



MEETING DATE: 6/20/2005
AGENDA ITEM: 8

COUNCIL AGENDA REPORT

DATE: June 17, 2005
TO: MAYOR AND TOWN COUNCIL
FROM: ORRY P. KORB, TOWN ATTORNEY *OK*
SUBJECT: ADOPT RESOLUTION APPROVING A SECOND CONTINUATION AGREEMENT WITH THE WEST VALLEY SANITATION DISTRICT OF SANTA CLARA COUNTY

RECOMMENDATION:

Adopt a resolution approving a Second Continuation Agreement with the West Valley Sanitation District of Santa Clara County

BACKGROUND:

The Town has since 1977 operated and maintained the sewer system within the Town boundaries under an agreement with the West Valley Sanitation District of Santa Clara County (the "District"). The 1977 agreement requires, among other things, that the District reimburse the Town for the costs incurred by the Town in maintaining the system. In 2004, the Town and District entered into a Continuation Agreement that extended the terms of the 1977 agreement to June 30, 2005, to allow the Town and District to complete the steps necessary to enable the District to acquire and take over the operation and maintenance of the Town's sewer system. This process has not been completed, requiring that the Town and District enter into a Second Continuation Agreement setting forth the terms and conditions that shall govern the additional period required to conclude negotiations concerning the proposed transfer.

PREPARED BY: **ORRY P. KORB**
TOWN ATTORNEY

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Reviewed by: *[Signature]* Town Manager *PS* Assistant Town Manager _____ Clerk
SC Finance _____ Community Development

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MAYOR AND TOWN COUNCIL

SUBJECT: ADOPT A RESOLUTION APPROVING A SECOND CONTINUATION
AGREEMENT WITH THE WEST VALLEY SANITATION DISTRICT OF
SANTA CLARA COUNTY

JUNE 16, 2005

DISCUSSION:

The District and Town are willing to extend the 1977 agreement, subject to the District's concern about the amount that the Town should be entitled to receive as reimbursement for the costs incurred by the Town in operating and maintaining the system. The proposed Second Continuation Agreement states that the terms of the 1977 agreement shall continue for an additional ninety (90) days, with the exception of the cost reimbursement payment conditions, which shall be resolved at the conclusion of the 90 day period.

FISCAL IMPACT:

Approval of the Second Continuation Agreement will result in the continuation of the operation and maintenance of the Town's sewer system without a guarantee of reimbursement of the Town's costs at a level consistent with past reimbursement payments. While the District remains obligated to reimburse the Town, the District has stated its intent to pay less than the prior level of reimbursement. Nevertheless, the Town would retain the right to seek reimbursement of any disputed amounts. The cost of doing so cannot be estimated at this time.

Because of the uncertainty of the revenues to be received by the Town for its ongoing maintenance activities in Fiscal Year 2005/06, no budget adjustment is proposed at this time. When the negotiations are completed, staff expects to adjust the operating budget accordingly at that time.

Attachment: Resolution approving a Second Continuation Agreement with the West Valley Sanitation District of Santa Clara County

Distribution: Robert Reid, General Manager, West Valley Sanitation District - 100 E. Sunnyoaks Avenue Campbell, CA 95008

RESOLUTION

RESOLUTION OF THE TOWN OF LOS GATOS AUTHORIZING THE TOWN MANAGER TO EXECUTE A SECOND CONTINUATION AGREEMENT WITH THE WEST VALLEY SANITATION DISTRICT OF SANTA CLARA COUNTY

WHEREAS, on May 19, 1977, the Town entered into an agreement with the West Valley Sanitation District of Santa Clara County ("District") entitled "District 4 – Los Gatos 1977 Sewer Agreement" (herein referred to as "Agreement"); and

WHEREAS, on June 13, 2001, Town and District entered into an amendment to the Agreement to continue said Agreement for a period not to exceed three years; and

WHEREAS, said Agreement and all amendments were to terminate on June 30, 2004; and

WHEREAS, on July 7, 2004, Town and District entered into an agreement with District entitled "Continuation Agreement and Amendment No. 3 to Sewer Agreement Between the Town of Los Gatos and West Valley Sanitation District" to extend the terms of the Agreement for an additional year, terminating on July 1, 2005, in order to provide the time necessary to transfer all current and future ownership and associated operation and maintenance responsibilities of the sanitary sewer system within the Town's jurisdiction to the District; and

WHEREAS, Town and District desire to extend the time for negotiating the terms of the proposed transfer for an additional ninety (90) days beyond July 1, 2005, to do so by extending the terms of the Agreement, but without determining at this time the amount that the Town is entitled to receive as reimbursement of its costs to operate and maintain the sewer system within the Town as set forth in the Agreement.

RESOLVED, by the Town Council of the Town of Los Gatos, County of Santa Clara, State of California, that the Town of Los Gatos enter into a Second Continuation Agreement with the West Valley Sanitation District for the purpose of extending the time necessary to negotiate a transfer to the District of the ownership, operation and maintenance of the Town's sewer system, and that the Town Manager is authorized, and is hereby directed, to execute said contract/agreement in the name and on behalf of the Town of Los Gatos.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the _____ day of _____, 2005 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR
LOS GATOS, CALIFORNIA

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PLEASE NOTE

SECOND CONTINUATION AGREEMENT WITH THE WEST
VALLEY SANITATION DISTRICT OF SANTA CLARA COUNTY
TO BE SUBMITTED AS A DESK ITEM
ON MONDAY, JUNE 20, 2005