



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council

FROM: Rudy Fischer, Council Member

MEETING DATE: August 3, 2016

SUBJECT: Consenting To An Amendment Of Paragraph 7.02 Of The Monterey Regional Water Pollution Control Agency (MRWPCA) Joint Powers Agreement To Support A Borrowing Agreement With The State Water Resources Control Board

CEQA: Does not constitute a "Project" under California Environmental Quality Act (CEQA) Guidelines Section 15378.

RECOMMENDATION

Consider adopting a resolution consenting to an amendment of paragraph 7.02 of the Monterey Regional Water Pollution Control Agency (MRWPCA) Joint Powers Agreement to support a borrowing agreement with the State Water Resources Control Board.

DISCUSSION

The Monterey Regional Water Pollution Control Agency (MRWPCA) is in the process of working with the State to facilitate a loan for the Pure Water Monterey Project. As a condition of the loan, the State is requiring the Agency to amend Section 7.02 of the existing Joint Powers Agreement (JPA). Section 7.02 states that the JPA shall not terminate or dissolve until all revenue bond debt incurred by the Agency for the construction or acquisition of the Regional Treatment has been fully paid or refinanced. The State is requesting that a similar clause be inserted to encompass any financing provided by the State Water Resources Control Board (SWRCB). This proposed action does not modify any substantive terms of the Agreement, other than assuring that both revenue bonds and SWRCB loans will be paid or refinanced prior to the termination of the JPA. A redlined copy of Section 7.02 and a draft resolution are attached for reference and use.

On July 25, 2016, the MRWPCA Board unanimously approved a resolution to amend Paragraph 7.02 of the JPA and requesting that all MRWPCA member entities consent to the amendment. As a member entity, the City of Pacific Grove's approval is needed for the amendment to become effective and for MRWPCA to be able to proceed with the loan process.

OPTIONS

1. Do nothing
2. Provide alternative direction.

FISCAL IMPACT

None.

ATTACHMENTS

1. Letter Request, Redlined Copy of Section 7.02 of the MRWPCA JPA, and First Amendment to JPA
2. Resolution

RESPECTFULLY SUBMITTED:

A handwritten signature in cursive script that reads "Rudy Fischer".

Rudy Fischer, Council Member



Monterey Regional Water Pollution Control Agency

"Dedicated to meeting the wastewater and recycled water needs of our member agencies, while protecting the environment."

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July 27, 2016

Sandra Ann Kandell
Deputy City Clerk
City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950

Dear Ms. Kandell,

On July 25, 2016, The Monterey Regional Water Pollution Control Agency (MRWPCA) Board unanimously approved a Resolution to amend Paragraph 7.02 of the MRWPCA Joint Powers Agreement (JPA) to support a borrowing agreement. As a member entity, approval from Pacific Grove is needed for the amendment to become effective and for MRWPCA to be able to proceed with the loan process.

To maintain project milestones, the Agency is respectfully requesting that this item be placed for consideration at the next meeting of the Pacific Grove City Council. Enclosed is a staff report that explains the changes, a resolution template, and a red-lined version of section 7.02 of the JPA, along with a draft of the First Amendment to the JPA. Please return the following to me once it has been approved by your Council: 1) a copy of the signed entity resolution and 2) the signed & attested signature page for your entity.

Council Member Rudy Fischer is a member of the MRWPCA Board and should be available to explain this matter to your Council, but if the City Manager wishes to have a MRWPCA staff person present at your City Council meeting to answer any questions, please contact Chayito Ibarra at (831) 645-4603.

Sincerely,

Tori Hannah
Chief Financial Officer

Enclosures

Joint Powers Authority Member Entities:

Boronda County Sanitation District, Castroville Community Services District, County of Monterey, Del Rey Oaks, Fort Ord, Marina Coast Water District, Monterey, Moss Landing County Sanitation District, Pacific Grove, Salinas, San City, and Seaside.

