



City Council Staff Report

Date: June 23, 2016

CONSENT CALENDAR

Subject: APPROVAL OF AN ADMINISTRATIVE SERVICES AGREEMENT FOR COUNTY SERVICE AREA 152 NATIONAL POLLUTANT DISCHARGE ELIMINATION PROGRAM WITH RIVERSIDE COUNTY AND SETTING OF THE FISCAL YEAR 2016/2017 CSA 152 SPECIAL ASSESSMENT RATE

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

SUMMARY

The City and Riverside County first entered into an administrative services agreement for the County Service Area 152 ("CSA 152") for the National Pollutant Discharge Elimination System ("NPDES") on August 3, 1994 (Agreement No. 3349). The current agreement with the County expires July 11, 2016, and must be replaced with a new agreement with a 5-year term to continue the County's levy of special assessments for the CSA 152 Fund.

RECOMMENDATION:

- 1) Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS CALIFORNIA, MAKING FINDINGS AND REAFFIRMING THE ESTABLISHMENT AND SETTING OF RATES FOR COUNTY SERVICE AREA 152 FOR FISCAL YEAR 2016/2017 TO FUND THE CITY'S NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT IN ORDER TO OPERATE AND MAINTAIN THE CITY'S DRAINAGE AND FLOOD CONTROL SYSTEMS;"
- 2) Approval of an Administrative Services Agreement No. _____, for CSA 152 NPDES Program between Riverside County and the City of Palm Springs; and
- 3) Authorize the City Manager to execute all necessary documents.

ITEM NO. 2.A.

STAFF ANALYSIS:

The NPDES Program is a federally mandated program to control non-point sources of runoff pollution. In 1972, the Federal Water Pollution Control Act ("Clean Water Act" or "CWA") was amended to provide that discharge of pollutants to waters of the United States from any point source is effectively prohibited, unless the discharge is in compliance with a NPDES Permit. The Clean Water Act was amended in 1987 to establish a framework for regulating municipal and industrial stormwater discharges under the NPDES Program. In 1997, the City adopted Chapter 8.70 of the Municipal Code which incorporates regulations of the NPDES Program.

The CWA made it unlawful to discharge any pollutant from a point source into navigable waters, unless a permit was obtained. EPA's National Pollutant Discharge Elimination System (NPDES) permit program controls discharges. Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge do not need an NPDES permit; however, industrial, municipal and other facilities must obtain permits if their discharges go directly to surface waters.

The CWA establishes requirements for the discharge of urban runoff from the Municipal Separate Storm Sewer System ("MS4") under the NPDES program. The Colorado River Basin Regional Water Quality Control Board ("RWQCB") issued Permit Order No. R7-2013-0011 to authorize the discharge of urban runoff from within the City on June 20, 2013. The permit regulates the operation and maintenance of the City's Municipal Separate Storm Sewer System (or "MS4" – the system of streets and storm drainage systems that convey storm water runoff to the various waters of the U.S., including the Tahquitz Creek, Palm Canyon Wash, and Whitewater River). The NPDES permit regulates the discharge of pollutants in urban stormwater runoff generated from development projects, and from existing industrial facilities, restaurants, and commercial sites. The goal of the NPDES permit is to prevent polluted runoff generated on public or private properties from passing directly to the MS4 and thereby polluting the waters of the U.S.

The NPDES permit requires the City to inspect construction sites, industrial facilities, restaurants and commercial sites. Inspection frequency is based on various factors, such as: the type of business and activities; the types of potential pollutants present; whether the business is in significant non-compliance and proximity to impacted waters. Businesses are assigned to a high, medium or low priority inspection based on the Standard Industrial Code (SIC). Businesses that are classified as high priority must be inspected annually, medium priority businesses once every two years and low priority businesses once every five years.

Examples of polluted stormwater runoff that are to be prevented through the City's NPDES inspection program are shown in the following photos. The examples identify erosion and sediment pollution caused by an active construction site; oils and polluted

contaminants in a drainage gutter; leaking fluids from stored equipment; and leaking toxic chemicals and other pollutants from a commercial trash enclosure.





