



Meeting Date: 11/17/2009

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Study Session

Prepared By: Anthony Emmert, Water Resources Manager Agenda Item No. I-6

Reviewed By: City Manager City Attorney Finance Public Works

DATE: November 9, 2009

TO: City Council

FROM: Mark S. Norris, Assistant Public Works Director
Public Works Department. Utilities Services Branch/ *[Signature]*

SUBJECT: Agreement with Harris Water Conditioning Inc. for the City to Provide Wastewater Collection Services

RECOMMENDATION

That City Council approve and authorize the Mayor to execute an agreement with Harris Water Conditioning Inc. for the City to provide wastewater collection services at 1025 South Rose Avenue (Agreement No. A-7236).

DISCUSSION

Harris Water Conditioning (Harris), a company that provides water softening services, currently operates a facility at 1371 Fleet Avenue in Ventura, California and would like to relocate to the City of Oxnard at 1025 South Rose Avenue. The main purpose of the agreement is to provide a clear understanding of several conditions Harris will have to meet in order to operate its business in the City.

In order to operate in the City, Harris will be required to obtain all permits required by the City to operate a business in the City, including permits associated with discharge of effluent into the City's wastewater collection system. Harris will be required to observe all permit conditions and all conditions of Federal, State and Local law in conducting its business, as well as pay all connection and user fees associated with discharge of effluent into the City's wastewater collection system.

As Harris' planned normal operation will discharge wastewater with a high concentration of total dissolved solids (TDS) to the wastewater collection system, Harris agrees that it will be subject to additional conditions. The City is in the process of developing a program that will identify and assign surcharges to high TDS dischargers, in order to recover costs expended by the City for additional treatment. Harris agrees that it will be subject to and will pay charges associated with any high TDS discharge program instituted by the City. The City is also in the process of determining whether a brine line will be constructed by the City to transport discharges with high TDS content. Harris agrees that if and when a brine line is constructed by the City and passes within 300 feet of its business location,

Harris will connect to the brine line at its own expense and pay any connection fees, permit fees and any other fees associated with connection to and use of the brine line.

Harris submitted to the City studies which indicate that its maximum daily flow will be approximately 150,000 gallons. The City presently has the capacity to accept this flow. However, both Harris and the City recognize that other development in the area may impact the ability of the City to accept flow during certain hours of the day. Harris agrees that as part of its initial construction, or within six (6) months upon demand of the City, it will develop on-site storage capacity such that its flows can be distributed in equal increments hourly over a 24-hour period to provide for reduction in flow during peak hours.

The City may enforce this Agreement in any matter permitted by law. Nothing in this Agreement detracts from the City's ability to enforce its ordinances, rules, regulations and policies concerning wastewater collection.

FINANCIAL IMPACT

The City will collect user fees and charges associated with this specific user class and all ordinances in effect at the time.

AAE:joh

Attachment #1 – Agreement No. A-7236

AGREEMENT FOR WASTE WATER COLLECTION SERVICES

1. This Agreement is by and between Harris Water Conditioning Inc. ("Harris") and the City of Oxnard ("City"). The effective date of this Agreement is November 18, 2009.

2. Harris currently operates a facility at 1371 Fleet Avenue, in Ventura, California. Harris provides water softening services. Harris has identified a site in Oxnard to which it desires to relocate, at 1025 South Rose Avenue (the "Site").

3. In order to operate its business at the Site, Harris will be required to obtain all permits required by the City to operate a business in the City, including permits associated with discharge of effluent into the City's wastewater collection system. Harris will be required to observe all permit conditions and all conditions of federal, State and local law in carrying out its business.

4. This Agreement confirms understandings between Harris and the City, some of which may be set forth in permits and some of which may be set forth in City ordinances. The purpose of this Agreement is to affirm the permit conditions where applicable and to provide clear understanding of several conditions pursuant to which Harris will be able to operate its business in the City.

