



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 AUTHORIZING AGREEMENT FOR MAINTENANCE OF SEWAGE LIFT STATIONS
The City regularly contracts with MRWPCA to maintain existing City-owned sewer pumping facilities. This action would renew that contractual relationship

CEQA STATUS Class 1 Exemption (Existing Facilities)

RECOMMENDATION:

Authorize the City Manager to approve the Agreement with the Monterey Regional Water Pollution Control Agency for Maintenance of Sewage Lift Stations.

DISCUSSION:

On November 16, 1977 and amended in part on October 26, 1990, the City of Pacific Grove (City) and Monterey Regional Water Pollution Control Agency (MRWPCA) entered into an Agreement for Maintenance of Sewage Lift Stations. This action shall terminate the prior agreement and replace it by the attached Agreement. This action shall to continue MRWPCA's operation and maintenance of the City-owned lift stations.

Execution of this agreement qualifies for an exemption under Class 1 of the California Environmental Quality Act (CEQA), CEQA Guideline section 15301, Actions to Repair or Maintain Existing Facilities.

The recommended action is to approve and refer the matter back to staff.

FISCAL IMPACT:

This is a budgeted item. The contract for regular maintenance is approximately \$30,000.00 per fiscal year. In addition, the City authorizes MRWPCA to incur costs up to a maximum expenditure of \$1,000 during any one quarterly invoice period to perform repair and/or major maintenance work as described in 1(c) in the attached Agreement.

ATTACHMENTS:

1. Draft Resolution Authorizing Execution of Agreement.
2. Agreement for Maintenance of Sewage Lift Stations.

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 AN AGREEMENT FOR MAINTENANCE OF SEWAGE LIFT
STATIONS BETWEEN THE CITY OF PACIFIC GROVE AND MONTEREY
REGIONAL WATER POLLUTION CONTROL AGENCY**

WHEREAS, the existing agreement between the City of Pacific Grove (City) and the Monterey Regional Water Pollution Control Agency (MRWPCA) was entered into on July 1, 1977, was amended on October 26, 1990, and provides terms and conditions for the Agreement for Maintenance of Sewage³ Lift Stations; the parties now desire to terminate that prior agreement and enter into a new agreement to govern the terms and conditions related to maintenance of City-owned lift stations.

WHEREAS, MRWPCA agrees to perform services to sewage lift stations owned by the City as outlined in the Attached Agreement; and

WHEREAS, the City shall authorize MRWPCA to incur all reasonable and necessary costs to properly perform services described in Agreement; the average annual costs for which are estimated to be \$30,000.00. In addition, the shall City authorize MRWPCA to incur costs up to a maximum aggregate expenditure of \$1,000 during any one quarterly to perform repair and/or major maintenance work as described in the Agreement; and

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

WHEREAS, execution of this agreement qualifies for an exemption under Class 1 of the California Environmental Quality Act (CEQA), CEQA Guideline section 15301, Existing Facilities.

**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 City acts to enter into the attached Agreement with Monterey Regional Water Pollution Control Agency for an amount not to exceed \$50,000 annually for Maintenance of the Sewage Lift Stations.

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 day of 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 MAINTENANCE
OF SEWAGE LIFT STATIONS

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

- A. On July 1, 1977, as part of the implementation of a regional wastewater management system to serve northern Monterey County, the MRWPCA acquired the wastewater treatment plant previously owned and operated by the City. The ownership and responsibility for the sewage collection system within the City's internal sewage collection system were retained by and remain with the City, except for the Coral Street and Fountain Avenue stations..
- B. Coincident with the July 1, 1977 acquisition of the City's treatment plant, and by mutual agreement between the City and the MRWPCA, the personnel previously employed by the City to operate and maintain its treatment plant terminated their employment with the City and became employees of the MRWPCA.
- C. On November 16, 1977 and amended in part on October 26, 1990, the Parties entered into an Agreement for Maintenance of Sewage Lift Stations which they now intend to terminate and to replace in its entirety with this Agreement to continue MRWPCA's operation and maintenance of the City-owned lift stations.

TERMS AND CONDITIONS

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

1. Services to be Performed. The MRWPCA agrees to perform the following types of services to those sewage lift stations owned by the City and specifically described in Section 15 of this Agreement:
 - (a) Normal operational services including regular periodic visits to each lift station for the purposes of checking the operational status of all electrical and mechanical equipment located at the lift station; making appropriate operational adjustments; reading meters, cleaning debris from bar screens; washing down fouled surfaces; and all other duties typically associated with normal lift station operation. The frequency of such periodic visits will normally be once

per week unless, in the opinion of the MRWPCA, a particular lift station requires less or more frequent visits. The City may at any time request and receive a revision of the then current frequency of such regular visits.

