File No 13-636

(ITEM ) A resolution by Supervisor Schmitt authorizing the Department of Administrative Services to enter into a Memorandum of Agreement with the City of Wauwatosa for the transfer of seven Milwaukee County water utility customers and the West Water Tower to the City of Wauwatosa, by recommending adoption of the following:

**A RESOLUTION**

WHEREAS, as Milwaukee County government’s presence on the County Grounds has diminished over the years, the County has considered the possible transfer of its water utility to the City of Wauwatosa; and

WHEREAS, the Zoo Interchange mitigation projects for Swan Boulevard and Watertown Plank Road have revived these discussions largely due to the significant costs that would be borne by the County’s water utility customers for the relocation of water mains and other related infrastructure that is located within the Watertown Plank Road and Swan Boulevard rights-of­way; and

WHEREAS, in the fall of 2012, Milwaukee County (County) and the City of Wauwatosa (City) met to discuss the possibility of transferring the County’s water utility to the City and agreed to engage the Public Policy Forum (PPF) in a Professional Services Agreement for the analysis of the pros and cons of transferring the County’s water utility to the City; and

WHEREAS, the County and City agreed to share equally in the $20,000 cost of the contract and, in January of 2013, the County and City executed separate Professional Service Agreements with PPF for the analysis; and

WHEREAS, due to the Wisconsin Department of Transportation’s (WisDOT) deadlines for submission of plans and specifications related to the reconstruction of Swan Boulevard and Watertown Plank Road the PPF, with the permission of the County and City, analyzed those parts of the water system (described as Phase I and Phase II) directly impacted by the Swan Boulevard and Watertown Plank Road mitigation projects immediately with the remainder of the system (described as Phase III) to be analyzed separately in order for the County to meet WisDOT deadlines; and

WHEREAS, the final report for Phases I and II was presented to the County and City in April of 2013, and subsequently, the County and City agreed to commence negotiations for the transfer of seven customers and the west water tower (Tower) to the City; and

WHEREAS, transfer of the seven water utility customers, which include the UWM Real Estate Foundation’s Innovation Park, LLC, Milwaukee County’s Camp Wil-O-Way building on Underwood Parkway, UW Milwaukee County Cooperative Extension’s Urban Gardens, Milwaukee County’s Fleet building, Wisconsin Lutheran College, Milwaukee County Research Park Corporation (MCRPC) and Milwaukee County’s Children’s Court Center, will result in a positive fiscal impact to Milwaukee County; and

WHEREAS, this positive fiscal impact is achieved by the County receiving a portion of net realized revenue the City would gain from the addition of the County’s seven customers to its water system, for a total savings to the County of approximately $28,102 annually; and

WHEREAS, the most significant fiscal savings would result from avoiding costs related to the relocation of water utility infrastructure for the reconstruction of Swan Boulevard and Watertown Plank Road and for the future demolition and reconstruction of the Tower for a total approximate savings, to all County water utility customers, of $3,132,250; and

WHEREAS, based on the PPF’s report on the Phase I and Phase II transfer of the seven water utility customers and Tower from the County to the City and negotiation of the following terms, a Memorandum of Agreement was negotiated as follows:

1. This Agreement shall be for a term of 10 years. Ten years represents that length of time required to defease the general obligation bonds (“the Bonds”) issued by the County to finance the Tower (See Attachment A). Upon the conclusion of year ten, ownership of the Tower and underlying land shall be transferred to WAUWATOSA at a cost of $1.00.
2. During the term of the Agreement, WAUWATOSA shall pay Milwaukee County an annual sum, which will be the greater of $25,000 or forty percent (40%) of the total net revenue realized by WAUWATOSA from the transfer of the seven water utility customers to WAUWATOSA’s water utility system. The payment shall be made by April 1 for the preceding year.
3. During the term of this Agreement, Milwaukee County will retain the current cell antenna revenue collected at this location. Any additional revenues from the siting of additional cell tower equipment on the Tower will accrue to WAUWATOSA.
4. WAUWATOSA will maintain the Tower and Milwaukee County shall provide WAUWATOSA with technical support as necessary to effectuate transference of the Tower and seven water utility customers.
5. As part of the transfer, Milwaukee County agrees to execute an easement agreement with Wauwatosa for the water mains that will become part of the WAUWATOSA Water Utility through the transfer of the seven customers (as named in the recitals) and the Tower.
6. Milwaukee County and WAUWATOSA will negotiate costs for the capping, abandonment, valve adjustments and cross-connections needed to complete Phases I and II.
7. Neither Milwaukee County nor the seven customers transferred to WAUWATOSA shall be responsible for any costs not directly associated with the provision of water service or other services actually provided by WAUWATOSA to Milwaukee County or those customers.
8. Milwaukee County and WAUWATOSA shall pursue the implementation of the recommendations of the Public Policy Forum upon receipt of the Public Policy Forum’s independent analysis.
9. Milwaukee County and WAUWATOSA agree to discuss the fire protection fee charged to Milwaukee County government as part of the next phase of the water utility transfer.
10. WAUWATOSA will not take any action, omit to take any action, cause any action to be taken or cause the omission of any action that would adversely affect the exclusion of the interest on the Bonds from the gross income of the owners of the Bonds for federal income tax purposes, including without limitation any private use of the Tower (or the water stored therein); provided that WAUWATOSA is not responsible for the effect that the continuation or renewal of any existing contracts or use arrangements made by Milwaukee County with respect to the Tower have on the tax­exempt status of the interest on the Bonds.
11. IN WITNESS WHEREOF, the Parties have caused this instrument to be executed on the stated day and year.

; now, therefore,

BE IT RESOLVED, pursuant to Wisconsin State Statute 59.17(2)(b)3, the Milwaukee County Board of Supervisors hereby approves the Memorandum of Agreement (Agreement) between Milwaukee County and the City of Wauwatosa for the transfer of seven Milwaukee County water utility customers and the west water tower to the City of Wauwatosa.

jmj

07/12/13

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