



CITY COUNCIL AGENDA REPORT

MEETING DATE: April 4, 2006

ITEM NUMBER: _____

SUBJECT: AMENDMENT TO COOPERATIVE AGREEMENT NO. D99-128, FUNDING FOR THE NUTRIENT, FECAL COLIFORM AND TOXICS TOTAL MAXIMUM DAILY LOAD (TMDL) STUDIES IN THE NEWPORT BAY WATERSHED

DATE: MARCH 24, 2006

FROM: PUBLIC SERVICES DEPARTMENT/ENGINEERING DIVISION

PRESENTATION BY: WILLIAM J. MORRIS, DIRECTOR OF PUBLIC SERVICES

FOR FURTHER INFORMATION CONTACT: ERNESTO MUNOZ, CITY ENGINEER, (714) 754-5343

RECOMMENDATION:

Approve Amendment No.1 to Agreement No. D99-128 (Attachment 1) adding CALTRANS, TUSTIN LEGACY COMMUNITY PARTNERS (TLCP), LENNAR and GREAT PARK CORPORATION (GPC) as PARTIES to the agreement and authorize the Mayor and City Clerk to execute the proposed Amendment.

BACKGROUND:

In 1999, the Santa Ana Regional Water Quality Control Board (RWQCB) adopted Total Maximum Daily Loads (TMDLs) for nutrients and fecal coliform in the Newport Bay Watershed. A TMDL is a limiting measure of the amount of a particular substance, i.e., toxics, sediment, nutrients, fecal coliform, which impairs a water body, and which the water body can accept and still meet water quality standards. In June 2002, the Environmental Protection Agency established a list of 14 potential toxic contaminants in the Newport Bay Watershed. The RWQCB has mandated the implementation plans for the Toxics TMDL, which includes requirements for studies, monitoring, and the development of programs to attain TMDL contaminant reduction targets over a multi-year period. Additionally, the requirements of the TMDLs are incorporated into the Municipal National Pollutant Discharge Elimination System (NPDES) Stormwater Permit.

On June 16, 2003, the City entered into a cooperative agreement establishing responsibilities and associated costs to conduct the implementation of TMDL studies, monitoring and programs, between the County of Orange, the Orange County Flood Control District, the Irvine Ranch Water District (IRWD), The Irvine Company, and the "Watershed Cities," which include the cities of Costa Mesa, Irvine, Laguna Hills, Laguna Woods, Lake Forest, Newport Beach, Orange, Santa Ana, and Tustin. The agreement forms the basis of cooperation for the implementation of the adopted TMDLs, whose primary purpose is to control and reduce the amount of fecal coliform, sediment, nutrients, and toxic contaminants entering Newport Bay. The agreement was developed to provide a long-term funding formula to ensure the costs of compliance with the TMDLs are shared equitably among the parties within the Newport Bay/San Diego Creek watershed.

ANALYSIS:

With the addition of CALTRANS (5%), TUSTIN LEGACY COMMUNITY PARTERS (2.5%), LENNAR (2.5%) and GREAT PARK CORPORATION (2.0%), the total amount of the shared costs will be reduced by 12% which is the combined percentage of these additional PARTIES. See Table A-1 and A-2 in Attachment 1.

ALTERNATIVES CONSIDERED:

City Council may consider not approving the amendment. Non-participation in the TMDL activities removes the City from joint partnership in these regional efforts and displaces the City from realizing the benefits of the cooperative agreement. If Council chooses not to participate in the cooperative agreement, any projects identified by the TMDL process, or for other related purposes, will require 100 percent funding by the City. It is estimated that the cost for the City to provide these studies independent of the cooperative agreement would be significantly higher.

FISCAL REVIEW:

The City's portion of TMDL costs for Newport Bay Watershed will be reduced by 12% due to additional PARTIES being added to the agreement. The City has funded its contribution towards the TMDL program in the past, and staff is requesting next fiscal year's fees of \$65,000 be included in the 2006-07 fiscal year budget.

LEGAL REVIEW:

The City Attorney has reviewed and approved the attached Amendment No.1 to Agreement D99-128 (Attachment 1) as to form.

CONCLUSION:

Staff recommends that City Council approve the Amendment and authorize the Mayor and the City Clerk to execute Amendment No.1 to Agreement No. D99-128.

ERNESTO MUNOZ
City Engineer

WILLIAM J. MORRIS
Director of Public Services

DISTRIBUTION: City Manager
City Attorney
City Clerk
Staff

ATTACHMENTS: 1 [Amendment No. 1 to Agreement No. D99-128](#)