



## PUBLIC WORKS DEPARTMENT

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### CITY COUNCIL STAFF REPORT

Meeting: March 7, 2023

#### Subject

Consider amending the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) Memorandum of Agreement (MOA) to extend the term through one fiscal year beyond the date of termination of the current Municipal Regional Stormwater Permit (MRP). The current five-year permit term would end June 30, 2027, so the MOA term would end on June 30, 2028, unless the MRP is extended. There are no other amendments proposed at this time.

#### Recommended Action

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), a multi-jurisdictional agreement between Santa Clara County, the Santa Clara Valley Water District, and thirteen Santa Clara County municipalities.

#### Reasons for Recommendation

##### *Background*

The SCVURPPP was originally formed in 1990 through a MOA among Santa Clara Valley-based local governments, including the City of Cupertino. The SCVURPPP program is comprised of the Santa Clara Valley Water District (Valley Water), the County of Santa Clara (County), and thirteen other cities and towns. The SCVURPPP program assists local governments, including Cupertino, to comply with a California Regional Water Board-issued permit which is required for discharges of storm water under the federal Clean Water Act (Stormwater Permit).

The MOA supports compliance with Clean Water Act requirements that apply to the City's stormwater system. Municipalities are required to have a State-issued permit to discharge rainwater through their storm drainage systems to creeks, and ultimately, the San Francisco Bay. A new Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit was issued to 76 Bay Area permittees, including Cupertino, in May 2022 and became effective July 1, 2022. As the third version of this permit, it is referred to as the Municipal Regional Permit 3.0 (MRP 3.0). This re-issued permit continues previous requirements and contains new requirements such as

tracking unhoused encampments near creeks and working locally and regionally to reduce water quality-related impacts from them, and lowered thresholds for developed properties to install green stormwater infrastructure features to treat stormwater.

The SCVURPPP enables participating agencies to take a coordinated approach and leverage resources to comply with the stormwater requirements. The program allocates costs to its fifteen member agencies based upon a combination of benefits received and stormwater runoff factors. This approach has proven highly effective in assisting the City in addressing permit responsibilities to reduce the pollution of local creeks and the San Francisco Bay.

The SCVURPPP's success has also been recognized outside of the Bay Area. For example, it was awarded national gold level awards for innovation and program management, citing leadership in using novel approaches to reduce stormwater pollution and commitment to installing green infrastructure. The SCVURPPP was also honored with the 2016 overall highest score in the nation for a Phase 1 Municipal Stormwater Program. These awards are part of the National Municipal Stormwater and Green Infrastructure Awards program, led by the Watershed Environment Federation through a cooperative agreement with the U.S. Environmental Protection Agency (EPA).

#### *Discussion*

The SCVURPPP MOA can only be amended by unanimous written agreement from all jurisdictions, with approval from Councils or Boards requested by the end of March and required no later than April 19, to ensure continuation of the program. 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.

The SCVURPPP program is overseen by staff representatives from each of the jurisdictions who meet monthly as the Management Committee. Based on a recent vote of the program's Management Committee on January 19, in which Cupertino participates, a fourth amendment of the MOA to extend SCVURPPP on its original terms was unanimously approved for referral to each governing body for execution. The extension will allow the program to continue to operate and serve the participating agencies throughout the current MRP 3.0 term (July 1, 2022 – June 30, 2027) plus one additional fiscal year, meaning that SCVURPPP will provide assistance until at least the end of June 2028. This includes support through the process of the permit's next reissuance by the San Francisco Bay Regional Water Quality Control Board. All SCVURPPP participants have been asked to obtain authorization and return an appropriate signature on the amendment as soon as possible as the MOA will expire on June 30, if no action is taken.

#### Sustainability Impact

A significant sustainability benefit is the reduction or elimination of pollutant discharges, which could degrade local creeks and threaten the supply of clean water. Extension of the MOA is consistent with the City's General Plan Community Vision 2040: GOAL ES-7 - Ensure Protection and Efficient Use of Water Resources.

#### Fiscal Impact

As with all prior amendments, no change has been proposed relative to the funding allocation for 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 the SCVURPPP Program in a manner roughly proportionate to community size and runoff from respective jurisdictions. Cupertino's share is 2.46%.

Approval of the fourth amendment to the agreement providing for implementation of The Santa Clara Valley Urban Runoff Pollution Prevention Program commits the City to continued participation in SCVURPPP until one year beyond the termination date of the City's next NPDES stormwater discharge permit. The current permit, if not extended by the Water Board, will terminate on June 30, 2027. Thus, the MOA term will end June 30, 2028, unless the Water Board extends the term of the permit, which would then extend the MOA term accordingly. This includes annual payment of the City's proportionate share (2.46%) of program costs (\$139,242 for Fiscal Year (FY) 23-24). Continued funding for the City's participation in the Program for FY 23-24 is, as in all previous years, included in the City's Non-Point Source budget (230-81-802).

The City's permit compliance costs for implementing the NPDES permit include water monitoring, polychlorinated biphenyls controls, litter eradication, low impact development and maintenance verification, green infrastructure planning, public outreach, construction site and commercial property inspections, and the investigation of illicit discharges. Costs for these activities would far exceed the City's current Non-Point Source budget if the City attempted to implement them without participating in SCVURPPP. The City's allocated cost is necessary to ensure compliance with the increasingly stringent State and Federal Clean Water Act requirements and increased program costs.

#### California Environmental Quality Act (CEQA)

The execution of the MOA and implementation of the NPDES program, and amendment to an existing agreement are exempt from CEQA pursuant to CEQA Guidelines section 15308 ("actions taken by regulatory agencies . . . to assure the maintenance, restoration, enhancement, or protection of the environment.")

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Reviewed by: Chad Mosley, Interim Director of Public Works

Reviewed by: Matt Morley, Assistant City Manager

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – 4<sup>th</sup> SVURPPP MOA Amendment

B – SCUVRPPP MOA Original