

REPORT / RECOMMENDATION



To: MAYOR AND COUNCIL

Agenda Item #: IV. J.

From: Chad A. Millner, PE, Director of Engineering

Action

Discussion

Date: May 6, 2014

Information

Subject: Settlement Agreement with AECOM for the Water Treatment Plant No. 6

Action Requested:

Authorize Mayor and City Manager to sign attached settlement agreement with AECOM for Water Treatment Plant No. 6, City Project No. PW11-1.

Information / Background:

This settlement agreement is for a water balance issue related to the operation of the air strippers. The air strippers remove chemicals from the raw water. Piping and valves were installed to balance water flow to the air strippers. The repairs were completed in November 2013. Public works staff has reported that this repair has addressed the water balance issue between the air strippers and that the plant is operating as intended.

Staff recommends approving the settlement agreement with AECOM in regards to the water balance issue.

Attachments:

Settlement Agreement

RELEASE AND SETTLEMENT AGREEMENT

This **RELEASE AND SETTLEMENT AGREEMENT** ("Agreement") is entered into as of April 22, 2014, by and between AECOM Technical Services, Inc. ("AECOM"), and the City of Edina, a Minnesota municipal corporation (the "City").

- A. Pursuant to a June 23, 2011 contract between the parties, and amendments related thereto, AECOM provided construction related services to the City in connection with the City's Water Treatment Plant No. 6 (the "Project");
- B. The Parties wish to amicably resolve any and all claims and disputes raised, or which could have been raised between the Parties related to the Project ("Claims") and avoid the uncertainty of further dispute resolution.

Accordingly, in consideration of their mutual promises and other good and valuable consideration hereby acknowledged between the Parties, they agree as follows:

1. **SETTLEMENT PAYMENTS:**

a. AECOM agrees to pay to the City, the amount of Four Thousand Three Hundred Seventy Dollars (\$4,370.00) (the "Settlement Amount") in full and final satisfaction of the Claims, including, without limitation, claims for interest, costs and attorneys fees.

c. AECOM shall pay to the City the Settlement Amount, by check, within thirty days of execution of this Agreement.

d. To the extent necessary to facilitate payment, the City shall provide any necessary tax information.

2. **MUTUAL RELEASES:** In further consideration of this Agreement, each Party on behalf of itself and its respective officers, directors, shareholders, governors, trustees, employees, agents, representatives, subsidiaries, affiliates and other related entities, does mutually release each other Party and that Party's officers, directors, shareholders, governors, trustees, employees, agents, representatives, subsidiaries, affiliates and other related entities from any and all asserted and unasserted claims or other causes of action that the releasing Party may have against the Party being released that arise out of, are related to, or could have been raised related to the Project.

3. **COUNTERPARTS:** This Agreement may be executed in counterparts, which taken together shall form the whole Agreement.

4. **APPLICABLE LAW:** This Agreement shall be interpreted in accordance with the laws of the State of Minnesota, excluding any laws on that would apply the law of another jurisdiction.

5. **NO ADMISSION:** This Agreement is meant as a compromise settlement of disputed claims. Nothing contained in this Agreement shall constitute an admission of liability or be construed against the interest of any Party.

6. **REPRESENTATIONS:** The Parties represent that they: (1) have all necessary approvals to enter into this Agreement without the consent of any other person or entity, (2) have not assigned or transferred the claims being released, and (3) that the persons executing on their behalf have the authority to do so and bind that Party.

7. **ENTIRE AGREEMENT AND MODIFICATION:** This is the full integration of the entire settlement agreement between the Parties. There are no other agreements, representations, or

understandings of any kind, verbal, written or otherwise. This Agreement shall not be modified, altered or amended except by a writing executed by the Party to be bound.

8. **EXECUTION OF NECESSARY DOCUMENTS:** The Parties agree to execute any and all additional documents necessary to effectuate the intent and purposes of this Agreement.

AECOM TECHNICAL SERVICES, INC.

By: _____

Its: _____
Printed Name & Title

Dated: _____

CITY OF EDINA

By: _____

Its: James Hovland – Mayor
Printed Name & Title

Dated: _____

CITY OF EDINA

By: _____

Its: Scott Neal – City Manager
Printed Name & Title

Dated: _____