TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER DEPARTMENT: PUBLIC WORKS
DATE: MARCH 6, 2006 CMR:146:06
SUBJECT: APPROVAL OF AMENDMENT NO. TWO 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. Two to the Memorandum of Agreement (MOA) for the Santa Clara Valley Urban Runoff Pollution Prevention Program (Attachment A).

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 was set to expire on March 10, 2005. Shortly prior to that date, the Santa Clara Valley Water District Board of Directors expressed concern regarding the fiscal impacts of the MOA on the District. Under the terms of the agreement, the District pays 30% of the cost of Program activities (Palo Alto’s share is 4.06%). Due to the State’s takeaway of a significant portion of the District’s property tax revenue, the District Board was not willing to approve a document that committed the District to this level of expenditure on an indefinite basis. In order to address the District’s concerns, Palo Alto and the other Program members approved Amendment No. One to the MOA, which extended the term of the agreement on an interim basis for a period of one year (until March 10, 2006) and stipulated that the Program conduct an independent review to evaluate the MOA’s cost allocation formula and evaluate the term, scope, and cost of the Program (CMR:175:05).
DISCUSSION
In June 2005, the Program Manager issued a Request for Proposals seeking a consultant to perform an independent review of the Program MOA. Members of the Program’s Budget Ad-Hoc Task Group reviewed two consultant proposals and selected the firm of Hilton, Farnkopf & Hobson, LLC (HFH) to perform the review. HFH reviewed financial and organizational information provided by the Program and compared it with similar information from other storm water programs throughout the Bay Area and Southern California. HFH submitted its final report on November 23, 2005 (Attachment B). The report summarized HFH’s evaluation of the cost allocation formula and the term, scope, and cost of the Program. The report contained the following primary findings:

- The Program’s allocation of costs to its member agencies is based upon a combination of benefits received and storm runoff factors. Most of the other storm water programs surveyed base their cost allocations on an average of surface area and population. When compared to the other storm water programs, the Program’s cost allocations approximate the allocations that rely on an average of surface area and population.
- The term of the Program MOA should be tied to the termination date of the Program’s NPDES storm water discharge permit, with a grace period following the permit termination date to allow for a smooth transition between permits.
- The Program is more rigorously managed than the other storm water programs surveyed. The Program MOA stipulates management controls, self-audit procedures, budget monitoring, and reporting requirements not found in any of the other programs.
- Based on various benchmark comparisons (e.g. per capita spending, spending per square mile of service area, etc.), the cost of the Program is comparable to the costs of other Bay Area storm water programs.

The HFH report was submitted to the Program Management Committee for review and approval. Based upon the report’s positive findings, the Management Committee voted to recommend to the governing bodies of their agencies that the current Program cost allocation formula be retained. District staff has reviewed its budget and identified an appropriate funding source that will allow the District to continue contributing 30% of the Program costs.

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 2006. The Program has 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. Two to the MOA will retain the existing cost allocation formula and extend the term of the agreement until one year beyond the termination date of the next NPDES permit issued to the Program. The amendment also contains some minor “clean-up” language that updates the relevant NPDES permit references and designates the City of Sunnyvale as the Program’s new contracting/fiscal agent, replacing the District.
**RESOURCE IMPACT**

Approval of Amendment No. Two to the MOA commits the City to continued participation in the Santa Clara Valley Urban Runoff Pollution Prevention Program until one year beyond the termination date of the next NPDES storm water discharge permit issued to the Program (next permit is estimated to run through the year 2011). This includes payment of the City’s proportionate share of Program costs (4.06%, totaling approximately $140,000 per year); 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. Continued funding for these activities is available from the Storm Drainage Fund.

**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. Two to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program.


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