Riverside County originally formed CSA 152 to finance a portion of its programs and obligations associated with its NPDES Permit. The City annexed into CSA 152 in 1993, to allow for the levy of special assessments to offset the City's costs related to administering the NPDES Program. The Administrative Services Agreement with Riverside County facilitates the County's administration of the NPDES Program on the City's behalf, to be offset by the special assessments collected in CSA 152. The special assessment rate in Palm Springs is \$9.50 annually per Benefit Assessment Unit ("BAU"). The BAU is defined as a single family home on a 7,200 square feet (1/6 acre) lot. The agreement with Riverside County restates the formalities between the City and County in administering the NPDES Program and using the CSA 152 special assessments for that purpose.

Staff recommends that the City Council adopt a Resolution making certain findings and setting the BAU for CSA 152 at the currently adopted and existing rate of \$9.50 which does not exceed the prior BAU special assessment rate originally adopted by the City Council in 1994. Staff also recommends that the City Council approve the new Administrative Services Agreement with Riverside County as it continues an existing cooperative agreement between the City and County regarding the NPDES Program and ensures the City's continued receipt of special assessments through CSA 152.

ENVIRONMENTAL IMPACT:

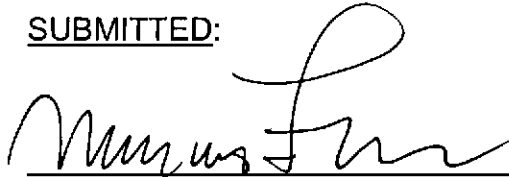
The requested City Council action is not a "Project" as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(a), a "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. According to Section 15378(b), a Project does not include: (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

FISCAL IMPACT:


In the 2015/2016 fiscal year, the City will have received approximately \$636,000 in special assessment revenue through the CSA 152 special assessment collected on the property tax roll coordinated by Riverside County on the City's behalf. The 2016/2017 fiscal year budget anticipates a slight increase in CSA 152 revenue with an estimated budget of \$652,000. These funds are allocated into a separate Enterprise Fund (Fund 124) for special purpose uses specifically relating to the stormwater pollution prevention and the NPDES Program. The CSA 152 Administrative Services Agreement accommodates payment to the County of a 6% administrative fee from its CSA 152 assessments which is reflected in the assessments remitted to the City.

Approval of the Administrative Services Agreement provides for the continued collection of the CSA 152 special assessment.

SUBMITTED:



Marcus L. Fuller, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer



David H. Ready, Esq., Ph.D
City Manager

Attachments:

1. Resolution
2. Agreement

ATTACHMENT 1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS CALIFORNIA, MAKING FINDINGS AND REAFFIRMING THE ESTABLISHMENT AND SETTING OF RATES FOR COUNTY SERVICE AREA 152 FOR FISCAL YEAR 2016/2017 TO FUND THE CITY'S NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT IN ORDER TO OPERATE AND MAINTAIN THE CITY'S DRAINAGE AND FLOOD CONTROL SYSTEMS

WHEREAS, the Riverside County Service Area 152 (CSA 152) was created under the Benefit Assessment Act of 1982 (Government Code Section 54702, et seq.), which authorized local agencies to impose benefit assessments to finance the maintenance and operation costs of flood control and drainage systems, based on the proportionate storm water runoff from each parcel; and

WHEREAS, under the federally-mandated but unfunded National Pollutant Discharge Elimination System (NPDES) Program, the City is required to have a valid permit from the Regional Water Quality Control Board to discharge water runoff from properties within the boundaries of the City; and

WHEREAS, street sweeping is a pro-active method of ensuring pro-active maintenance from street runoff into the flood control and drainage systems of the City; and

WHEREAS, the City is a co-permittee of NPDES Permit No. CAS-617002 with the Coachella Valley Water District, County of Riverside and the incorporated cities therein; and

WHEREAS, the City, by its Resolution No. 18088 adopted on May 5, 1993, requested the Local Agency Formation Commission to undertake proceedings to annex the City of Palm Springs into CSA 152 for the purpose of partially funding the City's implementation of the NPDES Program; and

WHEREAS, the Count of Riverside, by its Resolution No. 93-454 adopted December 21, 1993, annexed the City of Palm Springs into CSA 152 to partially fund the costs of maintaining and operating the City's flood control and drainage systems under the NPDES Permit; and

WHEREAS, the City by its Resolution No. 18351 adopted March 16, 1994, recommended that the County Board of Supervisors adopt the City's proposed initial budget for the portion of CSA 152 contained within the City; and

WHEREAS, the CSA 152 charges assessed on each parcel within the City are determined in proportion to the storm water runoff attributable to each parcel; and

WHEREAS, the City uses revenues from the CSA 152 assessments solely for the purpose of complying with the terms of the NPDES Permit, and for maintaining and operating the City's flood control and drainage system; and

WHEREAS, Proposition 218, adopted by voters on November 6, 1996, established new procedures and approval requirements for all existing assessments, unless the assessment is exempt from the new requirements; and

WHEREAS, certain assessments that existed on November 6, 1996, are specifically exempt from the Proposition 218 procedures and approval requirements, including assessments imposed exclusively to finance the capital costs and maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council finds the foregoing recitals to be true and correct.

