



COUNCIL COMMITTEE REPORT PUBLIC UTILITY COMMITTEE

Date: Wednesday, August 19, 2015

Agenda Item #: 8

Agenda Item: *Consider and develop recommendations relating to an ordinance authorizing negotiation and execution of an amended water cost reimbursement agreement with CLUB DEAL 120 WHISPER VALLEY, L.P., and CLUB DEAL 116 INDIAN HILLS TX, L.P., for the design and construction of water mains in an amount not to exceed \$21,200,000. This ordinance would supersede ordinances 20100527-006, 20100826-004, 20130117-015, and 20140807-013.*

Vote : *The vote to forward item #8 to the Audit and Finance Committee Meeting for a recommendation passed on a 3-0-1 vote with Council Member Kitchen off the dais.*

Sponsors/Department: *Austin Water sponsored RCA*

Summary of Discussion

Bart Jennings of Austin Water gave a briefing on Whisper Valley and Indian Hill Public Improvement Districts, also known as PIDs. Mr. Jennings explains the difference between PIDs and MUDs (Municipal Utility Districts), PIDs being City designated geographical area without a governing board and MUDs having a governing board. He also describes the difference between a standard Cost Reimbursement Agreement (CRA) and PID related Cost Reimbursement Agreement and associated bonds.

Mr. Jennings then went on to explain the request of the Public Utilities Committee (PUC) to recommend to Council a change to the language and payment schedule of the Whisper Valley and Indian Hills PID agreement. Proposed language change to the agreement would change the wording "final acceptance" to "conditional acceptance" and proposed a change to the payment schedule from a multiyear split payment to a one-time 90 day payment. These requested changes of the CRA would allow timely payment to the bond Trustees.

After the staff briefing concluded Council Member Zimmerman asked for clarification on the 6-2-1 voting of the Water and Wastewater Commission. Mr. Jennings offered that 6 Commission members approved, with Commissioners Kellough and Maia voting against, and Commissioner Turrieta recused. Staff reached out to Commissioners for details on the opposing votes, but at this time was unsure of the specific reasons behind the vote against. Per staff, Commissioner Turrieta recused due to affiliations with the developer's design contract.

Council Member Chair Garza noted that Austin Water was bringing the item to the PUC, and that as it seemed to be a financial matter. The Chair asked if the Finance Department had a recommendation on the item to provide. Chief Financial Officer Elaine Hart spoke to Financial Services support of the item and recommendation for amendments proposed.

The PUC members requested clarifications on a flowchart regarding Standard CRAs versus PID-Related CRAs provided during Austin Water's briefing. Elaine Hart provided additional

information on the flow chart, the Developer's CRA as it relates to finance, process for bonds issued, and previous amendments.

Council Member Chair Garza asks if there is precedence for these types of changes to the CRA, and staff noted this is not often done.

Council Member Kitchen asks for additional details on the circumstances regarding the late construction completion and subsequent payment from the Developers, staff noted that this was due to a combination of design issues, bidding issues, and issues between developer and the contractor involved – moving completion of water lines from 2014 and beyond.

Council committee members asked for clarification to why this release of bond money is requested of the City. Elaine Hart notes that the developer is completing an asset, that of a water line, which will be turned over to the City's ownership upon completion. Ms. Hart explains that the "ask" is to accelerate the payment schedule of the reimbursement to the developer for work performed on the asset which will be owned and operated by the City. The monies will be used by the developer to make the special assessment payment due (July 1st), and then to the debt service payment due (December 1st).

There is some discussion on the liability of the City. Council Member Chair Garza asks about the possibilities of defaults of future payments, and outcomes if that were to occur. Elaine Hart notes that if there is future default of payment, foreclosure of the land by the City would be the next step, although future default of payments is not anticipated.

Council Member Chair Garza notes that she does not plan to make any recommendation on the item and suggests discussion by the PUC members on the possibility of this item being seen by the Audit and Finance Committee.

Upon discussion, Council Member Chair Garza makes a motion that the item be forwarded to the Audit and Finance Committee Meeting on Wednesday, August 26, 2015 for recommendation, and then to return the item to the September 16, 2015 Public Utility Council Committee meeting before it is seen by the full Council on September 17, 2015. Council Member Zimmerman seconds the motion. The motion passes on a 3-0-1 vote with Council Member Kitchen off the dais.

Public Comments: *No public comment heard on item #8*

Direction

A motion was made by Council Member Garza, Chair, and seconded by Council Member Zimmerman to forward item #8 to the Audit and Finance Committee Meeting on Wednesday, August 26, 2015 for Recommendations, and then to return the item to the September 16, 2015 Public Utilities Committee meeting before it is seen by the full Council on September 17, 2015.

Recommendation:

- Forward item to the Audit and Finance Committee Meeting on Wednesday, August 26, 2015 for recommendations.
- Return to the item to the September 16, 2015 Public Utilities Council Committee meeting before it is seen by the full Council on September 17, 2015.