



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: September 3, 2019

Agenda Item CoK
Approvals:
City Manager [Signature]
Dept. Head [Signature]
Attorney [Signature]
Finance [Signature]

Department: Utilities
Prepared By: David Rebensdorf, Utilities Director DR

Subject: *AUTHORIZE AN EXTENSION TO THE SHORT-TERM WASTEWATER SERVICES AGREEMENT WITH SANTA MARGARITA WATER DISTRICT (SMWD).*

Fiscal Impact: Yes. The City will continue to receive \$59,000 per month in revenue from SMWD for an additional 120 days.

Summary: Staff recommends the City Council approve a Sixth Amendment for an extension to the Short-Term Agreement with SMWD for the conveyance and treatment of Talega wastewater.

Background: For the past several years, SMWD and City staff informally discussed the potential for the City to treat SMWD's Talega wastewater due to several failures of their force main under a creek. Due to SMWD's concerns regarding their sewer conveyance system from Talega to their Chiquita Wastewater Plant and odor issues created by the long force main and at the wastewater plant, the City and SMWD entered into a Short-Term Agreement on December 5, 2017 for 60 days while a revised Short-Term Agreement was developed.

Due to the complexity of modifying the Short-Term Agreement to reflect language to be used in a Long-Term Agreement and to save staff time and legal fees, the Short-Term Agreement in its original form has been extended several times. In addition, the revenue being received as part of the Short-Term Agreement is commensurate with the anticipated future revenue currently under negotiation. The Long-Term Agreement has been drafted and is currently under review. Staff is recommending a sixth extension for an additional 120 days to allow sufficient time for staff and the City Attorney to review and finalize the proposed Long-Term Agreement.

Recommended

Action: STAFF RECOMMENDS THAT the City Council Approve and Authorize the City Manager to execute, Amendment No. 6 to Contract C17-55 by and between the City of San Clemente and the Santa Margarita Water District, to extend the contract to treat wastewater flows from Talega for 120 days.

- Attachments:**
1. Copy of Original Agreement with SMWD and Agenda Report Regarding Original Agreement.
 2. Copy of First Amendment to Agreement with SMWD and Agenda Report Regarding First Amendment.
 3. Copy of Second Amendment to Agreement with SMWD and Agenda Report Regarding Second Amendment.

4. Copy of Third Amendment to Agreement with SMWD and Agenda Report Regarding Third Amendment.
5. Copy of Fourth Amendment to Agreement with SMWD and Agenda Report Regarding Fourth Amendment.
6. Copy of Fifth Amendment to Agreement with SMWD and Agenda Report Regarding Fifth Amendment.
7. Sixth Amendment to Agreement with SMWD.

Notification: None.

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017-55

**SHORT-TERM
WASTEWATER SERVICES
AGREEMENT**

This Short-term Wastewater Services Agreement ("Agreement") is made and entered into on this 5th day of December, 2017 by and between the City of San Clemente, a California municipal corporation ("City"), and the Santa Margarita Water District, a California water district ("SMWD"), collectively referred to as the "Parties."

RECITALS

- A. The City operates a wastewater-reclamation plant ("WRP"), which has excess available capacity.
- B. The Talega neighborhood lies within both SMWD's and the City's service areas. Currently, SMWD provides wastewater, potable-water, and recycled-water services to Talega residents.
- C. SMWD desires to temporarily divert Talega wastewater to the City's WRP for treatment and disposal.
- D. The Parties desire to enter into this Agreement for the City to provide wastewater services to SMWD for the diverted Talega wastewater.
- E. The Parties anticipate entering into this agreement for a short-term, pilot period to be followed by an amendment for a longer short-term agreement while the Parties determine whether and on what terms to enter into a long-term term agreement for both wastewater treatment and recycled water delivery services.
- F. In consideration of the foregoing recitals and the mutual covenants, conditions, and agreements in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

- 1. **Wastewater Treatment; Return of Recycled Water.** During the term of this Agreement, the City shall provide wastewater treatment for flows diverted by SMWD from the Talega area to the City's WRP.
- 2. **Term**
 - 2.1 *Initial Term.* The initial term of this Agreement commences on December 8, 2017, and continues for two months terminating upon February 6, 2018

("Initial Term"), unless amended by the Parties in writing or this Agreement is terminated earlier in accordance with Section 3.2 below.

