



COUNCIL REPORT

DATE: February 28, 2023

CATEGORY: Consent

DEPT.: Fire

TITLE: **Approve Fourth Amendment to Memorandum of Agreement Providing for Implementation of the Santa Clara Valley Urban Runoff Pollution Prevention Program**

RECOMMENDATION

Authorize the City Manager or designee to execute the fourth amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program (Attachment 1 to the Council report).

BACKGROUND

The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) was originally formed in 1990 through a Memorandum of Agreement (MOA) among Santa Clara Valley-based local governments, including the City. The SCVURPPP assists member local governments to comply with a California Regional Water Board-issued permit which is required for discharges of stormwater under the Federal Clean Water Act (Stormwater Permit). The SCVURPPP was created in 1990 and is comprised of the Santa Clara Valley Water District (Valley Water), the County of Santa Clara, and 13 cities and towns, including Mountain View.

Most Bay Area municipalities, including the City and the 14 other participants in SCVURPPP, were reissued a Stormwater Permit last spring, which became effective on July 1, 2022. This permit includes many of the requirements that were included in previous municipal regional Stormwater Permits. It also contains several new requirements designed to further address high-priority water quality issues in Bay Area receiving waters.

In addition to helping negotiate the Stormwater Permit's requirements with the Regional Water Board, SCVURPPP staff supports its members, including the City, in complying with the Stormwater Permit's requirements. This work includes coordination of effort and leveraging of resources among SCVURPPP participants, community outreach, water quality monitoring, research and development, collaboration with other stormwater programs, and reporting to the Regional Water Board as required.

In short, the SCVURPPP has proven very useful to the City and is highly effective, winning several national awards issued by the U.S. Environmental Protection Agency. Accordingly, since its

original formation, the City and all other participating local governments have authorized a continuation of SCVURPPP through adoption of minor amendments to its MOA.

ANALYSIS

The current term of the MOA governing the SCVURPPP as established through its last amendment is set to expire one year after the effective date of a new Stormwater Permit issued by the Regional Water Board. Thus, absent timely adoption of another amendment by all participants extending its term, the SCVURPPP is set to expire on June 30, 2023.

Accordingly, the Management Committee overseeing the SCVURPPP has voted to have its members submit an amendment to extend its term for another period running a year beyond the new Stormwater Permit's duration for timely approval by their governing bodies (or duly delegated officials). In support of the requested approvals, the Management Committee previously directed a review of SCVURPPP's internal controls, practices, and performance by the firm of Hilton, Farnkopf, and Hobson (HF&H). The review was completed in January 2023 and concluded that the SCVURPPP's functions and budget are appropriately managed and in line with other Bay Area stormwater programs.

Based on the MOA's terms governing amendments, extensions of its term such as this must be unanimously approved by all participating municipalities within three months of being proposed through a recommendation of the SCVURPPP's Management Committee. The Management Committee adopted such a recommendation on January 19, 2023 so that the participating municipalities would have until April 19, 2023 to consider this matter and execute approvals. In the event that the MOA is not extended, this schedule provides time for the SCVURPPP to wind down by July 1, 2023.

The requested extension of the MOA's term will allow the SCVURPPP to continue to operate and serve the participating municipalities, including the City, throughout the new Stormwater Permit's term and to help address reissuance of the successive Stormwater Permit by the Regional Water Board. Continuing the SCVURPPP will also provide for similar economies of scale and aligning of positions relative to reporting and compliance that have been achieved in the past.

If the MOA is not approved, the City would be required to obtain its own National Pollutant Discharge Elimination System (NPDES) stormwater permit and incur additional cost by implementing NPDES permit provisions performed by the SCVURPPP. The City's cost to administer its own NPDES stormwater permit would be significantly higher than the cost to participate in the SCVURPPP.

FISCAL IMPACT

As with prior amendments, no change has been proposed to the funding allocation for the SCVURPPP, which was negotiated among the participating local governments at the time of its formation in 1990. The cost-sharing allocation set forth in the MOA allocates 30.2% to Valley Water, 30.1% to the City of San Jose, and the remainder to the remaining 13 other municipalities that participate in SCVURPPP in a manner roughly proportionate to community size and runoff from respective jurisdictions. The City's share is 3.91%.

Costs associated with the SCVURPPP are presented as part of the City's regular budget process. No additional appropriation is being requested at this time.

ALTERNATIVES

1. Do not authorize the City Manager or designee to sign the fourth amendment to the SCVURPPP MOA and terminate the City's participation in the SCVURPPP.
2. Provide other direction.

PUBLIC NOTICING—Agenda posting.

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Attachment: 1. Fourth Amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program