



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: RES 13-061, **Version:** 1

Adopt a Resolution to:

- a. Reestablish the Monterey Regional Storm Water Management Program, effective upon approval of all participating parties;
- b. Authorize the Resource Management Agency Director to execute the Memorandum of Agreement, Monterey Regional Storm Water Management Program with the Monterey Regional Water Pollution Control Agency; and
- c. Approve the recommendation for Resource Management Agency to pay invoice No. 09928 in the amount of \$134,076 from the Monterey Regional Water Pollution Control Agency for the annual County's FY 2013-14 participation fee to the Monterey Regional Storm Water Management Program.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a Resolution:

- a. Reestablish the Monterey Regional Storm Water Management Program, effective upon approval of all participating parties;
- b. Authorize the Resource Management Agency Director to execute the Memorandum of Agreement, Monterey Regional Storm Water Management Program with the Monterey Regional Water Pollution Control Agency; and
- c. Approve the recommendation for Resource Management Agency to pay invoice No. 09928 in the amount of \$134,076 from the Monterey Regional Water Pollution Control Agency for the annual County's FY 2013-14 participation fee to the Monterey Regional Storm Water Management Program.

SUMMARY:

As an existing member of the Monterey Regional Storm Water Management Program, Monterey County is one of nine parties that have agreed to extend an existing Memorandum of Agreement (Agreement) that was adopted in 2002 and expired on June 30, 2013. The intent of this request is to extend the existing Agreement through the effective term of the current Municipal Phase II Storm Water Permit, currently expected to expire on June 30, 2018.

DISCUSSION:

On April 30, 2003, the State Water Resources Control Board (State Water Board) adopted a General Permit for stormwater discharges from small municipal separate storm sewer systems (MS4s) to comply with the Clean Water Act. The "Phase II MS4 General Permit" established minimum acceptable elements that Permittees are required to implement to remain in compliance with the Permit and meet Clean Water Act standards. The Clean Water Act requires municipalities to reduce pollutants from their storm drain systems to the maximum extent practicable (MEP). Due to the changing, ever-evolving MEP standard, the State Water Board is directed to review and update minimum program requirements regularly, currently every five years. On February 5, 2013, the State Water Board adopted an updated Permit for small MS4s that became effective on July 1, 2013 (Water Quality Order No. 2013-0001-DWQ). This permit will expire on June 30, 2018 unless extended by the State Water Board.

In order to more effectively meet the requirements of the Phase II MS4 General Permit, Monterey County entered into an agreement with the seven cities of the Monterey Peninsula to perform certain elements of the program collectively, such as public education, public participation, and portions of the mandated monitoring program. In 2002, the County adopted a Memorandum of Agreement with the cities of Carmel by the Sea, Del Rey Oaks, Marina, Monterey, Pacific Grove, Sand City, and Seaside and the Monterey Regional Water Pollution Control Agency (WPCA) who agreed to provide the staffing and services needed to perform the Group tasks, creating the Monterey Regional Storm Water Management Program. By design, the 2002 Agreement expired at the end of the first term of the MS4 General Permit which occurred on June 30, 2013. In discussions with a subcommittee of City Managers from the member entities, it was decided that the most appropriate course of action at this time was to extend the existing agreement while substantive changes to the Group's existing structure and goals were assessed and developed. The Group is seeking to accomplish the minimum program elements more efficiently at a reasonable cost to each participant.

The 2013 Agreement has been adopted by all of the Participating Members with the exception of the City of Marina and the Monterey Regional Water Pollution Control Agency. The WPCA is scheduled to adopt the Agreement at its November 2013 meeting. However, the City of Marina is currently in discussion with the Central Coast Regional Water Quality Control Board (Regional Water Board) to have its Small MS4 General Permit rescinded and be issued individual Waste Discharge Requirements for its municipal separate storm sewer system. Marina is assessing how to proceed with adopting the Agreement, anticipating that the Regional Water Board will issue separate Waste Discharge Requirements that could release them from some of the common program elements that the Regional Group currently performs. The Marina City Council adopted an alternate Memorandum of Agreement that was not approved by the other Participants of the Monterey Regional Group. Should the City of Marina terminate its participation in the Regional Stormwater Program, a new Agreement with the remaining participants will be needed. Monterey County's participation fees would likely increase to cover the budget shortfall created by Marina's termination. Under the current population-based cost share formula, the County would be responsible for approximately 42% of Marina's unpaid fees. In the worst case, the County could be responsible for up to \$18,800 of Marina's \$44,644 share for FY 2013-14.

