



## City Council Staff Report

**From: City Manager**

**Report Type: CONSENT CALENDAR**

**Lead Department: Public Works**

**Meeting Date: April 3, 2023**

**Report #:2303-1041**

### **TITLE**

Approval of Fourth Amendment to Santa Clara Valley Urban Runoff Pollution Prevention Program Memorandum of Agreement

### **RECOMMENDATION**

Staff recommends that Council approve and authorize the City Manager to execute the Fourth Amendment to Santa Clara Valley Urban Runoff Pollution Prevention Program Memorandum of Agreement to extend the term of a multi-jurisdictional Agreement between Santa Clara County, the Santa Clara Valley Water District, and multiple Santa Clara County cities providing for implementation of the Santa Clara Valley Urban Runoff Pollution Prevention Program.

### **BACKGROUND**

The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) was originally formed through a Memorandum of Agreement (MOA) with other Santa Clara Valley-based municipalities in the late 1980s to assist cities in negotiating and complying with a federal Clean Water Act National Pollutant Discharge Elimination System (NPDES) stormwater permit. Since its original formation, the City and participating municipalities have previously authorized a continuation of the Agreement three times without changing the original terms. The most recent amendment was approved by Council on September 19, 2016<sup>1</sup>.

Seventy-six Bay Area municipalities, including the City of Palo Alto, were reissued a Municipal Regional Stormwater NPDES Permit (MRP) in May 2022, which became effective July 1, 2022. The MRP is required for municipalities that discharge stormwater that flows to creeks, the San Francisco Bay, and other waterbodies. This updated permit continues many requirements from the previous permit and contains enhanced and additional requirements, which involve an increase of resources and significant coordination with SCVURPPP member agencies.

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<sup>1</sup> City Council, November 19, 2016, Item #5, Staff Report #7255:  
<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/reports/city-manager-reports-cmrs/year-archive/2016/091916-7255-approval-of-third-amendment-to-scvurppp-moa.pdf>

Examples of enhanced requirements include requiring green stormwater infrastructure for broader categories of development and redevelopment projects, increased trash controls for private properties, and source controls to reduce PCB and mercury-polluted discharges. New requirements include tracking unhoused populations and implementing best management practices to address related water quality-related impacts, addressing pollutants from fire-fighting discharges, and establishing systems for both stormwater compliance cost reporting and asset management for water quality. In collaboration with other municipalities, participation in SCVURPPP allows Palo Alto to efficiently use and leverage its resources to meet these numerous requirements through sharing a consultant and work products, which are then individualized by each municipality. The SCVURPPP consultant guides member agencies in meeting overlapping regulatory deadlines called out in over 16 permit provisions (or chapters), while ensuring each municipality understands the requirements sufficiently to implement them. Finally, SCVURPPP facilitates compliance discussions between agencies that allow for sharing of ideas and resources that lead to increased resource efficiency.

### **ANALYSIS**

Staff recommends that Council approve and authorize the City Manager to execute the Fourth Amendment (Attachment A) to an Agreement Providing for Implementation of the Santa Clara Valley Urban Runoff Pollution Prevention Program (Attachment B). Based on a recent vote on February 16, 2023 of SCVURPPP's Management Committee, in which the City participates, a fourth amendment of the MOA to extend the program on its original terms was unanimously approved for referral to each governing body for execution. The SCVURPPP MOA can only be amended by unanimous written agreement from all jurisdictions. If one or more member agencies do not execute the agreement by the deadline, the agreement becomes null and void for all member agencies. A new agreement would then need to be developed and executed amongst those member agencies who would like to be part of SCVURPPP.

All SCVURPPP participants have agreed to obtain authorization of the amendment by April 19, 2023, at which point the amendment will be executed. Approval of this agreement amendment on April 3, 2023 will allow the City to meet the agreed-upon timeline.

### **FISCAL/RESOURCE IMPACT**

Approval of the Fourth Amendment to the Agreement providing for implementation of the Santa Clara Valley Urban Runoff Pollution Prevention Program provides for continued participation in SCVURPPP until one year beyond the termination date of the current MRP in June 2027. Consequently, this MOA expires June 30, 2028. SCVURPPP membership fees were negotiated at the time of the original formation. 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 remaining 39.7% to the remainder of the SCVURPPP member agencies. The City's proportionate share of SCVURPPP costs (4.06%) does not change from year to year. However, the SCVURPPP budget varies annually according to regulatory deadlines and work products required by the MRP. The

FY 2023 share for the City was \$210,000; however, due to new MRP requirements and therefore a larger consultant budget, the fee will increase by 9%, or \$18,900, next year. It is unknown at this time what the subsequent fiscal year budgets will be, but staff does not anticipate a substantial increase beyond the upcoming 9% increase. Funding for the increase of \$18,900 will be contingent upon appropriation of funding as part of the Fiscal Year 2024 budget process.

City staff participates in SCVURPPP meetings and initiatives to ensure representation and efficient use of funds. The City supports these efforts and implements various requirements through its Stormwater Compliance Program in the Public Works Environmental Services Division. Funding for these activities is available in the Adopted Fiscal Year 2023 Storm Water Management Fund Operating Budget. Subsequent years funding is subject to Council approval of the annual budget.

#### **STAKEHOLDER ENGAGEMENT**

The City's Stormwater Compliance Program has continuously received support from the Stormwater Management Oversight Committee, which reviews proposed stormwater programs and projects that maintain the City's storm drain system and protect water quality discharging to creeks and the Bay. The Stormwater Compliance Program regularly provides updates to the Committee.

#### **ENVIRONMENTAL REVIEW**

There is no environmental assessment required in conjunction with this report. Implementation of the NPDES Program is exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15308 of the CEQA guidelines, as it assures the maintenance, restoration, enhancement, or protection of the environment.

#### **ATTACHMENTS**

Attachment A: 4th Amendment to SCVURPPP MOA

Attachment B: Original SCVURPPP MOA and 1st-3rd Amendments

#### **APPROVED BY:**

Brad Eggleston, Director Public Works/City Engineer