- 2.2 *Superseded by Long-term Agreement.* Both Parties desire to implement a long-term interlocal agreement. This Agreement will end and be superseded by the long-term agreement when the latter becomes effective, unless the Parties mutually agree in writing otherwise. The Parties agree to negotiate in good faith to enter into a long-term agreement concerning wastewater treatment and recycled water delivery services by December 2018.
3. **Payment for Services.** SMWD shall pay the City for wastewater-treatment services ("Monthly Wastewater Charge") each month in arrears, within ten days of the first of each month during the term of this Agreement, payable to the City of San Clemente, 100 Avenida Presidio, San Clemente, CA 92672, Attn. Accounts Receivable, Accounting Division.
 - 3.1 *Wastewater Monthly Charge.* The Monthly Wastewater Charge is \$59,000 per month with the first payment due on December 15, 2017 and the second payment due on January 15, 2018.
 - 3.2 *Late Fees and Charges.* By this Agreement, SMWD is a "User" under San Clemente Municipal Code Chapter 13.24 and as such is subject to the fees and charges that are authorized by that chapter.
4. **SMWD's Right to Terminate.** SMWD may terminate this Agreement without further liability for any reason whatsoever upon 30 days written notice to the City.
5. **Indemnity.** SMWD and the City each agree to defend, indemnify, and hold harmless the other, and the other's officers and employees, from and against any and claim, suit, action, cause of action, or liability of any kind (including reasonable attorneys' fees) related to this Agreement. The indemnifying party shall, upon notice from the other party, defend the other party at the indemnifying party's expense with counsel satisfactory to the indemnified party. The indemnifying party shall not concede, settle, or compromise any claim without the prior written approval of the indemnified party. This mutual indemnity shall not apply to any of the foregoing if it results from the gross negligence or willful act or omission of the indemnified party or any of its agents or employees.
6. **Miscellaneous**
 - 6.1 *Attorney's Fees and Costs.* If either Party brings an action against the other for relief, declaratory or otherwise, arising out of this Agreement, the prevailing Party is entitled to recover from the other Party the prevailing

Party's reasonable fees and costs (including attorneys' fees), which accrue on the commencement of the action and which shall be paid whether or not the action is prosecuted to a judgment.

- 6.2 *Integration and Governing Law.* This Agreement represents the entire understanding of the Parties as to its subject matter. No prior oral or written understanding is of any force or effect with respect to the matters covered by this Agreement. This Agreement is governed by the laws of the State of California and shall be construed as if drafted by both Parties. This Agreement may not be modified except in writing, signed by both Parties.
- 6.3 *Signing Authority.* Each Party represents and warrants that each person or persons executing this Agreement on its behalf is duly authorized to do so and that this Agreement binds the Parties.
- 6.4 *Notices.* Any written notice required by this Agreement shall be made by certified or registered mail, with return receipt requested, or by reliable overnight courier and delivered to the following address:

To City: City of San Clemente
100 Avenida Presidio
San Clemente, CA 92672
Attn: Utilities/Dave Rebensdorf
(949) 361-8130

To SMWD: Santa Margarita Water District
26111 Antonio Parkway
Rancho Santa Margarita, CA 92688
Attn: General Manager/Daniel Ferons
(949) 459-6500

- 6.5 *City's Amendment Authority.* The City's City Council has authorized the City Manager to execute future amendments and extensions for periods of not more than five years each, but the City Manager does not have authority to approve a decrease in the rates without prior approval of the City Council.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, the Parties caused this Agreement to be executed by their duly authorized officers.

CITY OF SAN CLEMENTE

Dated: 12-5-17

By: [Signature]

Its: Mayor

TAX I.D. #: 95-6000775

ATTEST:

[Signature]
City Clerk of the City of
San Clemente, California

APPROVED AS TO FORM
[Signature]
City Secretary

SANTA MARGARITA
WATER DISTRICT

Dated: December 12, 2017

By: [Signature]

Its: General Manager

TAX I.D. #: 95-6269461

ATTEST:

[Signature]
Board Secretary of the
Santa Margarita Water District



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: December 5, 2017

Agenda Item	9-A
Approvals:	
City Manager	<i>[Signature]</i>
Dept. Head	<i>[Signature]</i>
Attorney	
Finance	<i>[Signature]</i>

Department: Utilities
Prepared By: Dave Rebensdorf, Utilities Director *DR*

Subject: *SHORT-TERM WASTEWATER SERVICES AGREEMENT WITH SANTA MARGARITA WATER DISTRICT (SMWD)*

Fiscal Impact: Yes. The City will receive \$59,000 per month in revenue from SMWD for the Short-Term pilot treatment program for a period of 60 days. Sewer collection and treatment expenses for electricity, chemicals and solid disposal will increase and will be evaluated during this pilot period.

