



AGENDA STAFF REPORT

Control: 26001763

MEETING DATE: 09/15/2026

LEGAL ENTITY TAKING ACTION: Board of Supervisors and Orange County Flood Control District

BOARD OF SUPERVISORS DISTRICT(S): All Districts

SUBMITTING AGENCY/DEPARTMENT: OC Public Works

DEPARTMENT CONTACT PERSON(S): Amanda Carr, 714-955-0601
James Fortuna, 714-955-0680

SUBJECT: Approve Amended Agreement for Orange County Municipal Stormwater Program

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
Concur	Approve agreement to form	CONSENT CALENDAR 3 Votes Board Majority

Budgeted: N/A	Current Year Cost: N/A	Annual Cost: N/A
Staffing Impact: No		Sole Source: N/A
Current Fiscal Year	Funding Source: N/A	County Audit in Last 3
Revenue: N/A		years: No
Levine Act Review		
Completed? N/A		

Prior Board Action: 6/25/2002 #106, 10/26/1993, 12/18/1990

RECOMMENDED ACTION(S):

Approve the Amended and Restated National Pollutant Discharge Elimination System Stormwater Permit Implementation Agreement between the County of Orange, the Orange County Flood Control District and the cities of Orange County, effective upon Board of Supervisors approval.

SUMMARY:

Approving the Amended and Restated National Pollutant Discharge Elimination System Stormwater Permit Implementation Agreement with the 34 cities of Orange County will update the governance, project-specific cost-sharing and administrative framework for the OC Stormwater Program to reflect current municipal stormwater permit requirements.

BACKGROUND INFORMATION:

In 1987, Congress amended Section 402 of the Clean Water Act (33 U.S.C.A. 1342(p)) to require the United States Environmental Protection Agency (EPA) to promulgate regulations for permitting stormwater discharges from municipal separate storm sewer systems (MS4s). The California State Water Resources Control Board (including its regional boards), as designee of the EPA, has delegated authority to issue MS4 permits concerning Orange County. The County of Orange (County), the Orange County Flood Control District (District) and the 34 cities of Orange County (Cities) are co-permittees under these MS4 permits, with the County designated as Principal Permittee.

The OC Stormwater Program (Program) is the collaborative effort between the County, District and Cities, to carry out MS4 permit requirements. The Program is administered through an implementation agreement, the most recent negotiated version of which is reflected in the Amended and Restated National Pollutant Discharge Elimination System Stormwater Permit Implementation Agreement (Agreement) proposed for approval.

Prior Board of Supervisors (Board) actions related to the OC Stormwater Program implementation agreement are summarized in the table below.

Board Date	Action
12/18/1990	Approved Agreement No. D90-094 for the National Pollutant Discharge Elimination System (NPDES) Stormwater Permit Implementation between the County, the District and the Cities, establishing the OC Stormwater Program.
10/26/1993	Approved Amendment No. 1 to Agreement No. D90-094 to add two newly incorporated cities and establish a Technical Advisory Committee.
6/25/2002	Approved Agreement No. D02-048 which restated the original agreement to address newly reissued municipal NPDES permits, added three newly incorporated cities and revised the cost-share methodology to allow certain costs specific to a Regional Board permit to be attributed only to the permittees within that region.

OC Public Works worked with the District and the Cities to update the provisions of the current agreement, which was last modified in 2002.

The Agreement proposed for Board approval retains the existing cost-sharing methodology (10 percent District and 90 percent Cities and County combined, apportioned by area and population) and the annual operating budget process, while modernizing and clarifying the governance and administration of the OC Stormwater Program.

Key updates to the Agreement include:

1. Replacement of the Technical Advisory Committee with Orange County City Managers Association engagement and work efforts, to address MS4 permit compliance methods and funding strategies;
2. Increased involvement of Cities, through City Manager consultation in development of operating budgets and major program elements;
3. Introduction of budgeting and approval procedures for watershed-specific projects that only affect certain jurisdictions or permittees;
4. Clarification of the County's role and discretion as administrator of the OC Stormwater Program specifically with respect to identifying annual program work plan components and avoiding unbudgeted cost overruns.

Approval of the Agreement by the Board, acting on behalf of the County and the District, will complete execution of the Agreement by all parties.

Compliance with CEQA: The action is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to CEQA, since it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The approval of this agenda item does not commit the County to a definite course of action in regard to a project since it is an approval of an administrative agreement establishing the governance and

cost-sharing framework for the OC Stormwater Program. This proposed activity is therefore not subject to CEQA. Any future action connected to this approval that constitutes a project will be reviewed for compliance with CEQA.

FINANCIAL IMPACT:

There is no current year or annual cost directly associated with approval of the Amended and Restated Agreement itself. Consistent with Section V of the Agreement, ongoing costs of the OC Stormwater Program continue to be shared among the District (10 percent) and the Cities and County combined (90 percent), with each jurisdiction's individual share calculated annually based on its relative dry land area and population, and are established through the annual operating budget approval process described in Section III.A.1, and included in the County's annual budgeting process.

The Agreement includes provisions allowing the County, as administrator, to limit or cease carrying out approved budget components in the event sufficient deposits are not received.

STAFFING IMPACT:

N/A

REVIEWING AGENCIES/DEPARTMENTS:

N/A

ATTACHMENTS:

Attachment A - Amended and Restated National Pollutant Discharge Elimination System Stormwater Permit Implementation Agreement D02-048