

ATTACHMENT A

PROGRAM DESCRIPTION AND REQUIREMENTS

On July 1, 2013, the updated Phase II Small MS4 Permit took effect and Monterey County has begun to implement a number of new program elements. The Permit applies only to urbanized, densely populated areas of the County, but the new Permit boundary, based on recently available 2010 census data, expanded significantly. Over 150 new programmatic elements are mandated; each is scheduled to become effective in one of the next five years of the permit term.

MRSWMP Participation Fees: \$160,000 is requested for continued participation in the Monterey Regional Storm Water Management Program (MRSWMP).

Monterey County has been a participant in the MRSWMP since its inception in 2003 with other Phase II municipalities of the Monterey Peninsula. In February 2014, a \$160,000 Budget Augmentation was requested to continue Monterey County's participation in the MRSWMP Group through FY 2014-15. The MRSWMP FY 2014-15 operating budget of \$402,939 was approved on June 11, 2014; the budget is unchanged over the FY 2013-14 budget with the exception of \$11,000 that was added to complete a desktop analysis of monitoring data that MRSWMP has collected over the past 10-12 years.

Most of the MRSWMP program costs are distributed in proportion to the population of each of the participating entities; Monterey County's share will be approximately \$160,000, slightly less than its 43% share of the population. The Program's final requirements have yet to be resolved with the Central Coast Regional Water Quality Control Board (RWQCB), including the final cost-share agreement between the Participants. It is anticipated that a final cost share agreement will be approved by the MRSWMP Management Committee in July 2014.

Impact to County if Not Funded

Monterey County entered into a Memorandum of Agreement (MOA) with MRSWMP participating entities (Cities of Pacific Grove, Monterey, Seaside, Sand City, Del Rey Oaks, Marina, and Carmel-by-the-Sea) through Board action on November 5, 2013. The MOA provides for an "economy of scale" cooperative partnership that allows all participants to more efficiently and economically meet compliance requirements. Should the Board decide not to fund the MRSWMP program in FY 2014-15, the County would be in default of the terms of this Agreement. At current staffing levels, the County would be unable to complete Permit-mandated program elements currently performed by MRSWMP. The County would assume responsibility for creating its own Public Education and Public Outreach program, and developing and implementing a monitoring program that will meet FY 2014-15 requirements. On a broader scale, it is unclear whether the remaining MRSWMP Participants would be able to fund the County's share of program costs, placing the viability of the regional storm water program in jeopardy.

Storm Water Monitoring Program and Lab Fees: \$32,000 is requested to cover lab fees associated with Phase II Permit-mandated monitoring of outfalls. At the time that the Budget Augmentation Request was prepared for this item, the RWQCB had not completed consultations

with Permittees to discuss monitoring requirements for FY 2014-15. On May 7, 2014, RWQCB staff met with MRSWMP to discuss these requirements. The RWQCB expects Permittees to complete a desktop analysis of available monitoring data this year and begin a comprehensive monitoring program in FY 2015-16. While written confirmation has not been issued by the RWQCB, it is expected to be issued in July after its consultations with other Permittees has been completed. The desktop analysis will be performed by the MRSWMP on behalf of its Participants. This analysis accounts for the \$11,000 increase in program costs over the MRSWMP FY 2013-14 budget and will be funded by all Participants.

In addition to the desktop analysis, Permittees are required to design and implement monitoring programs that meet minimum requirements for several program areas including an outfall survey of the County's storm drain system to detect illicit discharges. Of the \$200,000 originally requested in February, \$32,000 is currently required for lab fees for the illicit discharge survey. Additional funding will be needed in FY 2015-16 to fund the full monitoring program that will be determined by the RWQCB.

Should the Board decide not to fund the Storm Water Monitoring Program for FY 2014-15, lab analysis of collected samples would not be funded, placing the County at risk of non-compliance with its Permit and opening the door for enforcement action by the State and potential third-party lawsuits. It should be noted that as a Permit requirement, the Storm Water Monitoring Program and related mandates do not apply under Proposition 1A prohibitions against unfunded State mandates, and the State Water Resources Control Board is authorized to levy fines for non-compliance at a rate of up to \$10,000 per day per occurrence. Additionally, non-compliance issues pose a significant threat of third-party lawsuits.

Street Sweeping Program: \$150,000 is requested to expand the Street Sweeping Program into the County's newly designated urbanized and permitted areas. The County's Phase II Small MS4 Municipal General Permit applies to the urbanized areas of Monterey County as defined by the U.S. Census Bureau and to areas determined to be of higher risk of generating pollutants as determined by the RWQCB. The 2013 Permit significantly expanded the area under its jurisdiction, from 20 square miles under the 2003 Permit to 75 square miles. Additional funding is requested to continue sweeping County-maintained streets within its Permitted boundary a minimum of two times per year. County-maintained roads within the Permitted area have increased from 225 linear miles to 324 miles, a 44% increase resulting in an additional 396 miles of sweeping required every year. The \$150,000 increase in funding is intended only to meet minimum Permit requirements and maintain the minimum level of service throughout the entire permitted area.