Summary: Staff recommends the City Council approve a Short-Term Agreement with SMWD for the treatment of Talega sewer flows.

Background: SMWD provides water, recycled water and sewer service to the Talega area within the City. Due to challenges with a failed sewer force main under a creek crossing from the eastern end of Avenida Pico to SMWD's treatment plant and concerns regarding the pipeline condition, along with other potential capital projects, SMWD is interested in permanently diverting Talega sewer flows to the City's Water Reclamation Plant. Discussions between SMWD and City staff started several months ago to explore infrastructure needs and evaluate capacity. As part of the Sewer Master Plan Update, RMC Consulting Engineers studied the conveyance system in Avenida Pico and determined there is adequate capacity. In addition, due to reduced sewer flows from indoor water conservation, there is stranded capacity within the Water Reclamation Plant that is available.

On November 16, 2017, SMWD formally requested development of an emergency and permanent partnership between the City and SMWD (attached letter) for sewer treatment and recycled water supply. In an effort to evaluate impacts to both agencies treatment and conveyance systems, a Short-Term Agreement or pilot program is being recommended. The proposed agreement is for a two month period and will likely be recommended for an extension with modifications based on information gathered during the pilot phase. A permanent Long-Term Agreement will be evaluated in conjunction with the City's planned sewer Cost of Service Study in 2018.

Discussion: The City's Water Reclamation Plant is designed for 6.9 million gallons per day, while the City is nearly built out, the plant is currently receiving flows of approximately 3.2 million gallons per day. Sewer liquid flows are much lower than what was projected when the plant was being designed in the 1980's, but solid loading has continued to increase over time. The pilot evaluation will allow City staff to evaluate impacts of approximately .5 million gallons per day of increased flow from Talega. In addition,

BOARD OF DIRECTORS
CHARLES GIBSON JUSTIN MCCUSKER
BETTY H. OLSON, PH.D SAUNDRA F. JACOBS

CHARLEY WILSON

DANIEL R. FERONS
GENERAL MANAGER



Santa Margarita Water District

November 16, 2107

James Makshanoff
San Clemente City Hall
100 Avenida Presidio
San Clemente, CA, 92672

Subject: Permanent Wastewater and Recycled Water Interties Between the Santa Margarita Water District and the City of San Clemente

Dear Mr. Makshanoff:

The District greatly appreciates the City's willingness to provide emergency assistance with the collection and treatment of wastewater from the District's service area. We recently initiated discussions with your Utilities Department to consider if the arrangement can be made permanent. I am formally requesting the City and District initiate development of a long-term agreement for the treatment of wastewater from Talega and return of processed recycled water.

The District is working on facilities to be constructed to allow for the removal of the above ground piping that serves as the current emergency interconnection. The new wastewater and recycled water pipes are to be buried in Avenida Pico just east of Avenida La Pata and will provide for emergency discharges and then ultimately, with the concurrence of the City, permanent connections. The emergency connection has allowed the District to avoid potential sewage spills while it redesigns an inadequate forcemain that is prone to failure.

Beyond the emergency benefits of the wastewater intertie for the District, this partnership would utilize the City's available treatment capacity, establishing a program for sharing treatment costs between the two agencies and reducing overall unit costs. This long-term agreement could also create broader regional benefits, potentially allowing the City to expand its own recycled water system and/or sell its excess recycled water to the District rather than discharging it to the ocean.

We are grateful to the City for its entrepreneurial focus and continued regional partnership, as well as for having provided emergency wastewater treatment for the District in the past. The proposed agreement will allow both agencies to minimize reliance on imported water supplies and continue to provide water services in an environmentally sustainable manner.

Very Truly Yours,
SANTA MARGARITA WATER DISTRICT

A handwritten signature in black ink, appearing to read 'D. Ferons', is written over the typed name of the General Manager.