The County has committed to participating with the Monterey Regional Stormwater Group Participants for the current fiscal year, but it would benefit from changes to the Agreement. Of primary concern is the current cost-share formula which is based solely on the population of the Permittee that is covered under its Permit. The permit applies to the urbanized areas of Monterey County as defined by the US Census Bureau and to areas determined to be of higher risk of generating pollutants as determined by the Regional Water Board. Because the 2013 Phase II Permit relies on 2010 census data and several newly added census designated places, the County's permit-covered population jumped from 45,019 on June 30 to 62,727 on July 1, approximately 38% of the current population of the entire permitted area of the Monterey Regional Group. The County's share of program costs has risen dramatically in the past several years as the result of two separate events: in 2012, the population of the County's permitted area was corrected, and in 2013 under the new Permit, the County's permit area increased from 20 square miles to 75 square miles. It is expected that discussions with other Regional Group members will occur this year to identify additional program elements that can be performed regionally, and to develop a more equitable cost-share formula based on the services that each participating entity receives.

Prior to FY 2012-13 the County contributed \$150,000 in General Funds to RMA in support of Storm Water Management which was used towards reimbursing the Road Fund for staff time, permits and fees. As the requirements for storm water management increased, so have the staff time, permit, and participation fees. Managing the County's storm water program has become a full-time effort which is no longer fully reimbursed

by the \$150,000 contribution by the General Fund. In addition, permit and participation fees in the Monterey Regional Stormwater Program have more than doubled. In FY 2011-12 the permit and participation fees were \$42,478, in FY 2012-13 fees increased to \$95,392, and FY 2013-14 fees are \$134,706.

OTHER AGENCY INVOLVEMENT:

The Monterey Regional Storm Water Management Program Memorandum of Agreement was developed in 2013 through negotiations with the Monterey Regional Water Pollution Control Agency and the other participating members. The Office of County Counsel has reviewed and approved the Memorandum of Agreement as to form.

FINANCING:

There were no funds identified in the FY 2013-14 Adopted Budget for the RMA to cover the \$134,706 County's participation in the Regional Storm Water Management Program. If the Board approves reestablishing its participation in the Monterey Regional Storm Water Management Program, then the department recommends authorizing the corresponding participation payment of the \$134,706. Permit and Participation fees are due and payable annually in accordance with the terms and conditions of the Permit and of the Memorandum of Agreement. If the City of Marina defaults on its share of program costs, an additional \$18,800 may be required. This request would be processed separately after any additional fee has been accurately calculated. The department will work closely with its assigned CAO Budget and Analysis Analyst during the course of FY 2013-14 to determine if a budget modification will be required to increase appropriations for this invoice. Should it be determined that the department's approved budget is unable to fully absorb currently unbudgeted costs related to the permit and participation fee, a request for budget modification to maintain fiscal balance will be presented through the Board's Budget Committee prior to year-end. RMA will capture the expenditures specific to this activity in its Roads and Bridges Fund, Fund 002, Unit 8195, Appropriation RMA012. As a recurring expenditure, it will be necessary for the department to include the funding request as part of future year budgets beginning in FY 2014-15.

Prepared by: Thomas Harty, P.E., Civil Engineer, (831) 759-6630

Approved by:

Robert K. Murdoch, P.E. Director of Public Works

Benny J. Young, RMA Director

Dated: October 18, 2013

Attachments: Resolution; Exhibit A - Memorandum of Agreement, Monterey Regional Storm Water Management Program; Exhibit 2 - Memorandum of Agreement, Monterey Regional Storm Water Pollution Prevention Program, executed on November 26, 2002; Exhibit 3 - MRSWMP Estimated Budget 2013/2014 Fiscal Year (XII) and Estimated Net Contributions Due from Each Entity for Fiscal Year 2013/2014; Exhibit 4 -

Invoice No. 09928 in the amount of \$134,076 from Monterey Regional Water Pollution Control Agency
(Attachments on file with the Clerk of the Board)