



WATER POLLUTION CONTROL

MEMORANDUM

To: Gregg Mandsager, City Administrator

CC: Nancy Lueck, Finance Director
Fran Donelson, Secretary

From: Jon Koch, WPCP Director

Date: May 5th, 2014

Re: Request for Heinz 5th Sewer Use Rate Extension Approval

INTRODUCTION: Due to the latest sewer rate adjustment, the contracted sewer pricing with HJ Heinz needs to be updated to reflect current and future rates. Heinz has agreed to and signed the proposed agreement for sewer user charges through December 30, 2017. Council must approve the request for agreement extension to begin billing at the adjusted rates.

BACKGROUND: Starting in 2003, the City and Heinz North America entered into an agreement to establish rates and charges for the discharge of wastewater from the Heinz facility. This was and continues to be mutually beneficial to both parties to avoid large fluctuations in fees from month to month. The agreement calculates a fee for sewer use based on the previous year's actual flow and biological loading. The 5th extension agreement shifts to a calendar year billing cycle per a request from Heinz.

RECOMMENDATION/RATIONALE: Staff recommends approving the request for the 5th Extension To Agreement-Wastewater Service Rate between the City of Muscatine and Heinz North America.

BACKUP INFORMATION:

1. 5th Extension To Agreement proposal

FIFTH EXTENSION TO AGREEMENT
WASTEWATER SERVICE AND RATES

THIS AGREEMENT, made and entered into this 30th day of April, 2014 by and between the **City of Muscatine, Iowa**, a municipal corporation organized and existing under the laws of the State of Iowa, hereinafter referred to as the **City**, and **Heinz North America, Division of H.J. Heinz Company, L.P.**, a limited partnership organized and existing under the laws of the State of Delaware hereinafter referred to as **Heinz**.

WITNESSETH: THAT WHEREAS, Heinz currently owns and operates an industrial facility located in the City of Muscatine that discharges wastewater to the sanitary sewerage system of the City of Muscatine, and

WHEREAS, the City of Muscatine and Heinz entered into an agreement to establish rates and charges and other applicable provisions relating to the discharge of wastewater from the Heinz facility to the City's sanitary sewerage system with the term of said agreement being from July 1, 2003 through April 30, 2006, and subsequently the agreement was extended for the period May 1, 2006 through April 30, 2008, and subsequently the agreement was extended for the period May 1, 2008 through April 30, 2009, and subsequently the agreement was extended for the period May 1, 2009 through April 30, 2013, and subsequently the agreement was extended for the period May 1, 2013 through April 30, 2014.

WHEREAS, the City and Heinz have determined it appropriate to enter into an extension to the existing agreement for the period May 1, 2014 through December 30, 2017.

NOW, THEREFORE, it is agreed that the Agreement for Wastewater Service and Rates shall be amended by the following additions and modifications:

1. Under Paragraph 1.2 of **ARTICLE 1. SEWER USER CHARGES** following the Annual Wastewater Charge table for the period May 1, 2012 through April 30, 2013, add the following:

| Table #1 | | | | | | | |
|---|---------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| Annual Wastewater Charge for May 1, 2013 to April 30, 2014 (Paid 5/14-12/14) | | | | | | | |
| Annual Flow Units (100 CF) | | | | | | | |
| Annual Aggregate (CBODs lbs.) | 0 to 150,000 | 150,001 to 200,000 | 200,001 to 250,000 | 250,001 to 275,000 | 275,001 to 300,000 | 300,001 to 325,000 | 325,001 to 350,000 |
| 0 to 600,000 | \$310,777 | \$348,443 | \$390,911 | \$462,773 | \$507,301 | \$551,941 | \$597,380 |
| 600,001 to 700,000 | 321,427 | 348,443 | 390,911 | 462,773 | 507,301 | 551,941 | 597,380 |
| 700,001 to 800,000 | 332,453 | 359,479 | 390,911 | 462,773 | 507,301 | 551,941 | 597,380 |
| 800,001 to 900,000 | 343,500 | 370,516 | 390,911 | 462,773 | 507,301 | 551,941 | 597,380 |
| 901,000 to 1,000,000 | 354,537 | 381,553 | 392,103 | 462,773 | 507,301 | 551,941 | 597,380 |
| 1,000,001 to 1,100,000 | 366,657 | 392,590 | 403,049 | 462,773 | 507,301 | 551,941 | 597,380 |
| 1,100,001 to 1,200,000 | 376,610 | 403,626 | 419,606 | 462,773 | 507,301 | 551,941 | 597,380 |
| 1,200,001 to 1,300,000 | 387,647 | 414,663 | 436,160 | 479,232 | 507,301 | 551,941 | 597,380 |
| 1,300,001 to 1,400,000 | 398,683 | 425,699 | 452,715 | 495,883 | 523,856 | 551,941 | 597,380 |

| Table #2 | | | | | | | |
|--|---------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| Annual Wastewater Charge for May 1, 2014 to December 30, 2014 (Paid 1/15-12/15) | | | | | | | |
| (block used will be based on 4/14-12/14 ave. per month x 12 months) | | | | | | | |
| Annual Flow Units (100 CF) | | | | | | | |
| Annual Aggregate (CBODs lbs.) | 0 to 150,000 | 150,001 to 200,000 | 200,001 to 250,000 | 250,001 to 275,000 | 275,001 to 300,000 | 300,001 to 325,000 | 325,001 to 350,000 |
| 0 to 600,000 | \$320,100 | \$358,896 | \$402,638 | \$476,656 | \$522,520 | \$568,499 | \$615,301 |
| 600,001 to 700,000 | 331,070 | 358,896 | 402,638 | 476,656 | 522,520 | 568,499 | 615,301 |
| 700,001 to 800,000 | 342,437 | 370,263 | 402,638 | 476,656 | 522,520 | 568,499 | 615,301 |
| 800,001 to 900,000 | 353,805 | 381,631 | 402,638 | 476,656 | 522,520 | 568,499 | 615,301 |
| 901,000 to 1,000,000 | 365,173 | 393,000 | 403,866 | 476,656 | 522,520 | 568,499 | 615,301 |
| 1,000,001 to 1,100,000 | 377,667 | 404,368 | 415,140 | 476,656 | 522,520 | 568,499 | 615,301 |
| 1,100,001 to 1,200,000 | 387,908 | 415,735 | 432,194 | 476,656 | 522,520 | 568,499 | 615,301 |
| 1,200,001 to 1,300,000 | 399,276 | 427,103 | 449,245 | 493,609 | 522,520 | 568,499 | 615,301 |
| 1,300,001 to 1,400,000 | 410,643 | 438,470 | 466,296 | 510,759 | 539,572 | 568,499 | 615,301 |

| Table #3 | | | | | | | |
|--|---------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| Annual Wastewater Charge for January 1, 2015 to December 30, 2015 (Paid 1/16-12/16) | | | | | | | |
| Annual Flow Units (100 CF) | | | | | | | |
| Annual Aggregate (CBODs lbs.) | 0 to 150,000 | 150,001 to 200,000 | 200,001 to 250,000 | 250,001 to 275,000 | 275,001 to 300,000 | 300,001 to 325,000 | 325,001 to 350,000 |
| 0 to 600,000 | \$329,703 | \$369,663 | \$414,717 | \$490,956 | \$538,196 | \$585,554 | \$633,760 |
| 600,001 to 700,000 | 341,002 | 369,663 | 414,717 | 490,956 | 538,196 | 585,554 | 633,760 |
| 700,001 to 800,000 | 352,710 | 381,371 | 414,717 | 490,956 | 538,196 | 585,554 | 633,760 |
| 800,001 to 900,000 | 364,419 | 393,080 | 414,717 | 490,956 | 538,196 | 585,554 | 633,760 |
| 901,000 to 1,000,000 | 376,128 | 404,790 | 415,982 | 490,956 | 538,196 | 585,554 | 633,760 |
| 1,000,001 to 1,100,000 | 388,997 | 416,499 | 427,594 | 490,956 | 538,196 | 585,554 | 633,760 |
| 1,100,001 to 1,200,000 | 399,546 | 428,207 | 445,160 | 490,956 | 538,196 | 585,554 | 633,760 |
| 1,200,001 to 1,300,000 | 411,255 | 439,916 | 462,722 | 493,609 | 538,196 | 585,554 | 633,760 |
| 1,300,001 to 1,400,000 | 422,963 | 451,624 | 480,285 | 510,759 | 539,572 | 585,554 | 633,760 |

