



REPORT TO CITY COUNCIL

To: Honorable Mayor and Members of the City Council

From: Jason Simpson, City Manager

Prepared by: Shannon Buckley, Assistant City Manager

Date: February 28, 2023

Subject: **County Service Area 152 and Setting the Benefit Assessment Unit Rate for Fiscal Year 2023-24 for the City of Lake Elsinore to Fund the City's National Pollutant Discharge Elimination System (NPDES) Permit Compliance Activities**

Recommendation

Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, MAINTAINING COUNTY SERVICE AREA 152 AND AUTHORIZING THE BENEFIT ASSESSMENT UNIT RATE FOR THE FISCAL YEAR 2023-24 FOR THE CITY OF LAKE ELSINORE TO FUND THE CITY'S NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT PROGRAM.

Background

The NPDES program originates from the Federal Clean Water Act and the 1969 State of California Porter-Cologne Water Quality Control Act. The State Water Resources Control Board establishes the regulations that govern activities to improve water quality statewide. The governance takes the form of Permits for stormwater discharge; the Permits mandate activities, which, if not performed, place the Permittee at risk for substantial penalties. The City, together with other local agencies, is covered by the Permit referred to as the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit.

To fund the costs of the mandated activities, the County of Riverside established County Service Area ("CSA") 152. In 1994, the County of Riverside annexed the City of Lake Elsinore into CSA 152, enabling the City to impose a charge on individual parcels within City limits that contain a structure. Each parcel is assigned a certain number of "benefit assessment units" or "BAU." For instance, a single-family home is assigned one BAU, and commercial property is assigned 12 BAUs per acre.

At the time of annexation, the City established the rate at \$13.88 per BAU. Subsequently, the rate has fluctuated from a low of \$6.24 per BAU to the current rate of \$13.88 per BAU. The current charge is \$13.88 per BAU.

Discussion

With neither the State nor Federal governments providing funding for the activities mandated by the NPDES Permit, the requirements appear to constitute an unfunded mandate and, as such, would merit State funding; however, due to language in the Permit, the City is required to seek and secure funding:

II.B.10. This Order does not constitute an unfunded mandate subject to subvention under Article XIII.B, Section (6) of the California Constitution for several reasons, including the following:

- c. The Permittees have the authority to levy service charges, fees, or assessments to pay for compliance with this Order.

To ensure compliance with the NPDES MS4 Permit, the City must perform the required activities.

The Fiscal Year 2023-24 NPDES funded program budget is estimated at \$800,000. Current CSA revenues are insufficient to cover the increasing cost of required activities, which grow in scope yearly. For the current Fiscal Year, 19,200 properties in the City of Lake Elsinore have been listed for CSA 152 assessment and would generate \$418,000 at the current rate. A carryover balance held by the County will bring our FY 2023-24 NPDES budget to \$800,000. This budget reflects the following:

1. Cleanout of storm drain facilities and stormwater treatment facilities by two dedicated City staff with the vac truck	\$300,000
2. Staff Administrative costs	\$ 25,000
3. Mandated activities**	\$475,000
Total	\$800,000

** (includes implementation and maintenance of electronic database, GIS mapping, storm drains, catch basins, maintenance equipment, inter-agency program cost shares, lake water quality monitoring, public education, and residential, commercial, industrial, and construction inspection sites in the City. Additional unfunded NPDES activities include catch basin maintenance, water quality facility inspection, and maintenance.) These activities are currently covered by the General Fund and will use reserves at the County until depleted.

Fiscal Impact

No negative fiscal impact.

Attachments

Attachment 1 - Resolution CSA 152