Daniel R. Ferons
General Manager

CC: Mr. Erik Sund
Mr. David Rebensdorf

26111 Antonio Parkway, Rancho Santa Margarita, CA 92688 • Mailing - P.O. Box 7005, Mission Viejo, CA 92690-7005

Web: www.SMWD.com

Customer Service (949) 459-6420 • Administration (949) 459-6507 • Operations (949) 459-6551

12-5-17 / 9A-3

9-3-19 / 6K-8

C 17-55

**FIRST AMENDMENT TO
SHORT-TERM
WASTEWATER SERVICES
AGREEMENT**

By this "First Amendment," the city of San Clemente and the Santa Margarita Water District ("SMWD") amend their December 5, 2017 *Short-term Wastewater Services Agreement* ("Agreement") as follows:

As authorized by section 2.1 of the Agreement, the parties agree to extend the Initial Term through May 4, 2018.

No other term of the Agreement is changed by this First Amendment.

IN WITNESS WHEREOF, the parties caused this Agreement to be executed by their duly authorized officers.

CITY OF SAN CLEMENTE

Dated: 3-30-18

By: [Signature]
Its: CITY MANAGER

ATTEST:

[Signature]
City Clerk of the City of
San Clemente, California

**SANTA MARGARITA
WATER DISTRICT**

Dated: Feb. 13, 2018

By: [Signature]
Its: General Manager

ATTEST:

[Signature]
Board Secretary of the
Santa Margarita Water District



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: February 6, 2018

Agenda Item 6-G
Approvals:
City Manager MN
Dept. Head OR
Attorney _____
Finance SV

Department: Utilities
Prepared By: Dave Rebensdorf, Utilities Director OR

Subject: *AUTHORIZE AN EXTENSION TO THE SHORT-TERM WASTEWATER SERVICES AGREEMENT WITH SANTA MARGARITA WATER DISTRICT (SMWD).*

Fiscal Impact: Yes. The City will continue to receive \$59,000 per month in revenue from SMWD for an additional 90 days.

Summary: Staff recommends the City Council approve an extension to the Short-Term Agreement with SMWD for the treatment of Talega sewer flows.

Background Discussion:

On December 5, 2017 the City Council approved a Short-Term Agreement between the City of San Clemente and SMWD for 60 days while modifications to the agreement were developed. Due to the limited period of time to update the agreement, staff is recommending an additional 90 days to work with SMWD on the agreement and to continue to analyze impacts to the City's Water Reclamation Plant (WRP). A Long-Term Agreement is anticipated within the next 18 to 24 months and will be completed in conjunction with the City's Sewer Cost of Service Study.

Since the City has been receiving additional sewer flows from Talega in early December 2017, there has been an improvement in the operation of Los Molinos Sewer Pump Station. The increased flow has eliminated a grease mat in the wet well that requires removal on a periodic basis. In addition, the increased solids loading to the WRP will likely require chemical treatment to maintain high quality water for recycling purposes. Staff is working with chemical manufacturers and suppliers to determine the best operational and cost effective solution.

Recommended

Action: STAFF RECOMMENDS THAT the City Council Approve and Authorize the City Manager to execute, Amendment No. 1 to Contract C17-55 by and between the City of San Clemente and the Santa Margarita Water District, to extend the contract to treat wastewater flows from Talega for 90 days.

Attachments: None, the agreement is on file with the City Clerk's Office.

Notification: None.

**SECOND AMENDMENT TO
SHORT-TERM
WASTEWATER SERVICES
AGREEMENT**

By this "Second Amendment," the city of San Clemente and the Santa Margarita Water District ("SMWD") amend their December 5, 2017 *Short-term Wastewater Services Agreement* ("Agreement") as follows:

As authorized by section 2.1 of the Agreement, the parties agree to extend the Initial Term through September 30, 2018.

No other term of the Agreement is changed by this Second Amendment.

IN WITNESS WHEREOF, the parties caused this Agreement to be executed by their duly authorized officers.

CITY OF SAN CLEMENTE

Dated: July 31, 2018

By: [Signature]

Its: ASST. CITY MGR FOR
CITY MGR.

