

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 4/21/2009 - Res. No. 3727-04-2009 & Ord. No. 18571-04-2009

DATE: Tuesday, April 21, 2009

REFERENCE NO.: G-16541

LOG NAME: 12INCREASE WCSS

SUBJECT:

Adopt a Resolution Authorizing Increase to the Maximum Amount to be Paid to the Law Firm of Whitaker, Chalk, Swindle and Sawyer, LLP, to Assist the City with Legal Matters Concerning the Water Department and Transportation and Public Works Department Contracts and Litigation in an Additional Sum of \$150,000.00 and Adopt Supplemental Appropriation Ordinance

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to:

1. Adopt the attached supplemental appropriation ordinance increasing appropriations in the Water and Sewer Fund by \$150,000.00 and decreasing the Unaudited, Unreserved, Undesignated Fund balance by the same amount: and
2. Adopt a resolution increasing the maximum amount to be paid to Whitaker, Chalk, Swindle and Sawyer, LLP, by \$150,000.00 to assist the City with legal matters concerning the Water Department and Transportation and Public Works Department contracts and litigation in relation to premature street failures.

DISCUSSION:

By adopting M&C G-15239 on June 20, 2006, the City Council approved Whitaker, Chalk, Swindle and Sawyer, LLP, (Whitaker Chalk) to assist the City with various legal issues regarding the City's Water Department and Transportation and Public Works Department (TPW) contracts and authorized payment to Whitaker Chalk in an amount not to exceed \$50,000.00.

M&C G-15680, adopted on April 17, 2007, increased the authorized amount to \$150,000.00 and on September 25, 2007, M&C G-15873 was adopted to increase the authorized amount to \$200,000.00. M&C G-16055, adopted February 19, 2008, increased the authorized amount to \$250,000.00. M&C G-16288, adopted September 30, 2008, increased the authorized amount to \$350,000.00. Various matters concerning Water Department and TPW contracts and representation of the City in litigation concerning such matters are still pending. Because of the extraordinary importance of the issues raised, it is the recommendation of the City Attorney to authorize an additional sum of \$150,000.00 to Whitaker Chalk for their services concerning those matters not to exceed \$500,000.00.

Since the last increase, counsel have been continuing to negotiate arbitration agreements with various contractors. Several lawsuits have also been filed against contractors and developers. This M&C is to increase the amount to be paid to Whitaker Chalk for these matters and general construction issues. Fees for litigation costs in City of Fort Worth v. Arcadia Park and Site Concrete, Inc., will be addressed under a separate M&C.

The affected streets are located in COUNCIL DISTRICTS 2 and 6.

FISCAL INFORMATION / CERTIFICATION:

The Financial Management Services Director certifies that upon the approval of the above recommendations and adoption of the attached supplemental appropriation ordinance funds will be available in the current operating budget, as appropriated, of the Water and Sewer Fund. Upon approval the Unaudited, Unreserved, Undesignated Fund balance in the Water and Sewer Fund will be \$3,068,322.63 below the 20 percent reserve required by the Financial Management Policy Statement.

FUND CENTERS:**TO Fund/Account/Centers****FROM Fund/Account/Centers**

PE45 531200 0601000

\$150,000.00

CERTIFICATIONS:**Submitted for City Manager's Office by:**

Fernando Costa (6122)

David Yett (7623)

Originating Department Head:

Frank Crumb (8246)

Gerald Pruitt (7616)

Additional Information Contact:Jimmy Riddell (7614)
