

Environment Committee

Meeting date: April 11, 2017

For the Metropolitan Council meeting of April 26, 2017

Subject: Elko New Market Wastewater Services Agreement Amendment

District(s), Member(s): All

Policy/Legal Reference: MS 473.517; 2040 Water Resources Policy Plan; and Council Administrative policy 3-2-5 (re. SAC)

Staff Prepared/Presented: Ned Smith, 651-602-1162

Division/Department: MCES c/o Leisa Thompson, 651-602-8101

Proposed Action

That the Metropolitan Council authorizes its Regional Administrator to execute an amendment to the Wastewater Services Agreement with Elko New Market according to the attached agreement (Amendment Two).

Background

In 2011, the Council completed interceptor and lift station construction that connected Elko New Market (the City) to the urban sewer system, at a capital cost of \$16.4 million. A Wastewater Service Agreement between the City and Council was signed in November 2010 that requires the City to pay Municipal Wastewater Charges and Sewer Availability Charges (SAC) at the same rate as urban cities and pay a SAC “increment” to reimburse Council for the reserve capacity portion of the Elko New Market specific capital costs.

Per the Wastewater Service Agreement, the City paid a \$1,300 SAC increment in 2011, which will increase \$100 per year until the end of the contract term in 2030. This rate was based on achieving 7,200 total SAC units by year-end 2030. Also per the Agreement, any year that SAC units are short of forecast, the revenue shortfall turns into a loan; a Reserve Capacity Loan. Thereafter, the City must make annual loan payments, in an amount not to exceed the City’s Municipal Wastewater Charges (which are currently about \$250,000).

Since construction of the interceptor, the city has experienced much lower growth than anticipated (178 actual SAC units over six years [2011-2016] versus 840 planned). This has resulted in costs that were intended to be paid by new development, via SAC, are instead being paid by city residents; who effectively pay double municipal wastewater charges each year. Also, the reserve capacity loan balance is increasing at a significant rate and could reach \$10 million by 2030. This balance would put the total debt service at 20% of the overall tax levy, and according to Springsted, a public sector financial advisory firm, puts the city’s bond rating at risk. Per Springsted: “

“Rating agencies have indicated that when a City’s levy for debt service is more than 20% of the overall tax levy for the community, the City’s rating may be in danger due to reduced flexibility and the inability to react to unforeseen economic issues that may arise.”

In 2014, the Council’s only other rural center with completed construction, East Bethel, was also facing potential financial stress due to low growth. In 2015, Council staff convened a stakeholder work group that included seven urban city officials from St. Paul, Roseville, Andover, Golden Valley, Apple Valley, North St. Paul, and Metro Cities to explore possible revisions to the Wastewater Service Agreement. In August 2015, Council approved giving some financial relief to East Bethel (2015-186),

which included placing a \$2 million cap on their reserve capacity loan balance should growth fail to materialize.

Elko New Market is now asking for similar relief; this proposal would limit their reserve capacity loan balance to \$1.2 million. This is lower than East Bethel's cap, since the East Bethel population is about double Elko New Market's population. Also proposed is ending increases to the City's SAC increment once the \$1.2 maximum is reached; see specifics in the attached Amendment Two.

Rationale

Setting a maximum \$1.2 million loan balance recognizes that the contract as originally structured is not working, and if left as is, would create pressure on the city, potentially causing uncompetitive rates that would inhibit development and raise credit issues. The existing contract allows for renegotiation if the growth plan doesn't work, but only in 2041, 30 years after the first loan is recorded, which is too late to avoid real damage to Elko New Market.

Thrive Lens Analysis

This action advances the Thrive outcomes of stewardship and sustainability.

Prior to connection to MCES, Elko New Market's treatment plant discharged directly to the Vermillion River, which is a trout stream. MCES collaborated to provide technical assistance and leadership to the City to address sustainability issues by redirecting waste from its system to the MCES disposal system, helping to protect the health and well-being of residents in the area, and restore the Vermillion River.

Connecting to the MCES system also ensures reliable, affordable wastewater infrastructure that provides the best long term value to handle growth in the area. If growth is slower than currently projected, the city would face a material burden on their levy base, negatively impacting their ability to obtain affordable debt for ongoing infrastructure investments.

Funding

If this amendment is approved, and growth does not occur in Elko New Market, the city's reserve capacity loan balance will be limited to \$1.2 million, which will keep the liability from potentially reaching \$10 million by 2030. Should it occur, this cap can be absorbed into the broader MCES budget with minimal ratepayer impact.

Known Support / Opposition

A Metro Cities work group was unanimously supportive of the agreement made with East Bethel, and this agreement with Elko New Market is relatively similar.

AMENDMENT TWO
to
WASTEWATER SERVICE AGREEMENT

WHEREAS, the **Metropolitan Council** (“Council”) and the **City of Elko New Market** (“City”), collectively, “the Parties,” entered into a Wastewater Service Agreement (“Agreement”) effective November 2, 2010, and amended on September 12, 2012; and

WHEREAS, the Parties have a substantially lower forecast for future growth for the region than was anticipated at the execution of the Agreement, and the City is already experiencing lower growth than anticipated; and

WHEREAS, the Council has determined that it is in the best interest of the Region to avoid causing the City to incur a negative credit rating through enforcing the terms of the Agreement currently in effect;

NOW THEREFORE, in consideration of the promises made in the Agreement and through this amendment, the Agreement is amended in the following particulars:

1. ARTICLE I Financial Terms and Conditions

**ARTICLE I Financial Terms and Conditions, Sewer Availability Charges (SAC),
Section 1.02 Subsection f.** The following paragraph will be **ADDED** to paragraph f:

Council and City agree that the ENM SAC Increment will continue to increase \$100 per year as noted in paragraph 3, however, once the reserve capacity loan balance reaches \$1.2 million, the SAC Increment will no longer be increased and the rate will remain flat through the contract term ending in 2030.

There will be no adjustments of charges for 2017 or prior charges.

2. ARTICLE I Financial Terms and Conditions

ARTICLE I Financial Terms and Conditions, Section 1.03 Reserve Capacity Loans is amended with the following language being **INSERTED** as Subparagraph f:

The Reserve Capacity Loan balance will not be allowed to exceed \$1.2 million under any circumstances. If it reaches \$1.2 million, the following conditions shall immediately apply and supersede any contradictory language in this Agreement:

- 1) The then-existing ENM SAC Increment shall be capped at the then current rate and remain fixed through 2030. Thereafter, ENM will be considered part of the Urban SAC Pool.
- 2) No further Reserve Capacity Loans will accrue past the \$1,200,000 cap and the existing Reserve Capacity Loan payments will end. However, the City will pay off the \$1.2 million loan on a 10 – 20 year fixed amortization payment plan (with the term at the City’s option) at 4.07% interest (the cost of Council’s capital for the original project).

Except as amended hereby, the provisions of the above-referenced contract shall remain in force and effect without change.

IN WITNESS WHEREOF, the Parties have caused this amendment to be executed by their duly authorized representatives.

CITY OF ELKO NEW MARKET

METROPOLITAN COUNCIL

By: _____

By: _____

Its: _____

Its: Regional Administrator

Date: _____

Date: _____

By: _____

Its: _____

Date: _____