ATTEST:

[Signature]
City Clerk of the City of
San Clemente, California

**SANTA MARGARITA
WATER DISTRICT**

Dated: August 9, 2018

By: [Signature]

Its: General Manager

ATTEST:

[Signature]
Board Secretary of the
Santa Margarita Water District



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: May 1, 2018

Agenda Item	<u>6-I</u>
Approvals:	
City Manager	<u>[Signature]</u>
Dept. Head	<u>[Signature]</u>
Attorney	
Finance	<u>[Signature]</u>

Department: Utilities
Prepared By: Dave Rebensdorf, Utilities Director DR

Subject: AUTHORIZE AN EXTENSION TO THE SHORT-TERM WASTEWATER SERVICES AGREEMENT WITH SANTA MARGARITA WATER DISTRICT (SMWD).

Fiscal Impact: Yes. The City will continue to receive \$59,000 per month in revenue from SMWD for an additional 120 days.

Summary: Staff recommends the City Council approve a second extension to the Short-Term Agreement with SMWD for the treatment of Talega sewer flows.

Background: On December 5, 2017 the City Council approved a Short-Term Agreement between the City of San Clemente and SMWD for 60 days. An extension to the Short-Term Agreement was approved for 90 days on February 6, 2018 to provide staff additional time to modify the Agreement. Due to the complexity of evaluating costs, revenue and delivery options for recycled water, staff is requesting an additional 120 days to develop a Long Term Agreement. The Long Term Agreement will have the flexibility for modification based on evaluation and recommendations from the City's future Sewer Cost of Service consultant.

Since the City has been receiving additional sewer flows from Talega in early December 2017, there has been an improvement in the operation of Los Molinos Sewer Pump Station. The increased flow has eliminated a grease mat in the wet well that requires removal on a periodic basis. In addition, the increased solids loading to the Water Reclamation Plant is being evaluated along with other associated costs. Due to the higher volume of solids, additional treatment to maintain high quality water for recycling purposes will be necessary. Staff is working with chemical manufacturers and suppliers in conjunction with SMWD to determine the best operational and cost effective solution.

Recommended Action: STAFF RECOMMENDS THAT the City Council Approve and Authorize the City Manager to execute, Amendment No. 2 to Contract C17-55 by and between the City of San Clemente and the Santa Margarita Water District, to extend the contract to treat wastewater flows from Talega for 120 days.

Attachments: None, the agreement is on file with the City Clerk's Office.

Notification: None.

**THIRD AMENDMENT TO
SHORT-TERM
WASTEWATER SERVICES
AGREEMENT**

By this "Third Amendment," the City of San Clemente and the Santa Margarita Water District ("SMWD") amend their December 5, 2017 *Short-Term Wastewater Services Agreement* ("Agreement") as follows:

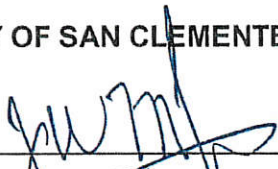
As authorized by section 2.1 of the Agreement, the parties agree to extend the Initial Term through December 31, 2018.

No other term of the Agreement is changed by this Third Amendment.

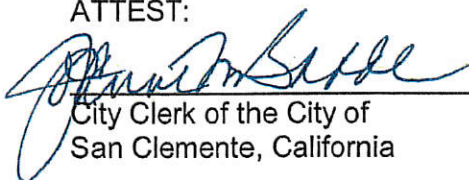
IN WITNESS WHEREOF, the parties caused this Agreement to be executed by their duly authorized officers.

CITY OF SAN CLEMENTE

Dated: 10/9/18


By: 
Its: City Manager

ATTEST:


City Clerk of the City of
San Clemente, California

**SANTA MARGARITA
WATER DISTRICT**

Dated: 10-16-2018

By: 
Its: General Manager

ATTEST:


Board Secretary of the
Santa Margarita Water District



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: October 2, 2018

Agenda Item 6D

Approvals:

City Manager [Signature]

Dept. Head [Signature]

Attorney [Signature]

Finance [Signature]

Department: Utilities
Prepared By: Dave Rebensdorf, Utilities Director DR

Subject: *AUTHORIZE AN EXTENSION TO THE SHORT-TERM WASTEWATER SERVICES AGREEMENT WITH SANTA MARGARITA WATER DISTRICT (SMWD).*

Fiscal Impact: Yes. The City will continue to receive \$59,000 per month in revenue from SMWD for an additional 90 days.

