



CITY COUNCIL AGENDA REPORT

MEETING DATE: AUGUST 17, 2010

ITEM NUMBER:

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

DATE: AUGUST 5, 2010

FROM: PUBLIC SERVICES DEPARTMENT/ENGINEERING DIVISION

PRESENTATION BY: PETER NAGHAVI, DIRECTOR, DEPARTMENT OF PUBLIC SERVICES

FOR FURTHER INFORMATION CONTACT: ERNESTO MUÑOZ, CITY ENGINEER, (714) 754-5335

RECOMMENDATION:

1. Approve the third amendment and full restatement of the agreement to fund Nutrient, Fecal Coliform, and Toxics Total Maximum Daily Load (TMDL) studies in the Newport Bay Watershed, Cooperative Agreement No. D99-128 (Attachment 1).
2. Authorize the Mayor and the City Clerk to execute Cooperative Agreement No. D99-128.

BACKGROUND:

The United States Environmental Protection Agency (USEPA) established Total Maximum Daily Loads (TMDLs) for toxic pollutants in the San Diego Creek and Newport Bay watersheds on June 14, 2002. The Regional Water Quality Control Board, in conjunction with affected cities, is developing implementation plans for each of the toxic pollutants. The adopted TMDLs contain requirements for studies, monitoring, and the development of programs to attain TMDL reduction targets over a multi-year period.

The original parties entered into Agreement No. D99-128 on September 18, 2003, to provide funding for the Nutrient, Fecal Coliform, and Toxics Total Maximum Daily Load (TMDL) studies in the Newport Bay Watershed.

On July 5, 2006, the parties approved Amendment No. 1 which amended Sections 3 (Funding), 4 (Program Budgets and Costs), 5 (Payments), 10 (No Third Party Beneficiaries), 16 (Notices), Exhibits A and C in their entirety, and added CALTRANS, LENNAR, Tustin Legacy Community Partners, and Orange County Great Park Corporation as agreement participants.

The parties approved Amendment No. 2 to the agreement on March 29, 2009, to extend the term of the agreement for two (2) years to be consistent with the end of the current phase of the Nitrogen and Selenium Management Program and to recognize prior payments for services made directly by CALTRANS and IRWD, for work plan development and Bay algae studies respectively.

ANALYSIS:

Costa Mesa is geographically located within the Newport Bay Watershed. The area that drains into this watershed extends from approximately Harbor Boulevard, easterly to the City boundaries. Continued participation in the working group would provide Costa Mesa direct input on future funding and governance issues associated with USEPAS mandates. The working group meets monthly and provides direct input into working plans, data analysis, policy guidance, and a framework for coordination on a broad array of water quality and watershed restoration issues within the Newport Bay Watershed.

ALTERNATIVES CONSIDERED:

The alternative to this Council action would be to not participate in the agreement. By not participating in this TMDL working group, the City would not have input in future activities within the Newport Bay Watershed. Any future programs or costs associated with compliance with USEPAS mandates as they relate to Costa Mesa would be the sole responsibility of the City, and could be potentially more expensive than the City's costs associated with being part of a collaborative approach with other affected agencies in the watershed.

FISCAL REVIEW:

There is no fiscal impact due to this item.

LEGAL REVIEW:

Cooperative Agreement No. D99-128 has been approved as to form by the City Attorney's office.

CONCLUSION:

City participation with the Newport Bay Watershed working group will allow direct input on future funding and governance issues, and continue Costa Mesa's compliance with the National Pollutant Discharge Elimination System (NPDES) requirements. It is recommended that the City Council approve the participation of the City of Costa Mesa in the Agreement to fund Nutrient, Fecal Coliform, and Toxics Total Maximum Daily Load (TMDL) studies in the Newport Bay Watershed and authorize the Mayor and the City Clerk to execute the Cooperative Agreement No. D99-128.

ERNESTO MUÑOZ
City Engineer

PETER NAGHAVI, DIRECTOR
Department of Public Services

ATTACHMENT: 1- [Cooperative Agreement No. D99-128](#)

DISTRIBUTION: City Manager
Assistant City Manager
City Attorney
City Clerk
Development Services Director
Staff