5. Harris is a high discharger of total dissolved solids ("TDS"). The City is in the process of developing a program that will identify and assign surcharges to high TDS dischargers in order to recover costs expended by the City for additional treatment. Harris agrees that it will be subject to and will pay charges associated with any high TDS discharge program instituted by the City. Charges applicable to Harris will be determined in accordance with the program requirements and provisions. Charges will be assessed applying the program's methodology and on the same bases as charges are assessed with respect to other high TDS dischargers.

6. The City is also in the process of determining whether a "brine line" will be constructed by the City to transport discharges with high TDS content. Harris agrees that if and when a brine line is constructed by the City and passes within 300 feet of the Site, Harris will, at the request of the City, connect to the brine line, at its sole expense, and will pay any connection fees, permit fees, and any other fees associated with connection to and use of the brine line.

7. Harris submitted to the City studies which indicate that its maximum daily flow will be approximately 150,000 gallons. The City presently has a capacity to accept this flow. The parties recognize however, that other development in the area may impact the ability of the City to accept flow during certain hours of the day. Harris agrees that as part of its initial construction or within 6 months upon demand of the City, it will develop on-site storage capacity such that its flows can be distributed over a 24-hour basis in (equal hourly) increments which will provide for reduction in flow during peak hours. The maximum daily flow will remain at 150,000 gallons.

8. City may enforce this Agreement in any matter permitted under law. The City may, if this Agreement is breached by Harris, discontinue service, providing only such notice as would otherwise be required under City ordinances and regulations governing the provision of service to Harris. The City may specifically enforce this Agreement. The City may collect damages based upon Harris's breach of this Agreement. Nothing in this Agreement, however, detracts from the City's ability to enforce its ordinances, rules, regulations and policies concerning wastewater collection.

9. Each term and each provision of this Agreement is both a covenant and a condition. Harris must perform its obligations under this Agreement to be permitted to discharge effluent to the City's wastewater system.

10. The construction and interpretation of this Agreement and the rights and duties of City and Harris hereunder shall be governed by the laws of the State of California.

11. Harris agrees to comply with all City, State, and federal laws, rules and regulations, now or hereafter in force, pertaining to the performance of Harris under this Agreement.

12. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

13. No waiver of a breach of any provision of this Agreement shall constitute a waiver of any other breach of the same provision or any other provision of this Agreement. Failure of either City to enforce at any time, or from time to time, any provision of this Agreement, shall not be construed as a waiver of such provision or breach.

14. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

15. a. City acknowledges that the person executing this Agreement has been duly authorized by the City Council to do so on behalf of City.

b. Harris acknowledges that the person executing this Agreement has been duly authorized by Harris to do so on behalf of Harris.

16. Notices

a. Any notices to Harris may be delivered personally or by mail addressed to 1371 Fleet Avenue, Ventura, California 93003, Attention: Robert Stevens.

b. Any notices to the City may be delivered personally or by mail addressed to the City of Oxnard, 305 West Third Street, Oxnard, California 93030, Attention: Public Works Department.

17. Amendment

City and Harris agree that the terms and conditions of the Agreement may be reviewed or modified at any time. Any modifications to this Agreement, however, shall be effective only when agreed upon to in writing by both the City representative authorized to do so under the City's purchasing policies and Harris.

18. Entire Agreement

City and Harris agree that this Agreement constitutes the entire agreement of the parties regarding the subject matter described herein and supersedes all prior communications, agreements, and promises, either oral or written.

CITY OF OXNARD

VENDOR

Thomas E. Holden, Mayor



Robert Stevens, President
Harris Water Conditioning Inc.

ATTEST:

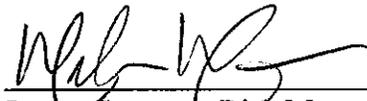
Daniel Martinez, City Clerk

APPROVED AS TO FORM:



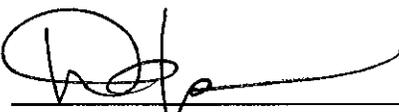
Alan Holmberg, City Attorney

APPROVED AS TO INSURANCE:



James Cameron, Risk Manager

APPROVED AS TO CONTENT:



Ken Ortega, Public Works Director