



Date: November 4, 2015

TO: LOCSD Board of Directors

FROM: Kathy A. Kivley, General Manager

SUBJECT: **Agenda Item 12F – Board Meeting Date: December 3, 2015**
Authorize the Transfer of General Fund Contingency Monies
from the Solid Waste Fund 650

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DESCRIPTION

Discussion regarding potential uses for the Solid Waste Reserve.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Board adopt the following motion:

Motion: I move that the Board authorize staff to prepare a Resolution for adoption authorizing the transfer of the remaining General Fund Contingency monies for the Solid Waste Fund 650 (requires four [4] votes) effective July 1, 2014 consistent with this action and return at the next Board Meeting for adoption.

DISCUSSION

On October 15, 2013, the Honorable Robin L. Riblet, Judge, United States Bankruptcy Court, Central District of California, Northern Division issued an order granting the motion for approval of the Second Amended Plan for Adjustment of Debts (Amended Plan). The Amended Plan as stipulated to by all the parties resolves all the lawsuits and claims arising from the District's former Wastewater Project. On December 23, 2013, the District received funding from the County of San Luis Obispo (County) to assist with prorated payment amounts due to the general unsecured Class 8 creditors. The County paid the District, \$2.8 million for the Solid Waste Franchise Agreement and Operations (Franchise). On December 31, 2013, the District officially transferred the Franchise to the County.

District history reflects the Solid Waste Reserve was established by Resolution No. 2001-22. With the sale of the Franchise to the County, it is appropriate for the Board to discuss the future use of the money remaining in General Contingency Reserve for Solid Waste. This item was before the Financial Advisory Committee (FAC) on June 2, 2014, as part of the FY 2014/2015 budget process with the resulting recommendation of "establishing a policy to use the Solid Waste Reserves". This item was additionally discussed by the FAC on May 14, 2015. The FAC recommended the funds go to "Fund 500 or Fund 600 to improve Bond rating". During these discussions there were several options suggested by various committee members, however the options were not included in the recommendations to the Board.

The Board has multiple alternatives:

- Select a Reserve in another fund authorizing a transfer to increase the balance
- Deposit the Reserve into the WW Improvement Bond Reserve Fund to reduce the outstanding obligation to improve the Bond rating
- Transfer the Reserve to another fund and set the funds aside for a future match for grant-funded projects
- Transfer the funds and designate the Reserve balance for a specific capital project
- Transfer the funds and establish a new Reserve designated to fund one-time special projects
- Rename the Reserve, transfer from Fund 650, and discuss at a later date

Whatever decision the Board makes, there is one important consideration. This is one-time only revenue and fiscally it is never recommended to use one time monies to cover on-going operations. The Special District Reserve Guidelines state: "One-time revenues should be used for one-time expense. If a special district gets one-time revenues and uses it to provide additional full-time positions or to fund on-going operating costs, it may lead to a budget crisis when the one-time funding runs out." Should the decision be to use one-time revenue for operational shortfalls, this decision becomes problematic. The question then becomes what monies the District will use to fund these same on-going operational shortfalls in future years.

According to the Government Finance Officers Association: "Examples of one-time revenue include: infrequent sales of government assets, bond refunding savings, infrequent revenues from development and grants. This one-time revenue may be available for more than one year, but are not expected to be non-recurring." The Association goes on to say: "Examples of expenditures which governments may wish to use one-time revenue include start-up costs, stabilization (e.g. to cover expenditures that temporarily exceed revenues), early debt retirement and capital purchases".

It is important to also note that the Board should make a decision as the FY 2013/2014 audit reflects a finding associated with the resolution regarding the use of this Reserve. According to Resolution No 2012-09 approved June 7, 2012, Section 5, Transfers: "Pursuant to Government Code Section 61112(c), the District Board of Directors may only transfer reserve funds for purposes other than the purposes outline in Section 1, above, by a four-fifths (4/5) vote of the total membership of the Board of Directors and upon a finding that the reserves are no longer required for the designated purpose. Reserve transfers are limited to funding shortfalls in other related budget categories of the particular service and to funding shortfalls in administrative services budget." Should the Board decide on one of the options outlined above, it is necessary to modify or rescind Resolution No. 2012-09 Section 5, and adopt a new Section 5 consistent with the statements by the Government Finance Officers Association.

Failure to transfer the funds from Fund 650 for another use will result in an audit finding for FY 2014/2015.

FINANCIAL IMPACT

At the time of the preparation of this report, the Solid Waste Contingency Reserve balance is \$167,021. Once the FY 2014/2015 audit is complete, all dollars verified and potential adjustments completed, staff will have the final audited number. Staff does not anticipate any material change in the balance as reflected.