Summary: Staff recommends the City Council approve a third amendment for an extension to the Short-Term Agreement with SMWD for the conveyance and treatment of Talega wastewater.

Background: For the past several years, SMWD and City staff informally discussed the potential for the City to treat SMWD's Talega wastewater due to several failures of their force main under a creek. Due to SMWD's concerns regarding their sewer conveyance system from Talega to their Chiquita Wastewater Plant and odor issues created by the long force main and at the wastewater plant, the City and SMWD entered into a Short-Term Agreement on December 5, 2017 for 60 days while a revised Short-Term Agreement was developed.

Due to the complexity of modifying the Short-Term Agreement to reflect language to be used in a Long-Term Agreement and to save staff time and legal fees, the Short-Term Agreement in its original form has been extended several times. In addition, the revenue being received as part of the Short-Term Agreement is commensurate with the anticipated future revenue currently under negotiation. The Long-Term Agreement is being drafted by SMWD's attorney and final negotiations related to recycled water delivery, costs and revenue are nearly complete. Staff is recommending a third and final extension to the Short-Term Agreement for an additional 90 days to allow sufficient time for staff and the City Attorney to review the proposed Long-Term Agreement.

Since the City began receiving additional sewer flows from Talega in early December of 2017, there has been an improvement in the operation of Los Molinos Sewer Pump Station. The increased flow has eliminated a grease mat in the wet well that requires removal on a periodic basis. The increased solids loading at the City's Water Reclamation Plant from Talega may require modifications to chemical placement to improve solids processing. Any changes to this process will be addressed in the proposed Long-Term Agreement.

**FOURTH AMENDMENT TO
SHORT-TERM
WASTEWATER SERVICES
AGREEMENT**

By this "Fourth Amendment," the City of San Clemente and the Santa Margarita Water District ("SMWD") amend their December 5, 2017 *Short-Term Wastewater Services Agreement* ("Agreement") as follows:

As authorized by section 2.1 of the Agreement, the parties agree to extend the Initial Term through April 30, 2019.

No other term of the Agreement is changed by this Fourth Amendment.

IN WITNESS WHEREOF, the parties caused this Agreement to be executed by their duly authorized officers.

CITY OF SAN CLEMENTE

Dated: 11/15/19

By: [Signature]
Its: City Manager

ATTEST:

[Signature]
City Clerk of the City of
San Clemente, California

**SANTA MARGARITA
WATER DISTRICT**

Dated: January 14, 2019

By: [Signature]
Its: General Manager

ATTEST:

[Signature]
Board Secretary of the
Santa Margarita Water District



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: January 15, 2019

Agenda Item 6N

Approvals:

City Manager [Signature]

Dept. Head [Signature]

Attorney [Signature]

Finance [Signature]

Department: Utilities
Prepared By: Dave Rebensdorf, Utilities Director DR

Subject: *AUTHORIZE AN EXTENSION TO THE SHORT-TERM WASTEWATER SERVICES AGREEMENT WITH SANTA MARGARITA WATER DISTRICT (SMWD).*

Fiscal Impact: Yes. The City will continue to receive \$59,000 per month in revenue from SMWD for an additional 90 days.

Summary: Staff recommends the City Council approve a Fourth Amendment for an extension to the Short-Term Agreement with SMWD for the conveyance and treatment of Talega wastewater.

Background: For the past several years, SMWD and City staff informally discussed the potential for the City to treat SMWD's Talega wastewater due to several failures of their force main under a creek. Due to SMWD's concerns regarding their sewer conveyance system from Talega to their Chiquita Wastewater Plant and odor issues created by the long force main and at the wastewater plant, the City and SMWD entered into a Short-Term Agreement on December 5, 2017 for 60 days while a revised Short-Term Agreement was developed.

Due to the complexity of modifying the Short-Term Agreement to reflect language to be used in a Long-Term Agreement and to save staff time and legal fees, the Short-Term Agreement in its original form has been extended several times. In addition, the revenue being received as part of the Short-Term Agreement is commensurate with the anticipated future revenue currently under negotiation. The Long-Term Agreement has been drafted and is under review. Staff is recommending a fourth extension for an additional 90 days to allow sufficient time for staff and the City Attorney to review the proposed Long-Term Agreement.

