

1 Bill No. G-13-02-32

2 GENERAL ORDINANCE NO. _____

3
4 AN ORDINANCE AMENDING SECTION 51.074
5 WHOLESALE CONTRACT CUSTOMERS – UNIT
6 AND OTHER CHARGES CITY OF FORT WAYNE,
7 CODE OF ORDINANCES

8 WHEREAS, the City of Fort Wayne, Indiana ("City") has executed
9 written contracts with various entities to provide wholesale sewage
10 conveyance and treatment service ("Contracts"); and

11 WHEREAS, these Contracts provide for needs that are of value and
12 benefit to both the City and the Wholesale Contract Customer that allow the
13 City to charge the Wholesale Contract Customer rate as set forth in Section
14 51.074 of the City of Fort Wayne Code of Ordinances, a rate that is typically
15 lower than customers that do not have Contracts; and

16 WHEREAS, the ability to receive conveyance and treatment services
17 as a Wholesale Contract Customer is only under the terms and conditions of
18 the Contract between the City and customer; and

19 WHEREAS, at the expiration or termination of a Contract, those
20 mutually beneficial provisions no longer exist and, among other things, will
21 not provide for a certain and sustainable revenue stream to justify the high
22 cost of investing or insuring the recovery of investments already made by the
23 City to provide sufficient wholesale customer's anticipated capacity needs ;
24 and

25 WHEREAS, due to health and safety concerns, the City will continue
26 to convey and treat sewage that is conveyed to the City's Water Pollution
27 Control Plant/Wastewater Treatment Facility from a Wholesale Contract
28 Customer even when such a Contract has expired or been terminated; and

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2 **WHEREAS**, an ordinance is needed to identify the rates, rules and
3 regulations applicable to any Wholesale Contract Customer after its Contract
4 has expired or terminated ; and
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6 **WHEREAS**, any customer receiving conveyance and treatment
7 service from the City under a Contract that subsequently expires or
8 terminates shall, upon the expiration or termination of the Contract, become
9 a non-wholesale contract customer and shall be subject to the same rates,
10 rules and regulations as non-contract industrial, commercial, institutional or
11 governmental customers of the City, whichever class of user best applies to
12 that customer.

13 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON**
14 **COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

15 **SECTION 1.** That the Common Council of the City of Fort Wayne,
16 Indiana has determined that due to the mutually beneficial terms and
17 conditions to the City and the Wholesale Contract Customer provided in a
18 contract, the ability to receive conveyance and treatment service as a
19 Wholesale Contract Customer is only under the condition that a contract is in
20 place between the City and customer; that an expired or terminated contract
21 does not provide for a certain and sustainable revenue stream to justify the
22 cost of investing or insuring the recovery of investments already made by the
23 City to provide sufficient Wholesale Contract Customer's anticipated capacity
24 needs; that due to health and safety concerns, the City will continue to
25 convey and treat sewage from a Wholesale Contract Customer when its
26 contract has expired or been terminated and the customer is no longer a
27 Wholesale Contract Customer; that applying existing published rates, rules
28 and regulations of industrial, commercial, institutional or governmental
29 customers to any customer receiving conveyance and treatment services
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1 upon expiration or termination of its Contract is the most reasonable way to
2 determine and provide for the proper rates, rules and regulations for service
3 to that customer; and the City's tariff rates are just and equitable; and
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5 **SECTION 2.** The following section of Section 51.074 of the Fort
6 Wayne Code of Ordinances is hereby amended to adjust the rates and
7 charges applicable to a Wholesale Contract Customer after expiration or
8 termination of its Contract.

9 **Section 51.074 (H) *Expiration or Termination of Wholesale Contract***
10 ***Customer's Contract.***

11 Any customer receiving conveyance and treatment services from the
12 City that has a contract that has expired or been terminated shall, upon the
13 expiration or termination of its contract, pay all fees, charges and penalties
14 applicable to Industrial, Commercial, Institutional or Governmental
15 customers, with the customer paying the Out of City rate, unless the
16 customer's service area is wholly contained within the corporate boundaries
17 of the City of Fort Wayne.

18 **SECTION 3.** Except for the foregoing amendments, the remaining
19 sections of Section 51.074 of the City of Fort Wayne, Indiana, Code of
20 Ordinances shall remain in full force and effect.
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1 **SECTION 4.** This Ordinance shall be in full force and effect from and
2 after its passage and any and all necessary approval by the Mayor.
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5 _____
6 Council Member

7 Approved as to form and legality

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11 Carol Helton, City Attorney
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Interoffice Memo

Date: February 22, 2013
To: Common Council Members
From: Lindsey Jackson

RE: An Ordinance Amending Section 51.074 Wholesale Contract Customers – Unit and Other Charges

If approved, this ordinance would clarify that customers who had a contract with City Utilities for conveyance and treatment of their sewage and whose contract has expired or terminated shall be subject to the same rates, rules and regulations as retail, industrial, commercial, institutional, or governmental customers of the City, whichever class of user applies to the customer.

Implications of not being approved:

A contract is required to receive the wholesale rate. Should this Ordinance not be approved, City Code will contain no provision that provides clear direction to City Utilities regarding rates to charge formerly wholesale contract customers when their contracts are no longer in effect.

Without an ordained rate, billing disputes will become likely. This ordinance is needed to identify the rates, rules and regulations applicable to any customer that continues to receive sewage treatment service after their contract has expired or been terminated.

If Prior Approval is being Requested, Justify: NA

This project was advertised NA

The contract for Resolution # _____ was awarded to NA

The cost of said project This Ordinance does not involve cost. Rather it clarifies how City Utilities will collect revenue to cover the expenses associated with providing sewage conveyance and treatment services to a particular class of customers in particular circumstances, those being: expiration or termination wholesale sewage treatment contract.

cc: Diane Brown
File