

**CITY OF FORNEY, TEXAS
RESOLUTION NO. 20-_____**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS, AUTHORIZING THE CITY MANAGER TO FINALIZE, EXECUTE AND ADMINISTER A MEMORANDUM OF UNDERSTANDING BETWEEN FORNEY AND THE CITY OF MESQUITE, TEXAS DEFINING THE EXPECTATIONS AND RESPONSIBILITIES OF FORNEY AND MESQUITE RELATED TO THE ACQUISITION BY MESQUITE OF THE MARKOUT WATER SYSTEM AND CUSTOMERS AND THE DIVISION OF THE MARKOUT WATER SYSTEM.

WHEREAS, Markout Water Supply Corporation (“Markout”) provides retail water service to over 1000 customers in Kaufman County, Texas; and

WHEREAS, Markout’s customers are located in the city limits and extraterritorial jurisdiction of the City of Forney, Texas (“Forney”), and in the city limits and extraterritorial jurisdiction of the City of Mesquite, Texas (“Mesquite”); and

WHEREAS, Markout obtains treated water from Forney pursuant to the May 2, 2006 Wholesale Water Contract, as amended by a June 22, 2006 Amendment #1 to the Wholesale Water Contract (the original contract and amendment are collectively referred to as the “Wholesale Water Contract”); and

WHEREAS, Mesquite intends to acquire Markout’s water supply system and customers, and provide water service to the area and customers served by Markout; and

WHEREAS, Forney desires to provide water service to those Markout customers within the corporate limits of Forney, the area being more particularly identified as the Grayhawk residential subdivision generally located on South FM 548 in Forney (“Transfer Area”); and

WHEREAS, until Mesquite has designed and constructed facilities to extend and connect Mesquite’s water system to Markout’s water system, Mesquite will need to transport treated water from the North Texas Municipal Water District through Forney’s water system to Markout’s water system; and

WHEREAS, Forney and Mesquite desire to enter into a Memorandum of Understanding , a copy of which is attached hereto as Exhibit “A” and made a part hereof for all purposes (“MOU”) to (i) outline the steps both Mesquite and Forney will take to evaluate and transfer the rights to provide water service to the Transfer Area from Mesquite to Forney upon Mesquite’s acquisition of Markout; (ii) provide consent to the assignment of the Wholesale Water Contract to Mesquite; and (iii) provide for the termination of the Wholesale Water Contract; and

WHEREAS, the MOU is an interlocal agreement between Forney and Mesquite pursuant to the authority of Chapter 791 of the Texas Government Code.

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

SECTION 1. The findings and premises contained in the preamble above are hereby deemed to be true and correct.

SECTION 2. The City Council hereby approves the MOU and authorizes the City Manager to finalize and execute the MOU and take all actions and execute all documents necessary or requested to consummate the transactions contemplated by the MOU.

SECTION 3. The City Manager is further hereby authorized to administer the MOU on behalf of Forney including, without limitation, the City Manager shall have the authority to: (i) finalize and execute the assignment of the Wholesale Water Contract to Mesquite; (ii) finalize and execute any termination of the Wholesale Water Contract; (iii) finalize and execute an agreement between Mesquite and Forney pursuant to Texas Water Code §13.248; and (iv) execute all documents required to complete the transfer of the Transfer Area to Forney.

SECTION 4. The sections, paragraphs, sentences, clauses and phrases of this resolution are severable and, if any phrase, sentence, clause, paragraph or section of this resolution should be declared invalid, illegal or unenforceable by the final judgment or decree of any court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity, legality or enforceability of any of the remaining phrases, clauses, sentences, paragraphs and sections of this resolution and such remaining provisions shall remain in full force and effect and shall be construed and enforced as if the invalid, illegal or unenforceable provision had never been included in this resolution.

SECTION 5. This Resolution shall become effective upon its passage by the City Council of the City of Forney, Texas.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FORNEY, TEXAS, this 15th day of September, 2020.

Mary Penn, Mayor

ATTEST:

Dorothy Brooks, City Secretary