

Mayor and Council Communication

DATE: 02/28/23

M&C FILE NUMBER: M&C 23-0160

LOG NAME: 21CONDEMN 102688 P6 & P21 HARVEY

SUBJECT

(ETJ near CD 3 / Future CD 3) Adopt Resolution Authorizing Condemnation by Eminent Domain to Acquire 0.9590 Acres in Permanent Water Facility Easement and 0.9413 Acres in Temporary Construction Easement from Real Property Owned by the Bourke C. Harvey Irrevocable Trust (2012), Located at 1 Live Oak Place in the Walter Houston Survey, Abstract No. 719, Tract 7A, Tarrant County, Texas, for the Westside III Water Transmission Main Project

RECOMMENDATION:

It is recommended that the City Council:

1. Declare that negotiations between the City and the property owner to acquire 0.9590 acres in permanent water facility easement and 0.9413 acres in temporary construction easement from real property owned by the Bourke C. Harvey Irrevocable Trust (2012), located at 1 Live Oak Place in the Walter Houston Survey, Abstract No. 719, Tract 7A, Tarrant County, Texas, were unsuccessful due to the inability to negotiate agreeable terms for the property interest being acquired by the City;
2. Declare the necessity to acquire the described property interest for the Westside III Water Transmission Main Improvements project (City Project No. 102688);
3. Adopt the attached resolution authorizing the City to use its power of eminent domain to acquire the property for public use;
4. Authorize the City Attorney to institute condemnation by eminent domain proceedings to acquire the described property interest from the property owner;
5. Authorize a payment pursuant to an award of commissioners or a negotiated settlement; and
6. Authorize the City Manager or his designee to accept and record the appropriate instruments.

DISCUSSION:

The land rights in the subject property are needed for the Westside III Water Transmission Main project, a public use project that will deliver water from the Westside Water Treatment Plant (Old Weatherford Road) to the south side of Interstate 20 (just west of Markum Ranch Road)

An independent appraisal established fair market value for the property interest in the total amount of \$99,007.00. Negotiations were unsuccessful due to the inability to negotiate agreeable terms for the property interest being acquired by the City.

Upon approval, a condemnation action will be brought and a Special Commissioners' hearing held to acquire the property interest (shown below) on the property.

Parcel No.	Legal Description	Acreage / Property Interest
6-PWFE	1 Live Oak Place, Walter Houston Survey, Abstract No. 719, Tract 7A	0.9590 Acres / Permanent Water Facility Easement
21-TCE	1 Live Oak Place, Walter Houston Survey, Abstract No. 719, Tract 7A	0.9413 Acres / Temporary Construction Easement

To approve this Mayor and Council Communication (M&C), the Council Member making a motion to authorize condemnation by eminent domain should say:

"I move that the Fort Worth City Council adopt the resolution authorizing use of the power of eminent domain to acquire 0.9590 acres in permanent water facility easement and 0.9413 acres in temporary construction easement from real property owned by the Bourke C. Harvey Irrevocable Trust (2012), located at 1 Live Oak Place in the Walter Houston Survey, Abstract No. 719, Tract 7A, Tarrant County, Texas. The property is needed for the Westside III Water Transmission Main project, a public use that will provide water from the Westside Water Treatment Plant (Old Weatherford Road) to the south side of Interstate 20 (just west of Markum Ranch Road). The land rights in the subject property are needed for the continuation of water line improvements. The property interest to be acquired is described by metes and bounds and depicted by survey exhibits attached to this Mayor and Council Communication."

Funding for Westside III 30-Inch Water Transmission Main is depicted below:

Fund	Existing Appropriations	Additional Appropriations	Project Total*
W&S Rev Bonds Series 2021 - Fund 56019	\$2,845,105.00	\$0.00	\$2,845,105.00
Project Total	\$2,845,105.00	\$0.00	\$2,845,105.00

*Numbers rounded for presentation purposes.

This project is anticipated to be included in a future revenue bond issue for the Water & Sewer Fund. Available cash within the Water and Sewer portfolio and the City's portfolio along with the appropriation authority authorized under the Callable Commercial Paper Program (CP) will be used to provide interim financing for this project until debt is issued. To the extent resources other than the Water and Sewer portfolio are used to provide interim financing, the Water & Sewer Fund will be charged interest that is equivalent to the overall rate of return being earned by the City portfolio (currently approximately 2.3 percent annually). Should the City's portfolio not support the liquidity needed to provide an interim short-term financing source, another funding source will be required, which could mean issuance of securities under the CP Program or earlier issuance of Water and Sewer revenue bonds than is currently planned. Once debt associated with this project is sold, bond proceeds will be used to reimburse the Water and Sewer portfolio and the City's portfolio in accordance with the attached reimbursement resolution.

The City Council approved the Water Department's Fiscal Year 2020-2024 Five-Year Capital Improvement Plan on September 17, 2019. This City Council approved plan includes this specific project, with funding identified through the CP program to be reimbursed with future revenue bonds. In accordance with the provisions of the Financial Management Policy Statements, staff anticipates presenting revenue-supported debt issuances to the City Council for consideration within the next three years. This debt must be issued within approximately three years to provide reimbursement for these expenses. If that does not occur, the costs will no longer be reimbursable by issuing tax-exempt debt and the funding source will have to be made whole through other budgetary methods. Adoption of this resolution does not obligate the City to sell bonds, but preserves the ability to reimburse the City from tax-exempt bond proceeds.

This property is located in the City's ETJ near COUNCIL DISTRICT 3 (FUTURE COUNCIL DISTRICT 3).

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that funds are available in the current capital budget, as previously appropriated, in the W&S Rev Bonds Series 2021 Fund for the WS Treatment Plant III 30" WTM project to support the approval of the above recommendations. Prior to any expenditure being incurred, the Water Department has the responsibility to validate the availability of funds.

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