

Mayor and Council Communication

DATE: 05/24/22

M&C FILE NUMBER: M&C 22-0401

LOG NAME: 12SETTLEMENT AGREEMENT WITH TRWD AND M LEONARD FOR MARYS CREEK

SUBJECT

(ETJ adjacent to CD 3) Authorize Execution of a Settlement Agreement with Tarrant Regional Water District and Martha Leonard for Resolution of the Mary's Creek Wastewater Treatment Plant Discharge Permit Application

RECOMMENDATION:

It is recommended that the City Council authorize execution of a settlement agreement with Tarrant Regional Water District and Martha Leonard for resolution of the Mary's Creek Wastewater Treatment Plant discharge permit application.

DISCUSSION:

On July 23, 2021, after taking public input, the TCEQ reaffirmed its March 16, 2020, approval of the final draft permit for the Mary's Creek Water Reclamation Facility (MCWRF) holding that the draft permit is protective of water quality. Consistent with administrative procedure, on November 3, 2021, the TCEQ heard and considered specific requests for a contested hearing brought by Martha Leonard, a landowner along Mary's Creek, and Tarrant Regional Water District (TRWD). Ms. Leonard was recognized as an affected party, thus sending the draft permit to the State Office of Administrative Hearings (SOAH) for a contested hearing. On February 28, 2022 SOAH held a preliminary hearing to address TRWD's request for recognition and, after taking testimony, SOAH deemed TRWD to also be an affected party. Concurrent with the contested hearing schedule, TCEQ held mediation sessions with Fort Worth, TRWD and Martha Leonard in March, 2022. At these sessions, the parties discussed an indirect reuse proposal which resulted in a negotiated settlement agreement. If the proposed settlement agreement is approved by the parties, then TRWD and Martha Leonard agree to withdraw their contested hearing requests, and the City will request an update to the draft permit.

This settlement agreement is beneficial to both City and TRWD water ratepayers as well as Ms. Leonard. The City benefits by being able to quickly start design of the MCWRF, saving time and expense of a protracted hearing. Starting this work is critical as proposed developments in West Fort Worth will tax the capacity of existing wastewater collection lines to Village Creek WRF. TRWD and City ratepayers will benefit by the construction of both direct and indirect reuse projects made possible by the MCWRF. Ms. Leonard has agreed to the terms as being protective of and upstream of the area of Mary's Creek enjoyed by her family.

Planning, site acquisition, and permitting work for the MCWRF has been in progress for the last 20 years. In 2017 work was initiated to prepare the MCWRF permit application, which was submitted to the TCEQ on March 23, 2018, requesting an interim discharge limit of 10 MGD and a final discharge limit of 15 MGD.

The basic terms of the settlement include:

TRWD Responsibilities

- TRWD will permit, design and construct an indirect reuse project on Mary's Creek consisting of an impoundment, intake, pump station and pipeline to convey MCWRF discharged effluent from Mary's Creek to the existing TRWD water supply system where it will be blended with water from other TRWD lakes.

City Responsibilities

- City will request TCEQ to add a 6 mg/l total nitrogen permit limit to the MCWRF TPDES permit.
- If the MCWRF begins operation prior to the TRWD indirect reuse project completion, the MCWRF will be limited to 3 MGD effluent discharge during dry weather conditions. This temporary discharge limitation will not impact the City's ability to provide direct reclaimed water to potential customers.
- Should TRWD's indirect reuse project be deemed to be infeasible, the City will amend the MCWRF discharge permit, lowering the total phosphorus limit from 0.2 mg/l to 0.1 mg/l.

A Form 1295 is not required because the agreement will be with a governmental entity, state agency or public institution of higher education:
TRWD

A Form 1295 is not required because: Martha Leonard is an individual.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of the above recommendation will have no material effect on City funds.

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Expedited