

Motion

I hereby move that the following motion be approved:

20-02. That pursuant to Tacoma Municipal Code 1.06.226 the Director of Utilities is authorized to cancel up to \$392,187.22 of the amounts owed to TPU by Advanced Stream, Inc. to ensure that the transfer of operational control of the Click! Network does not interfere with customer access to the internet and email and voice services, and to improve the viability and sustainability of the transfer by resolving certain litigation related to the transfer.



Board Action Memorandum

TO: Public Utility Board
COPY: Charleen Jacobs, Director and Board Offices
FROM: Jackie Flowers, Director of Utilities
MEETING DATE: Requested Board Meeting Date
DATE: April 10, 2020

SUMMARY: Request that the Tacoma Public Utility Board approve the reduction of the total outstanding account balance of Advanced Stream, Inc. of \$672,799.11 by \$284,187.22 and \$108,000 for a total reduction of \$392,187.22, leaving a remaining outstanding account balance in the amount of \$280,611.89.

BACKGROUND: I recommend a reduction of the outstanding account balance of Advanced Stream, Inc. that is due and owing to Click! Network by a total of **\$392,187.22**, leaving a remaining outstanding account balance of **\$280,611.89**. Pursuant to TMC 1.06.226, the Board upon recommendation of the Director of Utilities, may authorize the cancelation of amounts owing. The recommended cancelation is intended to minimize any impact during this public health emergency to Advanced Stream customers from the transfer of operational control of the Click! Network to Rainier Connect. A reduction of the outstanding account balance will, among other things, allow the City Attorney to approve a settlement agreement with Advanced Stream that will ensure that internet service is not interrupted, enable Advanced Stream customers to continue to use their existing modems, and protect e-mail and voice services for a period of time long enough to allow those customers to obtain a new service provider. Additionally this settlement agreement will end all litigation brought by Advanced Stream and Mitchell Shook regarding the process for disposal of surplus property and the transfer of operational control of the Click! Network to Rainier Connect North. Approval of the reduction would bring value to the Utility by reducing the on-going costs of litigation, lessening the uncertainty regarding the outcome of that litigation, removing obstacles to the successful transfer of operational control, and maintaining the viability of the long-term use of the Tacoma Power Commercial Network by Rainier Connect. The settlement agreement is on file with the Clerk.

ARE THE EXPENDITURES AND REVENUES PLANNED AND BUDGETED? NA.

IF THE EXPENSE IS NOT BUDGETED, PLEASE EXPLAIN HOW THEY ARE TO BE COVERED.

IF THE ACTION REQUESTED IS APPROVAL OF A CONTRACT, INCLUDE LANGUAGE IN RESOLUTION AUTHORIZING \$200,000 INCREASE IN ADMINISTRATIVE AUTHORITY TO DIRECTOR? No.

ATTACHMENTS: None.

CONTACT: Jackie Flowers, Director of Utilities