



Legislation Text

File #: 2016-1064, Version: 1

Report to Mayor and City Council

Tuesday, October 18, 2016

Consent

SUBJECT:

**CONSIDER THE CITY'S INVESTMENTS WITH WELLS FARGO BANK & COMPANY
(CITY COUNCIL)**

I. SUMMARY

On October 4, 2016, Councilmember Hilton requested that the city withdraw all funds invested with Wells Fargo Bank, in the wake of the recent scandal involving the alleged creation of over 2 million fake bank accounts by thousands of Wells Fargo employees. The City Attorney advised that this matter needed to be agendized in order to take an action therefore Councilmember Hicks requested this item be placed the agenda for consideration.

II. RECOMMENDATION

RECEIVE and FILE.

III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

City Investments and Survey Results

The financial institutions the City of Carson currently banks with include: Bank of New York, East West Bank and Preferred Bank. Included as Exhibit No. 1 is a survey completed by city staff surveying other cities that bank with Wells Fargo asking if they plan to leave Wells Fargo and switch to another financial institution. Out of the 20 cities surveyed, 14 said no, they don't plan to leave, 6 said they are watching and waiting and zero said that they intended on leaving Wells Fargo.

CRA

As part of the Remedial Action Plan for the 157-acre property located at 20400 Main Street in Carson, a Design and Construction EAA Trust Agreement was made and entered into on April 13, 2009 by and between the Carson Marketplace LLC as Grantor; the Wells Fargo Bank National Association as Trustee; and Tetra Tech as Beneficiary. In accordance with the agreement, a trust account was established with an initial deposit of at least \$79,347,714, a portion of which was received by Carson Marketplace LLC, from the now dissolved Carson Redevelopment Agency. The funds shall be used to fulfill the remediation of the property. As the owner of the property today the Carson Reclamation Authority is effectively but not formally the Grantor; the former RDA also has review and approval rights for all draw requests made by Tetra Tech. With the dissolution of the RDA, the CRA has been effectively but not formally fulfilling that function as well.

In 2015, Carson Reclamation Authority became the Grantor of the Trust as a result of the change in ownership of the 157-acre property. Based on the bank statement for September, 2016, the account has a cost value of \$32,164,218.89. However, Tetra Tech remains the beneficiary and DTSC is an additional beneficiary. The Trust Account was developed around the Design and Construction EAA contracts, which will be dissolved with the termination of the Tetra Tech contract. At that point, the entire Trust will need to be reconstituted as a separate entity as the CRA could be construed to be the Grantor, the Beneficiary (along with DTSC), and the approving body, in violation of trust law. The Trust Account also comprises a portion of the DTSC Financial Assurance for the 157 acre project, so its importance to DTSC cannot be overstated.

The Trust Agreement, under Section 6, has provisions regarding the removal of the Trustee. It states, " Beneficiary and Grantor shall have the right, on 90 days' prior written notice to Trustee and to the California Department of Toxic Substances Control, the Lead Regulatory Agency, to remove and replace Trustee with an individual or entity mutually acceptable to the Beneficiary and Grantor. In the event of such removal, Trustee shall be entitled to receive its reasonable fees, costs, and expenses incurred as of the effective date of its removal." Since the trust will be dissolved and replaced with another instrument in around the same length of time, Staff recommends using that opportunity instead to replace the Trustee with another institution.

V. FISCAL IMPACT

None at this time.

VI. EXHIBITS

1. Survey of Cities Bank with Wells Fargo. (pg. 3)

1.

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