



CITY OF RIDGECREST

Telephone 760 499-5000

FAX 760 499-1500

100 West California Avenue, Ridgecrest, California 93555-4054

September 18, 2017

Meredith Richards
Realty Specialist
NAVFAC Southwest
1220 Pacific Highway
San Diego CA 92132

Subject: Waste Water Treatment Facility Easement Agreement between the City and NAWS

Introduction

The City of Ridgecrest (City) operates wastewater collection, treatment, and disposal facilities serving residential and commercial development within City limits and the Naval Air Weapons Station China Lake (NAWS). The wastewater treatment plant (WWTP) has been in service for many years and is in need of significant repair to maintain its functionality. Fundamental portions of the plant process components are deteriorated, and certain conditions may be considered hazardous. Considering the condition of the existing WWTP, the City plans to build a new facility to continue to serve the City and NAWS. The most cost effective location is adjacent to the current location on Navy property. The construction of the new WWTP at this location would be outside the current easement footprint and would require a new easement with the Navy.

Background

According to the City of Ridgecrest Wastewater Treatment Plant Final Project Report prepared by Carollo Engineers in September 2008, Ridgecrest Sanitation District (RSD) was established in the mid-1950s to serve the small civilian service community that had developed outside of the NAWS base. At that time, wastewater from the NAWS was treated at a facility located on the base, and RSD operated a separate smaller plant within the City. In the mid-1970s, the population began to shift from NAWS to the City, creating capacity problems at the RSD treatment plant. In 1972, the California Regional Water Quality Control Board Lahontan Region mandated that the City and NAWS consolidate their wastewater treatment facilities and treat the combined flows at a common plant (California Regional Water Quality Control Board Lahontan Region Order NO. 6-72-45). The existing plant located in the City was therefore abandoned, and the City has been operating a treatment plant at the NAWS site since 1974. That facility, including an expansion completed in 1976, provides capacity to treat both the City and NAWS current flows (Carollo, September 2008).

The City and the Navy subsequently entered into service and easement agreements, with the City operating the WWTP and the Navy being a customer.

Requested Changes in Agreement

City plans to fund the construction of the new WWTP through securing general obligation or revenue bonds. According to the City's bond counsel, to secure a 30-year loan through bond funding to construct the new WWTP on the Navy site the City must have an uninterruptable easement/access for at least 40 years. In negotiating a new easement with the Navy, the City was informed any new easement would require a Termination Clause (section 17 – see attached draft easement), which would enable the Navy to terminate all or any part of this easement in the interest of anti-terrorism force protection or national security or to eliminate interference with the Navy. The inclusion of termination clause in the easement makes the new WWTP unfinanceable, and it must be removed completely for the City to secure a loan. In simple terms, no financial institution will fund a loan if there is uncertainty of the loan repayment. If the Navy can terminate the easement at any time and require the removal or closure of the WWTP, the City cannot collect fees and thus cannot repay the loan. While both the Navy and the City mutually agree that this would never occur, however, the language as written in the draft agreement is still enforceable.

The current service agreement also contains a Termination Clause that causes the same funding issues and must be removed through a new service agreement.

The draft easement agreement also contains a Surrender Clause (section 19 – see attached draft agreement). The Surrender clause requires the City at the termination or expiration of the easement agreement to remove the WWTP within 90 days, and if not, the WWTP would become property of the Navy. This clause is unfair and would turn the WWTP over to the Navy without any compensation to the City.

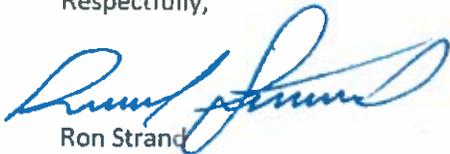
Conclusion

The current WWTP needs replaced, and the City is prepared to fund, build and operate a new WWTP on NAWS for the mutual benefit of the City and Navy. The City, however, needs service and easement agreements with the Navy that will enable the City to secure a loan.

The WWTP is critical infrastructure for both the City and the Navy, and it is highly improbable the Navy would ever terminate the easement under any circumstances. The Termination and Surrender clauses need to be removed from the agreement. Unfortunately, if the City cannot secure a loan to build a new WWTP on NAWS, the City will have no choice but to build the new facility completely off NAWS. In the meantime, we will await your decision.

If you have any question, I can be reached at 760) 608-9036.

Respectfully,



Ron Strand
Interim City Manager