





TO: Mayor via City Secretary

**REQUEST FOR COUNCIL ACTION**

SUBJECT: Parcels KY14-079, KY14-079A, KY14-080, KY14-080A, KY14-084, KY14-085, & KY14-086; City v. Houston Westlake Village, LLC., Cause#1063840; CCCL#4; Sharpstown II Area Waterline Easement Replacement Project; WBS/CIP No. S-000035-0194-2-01; Legal Department File No. 081-1400004-005.		Page 1 of 1	Agenda Item #
FROM (Department or other point of origin): Legal Department - Real Estate Section Donna L. Edmundson, City Attorney		Origination Date 02/01/16	Agenda Date
DIRECTOR'S SIGNATURE: 		Council District affected: "J"; Mike Laster; Key Map No. 530Q	
For additional information contact: Michelle B. Grossman (MBG) (GWD) Phone: 832.393.6216 (alternatively Joseph N. Quintal 832.393.6286)		Date and identification of prior authorizing Council action: Ordinance No. 2014-190, passed 3/5/14; Ordinance No. 2014-0307, passed 4/16/14	
<b>RECOMMENDATION:</b> (Summary) We recommend that City Council authorize the City Attorney by Motion to deposit the amount of the Award of Special Commissioners into the registry of the Court and pay the City's costs of Court. Funding will be provided by a previously approved blanket Appropriation Ordinance.			
Amount and Source of Funding: \$52,154.00; No additional funding required. (Funds previously appropriated under Ordinance No. 2014-0307) Water and Sewer System Consolidated Construction Fund 8500. <i>U.P. 2/15/2016</i>			
<b>SPECIFIC EXPLANATION:</b> <p>The Sharpstown II Area Waterline Easement Replacement Project is part of the City's Waterline Replacement Program. This program is required to replace and upgrade lines within the City to increase circulation and availability of water to: improve customer service, water quality and capacity, fire protection, system reliability, and assure compliance of TCEQ rules and other governmental regulations.</p> <p>This eminent domain matter involves the acquisition of five (5) permanent easements collectively containing 12,104 sf and two (2), one-year temporary construction easements containing 22,404 sf of land. The property is improved with an apartment complex located at 7298 Kings Gate Circle and is owned by Houston Westlake Village, LLC. Efforts by Public Works &amp; Engineering - Real Estate to purchase the property were unsuccessful, and the matter was referred to the Legal Department to initiate eminent domain actions to acquire the needed property interests.</p> <p>The Legal Department filed the lawsuit, cited and served the parties as required by law and scheduled the Special Commissioners' Hearing. Prior to the hearing, the Legal Department and the landowner's attorney were able to resolve all issues and matters in controversy. The agreement provides that the City will pay the total sum of \$45,000.00 for the property interest being acquired. The hearing was convened and the parties announced that an agreement had been reached and requested that the Special Commissioners return an Award for the agreed upon amount. The agreed upon compensation of \$45,000.00 is supported by the evidence available to this office, and it is unlikely the City would benefit from litigating this matter. The Legal Department filed a Rule 11 Agreement and Objections to the Award to preserve the City's legal and procedural options pending City Council's consideration of this matter.</p>			
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Other Authorization:  Mark L. Loethen, P.E., CPM, PTOE, Deputy Director Planning and Development Services Division, PWE	REQUIRED AUTHORIZATION Other Authorization:  Jun Chang, P.E., D.W.R.E. Deputy Director Public Utilities Division, PWE	Other Authorization:  Dale A. Rudick, P.E., Director Public Works and Engineering	

Date 02/01/16	SUBJECT: Parcels KY14-079, -079A, -080, -080A, -- -084, -085 & -086; City v. Houston Westlake Village, LLC.; Legal Department File No. 081-1400004-005	Originator's Initials MBG/JNQ	Page 2 of 2
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The "Costs of Court" are as follows: \$825.00 Special Commissioners' fees (i.e. \$275.00 x 3); \$729.00 Service of process fee; \$5,600.00 Appraiser's fee; Total: \$7,154.00. These "costs of court" account for the monetary difference between the amount of the Award of Special Commissioners, and the total amount of funds needed herein.

We recommend that City Council authorize the City Attorney by Motion to deposit the amount of the Award of Special Commissioners into the registry of the Court and pay the City's costs of Court. Funding will be provided by a previously approved blanket Appropriation Ordinance.