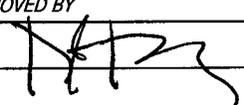




REPORT TO THE CITY COUNCIL

AGENDA ITEM NO.
COUNCIL MEETING
APPROVED BY
DEPARTMENT DIRECTOR 
CITY MANAGER

April 10, 2007

FROM: RENE A. RAMIREZ, Director 
Department of Public Utilities, Administration

SHANNON L. CHAFFIN, Deputy 
City Attorney's Office

SUBJECT: AMENDMENT NO. 3 TO CONTRACT FOR THE TRANSPORTATION AND TREATMENT OF PINEDALE PUBLIC UTILITY DISTRICT SEWAGE

KEY RESULT AREA

Customer Service

RECOMMENDATION

It is recommended that the Council authorize the Director of the Department of Public Utilities to enter into an amended agreement for transportation and treatment of Pinedale Public Utility District sewage.

EXECUTIVE SUMMARY

This matter involves an ongoing dispute with Pinedale Public Utility District ("District") regarding whether the District is required to pay the City certain sewer charges under the 1973 Contract between the parties for treatment and transportation of sewage. This proposed Amendment resolves the existing dispute, and clarifies the District's obligations under the 1973 Contract.

Under the proposed Amendment, the City will receive \$145,000.00, and commencing January 1, 2007, will be entitled to payment of 100% of the capital component (an additional increase currently valued in excess of \$33,000.00 per year) from the District.

KEY OBJECTIVE BALANCE

The settlement of litigation against the District balances the Key Objectives of Customer Satisfaction, Financial Management and Employee Satisfaction. The settlement enhances Customer Satisfaction by providing increased fairness and equity to other City of Fresno sewer utility customers who have essentially been paying more than District customers for their share of the sewer rate capital component during the past thirteen years. It provides prudent Financial Management by ensuring that the District pays at least a portion of what it owes the City for past underpayment of the sewer rate capital component and all of what the District owes to the City going forward. Employee Satisfaction is derived from enabling City of Fresno Finance and Public Utilities employees to refocus their work efforts on other important projects besides the capital component issue with the District, which goes back to 1993.

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Approve Amendment to Contract With Pinedale Public Utility District

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BACKGROUND

The City was designated by the County of Fresno as the Chief Sewering Agent in 1966. The City owns and operates a treatment works ("POTW") used for transportation and treatment of wastewater and sewage. Between 1974 and 1977, the City expanded the POTW by the construction of the West Fresno-Herndon Interceptor ("Interceptor") and enlarged its regional wastewater treatment facilities ("RWTF").

The District and the City entered into an agreement for the transportation and treatment of District sewage, dated July 6, 1973 ("1973 Contract"), following District's determination that disposal of its sewage through the City Interceptor and RWTF as contemplated by the 1976 Contract was a more fiscally sound solution to upgrading its existing treatment facilities. After execution of the 1973 Contract, the District was connected to the City's POTW via the Interceptor. The City has been receiving, transporting, treating and disposing of all sewage received from the District pursuant to the terms and conditions of the 1973 Contract.

In the 1990s, the City constructed capital improvements to the RWTF to restore and expand its capacity. The costs of restoration were subsequently incorporated into the sewer service charge commencing in 1993, and came to be identified as the "capital component" of the sewer service charge in Article 5, Chapter 9 of the Fresno Municipal Code ("Ordinance") and in the City of Fresno Master Fee Schedule ("MFS") in 1994.

A dispute arose between the District and the City regarding the amount and sum of monies the District was required to collect and remit to the City with regard to the capital component under the 1973 Contract. The dispute eventually resulted in the filing of an action, *City of Fresno v. Pinedale Public Utility District*, Fresno County Superior Court Case No. 05 CE CG 00783 MWS, filed in the Fresno County Superior Court on March 11, 2005.

The proposed Amendment resolves the existing dispute, and clarifies the District's obligations under the 1973 Contract.

The City Attorney's Office has reviewed and approved as to form the proposed Amendment.

FISCAL IMPACT

Under the proposed Amendment, the City will receive \$145,000.00, and commencing January 1, 2007, will be entitled to payment of 100% of the capital component (an additional increase currently valued in excess of \$33,000.00 per year) from the District.

Attachment: Amendment No. 3 to Contract for the Transportation and Treatment of Pinedale Public Utility District Sewage.

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