(b) Normal preventive maintenance services as recommended by the manufactures of the equipment involved and/or as based on previous maintenance experience, to all electrical and mechanical equipment located at the lift stations. These services will include such work items as lubrication; fluid change and replacement; packing adjustment and replacement; operating valves; and cleaning of moving parts of the mechanical equipment.

(c) Repairs and major maintenance services, as required due to wear and tear of equipment failure and/or as recommended by the manufacturers involved, to all electrical and mechanical equipment located at the lift stations. These services will include such work items as motor replacement; bearing replacement; gasket replacement; and removal of equipment from its installed location, transport to and from a repair location, and reinstallation of the repaired or replaced piece of equipment. MRWPCA staff will attempt to keep lift stations operational while performing work of this type by making appropriate operational adjustments to utilize backup equipment installed at the lift stations. If the operation of a lift station will be significantly impaired during the course of performing work of this type, the Public Works Department of the City will be so advised, in advance of performing the work if possible, in order to develop a method of minimizing impairment. The City may be asked to provide reasonable assistance in the form of manpower and equipment to MRWPCA personnel in performing unusual types of lift station work for which the MRWPCA is not properly staffed or equipped to perform. In the event such assistance cannot be provided, the MRWPCA is authorized to rent special equipment and/or utilize additional non-staff manpower in such instances.

2. Working Hours. Work of the type described in Sections 1.a and 1.b will be performed during normal working hours, if at all possible. Work of the type described in Section 1.c will also be performed during normal working hours unless, in the opinion of MRWPCA staff, the circumstances constitute an emergency which requires immediate action. Under these conditions such work may be performed outside of normal working hours and at prevailing overtime labor rates.

3. Emergency Callback. MRWPCA staff will provide 24-hour-a-day, 7-day-a-week response to emergency trouble calls involving the lift stations covered by this Agreement.

4. Parts and Materials. The MRWPCA will maintain an adequate supply of lubricants, fluids, packing materials, gasket materials, and other parts and material necessary to accomplish the work described in Sections 1.a and 1.b. Special materials and/or replacement parts required to accomplish the work described in Section 1.c will either be kept available by the MRWPCA as standby items or obtained as needed, at the discretion of the MRWPCA. The City will be billed for such items as soon as MRWPCA is billed for them by the supplier involved. The City

may at any time review the spare parts inventory and request changes therein.

5. Division of Responsibilities. The responsibilities for operation and maintenance shall be divided between the involved parties in the following manner:

(a) For below-ground lift station structures the MRWPCA will perform all operation and maintenance work to both the structure and the equipment. This work will include repairs, replacement, painting, cleaning, and general upkeep.

(b) For lift stations which involve above-ground structures, the MRWPCA will perform those services as described in Section 5.a only to those facilities or portions of the structure located inside the structure. The exterior of the above-ground structure and the grounds around the structure will be maintained by the City. With regard to this latter type of work, the MRWPCA will inform the City if its staff observes the need for such work to be performed.

(c) In the event of a sewage backup or flooding of a lift station, MRWPCA personnel will clear the interior of the lift station structure of such sewage and debris and restore it to proper operating condition and a normal state of cleanliness. The City will perform this type of cleanup work to the area surrounding the structure, including the adjacent street(s) and/or property, if necessary.

6. Hold Harmless and Indemnity.

(a) The City shall defend, indemnify and hold harmless MRWPCA from any and all damages, liabilities, losses, claims and costs or expenses (hereinafter collectively "Claims") arising out of, relating to, resulting from or in conjunction with maintenance activities, including cleanup, by the City, or any of its other contractors, subcontractors, employees or agents, to the extent such are determined to be caused by the negligence or willful misconduct of the City, any of its other contractors, subcontractors, employees or agents. Nothing in this Agreement is intended or shall be construed as an assumption by MRWPCA of any responsibility arising under any applicable law or regulation, including the common law, for liability for payment of any fine or civil penalty levied against the City by a regulatory agency.

(b) MRWPCA shall defend, indemnify and hold harmless the City from any and all Claims arising out of, relating to, resulting from or in conjunction with the operation, maintenance and repairs to be performed by MRWPCA, or any of its employees, subcontractors or agents, under this Agreement, to the extent such are determined to be caused by the negligence or willful misconduct of MRWPCA, its employees, subcontractors or agents. Nothing in this Agreement is intended or shall be construed as an assumption by MRWPCA of any responsibility arising under any applicable law or regulation, including the common law, for liability for payment of any fine or civil penalty levied against the City by a regulatory agency.

(c) In the event of concurrent negligence of the Agency, its employees, subcontractors or agents, and City, its other contractors, subcontractors, employees or agents, then the liability for any and all Claims which arise out of the terms and conditions of this Agreement shall be appointed under the California theory of comparative negligence as established presently, or as may be hereafter modified.

7. Insurance/Self Insurance. The Parties are either insured or self-insured as to any requirements under this Agreement. No policies or bonds are required of either party as to any provisions of this Agreement. The Parties are aware of and shall comply with the requirements of Section 3700 of the Labor Code of the State of California at its own cost and expense and further, neither Party nor its carrier shall be entitled to recover from the other any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.

8. Methods of Compensation. The MRWPCA will provide to the City an invoice for the actual costs of all labor and materials supplied by the MRWPCA for the services rendered under the provisions of this Agreement. Labor rates will be those prevailing at the time the work is performed and will be at net cost to the MRWPCA. Labor rates will include direct salary, labor benefits and a 10% overhead. Cost of materials will be at net cost to the MRWPCA. Driving time to and from the lift stations will be included in the invoiced charges, and vehicle charges for this purpose will also be included. Work involving the services of a contractor, a machine shop, or other non-MRWPCA owned facility will be charged to the City on the invoice at net cost to the MRWPCA. Improvements to upgrade the condition and/or performance of the lift stations will be agreed to in advance by the parties involved before costs for such improvements are incurred. Any other expenses directly associated with the performance of the provisions of this contract will be charged in a manner acceptable to both the City and the MRWPCA.

9. Rendering of Invoices. Labor and materials to perform routine work as described in Sections 1.a and 1.b will be invoiced on a quarterly basis and in the manner described in Section 6. Costs associated with the types of work described in Section 1.c may be invoiced along with these regular quarterly billings, or may be invoiced separately, at the discretion of the MRWPCA. The City agrees to pay the amounts invoiced for each and all the foregoing services within 30 calendar days from the date of the receipt of the invoice.

10. Independent Contractors. It is expressly understood that this is an agreement between two (2) independent contractors and that no agency, employee, partnership, joint venture, or other relationship is established by this Agreement. The intent by both Parties is to create an independent contractor relationship.

11. Authorization to Incur Costs. The City authorizes the MRWPCA to incur all costs necessary to properly perform those services described in Sections 1.a and 1.b. The City authorizes the MRWPCA to incur costs up to a maximum expenditure of \$1,000 during any one quarterly invoice period to perform repair and/or major maintenance work as described in

Section 1.c. if the total amount of such expenditures will exceed \$1,000 during any given quarter, the City will be notified prior to exceeding this amount. This notification will be made initially by telephone to the City Public Works Director, and will be immediately followed up with a written memo describing the repair or maintenance work to be performed and the estimated costs involved. In the event that in the opinion of the MRWPCA an emergency condition arises in which immediate action is required in order to prevent property damage or a health hazard from developing, the City authorizes the MRWPCA to make expenditures for such services and/or materials as are necessary to correct these conditions without advance notification. In such instances, the City will be notified as soon thereafter as possible.

12. Budget Planning Assistance. To assist in budget planning, the City may request the MRWPCA to make periodic recommendations regarding capital improvements necessary to ensure continued proper operation of the lift stations.

13. Modification and Termination of Agreement. This Agreement shall be deemed to have become effective on the date first written above and shall continue thereafter from fiscal year to fiscal year unless sooner terminated by either party by 90 days written notice from one party to the other. The provisions of this Agreement are subject to review and modification at any time upon the mutual consent of the MRWPCA and the City.

14. Attorney's Fees. In the event it shall become necessary to commence or defend litigation for purposes of enforcing this Agreement or rights hereunder, the prevailing party shall be entitled to recover reasonable attorney's fees and costs.

15. Facilities Covered by This Agreement. The sewage lift stations to which the provisions of the Agreement apply are:

<u>Lift Station Designation</u>	<u>Location</u>
Station #11	Ocean View & Eardley
Station #12	Ocean View & 9 th
Station #14	Ocean View & 17 th (Lover's Point Park)
Station #15.5	Ocean View & Crespi Pond
Station #16	Sunset & Arena
Station #17	Beachcomber Motel
Station #18	Russell Service Center

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates herein below indicated for each.

MONTEREY REGIONAL WATER
POLLUTION CONTROL AGENCY

CITY OF PACIFIC GROVE

By: _____
Keith Israel
General Manager

By: _____
James J. Colangelo
City Manager

Date: _____

Date: _____