Section 7.02 – MRWPCA Joint Powers Agreement

“7.02 Termination. This Agreement may be terminated and the Agency dissolved by a two-thirds (2/3) vote of the Board of Directors, ratified by two-thirds (2/3) of the member agencies; provided, however, that there shall be no termination and dissolution ~~until~~ **unless the following two conditions are satisfied: (1) any and all revenue bond debt incurred by the Agency for the construction or acquisition of its regional sewerage facilities has been fully amortized and retired or such debt is refinanced by the MRCSD or other successor entity, and (2) any and all debt incurred by the Agency in connection with any financing provided by the State Water Resources Control Board has been fully amortized and retired or such debt is refinanced by the MRCSD or other successor entity.**”

Note: The MRCSD mentioned in Section 7.02 is the Monterey Regional County Sanitation District, the companion district to the MRWPCA which establishes the boundaries of the MRWPCA, and which is referenced in the JPA Agreement as the potential successor entity should the MRWPCA ever be dissolved.

**FIRST AMENDMENT TO
JOINT EXERCISE OF POWERS AGREEMENT**

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**FOR THE
MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY**

THIS FIRST AMENDMENT TO THE JOINT EXERCISE OF POWERS AGREEMENT FOR THE MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY (“First Amendment”) is made and entered into by and between those public agencies that are “eligible public agencies” as defined at Paragraph 2.06 of said Joint Exercise of Powers Agreement (“JPA Agreement”).

Recitals

- A. Eligible public agencies of the Monterey Regional Water Pollution Control Agency (“MRWPCA”) as of the date of this First Amendment are:

The City of Del Rey Oaks
The City of Monterey
The City of Pacific Grove
The City of Salinas
The City of Sand City
The City of Seaside
The County of Monterey
The Castroville Community Services District
The Boronda County Sanitation District
The Marina Coast Water District.

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- B. The MRWPCA Board of Directors has approved a revision to Paragraph 7.02 (“Termination”) of the JPA Agreement to add a condition to termination of the JPA Agreement, that any debt incurred by MRWPCA in connection with State Water Resources Control Board financing shall be fully amortized and retired or refinanced.
- C. Paragraph 7.07 (“Amendment”) of the JPA Agreement provides that it may not be amended without the consent of all existing members of the MRWPCA at the time of amendment.
- D. All existing eligible public agency members listed in the first Recital above have consented to the proposed amendment to Paragraph 7.02 described above.

Agreement to First Amendment

1. All existing eligible public agencies of MRWPCA, having consented to the amendment of Paragraph 7.02 described hereinabove, hereby agree that said Paragraph of the JPA Agreement be amended to read in full as follows:

7.02 Termination. This Agreement may be terminated and the Agency dissolved by a two-thirds (2/3) vote of the Board of Directors, ratified by two-thirds (2/3) of the member agencies; provided, however, that there shall be no termination and dissolution unless the following two conditions are satisfied: (1) any and all revenue bond debt incurred by the Agency for the construction or acquisition of its regional sewerage facilities has been fully amortized and retired or such debt is refinanced by the MRCSD or other successor entity, and (2) any and all debt incurred by the Agency in connection with any financing provided by the State Water Resources Control Board has been fully amortized and retired or such debt is refinanced by the MRCSD or other

successor agency.

2. Except as hereby amended, all terms, conditions, rights, responsibilities, and other provisions of the JPA Agreement shall remain as written and in full force and effect.

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IN WITNESS WHEREOF, the eligible public agencies party hereto, by and through their respective duly authorized representatives, have executed this First Amendment to the Joint Exercise of Powers Agreement for the Monterey Regional Water Pollution Control Agency on the date so indicated.

