



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

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Title: Authority to approve Agreed Order and settlement in the amount of \$470,393.75 in the administrative appeal of Vantage Oleochemicals, Inc. v. Metropolitan Water Reclamation District of Greater Chicago, Appeal No. 19B-001, concerning Vantage's 2018 User Charge liability under the User Charge Ordinance for its facility located at 4650 South Racine Avenue, Chicago, Illinois

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Date	Ver.	Action By	Action	Result
1/9/2020	1	Board of Commissioners	Approved	Pass

TRANSMITTAL LETTER FOR BOARD MEETING OF JANUARY 9, 2020

COMMITTEE ON JUDICIARY

Mr. Brian A. Perkovich, Executive Director

Authority to approve Agreed Order and settlement in the amount of \$470,393.75 in the administrative appeal of *Vantage Oleochemicals, Inc. v. Metropolitan Water Reclamation District of Greater Chicago*, Appeal No. 19B-001, concerning Vantage's 2018 User Charge liability under the User Charge Ordinance for its facility located at 4650 South Racine Avenue, Chicago, Illinois

Dear Sir:

On September 19, 2019, the Board of Commissioners authorized the appointment of a hearing officer for the administrative appeal filed by Vantage Oleochemicals, Inc. ("Vantage") concerning its 2018 User Charge liability under the User Charge Ordinance ("Ordinance") for its facility located at 4650 South Racine Avenue, Chicago, Illinois ("Facility").

By way of background, on February 14, 2019, Vantage filed its 2018 User Charge Annual Certified Statement (RD-925) reporting a Net User Charge ("2018 NUC") of \$460,393.75 for the Facility. On March 12, 2019, the District notified Vantage that the 2018 NUC was incorrect and would be increased to \$497,892.71. On May 10, 2019, Vantage appealed this decision to the Director of the Monitoring and Research Department ("M&R"). Upon reviewing Vantage's reasons for appeal, M&R determined that the 2018 NUC would be decreased from \$497,892.71 to \$477,341.27. On August 7, 2019, Vantage petitioned the Board of Commissioners to hear its appeal of M&R's determination in this matter ("Board Appeal"), contending that the 2018 NUC should be \$460,393.75 as originally reported by Vantage. The Board Appeal was filed in a timely manner.

In the Board Appeal, Vantage argued that the District incorrectly calculated Vantage's User Charge liability during the period of July 14-18, 2018, when certain flow meters of Vantage had malfunctioned and incorrectly recorded excessive volumes of water discharging from the Facility. The District's position was that the

Ordinance authorized the District to use these recorded volumes even if the flow meters had in fact malfunctioned because Vantage never notified the District of any such malfunction as it was required to do under the Ordinance.

On November 7, 2019, a Pre-Hearing Conference ("Conference") was held in the Board Appeal before the assigned hearing officer. After the Conference, the parties negotiated and agreed to a settlement wherein Vantage agreed to pay \$470,393.75 for the 2018 NUC, or \$10,000.00 above what was originally reported by Vantage. On December 4, 2019, the assigned hearing officer executed an agreed order ("Agreed Order") approving these terms, subject to the approval of the Board of Commissioners.

Approval of this Agreed Order and settlement in the amount of \$470,393.75 is recommended as it is in the best interests of the District.

Accordingly, it is requested that the Board of Commissioners approve the Agreed Order and settlement in the amount of \$470,393.75 in the administrative appeal of *Vantage Oleochemicals, Inc. v. Metropolitan Water Reclamation District of Greater Chicago*, Appeal No. 19B-001, concerning Vantage's 2018 User Charge liability under the User Charge Ordinance for its facility located at 4650 South Racine Avenue, Chicago, Illinois.

Requested, Susan T. Morakalis, General Counsel, STM:CMM:nm
Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for January 9, 2020

Attachment