

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2004 APR 15 PM 1:22

TO: Office of the City Manager
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: April 27, 2004

RE: **RESOLUTION AUTHORIZING THE CITY OF OAKLAND TO AMEND THE AGREEMENT WITH THE ALAMEDA COUNTYWIDE CLEAN WATER PROGRAM TO CHANGE VOTING ALLOCATIONS AND CONTRACTING AUTHORIZATION TO IMPLEMENT THE ALAMEDA COUNTYWIDE CLEAN WATER PROGRAM**

SUMMARY

A resolution has been prepared authorizing the City Manager to adopt a proposed amendment to update the provisions of the existing *Agreement to Implement the Alameda Countywide Clean Water Program* (Agreement), that outlines participating members' duties, responsibilities, activities, and benefits. Since 1991, the City of Oakland has been a member of the Alameda Countywide Clean Water Program (Countywide Clean Water Program), along with Alameda County, 14 cities, and two special districts - the Alameda County Flood Control and Water Conservation District (District) and Alameda County Zone 7 (Zone 7). Membership in the Countywide Clean Water Program allows the City of Oakland to meet the requirements of the 1972 Federal Clean Water Act by obtaining a National Pollutant Discharge Elimination System (NPDES) permit to regulate stormwater pollution.

Members of the Countywide Clean Water Program have determined that the following amendments will benefit all members, and are needed to update and clarify the existing Agreement.

1. Allocate cost share responsibility to both the District and Zone 7, and voting rights to Zone 7 that has not previously had voting rights in the Countywide Clean Water Program (the District has voting rights through a previous amendment). Both districts will be allocated a 1% voting right and cost share for the overall program. This results in minor changes in allocations of Countywide Clean Water Program's costs and voting shares.
2. Facilitate the ease of Countywide Clean Water Program's operations by allowing parties to the Agreement to, under certain circumstances, let and administer consultant contracts.
3. Improve the clarity of the Agreement by cleaning up out-dated language.

The City of Oakland is dependent on the Countywide Clean Water Program to meet State and Federal Regulations and these amendments are necessary to facilitate the successful functioning of the Countywide Clean Water Program, therefore, Oakland will benefit from these amendments.

Staff recommends this resolution be approved.

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FISCAL IMPACT

There is no fiscal impact. Through a previously negotiated agreement, the Alameda County Flood Control District, Zone 12 pays the City of Oakland share of the Alameda Countywide Clean Water Program fee.

BACKGROUND

The City of Oakland obtains its NPDES permit through the Countywide Clean Water Program. Each membership agency pays a share of the Countywide Clean Water Program expenses proportional to the size of that member agency's population. The City's annual contribution for the Countywide Clean Water Program expenses for the current fiscal year (2003-2004) is approximately \$480,000. In 1991, the City of Oakland negotiated an independent agreement with Zone 12 for Zone 12 to pay the City of Oakland's share. However, in fiscal year 2005 – 2006 the 1991 agreement will expire and the City of Oakland must find a new method of payment for its participation in the Countywide Clean Water Program. The City is exploring options for payment. (The current proposed amendments to the Agreement are unrelated to the City of Oakland's method of payment to the Alameda Countywide Clean Water Program.)

The initial member Agreement was established in 1991 and amended in 1999 and 2002. This most recent Agreement expires in July 2005 with the option, by mutual agreement, to extend for one year. The members of the Countywide Clean Water Program recommend that all cities adopt the current proposed Amendment to the Agreement.

KEY ISSUES AND IMPACTS

Voting Rights and Cost Summary

The current Agreement does not assign the District or Zone 7 a share of the cost to support the jointly undertaken services even though these agencies benefit from these tasks. Given the current difficult financial times, it is appropriate that the Countywide Clean Water Program continue to identify ways to improve the equity between the services it provides to its member agencies and the funds contributed to support these services. Because the Agreement generally assigns votes based on an agency's cost share, Zone 7 is unable to vote. A previous amendment to the Agreement assigned the District a voting share from the unincorporated County's voting share. The proposed amendment would require that the District and Zone 7 each be responsible for a one percent cost share to support the services they receive. Consequently, other municipalities participating in the program would see a reduction in their cost share and voting rights. Oakland's cost share and voting rights will be reduced by .3% - from 22.06% to 21.76%. The change in voting shares is nearly insignificant and will not affect Oakland's voting strength. Currently Oakland's cost share is about \$480,000 and is funded through an agreement with the Alameda County Flood Control District, Zone 12 as approved by City Council Resolution No. 77750 on April 15, 2003. Oakland's cost share would be reduced by approximately \$1,440.

Contract Administration

The current Agreement does not allow Countywide Clean Water Program member agencies to let and administer consultant contracts to implement the Countywide Clean Water Program’s activities. The proposed amendment would allow the flexibility for any one of the Countywide Clean Water Program member agencies to volunteer to be the lead agency to let and administer a consultant services contract on behalf Countywide Clean Water Program activities. The proposed amendment would allow the member agency who lets and administers a contract for the Countywide Clean Water Program to be compensated by the Countywide Clean Water Program for its services and/or contract costs as agreed to in advance by the Management Committee.

