

RESOLUTION NO. 2015-48

THE CITY COUNCIL OF THE CITY OF MARINA DOES HEREBY RECEIVE INFORMATIONAL REPORT WITH REGARDS TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC) MONTEREY PENINSULA WATER SUPPLY PROJECT (MPWSP) DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) RESPONSIBLE AGENCY REVIEW PROCESS; AUTHORIZE FY2015-16 BUDGET AMENDMENT AND AUTHORIZE THE FINANCE DIRECTOR TO MAKE THE NECESSARY ACCOUNTING AND BUDGETARY ENTRIES

WHEREAS, at the regular meeting of April 21, 2015 City Council received a staff report and timeline for the Responsible Agency review process for the CPUC DEIR for the MPWSP, and;

WHEREAS, at the meeting, City Council asked several questions which are answered in this report, and;

WHEREAS, at the April 21, 2015 meeting, it was noted that the cost of the review is estimated to be approximately \$40,000.00 and these costs were not anticipated during the FY 2015/16 Budget process, and;

WHEREAS, the FY2014-15 budgets would be amended to appropriate \$40,000 from available General Fund balance into Professional Services for CPUC DEIR purpose.

NOW, THEREFORE IT BE RESOLVED that the City Council of the City of Marina does hereby:

1. Receive informational report with regards to the California Public Utilities Commission (CPUC) Monterey Peninsula Water Supply Project (MPWSP) Draft Environmental Impact Report (DEIR) Responsible Agency review process;
2. Authorize FY2015-16 budget amendments to transfer \$40,000 from the General Fund Reserve for this one time review, and;
3. Authorize Finance Director to make any necessary budgetary entries.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 5th day of May 2015, by the following vote:

AYES: COUNCIL MEMBERS: Amadeo, Brown, Morton, O'Connell, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

May 1, 2015

Item No. **8k(1)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of May 5, 2015

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2015-,
RECEIVING INFORMATIONAL REPORT WITH REGARDS TO THE
CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC) MONTEREY
PENINSULA WATER SUPPLY PROJECT (MPWSP) DRAFT
ENVIRONMENTAL IMPACT REPORT (DEIR) RESPONSIBLE
AGENCY REVIEW PROCESS; AUTHORIZING FY2015-16 BUDGET
AMENDMENT AND AUTHORIZING THE FINANCE DIRECTOR TO
MAKE THE NECESSARY ACCOUNTING AND BUDGETARY ENTRIES**

REQUEST:

It is requested that the City Council:

1. Consider adopting Resolution No. 2015- , receiving informational report with regards to the California Public Utilities Commission (CPUC) Monterey Peninsula Water Supply Project (MPWSP) Draft Environmental Impact Report (DEIR) Responsible Agency review process; authorizing FY2015-16 budget amendment, and; authorizing Finance Director to make the necessary accounting and budgetary entries.

BACKGROUND:

At the regular meeting of April 21, 2015 City Council received a staff report and timeline for the Responsible Agency review process for the CPUC DEIR for the MPWSP.

At the meeting, City Council asked several questions which are answered in this report.

Additionally, at the meeting, it was noted that the cost of the review is estimated to be approximately \$40,000.00. These costs were not anticipated during the FY 2015/16 Budget process and thus the attached Resolution authorizes a budget transfer to establish funding to support the project.

ANALYSIS:

CEQA Guidelines Section 15096 (d) describes the process for Responsible Agency review of Draft EIRs as follows:

A Responsible Agency should review and comment on draft EIRs for projects which the Responsible Agency would later be asked to approve. Comments should focus on any shortcomings in the EIR or on additional alternatives or mitigation measures which the EIR should include. The comments shall be limited to those project activities which are within the agency's area of expertise or which are required to be carried out or approved by the agency or which will be subject to the exercise of powers by the agency. Comments shall be as specific as possible and supported by either oral or written documentation.

The City has hired SWCA Consultants on a time and materials basis to prepare the written documentation following release of the DEIR, with costs not to exceed \$24,999.00. This review does not include a peer review of the technical studies.

Peer Review of Technical Studies

In telephone communications with Mr. Eric Zigas, Project Manager for ESA Consultants and responsible for overseeing preparation of the EIR for the CPUC, there are three technical studies that will accompany the DEIR (not yet released at time of writing this staff report). The first of these, the Coastal Erosion Technical Memo, was peer reviewed by SWCA during review of the slant test well project. SWCA found the ESA study (April 2014) to represent a worst-case scenario developed by a very conservative approach. SWCA utilized the information to develop mitigation measures for the slant test wells adequate to minimize the risk of effects associated with coastal erosion and wave run-up.

The second, the Groundwater Study is being peer reviewed by the Hydrogeology Working Group (HWG). This group was created as a result of a 2013 Settlement Agreement among parties to the CPUC's proceeding regarding the MPWSP. According to Mr. Zigas, the HWG consists of hydro-geologists from the Salinas Valley Water Coalition, the Monterey County Farm Bureau, Cal Am and CEMEX. To date, these experts are unable to agree upon model results within the Groundwater Study. The HWG has requested a copy of the groundwater model from the CPUC to review assumptions. The CPUC has not released the model for review.

The third of the technical studies is the Surface Water and Marine Water Quality Study. This study pertains to ocean water, below mean high tide. Therefore the subject of the studies is not within City of Marina jurisdiction, and thus outside of the scope of the City review.

Conclusions from each of the technical studies are embodied within the text of the DEIR.

Public Comments versus Testimony

Also at the April 21, 2015 City Council meeting, the question was posed as to what would be the difference between a "four minute public comment period" and "public testimony" at the upcoming May 12, 2015 Special Joint City Council/Planning Commission Meeting. Mr. Zigas clarified that one CPUC purpose of the May 12, 2015 presentation to the City of Marina is to provide a preview of the DEIR in advance of the CPUC public meetings to follow on May 26 through 28, 2015. Another is to allow the City to identify issues of interest to the City and to ask for and receive clarification on the project components and contents of the DEIR document. Mr. Zigas has asserted that the purpose of the meeting is not to debate the results or the conclusions of the study. Comment on the results of the study can be provided to or debated with the technical experts and/or provided to the court transcribers at the CPUC sponsored public meetings.

Marina Public Meeting Venue and Time Confirmed

This meeting has now been confirmed to be held at the Marina Public Library on May 26, 2015, from 1:00 to 3:00 p.m.

CPUC Intervener Status

The City Attorney has investigated whether the City of Marina, as a Responsible Agency, could be reimbursed for costs associated with CPUC MPWSP DEIR review through the intervener status process. The finding is that, in accordance with Public Utilities Code Section 1802(b)(2), only "customers" can be reimbursed and a local government agency cannot be considered a customer for the purpose of participating in a Commission proceeding. At this time, the City Attorney is seeking advice from the CPUC Public Advocate as to any other potential opportunities for reimbursement.

Cost Estimate

Costs associated with conduct of the peer review are estimated at \$40,000 and include SWCA cost of review and meeting attendance, staff time, City Attorney and CEQA Counsel cost, as well as incidentals such as printing and mail. These costs will be tracked against the established budget to allow for reimbursement should an opportunity be identified.

FISCAL IMPACT:

Should the City Council approve this request, the FY2014-15 budgets would be amended to appropriate \$40,000 from available General Fund balance into Professional Services for CPUC DEIR purpose.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Theresa Szymanis, AICP CTP
Acting Director
Community Development Department

REVIEWED/CONCUR:

Layne P. Long
City Manager
City of Marina