



CITY OF COMMERCE AGENDA REPORT

TO: Honorable City Council

Item No. _____

FROM: City Manager

SUBJECT: Agreements with City of Whittier and Liberty Utilities Corporation for Water Rights Lease License

MEETING DATE: May 19, 2020

RECOMMENDATION:

The City Council will consider for adoption a Resolution approving Agreements with the City of Whittier for Water Years 2020/2021 – 2022/2023 and with Liberty Utilities Corporation for Water Year 2020/21 for Water Rights Lease Licenses.

BACKGROUND/ANALYSIS:

The City of Commerce (City) possesses 5,081 acre-feet of pumping rights pursuant to the City's allowed pumping allocation. The City's pumping allocation was determined by the Judgment dated October 11, 1965, as amended and restated by that certain Third Amended Judgment dated December 23, 2013, and entered in Los Angeles Superior Court Case No. C786656 (Appellate Court Case No. B226743) entitled *Central and West Basin Water Replenishment District vs. Charles E. Adams, et al.* The City can add to its allocation of 5,081 acre-feet any carry over from the previous year.

For each of the last three years, the City Council approved one-year lease agreements for a term of three years with Liberty Utilities Corporation (Liberty) to lease 3,000 acre-feet of pumping rights per year at a cost of \$165/acre-foot (AF) for FY 2019/20. This resulted in \$495,000 in annual revenue for the Utility Water Fund. Their current agreement with the City of Commerce is due to expire on June 30, 2020.

Staff released a Request for Proposals on March 30, 2020 and reached out to other municipally-owned water systems including the Cities of Whittier, Bell Gardens, Norwalk, Santa Fe Springs, Lakewood, Downey, Huntington Park and South Gate, as well as private water companies including California Water Company and Liberty Utilities Corporation to solicit interest in leasing 3,000 acre-feet of Commerce's water pumping rights annually. Three agencies expressed interest: Liberty, Suburban Water Company (Suburban) and the City of Whittier.

Most agencies have a sufficient quantity of water and did not need to lease additional water or had to shut down wells due to PFOAS/PFOS levels and would not be able to pump the additional water if they were to enter into a lease with the City. This turn of events is a direct result of the most recent State Water Resources Control Board action to reduce the levels of (PFOA) and (PFOS) in drinking water, which has triggered responses to all water systems including the City of Commerce water system resulting in the shutdown of Well #7. As a result of this new directive, the City as well as other water purveyors has no other alternative, but to purchase Metropolitan Water District water to maintain the system demands at a substantially higher cost per acre foot of water. Under these new conditions, our operational cost significantly increased by approximately \$65,000 per month beginning in March 2020. The estimated costs are based on the current monthly demand for the well, which is 90 acre feet per month.

Although Whittier can only accept 1,000 of the 3,000 acre feet (AF) of water available next fiscal year, they are able to accept all 3,000 AF in the following two years, and proposed the highest rate. Staff recommends executing an agreement with the City of Whittier in the best interest of the City of Commerce with terms outlined below. Further, Liberty has offered to lease 500 AF at a rate of \$125/AF for one year (FY 2020/2021). Staff recommends also executing an agreement with Liberty for one year. Suburban's rate terms offered were exceptionally low at \$25/AF, and are not recommended for consideration. Sufficient water will remain in the City's water storage account to accommodate this lease arrangement and still provide the City with sufficient water for its own use in the next three years.

ALTERNATIVES:

1. Approve staff recommendation.
2. Provide staff with further direction.

FISCAL IMPACT:

This agreement will result in annual revenues to the Water Utility Fund as follows:

Fiscal Year	Lease terms – Acre Feet (AF)	Annual Revenue to City
20/21	1,000 AF x \$160/AF (Whittier)	\$160,000
20/21	500 AF x \$125/AF (Liberty)	\$ 62,500
21/22	3,000 AF x \$190/AF (Whittier)	\$570,000
22/23	3,000 AF x \$190/AF (Whittier)	\$570,000

This results in a net revenue loss of \$272,500 in Fiscal Year 20/21 and a gain of \$75,000 from current funding levels in Fiscal Year 21/22 and Fiscal Year 22/23. If the City Council does not approve the two leases, there would be a net revenue loss of \$495,000 in Fiscal Year 20/21.

RELATIONSHIP TO STRATEGIC GOALS:

This item relates to strategic goals for fiscal sustainability, Guiding Principle 5: "Create and pursue opportunities and regional partnerships to maximize resources and address regional issues."

Approved by: Daniel Hernandez, Director of Public Works

Prepared by: Gina Nila, Deputy Director of Public Works Operations
Reviewed by: Vilko Domic, Assistant City Manager
Approved as to form: Norma Copado, Assistant City Attorney
Respectfully submitted: Edgar Cisneros, City Manager

ATTACHMENTS:

1. Resolution
2. Agreements