Section 2. The City Council finds and declares that the City's CSA 152 charges are assessments within the definition of California Constitution Article XIID, Section 2(b), in that they confer special benefits upon each parcel of property subject to the assessments.

Section 3. The City Council finds and declares that pursuant to Article XIID, Section 5(a), the City's CSA 152 assessments are exempt from the new procedures and approval requirements of Article XIID, Section 4, because the City's CSA 152 assessments existed before November 6, 1996, and the assessments are imposed exclusively to finance the capital costs and maintenance and operation expenses for flood control and drainage systems in the City.

Section 4. The City Council hereby reaffirms its adoption of the annual assessment for CSA 152 and hereby determines that the annual assessment rate for Fiscal Year 2016/2017 for CSA 152 is to be set at Nine Dollars and Fifty Cents (\$9.50) per Benefit Assessment Unit. The method of computation has not been changed nor has the rate of assessment been increased since the assessment was first approved the City in accordance with Resolution No. 18351 adopted March 16, 1994.

Section 5. The City Council hereby authorizes the County of Riverside to levy assessments under CSA 152 for the benefit of the City.

Resolution No.

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ADOPTED this 23rd day of June, 2016.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on June 23, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California

ATTACHMENT 2

1 **ADMINISTRATIVE SERVICES AGREEMENT**

2 **FOR CSA 152 NPDES PROGRAM**

3 **BETWEEN**

4 **COUNTY OF RIVERSIDE AND CITY OF PALM SPRINGS**

5
6 The Administrative Services Agreement for CSA 152 NPDES Program ("Agreement"),
7 entered into as of this ____ day of _____ 2016 by the COUNTY OF RIVERSIDE
8 ("COUNTY") and the CITY OF PALM SPRINGS ("CITY") (individually "Party" and collectively
9 "Parties") establishes the responsibilities and obligations of each Party concerning the
10 management and financing of COUNTY SERVICE AREA 152 NATIONAL POLLUTANT
11 DISCHARGE ELIMINATION SYSTEM ("CSA 152").

12 **RECITALS**

13 **WHEREAS**, Congress in 1987 added Section 402(p) to the Federal Clean Water Act
14 (CWA) [33 U.S.C. 1342(p)]; and,

15 **WHEREAS**, Section 402(p) requires certain municipalities, construction and industrial
16 facilities to obtain a National Pollutant Discharge Elimination System (NPDES) Permit before
17 discharging storm water into the waters of the United States; and,

18 **WHEREAS**, COUNTY and CITY have obtained or will obtain the appropriate municipal
19 NPDES Permit as applicable for each of the three watersheds of the County of Riverside; and,

20 **WHEREAS**, COUNTY has formed CSA 152 to finance a portion of its programs and
21 obligations associated with the municipal NPDES Permits and individual General NPDES
22 Permits; and,

23 **WHEREAS**, cooperation between COUNTY and CITY in the administration and
24 implementation of the NPDES Permits is in the best interests of COUNTY and CITY; and,

25 **WHEREAS**, CITY was formally annexed into CSA 152 by COUNTY Resolution No. 93-
26 454 on December 21, 1993; and,

27 **WHEREAS**, COUNTY and CITY are to perform certain duties prescribed in this
28 Agreement that will benefit all Parties;

1 **NOW, THEREFORE**, the Parties hereto do mutually agree as follows:

2 **1. DELEGATION OF RESPONSIBILITIES.** The responsibilities of each Party shall be as
3 follows:

4 a. CITY shall assume the responsibilities and meet the requirements of CSA 152
5 administration for CITY by:

- 6 i. Providing additions to previous year's tax roll (if any) to be placed on the
7 upcoming fiscal year tax roll.
- 8 ii. Providing agenda item approving Benefit Assessment Unit (BAU) Levy
9 and CITY'S CSA 152 budget for each fiscal year.
- 10 iii. Notify COUNTY of any changes to Tax Rate Area of individual parcels to
11 be placed on Tax Roll.
- 12 iv. Research parcels that were rejected from list of Assessor Parcel
13 Numbers (APNs) submitted to COUNTY.
- 14 v. Notify COUNTY of any corrections to rejected parcels to be placed on
15 Tax Roll prior to Auditor Controllers deadline for submittal of APNs.
- 16 vi. Submit to COUNTY requests for reimbursement of actual expenditures
17 incurred under provision of approved CITY CSA 152 budget.

