

A Resolution

NO. _____

NOTIFYING THE TRUSTEE OF THE FORT WORTH PERMANENT FUND AND THE CHIEF FINANCIAL OFFICER OF THE CITY OF FORT WORTH THAT THE FORT WORTH CITY COUNCIL INTENDS TO CONSIDER AND VOTE ON AMENDMENTS TO THE TRUST AGREEMENT FOR THE FORT WORTH PERMANENT FUND THAT WOULD ALLOW A ONE-TIME DISTRIBUTION OF CORPUS TOTALING UP TO SIXTEEN MILLION DOLLARS (\$16,000,000.00), ALLOCATED PRO-RATA ACROSS THE WATER AND SEWER, GENERAL, AND PARK SYSTEM SUB-ACCOUNTS

WHEREAS, in 2008, the Fort Worth City Council adopted M&C G-16013, which established a Section 115 Trust Fund, “The Fort Worth Permanent Fund” (the “Fund”), to enable prudent financial management of gas-related revenues to provide a long-term source of revenue to benefit both current and future residents; and

WHEREAS, in 2013, following a competitive bid process, Wells Fargo, N.A. was selected to serve as the initial corporate trustee (the “Trustee”) for the Fund, and the “Trust Agreement for the Fort Worth Permanent Fund” (the “Agreement”) was executed; and

WHEREAS, in 2015, the Agreement was amended to add a definition of “income” and to clarify the annual distribution process; and

WHEREAS, market conditions over the last several years have resulted in limited returns on the Fund’s investments; and

WHEREAS, following a lengthy study process involving multiple stakeholders, City staff presented recommendations to City Council regarding taking actions to acquire undeveloped land throughout the City for possible future City use or for retention as more natural landscapes and open space that promote overall livability and serve as a balance to the rapid development occurring throughout the City; and

WHEREAS, because the acquired land would benefit both current and future residents of the City of Fort Worth, staff recommended that the City Council consider using a portion of the corpus of the Fund as a potential funding source; and

WHEREAS, taking a distribution of corpus would require an amendment of the Trust Agreement; and

WHEREAS, the Agreement sets forth a detailed process for consideration of amendments to ensure ample opportunity is provided for public review and input, with such process being initiated by the City Council giving written notice to the Trustee and to the City’s Chief Financial Officer of the proposed amendment; and

WHEREAS, the Fund consists of five (5) separate subaccounts – the Aviation Endowment Gas Lease Fund, the Nature Center Endowment Gas Lease Fund, the Water and Sewer Endowment Gas Lease Fund, the General Endowment Gas Lease Fund, and the Park System Endowment Gas Lease Fund, which itself consists of two subaccounts; and

WHEREAS, the Nature Center Endowment Gas Lease Fund is currently unfunded; and

WHEREAS, external restrictions apply to funds within, generated, and distributed from certain subaccounts; and

WHEREAS, restrictions applicable to the Aviation Endowment Gas Lease Fund make it an unsuitable source for funding general open space acquisition; and

WHEREAS, staff recommends that the City Council consider amending the Agreement to provide for a one-time distribution of corpus totaling up to \$16,000,000.00 with such amount to be taken on a pro rata basis from the remaining funded subaccounts, with the timing of such distribution to be determined by staff to allow for fluctuating market conditions, and with the intent that such distribution be used for acquisition of open space, subject to any applicable external restriction; and

WHEREAS, the City Council wishes to initiate the amendment process so that the recommended amendment to the Trust Agreement may be fully considered by the City Council, the Trustee, the Chief Financial Officer, and the citizens of the City of Fort Worth and may be voted on by the City Council if desired.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

1. That official written notice is hereby given to Wells Fargo, N.A., as Trustee of the Fort Worth Permanent Fund, and to the City's Chief Financial Officer that the City Council intends to consider and vote on amendments to the Agreement for the Fort Worth Permanent Fund, to wit amending the Trust Agreement to provide for a one-time distribution of corpus in an amount up to Sixteen Million Dollars (\$16,000,000.00) with such amount to be taken equitably on a pro-rata basis from the following funded sub-accounts within the Trust: the Water and Sewer Endowment Gas Lease Fund, the General Endowment Gas Lease Fund, and the Park System Endowment Gas Lease Fund with the exact timing of such distribution to be determined by City staff to take into account fluctuating market conditions.
2. That staff is hereby directed to take all necessary actions to ensure compliance with the process for considering and voting on amendments to the Trust Agreement as described above, including (i) setting an initial meeting among the City Council, the Trustee, and the City's Chief Financial Officer; (ii) scheduling and publishing notice of at least three public hearings to explain the reasons for the proposed amendments and to obtain public input concerning the proposed amendments; (iii) scheduling a follow-up meeting among the City Council, the Trustee, and the City's Chief Financial Officer; and (iv) scheduling a City Council meeting to vote upon the proposed amendments, all of which shall be done in accordance with the terms, conditions, and requirements of the Trust Agreement for the Fort Worth Permanent Fund.

Adopted this _____ day of _____ 2020.

ATTEST:

By: _____
Mary Kayser, City Secretary