



MEETING OF OCTOBER 17, 2023

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM: Tim Nyander, Utilities Director
DATE:
SUBJECT: Easement Condemnations for West Water Transmission Main Project

RECOMMENDATION:

Staff recommends City Council approval of a Resolution authorizing the City Attorney to seek condemnation and an order of possession for the remaining easements necessary for the West Transmission water main project, and approval of a budget adjustment.

BACKGROUND:

The City's wholesale water supplier, Beaver Water District (BWD), has begun construction on a western water distribution point near HWY-112 and the newly constructed Springdale Northern Bypass, HWY-612. This facility will supply a western water transmission feed to all four customer cities, helping with hydraulics, critical redundancy, and overall utility resiliency. Fayetteville's 11.3-mile connection to the proposed BWD facility has been identified in water master plans for many years. The project is currently being designed, with construction planned to begin in late 2024. For this 48-inch diameter waterline, a 50-foot wide easement is necessary along the entire route to construct and maintain the line throughout its lifetime. The route chosen is specifically designed to be as unobtrusive as possible to impacted properties, staying close to property lines whenever possible.

DISCUSSION:

The prompt construction of this waterline is necessary to ensure clean water remains constantly available to everyone within our water district. We serve everyone in our mandated water district from Goshen to Farmington, from Elkins to Fayetteville, to Greenland, West Fork, part of Johnson, and many county residents.

State and Federal time limitations on the City's pending \$85MM loan require that we must obtain signed easements or Court ordered possessory rights for every necessary parcel by December 1st. This will allow field work to begin on critical-path environmental and cultural resources studies prior to the State's closing deadline for the loan. If the deadline is not reached, the City's interest rate would increase substantially (from 1.75% to 5% or higher). This would increase the lifetime loan costs by \$35MM or more.

Even if a condemnation must be filed on a particular property, we prefer reaching fair settlements with every landowner and the city will continue negotiating with property owners to obtain easements without having to go to trial.

BUDGET/STAFF IMPACT:

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

The payment for land acquisition will be made from the West Water Transmission Line account, a budget adjustment is attached to move funds into this account from the Water System Rehabilitation/Replacement account. The agenda item staff review form indicates \$1,737,125.00 as the cost of this request. It should be noted that this is an estimate, based on the appraised value of the properties, and that the final cost is subject to negotiation with the property owners or court order. The appraised value will be deposited into the Registry of the Circuit Court as just compensation when the condemnation complaint is filed for the property so the city will be able take immediate possession of the easements.

ATTACHMENTS: SRF (#3), BA (#4), Summary List of Easements (#5), Easements (#6), Revised BA (#7)

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City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2023-1168

Easement Condemnations for West Water Transmission Main Project

A RESOLUTION TO AUTHORIZE THE CITY ATTORNEY TO SEEK CONDEMNATION AND POSSESSION OF CERTAIN LANDS OWNED BY INDIVIDUALS NEEDED FOR THE WEST TRANSMISSION WATER MAIN PROJECT, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the City of Fayetteville has been unable to negotiate the acquisition of easements on 28 properties needed to complete the West Transmission Water Main Project; and

WHEREAS, the City of Fayetteville needs to gain possession of these needed properties promptly to begin work on this public improvement and to not delay construction of the project.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by BFT Rental, LLC, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$112,180.00.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Ross D. Odom Revocable Trust, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$125,000.00.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by TBB Land Holdings, LLC, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$141,700.00.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Spring Branch Holdings, LLC, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$1,850.00.

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Section 5: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Russel B. & Esther P. Rogers, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$65,300.00.

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Four Horn Properties, LLC, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$26,650.00.

Section 7: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Wildcat Creek Farms, LLC, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$81,400.00.

Section 8: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Solomon Properties, LLC, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$23,450.00.

Section 9: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by C L George & Sons, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$35,000.00.

Section 10: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by One Twelve, LLC – Potts Family, LLC, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$200.00.

Section 11: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Elmdale Lake, LLC, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$77,660.00.

Section 12: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City

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Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Phillip D. Hays, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$137,550.00.

Section 13: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Cynthia Donohew, Danny G. Hurlbut, Melissa Pruitt & Jeffrey Hurlbut that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$43,000.00.

Section 14: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Kent Bird Detmer, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$97,750.00.

Section 15: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Fellowship Bible Church of Northwest Arkansas, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$24,140.00.

Section 16: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by One Twelve Village, LLC, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$238,050.00.

Section 17: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Willow Bend Optionco, LLC, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$107,150.00.

Section 18: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Fayetteville School District #1, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$47,000.00.

Section 19: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Charles Andrew Cassat 2014 Revocable Trust that is

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needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$87,000.00.

Section 20: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Benny Moore Revocable Trust, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$19,750.00.

Section 21: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Aaron Ray & Cristina Harris, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$51,100.00.

Section 22: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Scott & Belinda Musgrave, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$90,350.00.

Section 23: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by James & Patricia Galloway, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$3,400.00.

Section 24: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by James Paul & Shawna Galloway, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$6,720.00.

Section 25: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Dennis W. & Eva M. Moser, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$8,100.00.

Section 26: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Jason M. Thomas & Jennifer A. Olivero Sanchez, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$42,600.00.

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Section 27: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Brigitte L. Farris, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$2,050.00.

Section 28: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the City Attorney to file suit to seek court-ordered possession of property located on or near the West Transmission Water Main Project and owned by Bobby J. Chandler Revocable Trust; Juanita F. Chandler Revocable Trust, that is needed for a permanent water/sewer easement for the Project, and to pay into the registry of the Circuit Court just compensation in the amount of \$41,025.00.

Section 29: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution.