



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

AGENDA REPORT

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: Celia Perez Martinez, Business Manager

MEETING DATE: June 18, 2008

SUBJECT: CONSIDER ADOPTION OF A RESOLUTION SUPPORTING THE AGREEMENT FOR ASSISTANCE IN A GREASE SOURCE CONTROL PROGRAM
The City regularly contracts with MRWPCA for assistance in implementing its grease control program. This action would renew that contractual relationship

CEQA STATUS Class 8 Exemption (Actions to Protect the Environment)

RECOMMENDATION:

Authorize the City Manager to approve renewal of an annual agreement with Monterey Regional Water Pollution Control Agency (MRWPCA) for Assistance in a Grease Source Control Program.

DISCUSSION:

On June 6, 2000, the City of Pacific Grove (City) and Monterey Regional Water Pollution Control Agency (MRWPCA) entered into an Agreement for Assistance in Implementing a Grease Source Control Program. This contract was successfully executed and the City began its Grease Source Control Program. This contract has been renewed annually.

Renewal of this agreement qualifies for an exemption under Class 8 of the California Environmental Quality Act (CEQA), CEQA Guideline section 15308, Actions to Protect the Environment.

The recommended action is to approve the annual renewal of the contract and refer the matter back to staff.

FISCAL IMPACT:

This is a budgeted item. The contract is not to exceed \$58,371.00.

ATTACHMENTS:

1. Draft Resolution Authorizing Renewal of Agreement.

2. Agreement for Assistance in a Grease Source Control Program.

RESPECTFULLY SUBMITTED:



Celia Perez Martinez
BUSINESS MANAGER

REVIEWED BY:



Digitally signed: I have reviewed this document

James J. Colangelo
CITY MANAGER

RESOLUTION NO. 08 _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE
AUTHORIZING RENEWAL OF AN AGREEMENT FOR ASSISTANCE IN A
GREASE SOURCE CONTROL PROGRAM BETWEEN THE CITY OF PACIFIC
GROVE AND MONTEREY REGIONAL WATER POLLUTION CONTROL
AGENCY**

WHEREAS, under the City entered into an agreement with the Monterey Regional Water Pollution Control Agency (MRWPCA), on June 6, 2000, which by this authorization shall be renewed and remain in effect until June 30, 2010, unless further extended in writing by mutual agreement of the parties hereto; provided however, that this Agreement may be terminated at any time by either party upon giving 30 days' prior written notice to the other party; and

WHEREAS, the MRWPCA agrees to perform services under this Agreement, and City shall compensate MRWPCA at hourly rates as described in the Scope of Services – Exhibit A in a not-to-exceed amount of \$58,371; and

WHEREAS, compensation shall be paid quarterly by the City to MRWPCA upon receipt of a written statement of charges from MRWPCA; and

WHEREAS, the funds have been budgeted within the Public Works budget for this purpose; and

WHEREAS, Renewal of this agreement qualifies for an exemption under Class 8 of the California Environmental Quality Act (CEQA), CEQA Guideline section 15308, Actions to Protect the Environment.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF PACIFIC GROVE DOES RESOLVE AS FOLLOWS:

SECTION 1. The City Council determines each of the Findings set forth above to be true and correct, and by this reference incorporates those Findings as an integral part of this Resolution.

SECTION 2. The City Manager or his assign is authorized to execute all documents and to perform all other necessary acts necessary to enter into the referenced Agreement with Monterey Regional Water Pollution Control Agency for an amount not-to-exceed \$58,371 for Assistance in a Grease Source Control Program.

SECTION 3. If any provision, section, paragraph, sentence, clause or phrase of this resolution, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of

competent jurisdiction, such decision shall not affect the validity of the remaining portions of this resolution, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 4. This resolution shall become effective immediately following passage and adoption hereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 18th June 2008 by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

DANIEL E. CORT, Mayor

ATTEST:

CHARLENE WISEMAN, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

**AGREEMENT FOR ASSISTANCE IN
A GREASE SOURCE CONTROL PROGRAM**

THIS AGREEMENT is made and entered into on _____, 2008, by and between the CITY OF PACIFIC GROVE, a California Municipal Corporation, hereinafter called "City", and the MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY, a California Joint Powers Agency, hereinafter referred to as "MRWPCA", City and MRWPCA are sometimes herein referred to individually as "Party" and collectively as "Parties", as follows:

Recitals

1. City has a requirement for assistance in implementing a grease source control program.
2. MRWPCA has the requisite skill, training and experience to properly perform the services specified herein.
3. City desires to retain MRWPCA to provide the services as herein set forth.

Terms and Conditions

In consideration of the mutual provisions contained herein, MRWPCA and City agree to the following terms and conditions:

1. Scope of Services. MRWPCA shall provide services as described in the Scope of Services, attached as Exhibit "A" hereto.
2. Commencement of Services. MRWPCA will commence work on the services to be provided hereunder immediately upon (or prior to) execution of this Agreement by both parties hereto. It is understood that MRWPCA is undertaking similar programs with other municipalities under this same program and that programs will be implemented on a "first come first served" basis based on completion of a Memorandum of Agreement.
3. Term. This Agreement will take effect upon it being executed by the parties, but its effective date shall be retroactive to the date MRWPCA first performed services as described in the Scope of Services. This Agreement shall remain in effect until June 30, 2010, unless extended in writing by mutual agreement of the parties hereto; provided, however, that this Agreement may be terminated at any time by either party upon giving 30 days' prior written notice to the other party.
4. Compensation. For the services to be performed under this Agreement, City shall compensate MRWPCA at the hourly rates as described in the Scope of Services in a not-to-exceed amount of \$58,371. Compensation shall be paid quarterly by the City upon receipt of a written statement of charges from MRWPCA.
5. Transportation. MRWPCA shall, at its cost and expense, provide all transportation required for the performance of the services under this Agreement.
6. Hold Harmless. City agrees to indemnify, defend and hold MRWPCA, its agents, officers, harmless from and against any and all costs, expenses or liability incurred as a result of any claim, suit, lien or other legal proceeding resulting from City's negligent performance or

willful misconduct in the performance of this Agreement. Provided, however, that MRWPCA shall not be reimbursed for worker's compensation costs attributed to injuries or death arising out of City's performances hereunder.

MRWPCA agrees to indemnify, defend and hold City, its agents, officers, harmless from and against any and all costs, expenses, or liability incurred as a result of any claim, suit, lien or other legal proceeding resulting from MRWPCA's negligent performance or willful misconduct in the performance of this Agreement. Provided, however, that City shall not be reimbursed for worker's compensation costs attributed to injuries or death arising out of MRWPCA's performances hereunder.

With respect to costs, expenses or liability by or with respect to third parties which arise from the joint or concurrent negligence of City and MRWPCA, each party shall assume full responsibility in proportion to the degree of its respective fault.

7. Skill of Employees. MRWPCA shall ensure that any employees or agents providing services under this Agreement possess the requisite skill, training and experience to properly perform such services.

8. Workers' Compensation Insurance. MRWPCA shall, at its cost and expense, at all times during the performance of services under this Agreement, maintain in force and effect workers' compensation insurance on any and all of its employees working pursuant to this Agreement in an amount not less than the statutory required minimum.

9. Independent Contractor. The parties agree that MRWPCA shall be an independent contractor with regard to the providing of services under this Agreement, and that MRWPCA's employees or agents shall not be considered to be employees or agents of the City for any purpose and will not be entitled to any of the benefits City provides for its employees.

10. Compliance With Laws. MRWPCA, its employees, agents and sub-contractors shall comply with all applicable state, federal and local safety regulations while performing services pursuant to this Agreement.

