



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
City Attorney	Nina P. Williams - City Attorney	February 4, 2025

AGENDA ITEM

Approval of Release and Settlement Agreement between Plaintiffs Town of Poncha Springs, Tailwind Group, LLC and Full Matters, LLC and Defendant City of Salida

BACKGROUND

In 2023, the Town of Poncha Springs, along with two developers (Tailwind Group, LLC and Full Matters, LLC), brought a lawsuit against the City of Salida. The lawsuit was in reaction to the City's responsible actions to protect the community-at-large regarding serious health and safety issues that may have otherwise resulted from overflowing sewage throughout the region.

For the last seven plus years, the City notified - and then warned - the Town (as well as the Plaintiff Developers) of the City's concerns regarding pipeline capacity due to the rapid growth approved by Poncha Springs. In 2018, engineering Providence Infrastructure Consultants established that Interceptor capacity was approaching critical flow, and that the anticipated development and current rate of growth within the Poncha Springs Service Area necessitated the need to upsize the sanitary sewer infrastructure within the next few years.

In 2022, due to these imminent capacity limitations, and no response or commitment by the Town and Developer Plaintiffs to provide a solution, the City and its Public Works Department had no choice but to not approve new sewer system connections until: (1) Sewer IGAs (between the City and Town) were renegotiated; or (2) the Developer Plaintiffs provided off-site improvements to address sewer capacity. After the Plaintiffs' failure to move forward with either option, the City Council, through Ordinance 2023-09, imposed a moratorium on sewer system connection applications for those properties benefitting from the Poncha Interceptor and affected by its noted capacity limitations.

The City is relieved that all parties have finally agreed to be part of the solution related to sewer line capacity and the capital infrastructure upgrades required as a result of significant new development. The attached Release and Settlement Agreement reflects those commitments by all parties.

Please note that pursuant to this Release and Settlement Agreement, the City agrees to execute Amended Sewer Line Extension and Connection Agreements as to both Developer Plaintiffs' first 310 units. You will find those 2 applicable agreements at the end of this packet item. Such agreements should be *conditionally approved*, subject to final approval as to form and completeness by the City Attorney and Public Works Director.

RECOMMENDATION

Staff recommends approval of the Release and Settlement Agreement between the parties, as the document reflects the City's intended terms as well as Council's goal to resolve this matter between the neighboring communities.

MOTION

A City Councilmember should state "*I move to approve the Release and Settlement Agreement between Plaintiffs Town of Poncha Springs, Tailwind Group, LLC and Full Matters, LLC and Defendant City of Salida, and conditionally approve the 2 Sewer Line Extension and Connection Agreements with the Developer Plaintiffs, subject to final approval as to form and completeness by the City Attorney and Public Works Director,*" followed by a second and a roll call vote.