

Corrected attachment.

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RESOLUTION NO. 16-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES AUTHORIZING A BUDGET ADJUSTMENT TO THE SEWER FUND AND AUTHORIZING PAYMENT FOR A SUPPLEMENTAL ENVIRONMENTAL PROJECT AND TO SATISFY MANDATORY MINIMUM PENALTIES

WHEREAS, prior to recent completion of the Paso Robles Wastewater Treatment Plant (WWTP) Upgrade, the old treatment plant was antiquated and severely overloaded with waste. Wastewater strength greatly exceeded capacity of the trickling filters. Consequently, the City consistently violated permit limits and incurred mandatory penalties. These violations continued throughout the long construction period of the WWTP Upgrade. The City Council knew of the shortcomings of the old treatment plant and had already taken actions to build the new plant, but the old plant continued to be unable to meet the stringent permit standards; and

WHEREAS, on August 24, 2016, the Water Board issued a mandatory penalty complaint with a list of all effluent violations that occurred at the Paso Robles WWTP between October 2013 and June 2016. All the violations are legitimate; and

WHEREAS, the penalty amount of \$495,000 is the mandatory minimum amount prescribed by the California Water Code. Water Board staff does not have discretion to reduce the penalties any further, but they could increase the penalties if the City doesn't take action on a Supplemental Environmental Project (SEP) and other payments by September 23, 2016; and

WHEREAS, the recent complaint includes an offer to direct \$255,000 of this penalty - the maximum amount allowed by the Water Code - to an SEP that Water Board staff developed to benefit the Paso Robles Groundwater Basin. The project includes the following key actions:

- Develop a sustainable groundwater management methodology for the Paso Robles Groundwater Basin for implementation by local entities;
- Conduct groundwater sampling to help sustainably manage the Paso Robles Groundwater Basin, with emphasis on elevation and water quality data as key elements of a sustainable groundwater management plan;
- Sample domestic wells in the Paso Robles Groundwater Basin as an expansion of the Regional Board's existing domestic well sampling program; and

WHEREAS, the complaint includes an offer to settle the penalties and thus avoid an adjudicatory hearing. The complaint states that if the City chooses to settle the matter, the Water Board will "forego issuance of a formal administrative complaint, will not refer the violations to the Attorney General, and will waive its right to seek additional discretionary civil liabilities for the violations ..."; and

WHEREAS, in order to settle this matter, the City will pay \$255,000 to the Bay Foundation of Morro Bay for the supplemental environmental project, and pay a penalty amount (\$240,000) to the State Water Resources Control Board; and

WHEREAS, payment of the penalty was anticipated in the City budget. A total of \$254,000 was appropriated and is adequate to cover the payment to the State Water Resources Control Board. The original budget appropriation, however, is not adequate to cover the cost of the SEP. An additional appropriation of \$241,000 will provide the total funds necessary to enable the Bay Foundation to undertake the SEP and provide the needed data on the Paso Robles Groundwater Basin.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The City Council of the City of El Paso de Robles does hereby approve an appropriation of \$241,000 from Fund 601 (Sewer Fund-Control Account) to Budget No. 6013550-52420 (Violations and Penalties), to facilitate payment towards a supplemental environmental project.

Section 2. The City Manager is hereby authorized to make payments of \$255,000 to the Bay Foundation of Morro Bay for a supplemental environmental project and \$240,000 to the State Water Resources Control Board, to satisfy mandatory minimum penalties incurred at the wastewater treatment plant.

APPROVED by the City Council of the City of El Paso de Robles this 20th day of September 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Kristen L. Buxkemper, Deputy City Clerk