



City of Pflugerville

Legislation Details (With Text)

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On agenda: 8/25/2020 **Final action:** 8/25/2020
Title: Approving an Amended And Restated Agreement For The Transfer Of Water Certificate Of Convenience And Necessity Service Area (Property Within City Limits) with Manville Water Supply Corporation (WSC) and authorizing the City Manager to execute same.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Agreement with Exhibit A, 2. Exhibit B, 3. Presentation Slides

| Date | Ver. | Action By | Action | Result |
|-----------|------|--------------|----------|--------|
| 8/25/2020 | 1 | City Council | Approved | Pass |

Approving an Amended And Restated Agreement For The Transfer Of Water Certificate Of Convenience And Necessity Service Area (Property Within City Limits) with Manville Water Supply Corporation (WSC) and authorizing the City Manager to execute same.

The City Council approved an agreement (Original Agreement) with Manville WSC at the November 12, 2019 City Council meeting for the transfer of Certificate of Convenience and Necessity (CCN) areas within the City limits that are to be transferred from Manville to the City. The Original Agreement provided for terms that required the City to process the CCN transfer through the Public Utility Commission (PUC). The application for the transfer was submitted to the PUC in June 2020 and upon review, the PUC provided comments regarding the legacy customers that were defined in the agreement. The Original Agreement allowed Manville to retain its legacy customers until ownership of the property changes or the property is redeveloped. The PUC has expressed that the properties with legacy customers shall be dually certificated for both City and Manville CCN, which the Original Agreement did not contemplate. The proposed revised agreement for consideration in this item provides for revisions to the Original Agreement that address dual certification of the legacy customer areas and additional language that requires Manville to consent to the City decertifying, in its sole discretion, a legacy property to single certification upon any defined transfer event. The revised agreement was approved by the Manville Board of Directors on August 13, 2020.

The revised maps, through coordination with the PUC, have very slightly reduced the total acreage from the Original Agreement by 3.14 acres and total cost by \$4,396.00. The proposed acquisition area as shown in the revised agreement, consisting of 2604.97 acres within the city limits at a rate of \$1400/acre, results in a total consideration of \$3,646,958.00. Upon execution and in accordance of the Original Agreement, funds were placed in an escrow account until the transfer of the CCN is approved by the Texas Public Utility Commission (PUC) who administers CCNs.

The City has been engaged in intermittent negotiations with the Manville WSC since 2015. The parties have been actively engaged to develop a contractual agreement based on these terms over

the last several months. The first of two contracts to be considered is for areas of CCN acquisition that are within the Pflugerville City Limits. A second contract will come forward for Council consideration in the future related to CCN acquisition areas in the city's extraterritorial jurisdiction (ETJ).

The primary reason for this acquisition is to afford both utility providers the opportunity to perform long range planning and development of utilities and system infrastructure. The proposed acquisition areas have been incorporated in the 2020 Water Master Plan and Water Impact Fee Study based on land use assumptions and population projections vetted and approved by the City Council in 2018.

Mayor Pro Tem Omar Peña, the City Council Liaison for this process, has assisted City staff throughout the original negotiation and has been kept informed during the revisions to the agreement.

The PUC has currently granted an application extension to submit the revised agreement and maps no later than September 4, 2020 to avoid going through an additional completeness check period.

Prior City Council Action

In March 2014, the contract for the purchase and sale of wholesale water, for the termination of pre-existing contracts and related matters was authorized.

On November 12, 2020, City Council approved an agreement with Manville Water Supply Corporation for acquisition of water Certificates of Convenience and Necessity (CCN) areas within the city limits.

Deadline for City Council Action

Consideration is requested on August 25, 2020 to meet PUC deadlines for submittals.

Funding Expected: Revenue ☐ Expenditure ☒ N/A ☐

Budgeted Item: Yes ☐ No ☒ N/A ☐

Amount: \$3,646,958 from City Utility Fund Balance (funding previously allocated upon execution of agreement in December 2019)

1295 Form Required? Yes ☒ No ☐

Legal Review Required: N/A ☐ Required ☒ Date Completed: July 31, 2020 by Special Counsel

Supporting documents attached:

Agreement with Exhibit A

Exhibit B (Annexation Ordinances)

Presentation Slides

Recommended Action

Approve an Amended And Restated Agreement For The Transfer Of Water Certificate Of Convenience And Necessity Service Area (Property Within City Limits) with Manville Water Supply Corporation (WSC) and authorizing the City Manager to execute same.