The Board may appoint and employ all persons, firms, corporations, partnerships, and other entities considered necessary to conduct the affairs of the Agency, including engineers, attorneys, financial advisors, accountants, a general manager, and other employees or consultants.

Section 12. Powers and Authority. Except as expressly limited herein, the Agency shall have and may exercise all of the rights, powers, privileges, authority, and functions conferred under the PUA Act, together with all of the other power, privileges, authority, and functions conferred by State law.

Section 13. Incurrence of Debt and Financial Obligations. The Agency shall not issue bonds, notes, or any debt obligation, or by contract undertake a financial obligation, that will not be payable from funds available, or revenues of the water and wastewater utilities, systems, and facilities constructed or purchased, or by binding contractual commitments made by Participants and legal entities to purchase increments or portions of the water and wastewater utilities, systems and facilities that are constructed or purchased.

Section 14. Boundaries; Changes in Participation. (a) In accordance with Section 572.055 of the PUA Act, the boundaries of the Agency shall include the territory within the boundaries of each of the Participants named hereinabove, as the boundaries of such Participants are changed periodically, subject further to changes in participation in the Agency as described below.

- (b) Participation in the Agency is subject to change as provided by Section 572.053 of

the PUA Act. Under such provision, the public entities that participate in the Agency may by concurrent ordinances (i) add a public entity to, or delete a public entity from, participation in the Agency; or (ii) dissolve the Agency and transfer all obligations, assets, permits, and licenses of the public utility agency to the remaining public entities. Section 572.053 of the PUA Act further provides that a participating public entity may withdraw from the Agency by providing an ordinance or resolution of the governing body of the participating public entity to the Agency not later than the 180th day before the proposed date of withdrawal, or otherwise required by the PUA Act. A Participant may not withdraw from the Agency if any outstanding bonds, notes, or other obligations of the Agency are secured by the revenues of the Participant, unless the Agency adopts a resolution approving the withdrawal in accordance with the PUA Act.

Section 15. Service Area. The Agency's service area shall consist of the following:

- (1) Territory in Parker County;
- (2) Service areas of the Participants located (i) inside of Parker County, and (ii) outside of Parker County if and to the extent the service area located outside of Parker County is served by a water supply system that also serves areas within Parker County during normal operation;
- (3) Service area of any future customers of the Agency; and
- (4) General area where any infrastructure owned by the Agency is located.

Section 16. Amendment. Except as otherwise provided by law, amendment to any provision within this Resolution requires each Participant to adopt a concurrent ordinance or resolution that includes such amendment.

Section 17. Effective Date. This Resolution shall take effect immediately upon adoption and the effective date for creation of the Agency shall be the date that the last Participant named hereinabove shall approve of an ordinance or resolution substantially identical to this Resolution, but no later than May 31, 2027, as provided in Section 2 hereof. In the event that all Participants named hereinabove have not approved of an ordinance or resolution substantially identical to this Resolution on or before May 31, 2027, this Resolution shall be null and void.

ADOPTED, APPROVED AND PASSED by the City Council of the Town of Annetta on this the 17th day of September, 2026.

TOWN OF ANNETTA

Sandy Roberts, Mayor

ATTEST:

Jamee Long
Jamee Long, City Secretary