Recommended

Action: STAFF RECOMMENDS THAT the City Council Approve and Authorize the City Manager to execute, Amendment No. 4 to Contract C17-55 by and between the City of San Clemente and the Santa Margarita Water District, to extend the contract to treat wastewater flows from Talega for 90 days.

Attachments: None, the Fourth Amendment is on file with the City Clerk's Office.

Notification: None.

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**FIFTH AMENDMENT TO
SHORT-TERM
WASTEWATER SERVICES
AGREEMENT**

By this "Fifth Amendment," the City of San Clemente and the Santa Margarita Water District ("SMWD") amend their December 5, 2017 *Short-Term Wastewater Services Agreement* ("Agreement") as follows:


As authorized by section 2.1 of the Agreement, the parties agree to extend the Initial Term through August 31, 2019.

No other term of the Agreement is changed by this Fifth Amendment.


IN WITNESS WHEREOF, the parties caused this Agreement to be executed by their duly authorized officers.

CITY OF SAN CLEMENTE

Dated: 5/24/19


By: 
Its: City Manager

ATTEST:

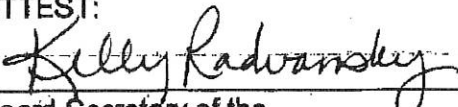

City Clerk of the City of
San Clemente, California

**SANTA MARGARITA
WATER DISTRICT**

Dated: April 26, 2019

By: 
Its: General Manager

ATTEST:


Board Secretary of the
Santa Margarita Water District



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: May 21, 2019

Agenda Item 6-P

Approvals:
City Manager [Signature]
Dept. Head [Signature]
Attorney [Signature]
Finance [Signature]

Department: Utilities
Prepared By: David Rebensdorf, Utilities Director [Signature]

Subject: *AUTHORIZE AN EXTENSION TO THE SHORT-TERM WASTEWATER SERVICES AGREEMENT WITH SANTA MARGARITA WATER DISTRICT (SMWD).*

Fiscal Impact: Yes. The City will continue to receive \$59,000 per month in revenue from SMWD for an additional 120 days.

Summary: Staff recommends the City Council approve a Fifth Amendment for an extension to the Short-Term Agreement with SMWD for the conveyance and treatment of Talega wastewater.

Background: For the past several years, SMWD and City staff informally discussed the potential for the City to treat SMWD's Talega wastewater due to several failures of their force main under a creek. Due to SMWD's concerns regarding their sewer conveyance system from Talega to their Chiquita Wastewater Plant and odor issues created by the long force main and at the wastewater plant, the City and SMWD entered into a Short-Term Agreement on December 5, 2017 for 60 days while a revised Short-Term Agreement was developed.

Due to the complexity of modifying the Short-Term Agreement to reflect language to be used in a Long-Term Agreement and to save staff time and legal fees, the Short-Term Agreement in its original form has been extended several times. In addition, the revenue being received as part of the Short-Term Agreement is commensurate with the anticipated future revenue currently under negotiation. The Long-Term Agreement has been drafted and is under review. Staff is recommending a fifth extension for an additional 120 days to allow sufficient time for staff and the City Attorney to review the proposed Long-Term Agreement.

Recommended

Action: STAFF RECOMMENDS THAT the City Council Approve and Authorize the City Manager to execute, Amendment No. 5 to Contract C17-55 by and between the City of San Clemente and the Santa Margarita Water District, to extend the contract to treat wastewater flows from Talega for 120 days.

Attachments: None, the Fifth Amendment is on file with the City Clerk's Office.

Notification: None.

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**SIXTH AMENDMENT TO
SHORT-TERM
WASTEWATER SERVICES
AGREEMENT**

By this "Sixth Amendment," the City of San Clemente and the Santa Margarita Water District ("SMWD") amend their December 5, 2017 *Short-Term Wastewater Services Agreement* ("Agreement") as follows:

As authorized by section 2.1 of the Agreement, the parties agree to extend the Initial Term through December 29, 2019.

No other term of the Agreement is changed by this Sixth Amendment.

IN WITNESS WHEREOF, the parties caused this Agreement to be executed by their duly authorized officers.

CITY OF SAN CLEMENTE

Dated: _____

By: _____

Its: _____

ATTEST:

City Clerk of the City of
San Clemente, California

**SANTA MARGARITA
WATER DISTRICT**

Dated: _____

By: _____

Its: _____

ATTEST:

Board Secretary of the
Santa Margarita Water District