18 b. COUNTY shall assume the responsibilities and meet the requirements of CSA
19 152 administration for COUNTY and CITY by:

- 20 i. Forwarding of APNs received from CITY to Auditor Controller to be
21 placed on Tax Roll.
- 22 ii. Notify CITY of any rejected parcels.
- 23 iii. Forward CITY'S corrections of rejected parcels to Auditor Controller.
- 24 iv. Provide spreadsheet of CSA 152 assessments placed on tax roll and
25 fiscal year financial summary.
- 26 v. Collect assessment for CSA 152 on behalf of CITY.
- 27 vi. Reimburse CITY for actual expenditures incurred under provision of
28 approved CITY CSA 152 budget.

- 1 2. **FEES AND PAYMENT.** COUNTY shall administer CSA 152 for the benefit of COUNTY
2 and CITY. COUNTY shall charge six (6%) percent of new CITY CSA 152 annual
3 revenue for administration.
- 4 3. **TERM OF AGREEMENT.** The term of this Agreement shall commence on the date the
5 Agreement is approved by the COUNTY. This agreement duration shall be for a period
6 of five (5) years from the date of execution and with two (2) two-year renewal options
7 subject to the written consent of both Parties.
- 8 4. **WITHDRAWAL FROM AGREEMENT.** Either Party may terminate this Agreement thirty
9 (30) days after submitting written notice to the other Party. In the event termination
10 becomes effective, termination shall constitute forfeiture by the terminating Party of its
11 share of costs and administrative fees paid as described in Section 2 of this Agreement
12 up to the effective date of termination. The terminating Party shall be responsible for all
13 lawfully assessed penalties as a consequence of termination.
- 14 5. **AMENDMENTS TO THE AGREEMENT.** This Agreement may be amended by mutual
15 consent of the Parties to the Agreement. No amendment to this Agreement shall be
16 effective unless it is in writing and signed by the duly authorized representatives of the
17 Parties.
- 18 6. **GOVERNING LAW AND SEVERABILITY.** This Agreement will be governed and
19 construed in accordance with laws of the United States and the State of California. Any
20 conflict between the terms of this Agreement and the provisions of such laws and
21 regulations, the latter shall control. If any provision or provisions of this Agreement shall
22 be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of
23 the remaining provisions shall not in any way be affected or impaired hereby.
- 24 7. **CONSENT TO BREACH NOT A WAIVER.** No term or provision hereof shall be deemed
25 waived and no breach excused, unless such a waiver or consent is in writing and signed
26 by the Party so waiving or consenting. Any consent by any Party to, or waiver of, a
27 breach by the other Party, whether expressed or implied, shall not constitute consent to,
28 waiver of, or excuse for any other different or subsequent breach.

1 8. **APPLICABILITY OF PRIOR AGREEMENTS.** This Agreement constitutes the entire
2 agreement between the Parties with respect to the subject matter; all CSA 152 prior
3 agreement, representations, customs, usage, statement, negotiations, and
4 understandings are superseded hereby.

5 9. **HOLD HARMLESS.** Each Party shall indemnify and hold harmless the other party from
6 liability or damages resulting from its own acts or omissions including those of its officers
7 or employees in the performance of this Agreement.

8 10. **AUTHORIZED SIGNATURES.** The Parties warrant and represent that the individuals
9 signing this Agreement on their behalf can and do bind the Parties to the terms of this
10 Agreement.

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1 IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above
2 written.

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COUNTY OF RIVERSIDE,
On behalf of CSA 152

CITY OF PALM SPRINGS

Chairman, Board of Supervisors

City Manager

Approved as to Form
County Counsel

Approved as to Form
City Attorney

BY _____

BY _____

ATTEST:
Clerk of the Board

ATTEST:
City Clerk

BY _____

BY _____