



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: July 19, 2016

TO: Mayor and Councilmembers

FROM: Water Resources Division, Public Works Department

SUBJECT: Contract For Legal Services For Wastewater Collection System Consent Decree

RECOMMENDATION:

That Council authorize the City Attorney to execute, and approve as to form, a City Professional Services contract with Meyers, Nave, Riback, Silver & Wilson not to exceed the amount of \$75,000 for legal services pertaining to the implementation of the Santa Barbara Channelkeeper Consent Decree.

DISCUSSION:

Background

The City operates 257 miles of wastewater collection system pipelines, the majority of which are six or eight inches in diameter and convey wastewater to the City's El Estero Wastewater Treatment Plant. The operation of the wastewater collection system is regulated by the State Water Resources Control Board under a Waste Discharge Requirement Permit.

In April 2011, Santa Barbara Channelkeeper (Channelkeeper) filed a lawsuit against the City in Federal District Court, alleging violations of the Clean Water Act, caused by spills from the wastewater collection system pipelines. The City contracted with the law firm Meyers, Nave, Riback, Silver & Wilson (Meyers Nave) to provide legal support for the lawsuit. The terms of a Consent Decree were agreed to by both the City and Channelkeeper in March 2012. The Consent Decree will terminate on March 31, 2017. The Meyers Nave contract was for \$345,000, and covered lawsuit negotiations and ongoing legal support thus far for implementation of the Consent Decree.

Since that time, staff has been diligently working to meet or exceed all requirements of the Consent Decree. However, the City has not been successful in consistently meeting the Consent Decree goal for Sewer System Overflow Reduction Performance

Standard (SSO Standard) for collection system spills. The SSO Standard was achieved in Calendar Year 2013 and has not been met since.

Exceeding the SSO Standard does not put the City in violation of the Consent Decree, but it does require that the City identify and implement additional measures designed to reduce spills to within the SSO Standard. Staff has implemented additional measures each year, as required, designed to reduce SSOs.

On May 24, 2016, staff presented the Annual Wastewater Collection System Report to Council. At that meeting, Channelkeeper was provided up to 20 minutes to address the Council. In her discussion, Ms. Kira Redmond, Executive Director for Channelkeeper, requested that Council extend the terms of the Consent Decree for three more years, otherwise Channelkeeper would allege that the City was in contempt of court.

On June 30, 2016, staff received notice from Channelkeeper that they are invoking Informal Dispute Resolution pursuant to the Consent Decree. In accordance with the terms of the Consent Decree, the parties must now meet and confer in a good faith effort to resolve the dispute informally. Staff recommends that Council authorize the City Attorney to execute a contract with Meyers Nave to continue supporting the City with legal services through the Dispute Resolution process and remaining term of the Consent Decree.

There are sufficient appropriated funds in the Wastewater Operating Fund to cover these costs.

PREPARED BY: Lisa Arroyo, Wastewater System Manager/mh

SUBMITTED BY: Rebecca J. Bjork, Public Works Director

APPROVED BY: City Administrator's Office