



## Legislation Details (With Board Report)

<b>File #:</b>	22-843	<b>Name:</b>	MOU PRFMA - BOS
<b>Type:</b>	General Agenda Item	<b>Status:</b>	Passed
<b>File created:</b>	9/1/2022	<b>In control:</b>	Board of Supervisors
<b>On agenda:</b>	9/13/2022	<b>Final action:</b>	9/13/2022

**Title:** a. Consider approving and authorizing the County Administrative Officer to execute a Memorandum of Understanding (MOU) with the Monterey County Water Resources Agency for the amount not to exceed \$193,700 per fiscal year, effective October 1, 2022 thru June 30, 2030, for the Cost Share Agreement with the City of Watsonville, Santa Cruz Flood Control and Water Conservation District - Zone 7, and the Pajaro Regional Flood Management Agency to funding activities of the Pajaro Regional Flood Management Agency; and  
 b. Consider adopting a resolution to authorize and direct the Auditor-Controller to transfer up to \$193,700 in FY 2022-23 to the Monterey County Water Resources Agency's Pajaro Levee Fund, Fund 112, Appropriation Unit WRA002 from General Fund Contingencies, Fund 001, Appropriation Unit CAO020 (4/5 vote required).

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Board Report, 2. MCWRA Cost Share Agreement with PRFMA, 3. MOU PRFMA Cost Share Contributions, 4. Board Resolution, 5. Completed Board Order Item No. 15

Date	Ver.	Action By	Action	Result
9/13/2022	1	Board of Supervisors	approved	

a. Consider approving and authorizing the County Administrative Officer to execute a Memorandum of Understanding (MOU) with the Monterey County Water Resources Agency for the amount not to exceed \$193,700 per fiscal year, effective October 1, 2022 thru June 30, 2030, for the Cost Share Agreement with the City of Watsonville, Santa Cruz Flood Control and Water Conservation District -Zone 7, and the Pajaro Regional Flood Management Agency to funding activities of the Pajaro Regional Flood Management Agency; and

b. Consider adopting a resolution to authorize and direct the Auditor-Controller to transfer up to \$193,700 in FY 2022-23 to the Monterey County Water Resources Agency's Pajaro Levee Fund, Fund 112, Appropriation Unit WRA002 from General Fund Contingencies, Fund 001, Appropriation Unit CAO020 (4/5 vote required).

**RECOMMENDATION:**

It is recommended that the Board of Supervisors of the County of Monterey:

a. Approve and authorize the County Administrative Officer to execute a Memorandum of Understanding (MOU) with the Monterey County Water Resources Agency for the amount not to exceed \$193,700 per fiscal year, effective October 1, 2022 thru June 30, 2030, for the Cost Share Agreement with the City of Watsonville, Santa Cruz Flood Control and Water Conservation District -Zone 7, and the Pajaro Regional Flood Management Agency to funding activities of the Pajaro Regional Flood Management Agency; and

b. Consider adopting a resolution to authorize and direct the Auditor-Controller to transfer up to \$193,700 in FY 2022-23 to the Monterey County Water Resources Agency's Pajaro Levee Fund, Fund 112, Appropriation

Unit WRA002 from General Fund Contingencies, Fund 001, Appropriation Unit CAO020 (4/5 vote required).

SUMMARY/DISCUSSION:

The Pajaro Regional Flood Management Agency (“PRFMA”) was formed under the Joint Exercise of Powers Act, Government Code section 6500 *et seq.*, pursuant to a Joint Exercise of Powers Agreement (“JPA Agreement”) dated July 21, 2021 in order to coordinate, finance, acquire, construct, improve, operate or maintain flood management infrastructure on the Pajaro River in Santa Cruz and Monterey Counties.

The Member Agencies of the PRFMA are County of Santa Cruz, Santa Cruz County Flood Control and Water Conservation District, Zone 7 (“Zone 7”), County of Monterey (“County”), City of Watsonville, and the Monterey County Water Resources Agency (“MCWRA” or “Agency”). The PRFMA is the lead local agency to work with the United States Army Corps of Engineers in continuing the Pajaro River Federal Flood Control Project, which is currently maintained jointly by Zone 7 and MCWRA.

A Cost Share Agreement has been proposed by PRFMA to allocate annual contributions of Watsonville, Zone 7, and MCWRA (“Cost Share Agencies”), and to fund operating expenses of the PRFMA by dedicating existing revenues generated within the boundaries of the PRFMA. The proposed Fiscal Year (FY) 2022-2023 budget of the PRFMA is \$3.832 million. Under the Cost Share Agreement, contribution allocations are \$2,138,400 for Zone 7, \$49,900 for Watsonville, and \$443,700 for MCWRA. On July 13, 2022, the PRFMA certified a newly formed Proposition 218 benefit zone that will collect \$1,200,000 a year in assessments. The contributions from the Cost Share Agencies will be subject to an annual cost-of-living adjustment by the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-Hayward area during the previous fiscal year ending June 30. The amount of \$443,700 allocated to MCWRA is proposed to be a combined total contribution by MCWRA and the County. The PRFMA Board of Directors approved the draft Cost Share Agreement on July 13, 2022.

