



COUNCIL RESOLUTION NO. 5022

**A RESOLUTION CONCERNING THE SALE OF WATER TO THE CITY
OF VENETA.**

PASSED: 8:0

REJECTED:

OPPOSED:

ABSENT:

CONSIDERED: January 24, 2011

RESOLUTION NO. 5022

A RESOLUTION CONCERNING THE SALE OF WATER TO THE CITY OF VENETA.

The City Council of the City of Eugene finds that:

A. The Eugene Water & Electric Board ("EWEB") and the City of Veneta have entered into a contract which allows Veneta to purchase from EWEB up to 4 million gallons of water per day. The water would be delivered to Veneta through a pipeline that Veneta would construct from Eugene to Veneta ("the pipeline").

B. Veneta has obtained approval from the federal government for grants and loans to pay for much of the cost of the pipeline. In order to take full advantage of those grants and loans, as well as the favorable construction market, Veneta desires to commence planning, design and construction of the pipeline as soon as reasonably possible.

C. There is uncertainty about whether EWEB possesses the authority to sell water to Veneta without approval of the City Council. That question is in the early stages of an appeal before the Oregon Court of Appeals. A final appellate court decision on that question is likely 12 to 24 months away.

D. Before spending the federal grant and loan funds to construct the pipeline, Veneta would like certainty that it will be able to use the pipeline by purchasing water from EWEB. That certainty can exist only: (a) if a final appellate court decision concludes that EWEB, rather than the City Council, possesses the authority to approve a sale of water outside the city limits; or (b) if the City Council authorizes EWEB to sell the water.

E. Although Veneta desires to be able to purchase up to 4 million gallons a day from EWEB, Veneta has indicated that construction of the pipeline would be fiscally responsible as long as it could purchase at least 3 million gallons a day.

F. In order to provide Veneta with the certainty it needs to be able to begin to spend the federal funds for the pipeline, the City Council is willing to approve EWEB's sale of water to Veneta of up to 3 million gallons a day, subject to certain conditions.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, a Municipal Corporation of the State of Oregon, as follows:

Section 1. The City Council approves EWEB's sale of water to Veneta of up to 3 million gallons a day.

Section 2. The City Council's approval of EWEB's sale of water to Veneta in Section 1 is contingent upon the execution of an Intergovernmental Agreement ("IGA") between the City of Veneta and the City of Eugene. The IGA must provide, at a minimum, that: (a) absent Eugene City Council approval, no person, company or other governmental entity may connect to the pipeline constructed by Veneta to provide water to property located outside Veneta's urban growth boundary; and (b) in the event EWEB sells water on a wholesale basis to another municipality or water provider, and that sale involves the payment to the City of Eugene of some type of franchise fee, Veneta shall pay a fee to the City of Eugene at the same rate. The IGA may also provide that the IGA terminates in the event that the final appellate court decision concludes that EWEB, rather than the City Council, has the authority to approve the sale of water to Veneta.

Section 3. On January 18, 2011, the Eugene Water & Electric Board adopted Resolution No. 1105 stating that EWEB will continue conducting regional water planning and pursuing collaborative opportunities with other jurisdictions, including the City of Eugene. The City Manager shall work with EWEB as part of a collaborative regional water planning effort, guided by Attachment B of the January 11, 2011, AIS, and shall seek an initial scoping meeting in the first half of 2011.

Section 4. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution adopted the 24th day of January, 2011.



Deputy City Recorder