TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER  DEPARTMENT: PUBLIC WORKS

DATE: MARCH 7, 2005

SUBJECT: APPROVAL OF AMENDMENT NO. ONE TO THE MEMORANDUM OF AGREEMENT PROVIDING FOR IMPLEMENTATION OF THE SANTA CLARA VALLEY URBAN RUNOFF POLLUTION PREVENTION PROGRAM

RECOMMENDATION
Staff recommends that Council approve and authorize the mayor to execute the attached Amendment No. One to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program.

BACKGROUND
On April 16, 1990, Council approved a memorandum of agreement (MOA) between 13 Santa Clara County (County) cities, the County, and the Santa Clara Valley Water District (District) for the implementation of the Santa Clara Valley Nonpoint Source Pollution Control Program (Program) (CMR:255:90). The agreement allowed the signatory agencies to apply for and obtain a joint National Pollutant Discharge Elimination System (NPDES) permit for the discharge of municipal storm water to local creeks and San Francisco Bay. The name of the Program was changed from “Nonpoint Source Pollution Control Program” to “Urban Runoff Pollution Prevention Program” in 1999 to reflect the Program’s emphasis on urban runoff pollutant sources and to create a clearer image for the general public. On December 6, 1999, Council approved a revised MOA that contained an updated description of the purpose of the Program, its tasks and responsibilities, membership, decision-making procedures, and ground rules for participation (CMR:435:99). The revised MOA would terminate on March 10, 2005 unless renewed by the participating agencies. On December 6, 2004, Council approved an amendment to the MOA that would have extended the term of the agreement indefinitely.

DISCUSSION
The amendment approved by Council in December 2004 was also approved by the governing bodies of 13 of the other 14 Program participants. The Santa Clara Valley Water District (District) Board of Directors, however, did not approve the amendment. Since the amendment was not signed by each of the Program members, it will not become effective.

Under the terms of the current MOA, the District pays 30% of the cost of Program activities (Palo Alto’s share is 4.06%). Due to the State’s recent takeaway of a significant portion of the District’s property tax revenue for the next two fiscal years, the District Board was not willing to approve a document that committed the District to this level of expenditure on an indefinite basis. The District Board asked that the MOA be extended for only a limited term and that the
Program cost allocation formula be reexamined and potentially modified. At the February 17, 2005 meeting of the Program Management Committee, District staff presented an alternative amendment for consideration. After making minor revisions to the document, the Management Committee voted unanimously to accept the alternative amendment and to bring it to their governing bodies for approval. The alternative amendment provides for a one-year extension of the MOA and stipulates that the Program conduct an independent review to evaluate the MOA’s cost allocation formula and the term, scope, and cost of the Program MOA no later than December 31, 2005.

There is an ongoing need to continue the cooperative relationship between the agencies that make up the Program. The joint NPDES permit that allows the Program’s member agencies to discharge their municipal storm water to local creeks is reviewed, modified as appropriate, and reissued by the Regional Water Quality Control Board (Board) every five years. The current permit is due to expire in early 2006. The Program recently submitted an application for the next generation permit to the Board. In order to facilitate the inter-agency cooperation required during the reapplication process and to allow ongoing joint storm water pollution prevention efforts to continue without interruption, the MOA must be renewed. The attached Amendment No. One to the MOA will extend the term of the agreement for a period of one year beyond its original termination date of March 10, 2005. By the end of the calendar year, the Program will conduct an independent review of the Program cost allocation formula. During the review and subsequent negotiations, staff will advocate for a formula under which Palo Alto’s share of the Program cost is commensurate with its share of the burden of permit compliance and with the benefits the Program activities provide to Palo Altans. Any revision to the cost allocation formula will require another amendment to the MOA, which must be approved by the governing bodies of each of the Program participants.

**RESOURCE IMPACT**

Approval of Amendment No. One to the MOA commits the City to continued participation in the Santa Clara Valley Urban Runoff Pollution Prevention Program until March 10, 2006. This includes payment of the City’s proportionate share of Program costs, funding for and performance of the storm water pollution prevention activities contained in the City’s Urban Runoff Management Plan, and any other NPDES permit requirements. Staff will request continued funding for these activities as part of future budget approval processes. Since the Storm Drainage Fund does not have adequate revenues to cover its operating costs and requires a General Fund subsidy, any additional costs due to a revision of the Program’s cost allocation formula will essentially be paid by the General Fund.

As a result of the Program cost allocation formula review stipulated by the amendment, Palo Alto’s share of Program costs may be adjusted. Any revision to the cost allocation formula is subject to the approval of Council and the governing bodies of each of the other Program participants.

**POLICY IMPLICATIONS**

Extension of the MOA is consistent with Comprehensive Plan Program N-29: Actively participate in programs such as the Santa Clara Valley Urban Runoff Pollution Prevention Program to improve the quality of storm water runoff.
ENVIRONMENTAL REVIEW
There is no environmental assessment required in conjunction with this report. The NPDES Program is exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15308 of the CEQA guidelines.

ATTACHMENTS
Attachment A: Amendment No. One to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program.

PREPARED BY: ___________________________________________________________
JOE TERESI
Senior Engineer

DEPARTMENT HEAD: _____________________________________________________
GLENN S. ROBERTS
Director of Public Works

CITY MANAGER APPROVAL: _______________________________________________
EMILY HARRISON
Assistant City Manager

cc: Adam Olivieri, Urban Runoff Program Manager