



Legislation Text

File #: 18-0328, **Version:** 1

Resolution to Approve the First Amendment to Memorandum of Agreement among the Hampton Roads Sanitation District and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Town of Smithfield; and the Counties of Gloucester, Isle of Wight, and York; and the James City Service Authority to Accelerate the Date HRSD will Assume Regulatory Authority for Wet Weather Overflows

PURPOSE/BACKGROUND:

The Hampton Roads Sanitation District (“HRSD”) owns and operates an interceptor sewer system for the Hampton Roads localities, including the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the town of Smithfield; and the counties of Gloucester, Isle of Wight, and York; and the James City Service Authority (the “Localities”). The Localities individually own and operate sanitary sewer collection systems, which collect sewage within their jurisdictional boundaries and deliver it to the HRSD sewer system for conveyance and treatment.

Due to pipe failures, electrical outages, infiltration and inflow, insufficient capacity in the collection, interceptor and treatment systems, and other factors, untreated sewage has been and is being discharged from various locations in the individual sanitary sewer collection systems and from HRSD to various state waters in the area. To address the regional wet weather sewer capacity requirement, on February 23, 2010, HRSD, the Virginia Department of Environmental Quality (“DEQ”), and the United States Environmental Protection Agency (“EPA”) entered into a Federal Consent Decree, requiring, among other things, that HRSD work with the Localities to develop a regional wet weather management plan (“RWWMP”) to ensure adequate wet weather sewer capacity in HRSD’s portion of the regional sewer system.

On March 10, 2014, HRSD and the Localities entered into a Memorandum of Agreement (the “MOA”) wherein HRSD assumed the sole responsibility for financing and implementing an approved RWWMP across the entire region. The MOA outlines HRSD and the Localities’ respective responsibilities for construction, expansion, operation, and maintenance of the Regional Sanitary Sewer Systems. Upon full implementation of the RWWMP, HRSD agreed to assume the Localities’ regulatory liability for any wet weather overflows resulting from inadequate capacity.

On August 26, 2014, the EPA amended the Federal Consent Decree to reflect the hybrid plan, which is an alternative to total regionalization. Given that the RWWMP has been transferred to HRSD, the RWWMP requirements and conditions under the Federal Consent Decree are no longer applicable to the Localities. The Localities, however, must continue proper management, operation, and maintenance (“MOM”) of sanitary sewer infrastructure to prevent unpermitted sanitary sewer overflows and to ensure compliance with the statutory and regulatory provisions.

Currently, HRSD is undertaking the Sustainable Water Initiative for Tomorrow (“SWIFT”) project,

which treats water that otherwise would be discharged to the Chesapeake Bay watershed to drinking water standards and adding it to the Potomac aquifer. On February 21, 2017, the Federal Consent Decree was amended to authorize HRSD to incorporate planning elements in the RWWMP to allow for prioritization of the SWIFT project over certain wet weather capacity projects.

On September 29, 2017, HRSD submitted a RWWMP to the EPA and DEQ, which prioritizes implementation of the SWIFT project with certain high priority wet weather capacity projects, and reserves development of plan for any additional wet weather capacity action that may be necessary for a Final Measures Plan to be submitted to the EPA and DEQ in 2030.

HRSD and the Localities desire to amend to MOA to better conform with the RWWMP dated September 29, 2017 by accelerating the date HRSD will assume regulatory authority for wet weather overflows from the Regional Sanitary Sewer System and reaffirming the Localities continuing obligation to properly maintain their respective systems.

Staff supports this MOA and requests Council approval to execute it.

Discussion:

N/A

Impact:

N/A

Recommendation:

Approve Resolution

Execute First Amendment to Memorandum of Agreement

WHEREAS, the Hampton Roads Sanitation District (“HRSD”) owns and operates an interceptor sewer system for the Hampton Roads localities, including the cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the town of Smithfield; and the counties of Gloucester, Isle of Wight, and York; and the James City Service Authority (the “Localities”);

WHEREAS, the Localities individually own and operate sanitary sewer collection systems, which collect sewage within their jurisdictional boundaries and deliver it to the HRSD sewer system for conveyance and treatment;

WHEREAS, due to pipe failures, electrical outages, infiltration and inflow, insufficient capacity in the collection, interceptor and treatment systems, and other factors, untreated sewage has been and is being discharged from various locations in the individual sanitary sewer collection systems and from HRSD to various state waters in the area;

WHEREAS, to address the regional wet weather sewer capacity requirement, on February 23, 2010, HRSD, the Virginia Department of Environmental Quality (“DEQ”), and the United States

Environmental Protection Agency (“EPA”) entered into a Federal Consent Decree, requiring, among others things, that HRSD work with the Localities to develop a regional wet weather management plan (“RWWMP”) to ensure adequate wet weather sewer capacity in HRSD’s portion of the regional sewer system;

WHEREAS, on March 10, 2014, HRSD and the Localities entered into a Memorandum of Agreement (the “MOA”) wherein HRSD assumed the sole responsibility for financing and implementing an approved RWWMP across the entire region;

WHEREAS, the MOA outlines HRSD and the Localities’ respective responsibilities for construction, expansion, operation, and maintenance of the Regional Sanitary Sewer Systems;

WHEREAS, upon full implementation of the RWWMP, HRSD agreed to assume the Localities’ regulatory liability for any wet weather overflows resulting from inadequate capacity;

WHEREAS, on August 26, 2014, the EPA amended the Federal Consent Decree to reflect the hybrid plan, which is an alternative to total regionalization;

WHEREAS, given that the RWWMP has been transferred to HRSD, the RWWMP requirements and conditions under the Federal Consent Decree are no longer applicable to the Localities; the Localities, however, must continue proper management, operation, and maintenance (“MOM”) of sanitary sewer infrastructure to prevent unpermitted sanitary sewer overflows and to ensure compliance with the statutory and regulatory provisions.

WHEREAS, currently, HRSD is undertaking the Sustainable Water Initiative for Tomorrow (“SWIFT”) project, which treats water that otherwise would be discharged to the Chesapeake Bay watershed to drinking water standards and adding it to the Potomac aquifer;

WHEREAS, on February 21, 2017, the Federal Consent Decree was amended to authorize HRSD to incorporate planning elements in the RWWMP to allow for prioritization of the SWIFT project over certain wet weather capacity projects;

WHEREAS, on September 29, 2017, HRSD submitted a RWWMP to the EPA and DEQ, which prioritizes implementation of the SWIFT project with certain high priority wet weather capacity projects, and reserves development of plan for any additional wet weather capacity action that may be necessary for a Final Measures Plan to be submitted to the EPA and DEQ in 2030;

WHEREAS, HRSD and the Localities desire to amend to MOA to better conform to the RWWMP dated September 29, 2017 by accelerating the date HRSD will assume regulatory authority for wet weather overflows from the Regional Sanitary Sewer System and reaffirming the Localities continuing obligation to properly maintain their respective systems.

WHEREAS, execution of this First Amendment to Memorandum of Agreement must be submitted to the Hampton Roads Planning District Commission by December 2018; and

WHEREAS, Council approves execution of this First Amendment to Memorandum of Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HAMPTON,

VIRGINIA:

1. That the City's acquiescence of an accelerated deadline for HRSD to assume regional authority for wet weather overflows is hereby approved; and
2. That the City Manager or her designee is hereby authorized to execute the First Amendment to Memorandum of Agreement as set forth in this Resolution and any other documents associated therewith.