

MEMORANDUM

May 9, 2014

TO: MEMBERS, PORT COMMISSION
Hon. Leslie Katz, President
Hon. Willie Adams, Vice President
Hon. Kimberly Brandon
Hon. Mel Murphy
Hon. Doreen Woo Ho

FROM: Monique Moyer
Executive Director

SUBJECT: Request Port Commission Approval of a Resolution urging the Board of Supervisors to amend the San Francisco Public Works Code to authorize the Port to impose penalties to enforce the Port's Construction Site Runoff Control Program (Port Building Code Section 106A.3.2.5)

DIRECTOR'S RECOMMENDATION: Approve Attached Resolution

EXECUTIVE SUMMARY

The Port is responsible for a stormwater conveyance system which is separate from the City's sewer system. Rather than flowing to a wastewater treatment plant, this stormwater is discharged directly to the San Francisco Bay. To protect water quality, the Port's stormwater conveyance system is permitted by the State of California's Municipal Separate Storm Sewer Systems Permit (MS4 Permit). This MS4 Permit requires the Port to manage the quality of stormwater runoff at its properties including construction sites. Currently, the Port lacks the ability to enforce stormwater protection measures at construction sites through the imposition of fines. Port staff recommends that the Port Commission request the Board of Supervisors to amend the City's Public Works Code to grant these enforcement powers to the Port.

BACKGROUND

Construction sites can be significant sources of stormwater pollution. Harmful materials from construction sites such as concrete, sediment, debris, and other pollutants can wash into sewer systems and storm drains. These pollutants can reach the Bay triggering serious water quality concerns.

THIS PRINT COVERS CALENDAR ITEM NO. 10A

The federal government has delegated to the State of California the authority to implement the Clean Water Act. Under this authority, the State has issued an MS4 Permit to the Port. This MS4 Permit was revised and re-issued by the State in 2013. The new permit requires the Port to adopt and administer a Construction Site Runoff Control Program that protects water quality by controlling discharges from construction sites into sewer systems and preventing erosion and sedimentation due to construction activities. The MS4 Permit also requires that the Port have legal authority to levy citations with monetary fines against parties who fail to comply with program requirements.

The Port's Construction Site Runoff Control Program is codified for the first time in Port Building Code Section 106A.3.2.5 (adopted by the Port Commission on December 12, 2013 by Resolution No. 13-50). Among other things, Port Building Code Section 106A.3.2.5 requires persons conducting construction activities on lands within Port Commission jurisdiction to comply with the requirements articulated in the City's Construction Site Runoff Ordinance 260-13 (Ordinance) newly enacted by the Board of Supervisors in November, 2013. The Ordinance includes obtaining a Construction Site Runoff Control Permit prior to the commencement of land-disturbing activities. However, absent Board of Supervisors' action, the Port does not have independent authority to impose monetary penalties to enforce these provisions.

Existing City Law

The San Francisco Public Utilities Commission (SFPUC) has a separate MS4 Permit that governs non-Port municipal separate storm sewer systems. On November 5, 2013, the Board of Supervisors enacted Ordinance 260-13 amending Article 4.2 of the Public Works Code to authorize and codify the SFPUC's construction site runoff control program. The Ordinance also authorizes enforcement of violations of the Ordinance and permits issued under the Ordinance, including the imposition of monetary penalties by the SFPUC General Manager.

Proposed Amendments to Existing City Law

The proposed ordinance, attached as Exhibit A, would amend Article 4.2 of the Public Works Code to authorize the Port's Executive Director to utilize the same enforcement mechanisms as the SFPUC General Manager with respect to construction site runoff control requirements on lands within Port jurisdiction and provide for the imposition of monetary penalties for which the Port does not have independent authority. Port staff has coordinated with SFPUC staff to amend the Ordinance and to establish uniform practices related to stormwater enforcement.

RECOMMENDATION

In order to comply with the requirements of its MS4 Permit, staff recommends that the Port Commission approve a resolution urging the Board of Supervisors to amend the San Francisco Public Works Code to authorize the Port to impose penalties for failure to comply with the requirements of the Port's Construction Site Runoff Control Program and direct the Executive Director to pursue such legislation with the Board of Supervisors.

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and
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For: Susan Reynolds
Deputy Director for Real Estate

Exhibit A: Proposed Ordinance

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 14-26

WHEREAS, construction site runoff can be a significant contributor to flooding, infrastructure damage, and pollution to the San Francisco Bay; and

WHEREAS, the Federal Clean Water Act and Municipal Separate Storm Sewer Systems Permit (MS4 Permit) issued by the State of California to the Port requires the Port to adopt and administer a Construction Site Runoff Control Program that protects water quality by controlling the discharge of sediment and other pollutants from construction sites into sewer systems and includes monetary penalties as an enforcement mechanism; and

WHEREAS, the Port has adopted a Construction Site Runoff Control Program which is codified in the Port's Building Code Section 106A.3.2.5; and

WHEREAS, Board of Supervisor's authorization is required for the Port to impose monetary penalties; and

WHEREAS, Article 4.2 of the Public Works Code authorizes the General Manager of the San Francisco Public Utilities Commission (SFPUC) to impose monetary penalties for the SFPUC's construction site runoff control program which is similar to the Port's; and

WHEREAS, Port staff has prepared a proposed ordinance that would amend Article 4.2 of the Public Works Code to similarly authorize the Port's Executive Director to impose monetary penalties for violations of the Port's Construction Site Runoff Control Program (the "Proposed Ordinance"); now, therefore be it

RESOLVED, that the Port Commission authorizes and directs the Port's Executive Director to submit the Proposed Ordinance to the San Francisco Board of Supervisors for consideration and adoption and urges the Board of Supervisors to adopt the Proposed Ordinance.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 13, 2014.

Secretary