



Agenda Date: 12/5/2018

Agenda Placement: 7H

Napa Sanitation District Board Agenda Letter

TO: Honorable Board of Directors
FROM: Timothy Healy - General Manager
NS-Technical Services/Engineer
REPORT BY: Andrew Damron, Technical Services Director - 707-258-6000
SUBJECT: Authorize Execution of Agreement for 901 Kaiser Road

RECOMMENDATION

Authorize the General Manager to sign the Agreement for Deferred Payment of Special Capacity Charge with KB Napa Holdings LLC, owner of 901 Kaiser Road.

EXECUTIVE SUMMARY

The property located at 901 Kaiser Road (APN 046-600-012) is owned by KB Napa Holdings LLC. The property includes a single building, known as the Bedford Barrel Warehouse, that is currently occupied by Constellation Brands, Inc. Constellation is operating under an Industrial User Permit issued by NapaSan dated June 1, 2018. When the building was constructed in 1985, 2.11 equivalent dwelling units (EDU) of sewer capacity was purchased. Constellation's permitted capacity for industrial use is 243.10 EDU. The permitted capacity includes an allocated capacity (based on historical water use) to Constellation that does not run with the land.

The Board adopted Resolution 17-008 at the May 17, 2017 meeting. Resolution 17-008 allows for deferred purchase of special capacity credits by entering into an agreement based on the terms listed in the resolution. The property owner wishes to purchase 240.99 EDU and has signed the attached agreement.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

None.

BACKGROUND AND DISCUSSION

NapaSan Code requires payments of capacity charges when new connections are made to the sewer system, or when there is a change in use or change in strength of discharge that results in increased loading to the sewer system and treatment plant. Commercial buildings are charged based on the building square footage and the type of use (retail, office, restaurant, etc.), while industrial customers (wineries, food manufacturers, etc.) are charged based on the measured strength and flow of the wastewater.

A few years ago, NapaSan identified a number of facilities connected to the sewer system that housed unpermitted industrial users. The previously unpermitted users have since obtained industrial user permits that give some of the users a special capacity entitlement that gives the user, but not the property owner, a right to discharge, without paying an additional capacity charge.

The owners of the properties on which the previously unpermitted industrial users operate desired to have capacity for other industrial users that may occupy their properties in the future. These property owners asserted that NapaSan's capacity charge policies were unclear at the time of construction of their buildings and therefore prevented them from using the opportunity to purchase capacity for potential industrial users at the then-current rates. Therefore, the owners asserted that it would be "unjust and inequitable" to apply the current capacity charge to their buildings and seek relief in the form of a program to allow temporarily similarly situated property owners to purchase capacity, up to the capacity granted in industrial user permits, at the rates in effect at the time their buildings were constructed, plus interest.

Resolution 17-008 established a program to address the issues identified for the specific class of building owners, through the establishment of specific criteria in the program. It was not the intention to establish a program that provides refunds to building owners who have already purchased capacity, but to provide a program that brings users and buildings into compliance with NapaSan Code and policy. The resolution set the program to be available through December 31, 2018 which allowed building owners sufficient time to secure financing for any capacity charges intended to be purchased. Any capacity charges purchased after the expiration date of this program would be subject to the regular capacity charge fee in place at that time.

SUPPORTING DOCUMENTS

- A . Agreement for Deferred Payment of Special Capacity Charge
- B . Resolution 17-008

Napa Sanitation District: Approve

Reviewed By: Timothy Healy