THE CITY OF DEL REY OAKS

By_____

Its_____

Dated_____

ATTEST:

By_____

Its_____

THE CITY OF MONTEREY

By _____

Its _____

Dated _____

ATTEST:

By _____

Its _____

THE CITY OF PACIFIC GROVE

By _____

Its _____

Dated _____

ATTEST:

By _____

Its _____

THE CITY OF SALINAS

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By_____

Its_____

Dated_____

ATTEST:

By_____

Its_____

THE CITY OF SAND CITY

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By_____

Its_____

Dated_____

ATTEST:

By_____

Its_____

THE CITY OF SEASIDE

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By_____

Its_____

Dated_____

ATTEST:

By_____

Its_____

THE COUNTY OF MONTEREY

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By_____

Its_____

Dated_____

ATTEST:

By_____

Its_____

THE CASTROVILLE COMMUNITY SERVICES DISTRICT

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By_____

Its_____

Dated_____

ATTEST:

By_____

Its_____

THE BORONDA COUNTY SANITATION DISTRICT

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By_____

Its_____

Dated_____

ATTEST:

By_____

Its_____

THE MARINA COAST WATER DISTRICT

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By_____

Its_____

Dated_____

ATTEST:

By_____

Its_____

RESOLUTION NO. 16-__

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PACIFIC GROVE CONSENTING TO AN
AMENDMENT TO PARAGRAPH 7.02 (“TERMINATION”)
OF THE MONTEREY REGIONAL WATER POLLUTION CONTROL
AGENCY (“MRWPCA”) JOINT EXERCISE OF POWERS AGREEMENT**

FINDINGS

WHEREAS, the City of Pacific Grove is a Member Agency of the MRWPCA; and

WHEREAS, as part of the financing arrangement to support construction of certain components of the Pure Water Monterey Groundwater Replenishment Project (“Project”), MRWPCA will be entering into a borrowing agreement with the State Water Resources Control Board (“SWRCB”); and

WHEREAS, the SWRCB has reviewed the MRWPCA Joint Exercise of Powers Agreement (“JPA Agreement”) and will require, as a condition of its loan to MRWPCA, an amendment to Paragraph 7.02 of the JPA Agreement to satisfy SWRCB that MRWPCA will not and cannot terminate the JPA Agreement until and unless all debt incurred by MRWPCA in connection with SWRCB financing has been fully amortized and retired or such debt is refinanced by MRWPCA or other successor agency; and

WHEREAS, Paragraph 7.07 of the JPA Agreement provides that it may not be amended without consent of all existing members of the MRWPCA at the time of amendment; and

WHEREAS, the MRWPCA Board of Directors has requested all existing members to consent to the aforescribed amendment to Paragraph 7.02, and this City Council of the City of Pacific Grove desires to consent to said amendment as more particularly set out herein below.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pacific Grove, as follows:

1. That this City Council hereby consents to an amendment to Paragraph 7.02 of the Monterey Regional Water Pollution Control Agency Joint Exercise of Powers Agreement, to read as follows:

“7.02 Termination. This Agreement may be terminated and the Agency dissolved by a two-thirds (2/3) vote of the Board of Directors, ratified by two-thirds (2/3) of the member agencies; provided, however, that there shall be no termination and dissolution unless the following two conditions are satisfied: (1) any and all revenue bond debt incurred by the Agency for the construction or acquisition of its regional sewerage facilities has been fully amortized and retired or such debt is refinanced

by the MRCSD or other successor entity, and (2) any and all debt incurred by the Agency in connection with any financing provided by the State Water Resources Control Board has been fully amortized and retired or such debt is refinanced by the MRCSD or other successor entity.”

2. That upon passage and adoption of this Resolution No. 16-xxx, the City Clerk shall transmit a certified copy of this resolution to the General Manager of MRWPCA.

3. That the Mayor or his designee is hereby authorized to sign any documents required to effect the amendment hereby consented to by the City of Pacific Grove.

PASSED AND ADOPTED by the City Council of the City of Pacific Grove at a meeting duly held on August 3, 2016 by the following vote:

AYES:

NOES:

ABSENT:

BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM

DAVID C. LAREDO, City Attorney