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June 30, 2017

The Honorable Jesse Armendarez  
Regional Sewerage Program Policy Committee Chair  
City of Fontana  
8353 Sierra Avenue  
Fontana, CA 92335

Mr. Chuck Hays  
Regional Sewerage Program Technical Committee Chair  
Public Works Director  
City of Fontana  
8353 Sierra Avenue  
Fontana, CA 92335

**Re: Regional Contract Negotiations**

Dear Council Member Armendarez and Mr. Hays:

Inland Empire Utilities Agency (IEUA) is addressing this letter to all agencies contracted under the Regional Sewerage Service Agreement (Regional Contract) in the hopes of establishing a process whereby the terms and conditions of the Regional Contract can be renegotiated in earnest. While preliminary discussions of renegotiation have taken place, IEUA hopes that the parties can now implement a more rigorous negotiating process.

The Regional Contract was first executed in January 1973. Prior to that, local agencies by and large had handled their own wastewater treatment. However, during that timeframe, with the implementation of the Clean Water Act, the regulatory framework was changing and treatment compliance was becoming more difficult. Additionally, in 1963 Orange County had filed a lawsuit seeking an adjudication of water rights within the upper Santa Ana River watershed, naming over 2,500 party defendants, including the local agencies who would ultimately become parties to the Regional Contract.

Ultimately, it was decided that these issues were best addressed by consolidating wastewater treatment responsibilities with one entity. While IEUA (Chino Basin Municipal Water District) had not been involved with treatment up to that time, the local agencies determined to consolidate wastewater treatment services, and entered into a series of agreements which vested that authority in IEUA. First, the local agencies agreed to a settlement of the Orange County lawsuit in 1969 whereby the local agencies were dismissed from the lawsuit but agreed to be bound by a physical solution reached between IEUA, Orange County and other municipal defendants. The physical solution, known as the Prado Settlement, called for the delivery of a specified amount of water from the Chino Basin to the Prado Basin. The Prado Settlement also noted that the source of IEUA's contribution would be effluent from treatment facilities serving the local agencies. Soon thereafter the Regional Contract was consummated.



The term of the Regional Contract will lapse in 2023; however, anticipated growth and development within the jurisdictions of contracting agencies has prompted the need for significant and immediate capital improvements to increase treatment capacity. Additionally, regulatory enforcement requires the relocation of operations currently conducted at RP- 2 to the RP-5 site. While the IEUA Board of Directors and staff are prepared to implement this significant undertaking, the financial institutions funding these projects require a long-term, stable and reliable revenue stream in order to issue debt. The remaining short-term of the Regional Contract provides neither the term, reliability or stability needed for long-term financing.

Accordingly, time is of the essence in establishing a commitment between the parties for long-term wastewater treatment services. In order to implement these capital projects, so as to accommodate the contracting agencies' planned capacity requirements, a new long-term agreement must be in place no later than March 2018.

#### SUBJECT MATTER FOR NEGOTIATION

IEUA believes that the subject matter for discussion between the parties can be divided, generally, into two categories: technical issues and policy issues. Examples of technical issues would include the calculation of Equivalent Dwelling Units (EDUs) which are currently calculated under Exhibit J to the Regional Contract. Meter points and responsibility, sewer design standards for collection facilities, and pretreatment programs are also technical in nature.

Policy issues include governance, the authority to establish rates, fees and charges and the process of contract amendment. Also included in this category would be the authority to determine property tax allocation, authority over approval of capital projects, the sale of recycled water and the terms and conditions upon which an agency can withdraw from the Regional Contract. These are examples only and are not intended to be an exhaustive list of issues to be negotiated.

IEUA feels that the negotiation process also affords the perfect opportunity to reconsider the very structure and manner of providing wastewater treatment services to our region. Many wastewater treatment agencies such as the County Sanitation Districts of Los Angeles County and Western Municipal Water District, provide services under the terms of an ordinance as opposed to a contract. IEUA believes that an ordinance provides the best method to deliver wastewater treatment services and can be drafted in such a way to preserve benefits provided under the Regional Contract, including the option to purchase recycled water.

#### SUGGESTED PROCESS

We recommend that each contracting agency establish a negotiating team comprised of one member with policymaking authority and one member with technical expertise. Meetings can be held every two weeks at a designated location beginning on August 15, 2017, until an agreement is reached. We still believe it would be beneficial to all parties to have an independent third-party facilitator help complete the contract negotiation process in a well-organized, efficient and timely manner. IEUA is prepared to offer the names of candidates to serve in that capacity and enter into a contract to provide such services prior to the start of these meetings.

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#### *Water Smart – Thinking in Terms of Tomorrow*



COOPERATION

Renegotiating regional wastewater services will require the cooperation and commitment of all parties. Recently a "Term Sheet" enumerating discussion topics was submitted to IEUA under the auspices of the Regional Technical Committee. It was later determined that several members of that committee were not in support of much of what was put forth in the Term Sheet. The Term Sheet also suggests that some contracting agencies wish to preserve their right to withdraw sewer flows from IEUA treatment facilities. Although the Regional Contract provides for withdrawal under certain terms and conditions, it seems prudent that the member agencies decide whether they intend to withdraw from regional services prior to IEUA incurring significant debt to expand facilities, which may not be needed. Alternatively, the right to withdraw, if preserved, must recognize the withdrawing agency's continuing obligation to the repayment of debt incurred on its behalf and ongoing impacts to existing agencies.

Recently, IEUA undertook the project of evaluating and restructuring how EDUs are calculated under Exhibit J to the Regional Contract. It seems to be the consensus of all contracting parties that this work needs to be done. Carollo Engineers was retained to do this work; however, almost one year into the process, IEUA still awaits information on flows from some of the contracting agencies. We need to improve the level of cooperation if the goals and needs of all the parties are to be met. IEUA seeks to re-initiate the negotiation process so that it may proceed in earnest within the prescribed time limits.

NEXT STEPS

This letter will be included in the next Technical and Policy Committee meeting agendas for discussion.

Respectfully,  
Inland Empire Utilities Agency

  
P. Joseph Grindstaff  
General Manager

cc: Honorable Earl Elrod, City of Chino  
Honorable Kathy Tieg, Cucamonga Valley Water District  
Honorable Peter Rogers, City of Chino Hills  
Honorable Kati Parker, Inland Empire Utilities Agency  
Honorable Paul Eaton, City of Montclair  
Honorable Jim W. Bowman, City of Ontario  
Honorable Debbie Stone, City of Upland  
Jesus Plasencia, City of Chino  
John Bosler, Cucamonga Valley Water District