



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

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Title: Authority to pay preliminary just compensation for the "quick-take" of two temporary easements and three permanent easements for the "Thornton Composite Reservoir Project No. 77-235-2F" from Frank J. Giordano, FJGCO, LLC and Material Service Corporation located in South Holland, Illinois, in the amount of \$682,000.00 in the eminent domain lawsuit entitled The Metropolitan Water Reclamation District v. Frank J. Giordano, Illinois Transport, Inc. et al., Case No. 09 L 51742 in the Circuit Court of Cook County. Account 401-50000-667340

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Attachments: 1. 05-06-10_MWRD vs Frank Giordano Exhibit.pdf

Date	Ver.	Action By	Action	Result
5/6/2010	1	Committee of the Whole	Recommended	Pass
5/6/2010	1	Board of Commissioners	Approved	Pass

TRANSMITTAL LETTER FOR BOARD MEETING OF MAY 6, 2010

COMMITTEE ON JUDICIARY

Mr. Richard Lanyon, Executive Director

Authority to pay preliminary just compensation for the "quick-take" of two temporary easements and three permanent easements for the "Thornton Composite Reservoir Project No. 77-235-2F" from Frank J. Giordano, FJGCO, LLC and Material Service Corporation located in South Holland, Illinois, in the amount of \$682,000.00 in the eminent domain lawsuit entitled The Metropolitan Water Reclamation District v. Frank J. Giordano, Illinois Transport, Inc. et al., Case No. 09 L 51742 in the Circuit Court of Cook County. Account 401-50000-667340

Dear Sir:

In connection with the execution of District Project No. 77-235-2F "Thornton Composite Reservoir", it is necessary to acquire two temporary easements and three permanent easements upon, over, across, under and through real estate owned by Frank J. Giordano, FJGCO, LLC and Material Service Corporation ("MSC") near the northeast corner of the intersection of Vincennes Avenue and I-80/294 in South Holland, Illinois.

Negotiations to acquire these easements identified as Parcel Nos. 2A, 2AA, 2AAA, 2AAAA and 2B over a period of almost one year were unsuccessful. On December 10, 2009, an eminent domain lawsuit entitled The Metropolitan Water Reclamation District of Greater Chicago v. Frank J. Giordano, Illinois Transport, Inc. et al., Case No. 09 L 51742, was filed in the Circuit Court of Cook County. In addition to the petition to condemn the property interests, the District also filed a motion for "quick-take" which would allow early acquisition of the easements in return for preliminary monetary compensation, with the issue of final monetary compensation to be paid for the taking to be resolved by a full trial at a later date.

From the onset, the District's attempts to condemn were met with objections, refusals to settle, refusal to communicate, and other delaying tactics by Frank J. Giordano, FJGCO, LLC and additional related party defendants Giordano Trust and Illinois Transport, Inc. Because of each of these parties' unwillingness to cooperate or communicate, the District proceeded to the hearing date on its "Motion for Immediate Vesting" of easements interests on Tuesday, April 27, 2010. Before the hearing commenced, the judge entered an order, by agreement of Frank J. Giordano, FJGCO, LLC, the Giordano Trust, MSC and Illinois Transport, Inc., whereby preliminary just compensation was to be deposited with the Cook County Treasurer for the benefit of owners and interested parties, so that interest to the required easements could be immediately acquired by the District upon the District's deposit of preliminary just compensation. The District had previously disclosed expert opinions as to the value of the land as a whole, as well as the value of the easement interests to be acquired. The defendants had argued that the preliminary just compensation should be for the full value of the property.

The District's appraiser valued the full value of the property at \$11,315,000.00; however, the defendants did not disclose expert opinions as to the value of the property as a whole nor the value of the easement interests, and rather intended to proceed to hearing by challenging the District's evidence. Instead of proceeding to hearing, the defendants agreed to settle at the District's value of \$682,000.00 as established by the District's appraiser.

It is requested that the Executive Director recommend to the Board of Commissioners that it authorize and approve the payment of \$682,000.00 as preliminary just compensation for the taking and immediate vesting of easement interests in the District of Parcels 2A, 2AA, 2AAA, 2AAAA and 2B, as owned by Frank J. Giordano, FJGCO, LLC and Material Service Corporation in South Holland, Illinois, in the eminent domain lawsuit entitled The Metropolitan Water Reclamation District of Greater Chicago v. Frank J. Giordano, Illinois Transport, Inc. et al., Case No. 09 L 51742 in the Circuit Court of Cook County, Illinois, in conjunction with District Project No. 77-235-2F.

It is further requested that the Chairman of the Committee on Finance and the Clerk be authorized and directed to execute a check in the amount of \$682,000.00, payable to the Treasurer of Cook County, as and for the preliminary just compensation as aforesaid.

It is also requested that the General Counsel be authorized and directed to execute and deliver all such additional documents necessary to effect said settlement with respect to preliminary just compensation for the aforesaid takings.

Requested, Frederick M. Feldman, General Counsel, FMF:CL:SM:rg

Recommended, Richard Lanyon, Executive Director

Respectfully Submitted, Terrence J. O'Brien, Chairman Committee on Judiciary

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for May 6, 2010

Attachment