STAFF REPORT NO. 133-15

TO: Mayor and City Council
FROM: Eric Holmes, City Manager
DATE: 9/14/2015

Subject: First Amendment to Coordination of Services Agreement with Clark Regional Wastewater District

Key Points:
- The City and Clark Regional Wastewater District (CRWD) entered into a Coordination of Services Agreement in June 2010 with one of the goals of creating a closer working relationship and coordination of services between the two agencies with an ultimate presumption that upon a larger City annexation scenario the CRWD customers become City customers.
- Unlike the City, CRWD currently does not have the ability to suspend water service as an action to manage delinquent accounts.
- The proposed amendment would provide for CRWD to request the City to suspend water service to severely delinquent accounts after CRWD has exhausted its other management options short of physically terminating sewer service.
- Physically terminating sewer service is administratively complex due to close coordination required with other agencies, can result in a public health hazard and can be costly to implement. Suspension of water service has proven to be an effective and efficient measure to manage delinquent accounts.

Objective: Approve First Amendment to Coordination of Services Agreement with Clark Regional Wastewater District.

Present Situation: Like the City, Clark Regional Wastewater District (CRWD) pursues a diligent and structured process to seek payment of past due sewer accounts. For CRWD staff, this process relies on active management of the accounts and may involve specific actions such as liens on real property, collection agency activity and foreclosure. In the case of the City, because almost all of our sewer accounts are also City water customers, we use suspension of water service as our initial action to manage delinquent accounts that have not made other arrangements to ensure payment of past due bills. Because the CRWD only provides sewer service, they currently do not have this ability as an account management option. Both agencies also have the ability and authority to terminate sewer service via plugging the line or other actions. However, we have not yet pursued this approach because of the risk of creating a public health hazard for residents in a property not able to safely dispose of sewage and the close coordination that would be required with the Health Department and the appropriate Building Officials in exercising this option. In addition, physical termination of sewer service can be costly to implement.

In extreme and rather limited cases, CRWD has from time to time encountered a property for which their current standard process is not successful in obtaining payment. Accordingly, CRWD approached the City to see if we would consider suspension of water service to those
extreme cases as an account management option that they could then utilize. This approach provides a mechanism to obtain payment that does not create a public health hazard for residents and is consistent with the typical process utilized by agencies that provide both water and sewer service.

City staff is supportive of working with CRWD to add suspension of water service as an account management option that they could utilize for their more difficult to resolve cases. It is reflective of the working relationship that has been developed between our two agencies and is consistent with the principles of the Coordination of Services Agreement entered into by the agencies in June 2010. Under that agreement, it is presumed that these existing District customers at some point will become City customers under a larger City annexation scenario. Accordingly the City also has some interest in seeing that accounts are not in a severely delinquent status. To this end, CRWD and City staff and legal counsel are proposing an amendment to the Coordination of Services Agreement to allow termination of City provided water service for severely past due CRWD wastewater customers.

**Advantage(s):**
1. Furthers the cooperative working relationship between the City and CRWD.
2. Provides CRWD with an effective and cost efficient way to manage severely overdue sewer accounts without resorting to more drastic measures.
3. Upon annexation, the City would unlikely be inheriting any severely overdue sewer accounts.

**Disadvantage(s):** Potentially places the City in the middle of a billing dispute between CRWD and one of their sewer customers.

**Budget Impact:** There is minimal to no budgetary impact given the anticipated rather infrequent occurrences when CRWD would request the City’s assistance.

**Prior Council Review:** None

**Action Requested:** Approve the First Amendment to Coordination of Services Agreement with Clark Regional Wastewater District.

Attachment(s): First Amendment to Coordination of Services Agreement with Clark Regional Wastewater District
FIRST AMENDMENT TO
CLARK REGIONAL WASTEWATER DISTRICT AND CITY OF VANCOUVER
COORDINATION OF SERVICES AGREEMENT

THIS FIRST AMENDMENT to the “Clark Regional Wastewater District and City of Vancouver Coordination of Services Agreement” is entered into this ______day of ______________, 2015, between CLARK REGIONAL WASTEWATER DISTRICT, Clark County, Washington (“District”) and the CITY OF VANCOUVER, Washington (“City”), both Washington municipal corporations.

RECITALS

A. The City operates a sewer collection and treatment system, and the District operates a sewer collection system.

B. The City operates a water system. The District is authorized by RCW 57.08.005 to operate a water system, but currently is not operating such a system.