11. Dispute Resolution.

a) Dispute resolution procedure. If any dispute arises between the parties as to proper interpretation or application of this Agreement, the parties shall first seek to resolve the dispute in accordance with this Agreement. If a dispute concerns any amounts to be paid to MRWPCA by City, then City shall pay the amount demanded on time, under protest, notwithstanding that City has commenced or proposes to commence the dispute resolution procedures specified herein. The pendency of a dispute shall not excuse MRWPCA from full and timely performance in accordance with the terms of this agreement.

b) Duty to meet and confer. If any dispute under this Agreement arises the parties shall first meet and confer in a good faith attempt to resolve the matter between themselves. Each party shall make all reasonable efforts to provide to the other party all the information that the party has in its possession that is relevant to the dispute, so that both parties will have ample information with which to reach a decision.

12. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the matters covered by this Agreement, and no other agreement, statement or promise made by or to any party or by or to any employee, officer or agent of any party, which is not contained in this Agreement shall be binding or valid.

13. Interpretation. This Agreement has been negotiated by and between the representatives of both parties. Accordingly, any rule of law (including Civil Code §1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to affect the purpose of the parties and this Agreement.

14. Modification. This Agreement is not subject to amendment or modification except by a writing signed by the parties hereto.

15. Attorney's Fees. In the event of any controversy, claim or dispute relating to this Agreement, or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

IN WITNESS WHEREOF, MRWPCA and City each by its duly authorized representatives, have executed this Agreement on the date first hereinabove set forth at Monterey, California.

MONTEREY REGIONAL WATER
POLLUTION CONTROL AGENCY

CITY OF PACIFIC GROVE

By: _____
Keith Israel
General Manager

By: _____
James J. Colangelo
City Manager

Date: _____

Date: _____

EXHIBIT "A"

SCOPE OF SERVICES

CITY OF PACIFIC GROVE GREASE SOURCE CONTROL PROGRAM

INSPECTION SERVICES

Update Business Location List with assistance of City in collecting business license information

Prepare/Send out Public Notification Letters re: upcoming inspections, MRWPCA Role, etc.

Miscellaneous program management and administration

Initial Inspections

- › Inspect all food-service facilities.
- › Identify for the City what pretreatment equipment (if any) is installed.
- › Determine if current pretreatment equipment is up to code and/or City standards.
- › Size facility for correct pretreatment equipment (if necessary).
- › If grease equipment upgrade is necessary, recommend a requirement for the facility to have a plumber conduct a line location to determine if interceptor installation is feasible.
- › Fill out restaurant inspection forms and distribute hand-out materials and maintenance logs.
- › Draft pretreatment sizing compliance letter with specific requirements for fixture connections for the City after line location results are received.
- › Draft Grease Interceptor Waiver Forms for the City , as applicable.

Compliance Re-Inspections

- › Re-inspect facility (if necessary) to discuss installation methods, suppliers, etc. These inspections will be at the request of the facility or contracted plumber.
- › Work with plumbers, architects, mechanical engineers and City Building Department on installation issues. Review plumbing plans.
- › Conduct a final inspection to ensure proper installation of interceptor/trap and that the required size was

- installed with all required fixtures connected.
- › Draft letters for the City which identify additional requirements or corrective actions as required.

Annual Re-Inspection cycle

- › Re-Inspect all food preparation businesses for proper grease trap/interceptor cleaning and maintenance.
- › Check maintenance log sheets.
Answer grease program questions

City Compliance Issues

- › Notify City of any compliance issues that are developing or occurring.
- › If requested, provide input to City Personnel on appropriate compliance action to take.
- › Draft any violation letters for the City that become necessary.
- › Attend any non-compliance/show-cause meetings between business owners and the City, in an information capacity at the City's request.
- › Update the Regional Grease database with all data regarding current status or changes and supply the City with a (electronic and hard) copy of this document.
- › Ensure that the City has a complete file on each facility.
Supply any necessary documentation to the City.