

Mayor and Council Communication

DATE: 10/17/23

M&C FILE NUMBER: M&C 23-0883

LOG NAME: 60SYNAGRO SETTLEMENT AGREEMENT

SUBJECT

(CD 5) Authorize Execution of a Settlement Agreement with Synagro of Texas-CDR, Inc., in the Amount of \$1,858,157.65 for Additional Costs Related to Operation of the Biosolids Dryer Facility

RECOMMENDATION:

It is recommended that the City Council authorize execution of a Settlement Agreement with Synagro of Texas-CDR, Inc. in the amount of \$1,858,157.65 for additional costs related to the operation of the Biosolids Dryer Facility.

DISCUSSION:

This Mayor & Council Communication (M&C) will authorize settlement agreement with Synagro of Texas, CDR, Inc. (Synagro) in the amount of \$1,858,157.65 for additional costs related to the operation of the Village Creek Water Reclamation Facility biosolids dryer facility.

On December 10, 2019 (M&C 19-0381) City Council authorized a design-build-operate-maintain contract with Synagro. This contract required Synagro to take over the dewatering and land application process on April 1, 2020 and continue to operate that system until the dryer facility was designed, constructed and put into operation, which occurred in July 2022.

This Settlement Agreement covers two areas of dispute between the City of Fort Worth and Synagro.

- The methodology and basis for additional compensation to Synagro to remove accumulated solids in the receiving ponds at the dewatering and dryer facility calculated for the time period of April 1, 2020 to June 30, 2022, the period of the dewatering operations, as well as for the solids left by the previous operator of the facility (deposited prior to April 1, 2020) (Existing Solids);
- Synagro's claim for additional compensation to cover increased operating costs, which include chemical costs, cooling water costs, and dewatering and disposal costs.

In an attempt to resolve these two areas of dispute, parties agreed to mediate the claims. Mediation occurred on August 30th, 2023.

The contract with Synagro obligates Fort Worth to compensate Synagro for removal and disposal of Existing Solids in the receiving ponds. The Settlement Agreement describes a methodology agreeable to both parties whereby Synagro would be compensated at a rate of \$396.50 per dry ton for removal, processing to Class AB standards, and land application of the Existing Solids over a twenty-four month period beginning on December 1, 2023 through December 1, 2025 (the removal period). Synagro will not receive any direct compensation for any material removed after December 1, 2025.

The solids receiving ponds are in constant use, and per the contract terms, Fort Worth is not obligated to compensate Synagro for solids removal after the dryer facility began operation (July 1, 2022). In order to credit Fort Worth for these accumulations (from July 1, 2022 to August 1, 2023, as well as the solids discharged on an ongoing basis), a monthly credit of 200 dry tons has been established recognizing the average monthly discharge of solids to the pond, plus a 102.5 dry ton credit, beginning on December 1, 2023 and credited monthly for the 24 month removal period, which recognizes the estimated solids deposited from July 1, 2022 to August 1, 2023.

To ensure the solids can be considered Class AB suitable for land application, Fort Worth agrees to perform testing of the solids within the receiving ponds in October/November. The date for commencement of removal activities is December 1, 2023. Should testing results prohibit land application of some or all of the removed solids, Synagro will be obligated to dispose of material in a landfill. In those circumstances, Synagro will be compensated at \$396.50 per dry ton and the City will bear the tipping fees costs associated with landfill disposal.

This Settlement Agreement also will compensate Synagro \$1,858,157.65 for additional operating costs from the time when the newly constructed dryer facility went into operation, July 1, 2022 until August 1, 2023. Of that total, \$1,000,000.00 is associated with dryer operations – including increased labor, chemical, and cooling water costs. The remaining \$858,157.65 of additional costs are associated with dewatering and land disposal operations that occurred concurrently with dryer operations during this time period.

Funding is budgeted in the Other Contractual Services account in the Wastewater Biosolids & Residuals Department within the Water & Sewer Fund.

This project is located in COUNCIL DISTRICT 5.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that funds are available in the operating budget, as previously appropriated, in the Water and Sewer Fund to support the approval of the above recommendation and execution of the settlement agreement. Prior to any expenditure being incurred, the Water Department has the responsibility of verifying the availability of funds.

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Expedited