Update Language in Agreement

The current Agreement is an outgrowth of several previous Agreements. This has resulted in procedurally outdated Agreements and the lack of a single stand-alone Agreement. Proposed minor procedural and cleanup amendments would provide a uniform Agreement for the members with up-to-date provisions and appendices regarding all operations of the Program that all member agencies can utilize. Cleanup provisions include the following: Eliminates the old name of the Program; refers to the most recent NPDES permit; substitutes recent and updated terminology; eliminates reference to outdated funding and other commitments.

SUSTAINABLE OPPORTUNITIES

Environmental: Oakland’s participation in the Countywide Clean Water Program is Federally mandated and results in significant environmental benefits to the City through the reduction of pollutants to its municipal stormwater system. The proposed amendment to the Agreement does not affect the activities of the City or other member agencies that reduce pollutants to the stormwater system.

Social Equity: While the Countywide Clean Water Program Agreement has a positive impact on social equity issues by improving the quality of life for all citizens of Oakland through the reduction of water pollution, the proposed amendment does not affect that component of the Agreement.

Economic: The implementation of the Countywide Clean Water Program results in economic savings to the City through the reduction of water pollution and associated cleanup and maintenance costs.

DISABILITY AND SENIOR CITIZEN ACCESS

The proposed Amendment to the Agreement does not affect compliance with the Americans with Disabilities Act (ADA) or other senior citizen access issues.

RECOMMENDATION AND RATIONALE

It is recommended that this resolution be approved. The proposed amendment will result in a slight change to Oakland's voting rights and cost share of the Program. The proposed amendment would facilitate contracting and will improve the clarity of the Agreement by cleaning up out-dated language. The amendment will not affect the ability of Oakland to meet the requirements of the Federally-mandated NPDES permit.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution.

Respectfully submitted,

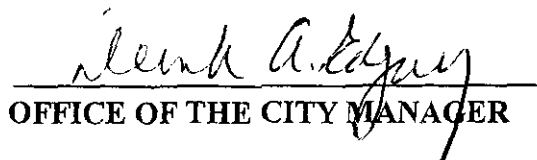


RAUL GODINEZ II, P.E
Director, Public Works Agency

Reviewed by:
Brooke A. Levin
Interim Assistant Director, Public Works Agency

Prepared by:
Lesley Estes
Acting Environmental Services Manager

APPROVED AND FORWARDED
TO THE PUBLIC WORKS COMMITTEE



OFFICE OF THE CITY MANAGER

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

2004 APR 15
OFFICE OF THE CITY CLERK
RESOLUTION AUTHORIZING THE CITY OF OAKLAND TO AMEND THE AGREEMENT WITH THE ALAMEDA COUNTYWIDE CLEAN WATER PROGRAM TO CHANGE VOTING ALLOCATIONS AND CONTRACTING AUTHORIZATION TO IMPLEMENT THE ALAMEDA COUNTYWIDE CLEAN WATER PROGRAM

WHEREAS, the City of Oakland is required to hold an National Pollutant Discharge Elimination System (NPDES) permit as prescribed by the Federal Clean Water Act that regulates stormwater pollution from discharges of storm water through its storm water drainage and collection systems; and

WHEREAS, the City of Oakland is a member of the Alameda Countywide Clean Water Program (Countywide Clean Water Program) along with Alameda County, its 14 Cities, and two special districts (Alameda County Flood Control and Water Conservation, and Zone 7); and

WHEREAS, membership in the Countywide Clean Water Program provides the most cost-efficient means for these municipalities and districts to obtain the NPDES permit; and

WHEREAS, the activities, benefits, duties, and responsibilities of the Countywide Clean Water Program and its members are outlined in an agreement known as *Agreement to Implement the Alameda Countywide Clean Water Program* (Agreement) as approved in 1991 and amended in 1999 and 2002; and

WHEREAS, the City of Oakland participates in the activities, duties, and responsibilities of the Countywide Clean Water Program as outlined in the Agreement:

WHEREAS, the Countywide Clean Water Program's Management Committee is recommending that each of the parties to the Agreement amend the Agreement to accomplish the following objectives:

1. Allocate cost share responsibility to both the District and Zone 7, and voting rights to Zone 7 who has not previously had voting rights in the Countywide Clean Water Program (the District has voting rights through a previous amendment). Both districts will be allocated a 1% voting right and cost share for the overall program. This results in minor changes in allocations of Countywide Clean Water Program's costs and voting shares.
2. Facilitate the ease of Countywide Clean Water Program's operations by allowing parties to the Agreement to, under certain circumstances, let and administer consultant contracts.
3. Improve the clarity of the Agreement by cleaning up out-dated language.

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PUBLIC WORKS CMTE.
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NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Oakland hereby approves the Amendment to the *Agreement to Implement the Alameda Countywide Clean Water Program* which provides the following:

1. Allocates cost share responsibility to both the District and Zone 7, and voting rights to Zone 7 who has not previously had voting rights in the Countywide Clean Water Program (the District has voting rights through a previous amendment). Both districts will be allocated a 1% voting right and cost share for the overall program. This results in minor changes in allocations of Countywide Clean Water Program's costs and voting shares.
2. Facilitates the ease of Countywide Clean Water Program's operations by allowing parties to the Agreement to, under certain circumstances, let and administer consultant contracts.
3. Improves the clarity of the Agreement by cleaning up out-dated language.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

CEDA FLOYD

City Clerk and Clerk of the Council
of the City of Oakland, California

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