

Mayor and Council Communication

DATE: 02/18/20

M&C FILE NUMBER: M&C 20-0101

LOG NAME: 60WSTLEACQU

SUBJECT

Approve Settlement of Lawsuit Entitled City of Fort Worth v. The George Beggs Trust, J.E. Beggs, Trustee et al., Cause No. CIV-18-0577 for \$1,250,000.00 and Adopt Appropriation Ordinance in the Amount of \$700,000.00 for the Westside V Elevated Storage Tank and Water Main Project (ETJ NEAR COUNCIL DISTRICT 3)

RECOMMENDATION:

Is is recommended that the City Council:

1. Approve the settlement of all claims arising from the eminent domain lawsuit the City filed to acquire property interest for the Westside V Elevated Storage Tank and Water Main Project (City Project No. 100378) under cause number CIV-18-0577;
 2. Adopt the attached Resolution Expressing Official Intent to Reimburse Expenditures with proceeds of Future Debt for the Westside V Elevated Storage Tank and Water Transmission Main; and
 3. Authorize the attached appropriation ordinance increasing estimated receipts and appropriations in the Water and Sewer Commercial Paper Fund in the amount of \$700,000.00, from available funds, for the Westside V Elevated Storage Tank and Water Transmission Main Project.
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DISCUSSION:

On June 21, 2016 (M&C C-27784) the City Council authorized an engineering agreement for the Westside V Elevated Storage Tank and Water Transmission Main Project. This elevated tank and transmission main will provide water service to the Westside V pressure plane, which includes the Morningstar and Walsh Ranch developments. Acquisition of land for the elevated storage tank and water transmission mains is necessary prior to going to construction.

On June 26, 2018 (M&C L-16128), City Council authorized the condemnation for a tank site, a permanent water line easement, permanent access easement, and temporary construction easements necessary to install and maintain a 1 million gallon elevated storage tank and water transmission line. The condemnation hearing for this project occurred on October 24, 2018. Pursuant to the award of the Special Commissioners, the City deposited \$255,032.00 into the registry of the Court. A writ of possession was issued on December 17, 2018, which allowed the City to move forward with the construction of the elevated tank and water transmission main. The property owner challenged the award of the Special Commissioners. On January 17, 2020, after negotiation and mediation, the parties agreed to settle the lawsuit for payment by the City of an additional \$994,032.00, with each party paying its own court costs and attorney's fees.

On January 29, 2019 (M&C C-29014 and C-29015) the City Council authorized construction contracts for the water transmission main and elevated tank, respectively.

M&C G-19238, adopted by City Council on March 6, 2018, appropriated \$600,000.00 for the fee simple and easement acquisitions for the construction of the Westside V Elevated Storage Tank and Transmission Main. This M&C requests an additional \$650,000.00 in appropriations for the land and easement purchase, as well as \$50,000.00 to fund project land acquisition services.

This project is anticipated to be included in a future revenue bond issue for the Water and 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 and Sewer Fund will be charged interest that is equivalent to the overall rate of return being earned by the City portfolio (currently approximately one-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 adopted the Water Department's Fiscal Year 2020-2024 Five Year Capital Improvement Plan on September 17, 2019. This City Council adopted 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 Statement, 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 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.

Funding for the Westside V Elevated Storage Tank and Water Transmission Main is as depicted in the table below:

Fund	Existing Appropriations	Additional Appropriations	Project Total*
Water & Sewer Bond2017A Fund - 56011	\$893,100.00	\$0.00	\$893,100.00
W&S Capital Project 2018 Fund - 56014	\$600,000.00	\$0.00	\$600,000.00
Water & Sewer Commercial Paper Fund 56016	\$6,456,974.00	\$0.00	\$6,456,974.00
Water & Sewer Commercial Paper 56017	\$0.00	\$700,000.00	\$700,000.00
Project Total	\$7,950,074.00	\$700,000.00	\$8,650,074.00

*Numbers rounded for presentation purposes.

The project is located in COUNCIL DISTRICT 3 and City's Extra Territorial Jurisdiction.

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 upon approval of the above recommendations and adoption of the attached appropriation ordinance, funds will be available in the Water & Sewer Commercial Paper Fund (W&S Commercial Paper) for Westside V Elevated Storage Tank and Water Transmission Main Project. Prior to any expenditure being incurred, the Water Department has the responsibility to validate the availability of funds.

Submitted for City Manager's Office by: Dana Burghdoff 8018

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