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TRANSMITTAL LETTER FOR BOARD MEETING OF SEPTEMBER 6, 2018

COMMITTEE ON JUDICIARY

Mr. John P. Murray, Acting Executive Director

Authority to settle MWRD v. Dust Catchers, Inc. 2012-2017 User Charges in the amount of $40,000.00 and to execute such documents as may be necessary to effectuate settlement

Dear Sir:

In 2015, the District initiated a lawsuit against Dust Catchers captioned *Metropolitan Water Reclamation District of Greater Chicago v. Dust Catchers, Inc.*, 2015 L 012550 in the Circuit Court of Cook County ("Litigation"). The District filed suit to collect user charges from Dust Catchers, a commercial mat-cleaning business, for the years 2012-2015. The suit was eventually amended to include 2016 charges, as well. Dust Catchers denies the material allegations of the suit, including the District's designation of Dust Catchers as a Large Commercial Industrial User ("LCIU"). Dust Catchers vigorously defended the Litigation and after several years, the court granted the District summary judgment in the amount of $83,423.94. The principal amount of such charges was $39,590.06. With penalties and interest, the District calculates the amounts due as of August 2018 to be $97,194.92. Dust Catchers has appealed the judgment to the First District of the Illinois Appellate Court in Appeal Number 1-18-437 ("Appeal").

Since the entry of judgment, and as permitted by law, the District has issued citations to discover assets both to Dust Catchers and its banking institution. Dust Catchers filed for Chapter 11 bankruptcy protection in a suit captioned *In re Dust Catchers*, No. 18-11388. Dust Catchers eventually voluntarily dismissed its Chapter 11 Petition. The District has obtained liens against Dust Catchers' place of business operations at 8801 S. South Chicago Ave, Chicago, IL 60617 ("the Property").

Dust Catchers continues to deny that it is an LCIU and that it owes any user charge. However, Dust Catchers has expressed a desire to avoid the continued cost of litigation and a desire to relocate its business operations, which would require the District's release of its liens. Accordingly, Dust Catchers has offered to voluntarily dismiss its Appeal and pay the District a lump sum of $40,000.00. This amount exceeds the principal amount owed by Dust Catchers. In exchange, the District would release its encumbrances on the Property. In light of Dust Catchers' above-mentioned financial circumstances and desire to relocate, and considering the cost and uncertainty of the outcome of the Appeal, the Law and M&R Departments find the proposed settlement offer to be reasonable and acceptable.

Therefore, it is recommended that the Board of Commissioners approve the settlement of all user charge matters related to Dust Catchers for the years 2012 through 2017 in the amount of $40,000.00 upon the terms and conditions generally set forth herein and authorizes the General Counsel to execute such documents as may be necessary to effectuate settlement.

Requested, Susan T. Morakalis, General Counsel, STM:BO'C:JTM:nm
Recommended, John P. Murray, Acting Executive Director

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Respectfully Submitted, Mariyana T. Spyropoulos, Chairman, Committee on Judiciary
Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for September 6, 2018