C. Portions of the District’s sewer service area lie within the City’s boundaries and water service area.

D. To enforce payment of sewer service charges, the District is authorized by RCW 57.08.081 to certify delinquencies to the County Auditor. Upon certification, the delinquencies become liens against the property receiving the sewer service. After certification, the District is authorized to file a foreclosure lawsuit in Superior Court against the property to enforce payment of the delinquent charges.

E. The District is authorized by RCW 57.08.081 to cut off sewer service after service charges have become delinquent. In order to cut off sewer service, the District must install on the sewer service line a special device, at the cost of several thousand dollars.

F. The District engages in a lengthy process of multiple steps and actions to collect delinquent sewer service charges. This process consists of the following: (1) past due reminder phone call (2nd month); (2) past due letters (3rd and 5th months); (3) notice of intent to file a lien against the property (7th month); (4) notice of filing of lien (7th month); (5) notice of intent to collect (7th month); (6) notice to mortgage or deed of trust lending institution of delinquent amount (8th month); (7) transfer of delinquent account to collection agency (8th month); (8) notice of right to foreclose against the property (13th month); (9) first notice of intent to foreclose (19th month); (10) second notice of intent to foreclose (20th month); (11) notice of filing of foreclosure action, if payment is not made (20th month) (all notices and letters are sent to property owner). After this lengthy process, the foreclosure action is prepared and filed, if necessary.

G. Almost all of the delinquent sewer service charges are paid during this lengthy collection process, and prior to the filing of a foreclosure action.
H. The District and the City entered into the "Clark Regional Wastewater District and City of Vancouver Coordination of Services Agreement," effective July 1, 2010, in order to collect and treat efficiently and effectively the sewage generated by their respective customers.

I. Through implementation of the Coordination of Services Agreement, the District and the City have established an excellent and cooperative working relationship.

J. Paragraph 10 of the Coordination of Services Agreement requires that the parties coordinate delivery of services to the greatest extent possible.

K. A cost effective mechanism for enforcing payment of the District's delinquent sewer service charges is for the City to shut off (terminate) water service to property. Under City Code, the City is authorized to shut off (terminate) water service for nonpayment of water service charges.

L. The District has requested the City to shut off (terminate) the water service to City water service customers who are also sewer service customers of the District and whose sewer service charges remain delinquent after the lengthy collection process described above. The District estimates that this request will be infrequent, in the range of only one or two requests for shut off (termination) every year.

M. Under the Coordination of Services Agreement, the City eventually will assume (take over) the District's sewer collection system. Thus, it is in the best interests of the City to assist the District in eliminating delinquent sewer service charges cost effectively and efficiently, when necessary.

N. Paragraph 27 of the Coordination of Services Agreement provides that it may be amended by written agreement of the parties.

O. The District and the City desire to amend the Coordination of Services Agreement to provide the terms and conditions under which the City will shut off (terminate) water service to property that has delinquent District sewer service charges.

**AMENDMENT**

**IN CONSIDERATION** of the following terms and conditions, the District and the City agree as follows:

1. **Adoption of Recitals.** The foregoing recitals are adopted as the factual basis in support of this Amendment.

2. **Amendment of Agreement.** The Coordination of Services Agreement is amended by adding a new Section 34 thereto, to read as follows:

   34. **City Water Service Shut Off.** After the District has completed its delinquent sewer service charge collection process for property
that has delinquent sewer service charges (pursuant to the process in Sections (1) through (11) of Recital F of the First Amendment to this Agreement, or a substantially similar process), the District General Manager or designee may file a written request with the City Director of Public Works or designee to shut off the water service for such property. Upon receipt of the request, the City Director of Public Works or designee shall shut off the water service, following the City’s procedure and requirements for shutting off water service for nonpayment of City water service charges, as contained in the City Code or rules and regulations adopted by the City Director of Public Works. The City Director of Public Works shall adopt any new rules and regulations necessary to implement this Amendment in a manner that is consistent with City ordinances. The water service shall remain shut off until the delinquent sewer service charges, plus penalties, interest and fees, have been paid in full or the property owner and the District have entered into a payment arrangement, as is authorized by VMC 14.16.020. The District General Manager or designee shall notify the City Director of Public Works or designee when the charges have been paid in full or the payment arrangement has been entered into.

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

CITY OF VANCOUVER

Timothy D. Leavitt, Mayor

Date: ______________________

Attested to:

City Clerk

Approved as to form:

E. Bronson Potter, City Attorney

CLARK REGIONAL WASTEWATER DISTRICT

Neil Kimsey, President

Date: August 11, 2015

Attested to:

Norm Harker, Secretary

Approved as to form:

Rod P. Kaseguma, District Attorney