MCWRA is currently negotiating an Operations, Maintenance, Repair, Rehabilitation and Replacement Agreement (“OMRR&R Agreement”) with the PRFMA to transfer MCWRA’s assets, current responsibilities, operation and maintenance activities, capital projects, flood monitoring, and related emergency response, all of which relate to Infrastructure in Zone 1/1A, to the PRFMA. In the event the OMRR&R Agreement is neither executed nor approved by December 31, 2022, MCWRA is not obligated to make any further contributions to the PRFMA.

To pay the total allocated amount of \$443,700 in FY 2022-23, MCWRA will dedicate \$250,000 of Zone 1/1A assessment revenue to the PRFMA, and MCWRA requests Monterey County (“County”) to contribute up to \$193,700. The County’s annual contributions shall be continued to cover funding gaps for the next seven years with the final contribution in FY 2029-30.

The funding gap will be calculated using variances between MCWRA’s maximum cost share amount of \$443,700 and Zone 1/1A assessments available for the PRFMA cost share. MCWRA needs parts of Zone 1/1A assessments to pay administrative expenses of Fund 112, as well as overhead expenses of WRA General Administration that is allocable to Fund 112. The administrative and overhead expenses include third party insurance cost, reimbursements to other government agencies and charges by other county service departments, which would be ineligible for reimbursements by PRFMA under the OMRRR Agreement. The annual contribution by the County to MCWRA for the Cost Share Agreement shall not exceed \$193,700.

It is expected that as the operations and responsibilities of PRFMA grows, Zone 1/1A flood assessment that MCWRA can contribute to the PRFMA Cost Share Agreement will increase while County’s contributions will decrease.

The County's contribution to MCWRA for the Cost Share Agreement shall be terminated prior to FY 2029-30 and the County will be no longer obligated for its annual contributions if Zone1/1A assessments available for the Cost Share Agreement exceeds \$443,700 and there is no funding gap.

The Cost Share Agreement along with the OMRR&R Agreement is a necessary step for the PRFMA to take over operations and maintenance responsibilities of the Pajaro River levee system, currently undertaken by the Member Agencies. The MOU with the County will provide sufficient fundings for such transfer of operations and maintenance responsibilities by covering the funding gaps.

The Budget Office considers that the Cost Share Agreement that pledges assessment revenue without clearly outlining the transfers of O&M, capital projects, and flood monitoring to the PRFMA would be a financial risk for the MCWRA.

OTHER AGENCY INVOLVEMENT:

MCWRA is working with PRFMA, Office of the County Counsel, and the County Budget Office on the Cost Share Agreement and the OMRR&R Agreement. The Water Resources Agency Board of Directors approved the draft PRFMA Cost Share Agreement and the draft MOU at its August 15, 2022 meeting and the Budget Committee supported the staff recommendation at its August 31, 2022 meeting.

FINANCING:

Sufficient appropriations for the Cost Share Agreement are available in Agency's FY 2022-2023 Adopted Budget Fund 112-9300-WRA002- UNIT 8484. Zone 1/1A flood benefit assessments in FY 2022-23 is estimated at \$506,290.

Of the combined total contribution of \$443,700 allocated to MCWRA and County, MCWRA will dedicate \$250,000 of Zone 1/1A flood benefit assessments revenue to PRFMA in FY23 and request County to contribute up to \$193,700 in FY 2022-23. County's annual contributions will continue for the next seven years until the final contribution in FY2029-30, for the annual amount not to exceed \$193,700. The actual amount contributed to the PRFMA in FY 2022-23 will be prorated to the Cost Share Agreement execution date.

It is expected that available Zone 1/1A benefit assessment revenues for the Cost Share Agreement would increase as operations and responsibilities of the PRFMA increase and the contributions needed from the County will decrease.

The funding source for the FY 2022-23 County contribution is General Fund Contingencies, which has a balance of \$809,118 at the writing of this report. The use of \$193,700 in Contingencies would leave a remaining Contingencies balance of \$615,418. If the Board of Supervisors approves this MOU, the County Administrative Office will budget for the contribution in future years in the annual recommended budget financed by General Fund Contributions (GFC). The use of GFC for the cost share contribution to PRFMA for which County is a member agency, reduces the available funding for County programs that rely on GFC.

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Attachments:

1. MCWRA Cost Share Agreement with PRFMA
2. MOU - PRFMA Cost Share Contributions
3. Board Resolution