



City Council Agenda Item

City Council Meeting Date: May 2, 2023

TO: Honorable Mayor and City Council Members

FROM: Charles J. Berry, Utility Director, c_berry@ci.lompoc.ca.us
Jeff Malawy, City Attorney, jmalawy@awattorneys.com

SUBJECT: Approval of an Agreement with Mission Hills Community Services District (MHCS D) Regarding Provision of Wastewater Services to MHCS D for the Burton Ranch Development

Recommendation:

Staff recommends the City Council approve the Wastewater Agreement (Agreement) attached, and authorize the City Manager to execute it.

Background:

A consortium of developers proposes to develop a portion of the property bordered by Highway 1 on the west and Harris Grade Road on the east (in the area commonly known as "The Wye"). This proposed development, known as Burton Ranch, will consist of up to 476 residential units, including single-family and multi-family homes. The developers desire to begin construction in 2024.

In 2000, the City and MHCS D entered into an Annexation Agreement, pursuant to which MHCS D would provide water and wastewater services to Burton Ranch; however, in 2019, a dispute arose between the City and MHCS D regarding whether MHCS D has the ability to provide such water and wastewater services. Accordingly, in July, 2020, the City filed a civil complaint (Suit) against MHCS D, alleging that MHCS D does not have the capacity to provide water and wastewater services to the proposed Burton Ranch project and sought to provide those services itself, for the City has the capacity to do so. MHCS D disputes those allegations. The Suit is in the discovery phase, and no trial date has been set.

With City Council direction, the City and MHCS D staff and attorneys have been negotiating an agreement, whereby the City would treat wastewater influent from the Burton Ranch development and conveyed to the City's treatment plant by MHCS D. After

several months of those negotiations, the parties' representatives, including the Burton Ranch developers, have agreed to the financial and operational terms for the City to provide those wastewater treatment services. The developers and MHCSD have also reached agreement whereby MHCSD would provide water services to the Burton Ranch development.

Discussion:

Resolution of The Suit

The planning/entitlement process for Burton Ranch has been stalled due to the Suit; as such, the City, MHCSD, and developers have engaged in extensive negotiations regarding the concept of MHCSD providing water and wastewater services to the Burton Ranch with MHCSD subcontracting with the City to treat that wastewater.

In essence, this resolution would have MHCSD provide its water to the development through its infrastructure, and MHCSD, through the Burton Ranch developers, provide the infrastructure to transport wastewater from the development to a single connection point from which the City, through its infrastructure, would then transport the wastewater to its wastewater plant for treatment.

The Agreement

City, MHCSD, and developers have evaluated infrastructure needs and conducted studies to determine the feasibility of the City providing the above-described wastewater services, which would be effectuated by (a) a development agreement between MHCSD and developers, (b) a wastewater treatment agreement between the City and MHCSD similar to the ones currently in effect between the City and Vandenberg Village and City and Vandenberg Space Force Base, and (c) a settlement agreement to resolve the pending lawsuit.

A summary of the substantial provisions of the Agreement are:

1. MHCSD will pay all costs for connecting to the City's wastewater system and all operational and maintenance costs for the MHCSD infrastructure needed for one point of connection.
2. MHCSD will own and be solely responsible for all the infrastructure installed by Burton Ranch to serve for Burton Ranch wastewater needs.
3. MHCSD will pay for all the City's costs to treat Burton Ranch wastewater, based on billings from the City.
4. MHCSD will pay a share of the City's past and future debt service on the City's treatment plant.
5. MHCSD will pay a prorated share of costs for upgrades to the City's system.

6. MHCSD has and must enforce its no water softener prohibition.
7. MHCSD is limited to a certain maximum amount of wastewater flow.
8. MHCSD is responsible for ensuring it meets the City's quality requirements.
9. MHCSD will pay the City's costs if it exceeds the quantity and quality limits.
10. A metering system will be installed to ensure those limits are being met.
11. The Agreement will be effective when signed, which would be concurrently with the settlement agreement and development agreement between the developers and MHCSD and remain in effect, as long as the City is providing wastewater treatment; provided, that it will terminate if some development at Burton Ranch does not commence on or before December 31, 2030.

MHCSD's Board, at an upcoming public meeting, will be considering approving the Agreement.

Fiscal Impact:

The costs for studies and analyses to determine the City's ability to service the wastewater needs of the Burton Ranch development are being paid by the developers. MHCSD will be paying the City all the City's costs to provide wastewater services to MHCSD for the influent generated by the Burton Ranch development, including its share of costs for maintenance, operations and existing debt service and future capital costs, if needed. The Burton Ranch developers, as part of its project construction costs, will pay for the installations needed to connect the Burton Ranch development wastewater system to the City's wastewater treatment infrastructure.

Conclusion:

Staff recommends the City Council approve the Agreement and direct the City and direct the City Manager to sign it on behalf of the City.

Respectfully submitted,

Charles J. Berry, Utility Director



Jeff M. Malawy, City Attorney

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Dean Albro, City Manager

Attachment: Wastewater Agreement