| Table #4 | | | | | | | |
|--|---------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| Annual Wastewater Charge for January 1, 2016 to December 30, 2016 (Paid 1/17-12/17) | | | | | | | |
| Annual Flow Units (100 CF) | | | | | | | |
| Annual Aggregate (CBODs lbs.) | 0 to 150,000 | 150,001 to 200,000 | 200,001 to 250,000 | 250,001 to 275,000 | 275,001 to 300,000 | 300,001 to 325,000 | 325,001 to 350,000 |
| 0 to 600,000 | \$339,594 | 4380,753 | \$427,159 | 4505,685 | \$554,341 | \$603,121 | \$652,773 |
| 600,001 to 700,000 | 351,232 | 380,753 | 427,159 | 505,685 | 554,341 | 603,121 | 652,773 |
| 700,001 to 800,000 | 363,291 | 392,812 | 427,159 | 505,685 | 554,341 | 603,121 | 652,773 |
| 800,001 to 900,000 | 375,352 | 404,873 | 427,159 | 505,685 | 554,341 | 603,121 | 652,773 |
| 901,000 to 1,000,000 | 387,412 | 416,933 | 428,462 | 505,685 | 554,341 | 603,121 | 652,773 |
| 1,000,001 to 1,100,000 | 400,667 | 428,994 | 440,422 | 505,685 | 554,341 | 603,121 | 652,773 |
| 1,100,001 to 1,200,000 | 411,532 | 441,053 | 458,515 | 505,685 | 554,341 | 603,121 | 652,773 |
| 1,200,001 to 1,300,000 | 423,592 | 453,113 | 476,604 | 523,670 | 554,341 | 603,121 | 652,773 |
| 1,300,001 to 1,400,000 | 435,652 | 465,173 | 494,694 | 541,865 | 572,432 | 603,121 | 652,773 |

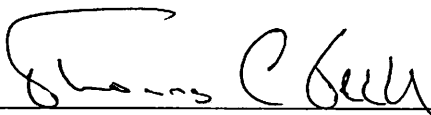
Table #5
Annual Wastewater Charge for January 1, 2017 to December 30, 2017 (Paid 1/18-12/18)
Annual Flow Units (100 CF)

| Annual Aggregate (CBODs lbs.) | 0 to 150,000 | 150,001 to 200,000 | 200,001 to 250,000 | 250,001 to 275,000 | 275,001 to 300,000 | 300,001 to 325,000 | 325,001 to 350,000 |
|--------------------------------------|---------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| 0 to 600,000 | \$349,782 | \$392,176 | \$439,974 | \$520,855 | \$570,972 | \$621,214 | \$672,356 |
| 600,001 to 700,000 | 361,769 | 392,176 | 439,974 | 520,855 | 570,972 | 621,214 | 672,356 |
| 700,001 to 800,000 | 374,190 | 404,597 | 439,974 | 520,855 | 570,972 | 621,214 | 672,356 |
| 800,001 to 900,000 | 386,612 | 417,019 | 439,974 | 520,855 | 570,972 | 621,214 | 672,356 |
| 901,000 to 1,000,000 | 399,035 | 429,441 | 441,315 | 520,855 | 570,972 | 621,214 | 672,356 |
| 1,000,001 to 1,100,000 | 412,687 | 441,864 | 453,635 | 520,855 | 570,972 | 621,214 | 672,356 |
| 1,100,001 to 1,200,000 | 423,878 | 454,285 | 472,270 | 520,855 | 570,972 | 621,214 | 672,356 |
| 1,200,001 to 1,300,000 | 436,300 | 466,707 | 490,902 | 539,380 | 570,972 | 621,214 | 672,356 |
| 1,300,001 to 1,400,000 | 448,721 | 479,128 | 509,535 | 558,121 | 589,605 | 621,214 | 672,356 |

2. Under **ARTICLE 6. TERMS OF AGREEMENT** following Paragraph 6.10, add the following:
"6.11 On or before July 15th, 2017, the City shall present to Heinz an initial proposal for an extension of the wastewater service and rates agreement. If no extension to the agreement is approved on or before December 1, 2017, the agreement shall terminate on December 31, 2017, and wastewater charges and rates for the Heinz facility shall be those applicable under the City of Muscatine's sewer user charge ordinance for users whose rates are not established by agreement."
3. Except as modified herein, the Agreement for Wastewater Service and Rates shall remain in full force and effect for the term of this Fifth Extension of Agreement Wastewater Service and Rates.

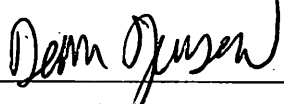
**HEINZ NORTH AMERICA,
DIVISION OF H.J. HEINZ COMPANY, L.P.**

CITY OF MUSCATINE, IOWA

By 
Title FACORY MANAGER
Date 4/30/14

By _____
Title Mayor
Date _____

Attest:

By 
Title EAS Mgr
Date 4/30/14

Attest:

By _____
Title City Clerk
Date _____