



# CITY COUNCIL AGENDA STATEMENT



June 4, 2019

File ID: 19-0170

## **TITLE**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE FOURTH AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING AMONG THE CO-PERMITTEES OF THE SAN DIEGO COUNTY NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM MUNICIPAL PERMIT

## **RECOMMENDED ACTION**

Council adopt the resolution.

## **SUMMARY**

The Memorandum of Understanding (MOU) among the Copermittees of the San Diego County National Pollutant Discharge Elimination System (NPDES) Municipal Permit (Municipal Permit) was approved on November 16, 2007. Council approved subsequent amendments on March 18, 2010 (First Amendment), July 9, 2014 (Second Amendment), and September 15, 2015 (Third Amendment) (see Attachment 1). The MOU's Third Amendment will expire on August 31, 2019, and it is necessary to amend the MOU a fourth time to extend its term through August 31, 2024, (or the life of the current NPDES Municipal Permit plus twelve months, whichever is longer), in order to complete ongoing regional activities required by the Municipal Permit. The Fourth Amendment to the original MOU is included as Attachment 2. The proposed action would approve the Resolution and authorize the Mayor to sign the MOU's Fourth Amendment on behalf of the City.

## **ENVIRONMENTAL REVIEW**

The Development Services Director has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378(b)(2) of the State CEQA Guidelines because it involves the approval of an amendment to the existing MOU; therefore, pursuant to Section 15060 (c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Although environmental review is not necessary at this time, as projects required by this MOU are further defined, environmental review will be required and a CEQA determination completed prior to commencing any development activities.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

Not applicable

## **DISCUSSION**

The NPDES stormwater permit regulations administered by the United States Environmental Protection Agency (U.S. EPA) under the authority granted by the Federal Water Pollution Control Act (Clean Water Act) 33 USCA 1251 et seq. as amended, Municipal Permit, Order No. R9-2013-0001 require the Copermittees of San Diego County (Copermittees) to coordinate in the implementation of regional programs. The Copermittees include the County of San Diego (County), the San Diego Unified Port District (Port), the San Diego County Regional Airport Authority (Airport), and the incorporated cities of San Diego, Carlsbad, Chula Vista, Coronado, Escondido, Imperial Beach, La Mesa, San Marcos, Del Mar, El Cajon, Encinitas, Lemon Grove, National City, Oceanside, Poway, Santee, Solana Beach, and Vista (Cities). This coordination necessitates a MOU among the Copermittees to address specific regional permit requirements, and to define associated Copermittees' shared regional responsibilities and financial obligations.

The San Diego Regional Water Quality Control Board (Regional Board) adopted the Municipal Permit on May 8, 2013. The Municipal Permit allowed for a two-year transitional period, during which time the Copermittees were required to develop or update their regional, watershed, and local plans and programs. The City Council approved updates to Chula Vista Municipal Code Section 14.20, Storm Water Management and Discharge Control, on July 14, 2015, as part of this process. The MOU provides a means for Copermittees to share costs of Municipal Permit requirements and program elements. A time extension of the MOU is necessary to complete the program. The MOU's Fourth Amendment will include several changes to the MOU's Third Amendment as shown on Attachment 2.

A brief summary of the most significant changes proposed in the MOU's Fourth Amendment is as follows:

- The MOU will run through August 2024 (or the life of the current permit plus twelve months, whichever is longer).
- Removal of the Ralph M. Brown Act requirements for all Copermittee Working Bodies.
- Work plans and shared cost budgets are not specified as Regional or Watershed, so that Working Body budgets could apply to all working groups. This allows watersheds to cost share through the MOU and allows Copermittees within watershed groups to determine if they need to produce work plans and budgets.

## **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

## **CURRENT-YEAR FISCAL IMPACT**

The MOU is an agreement among the Copermittees, which describes how Regional and Watershed Management Area costs are shared. The MOU by itself does not result in current year fiscal impacts to the

City; however, compliance with the Municipal Permit requires expenditures by the City. The City’s cost share budget during the current fiscal year (FY 2018-2019) authorized under this MOU may not exceed \$35,268 for the Regional General Program and \$68,540 for the San Diego Bay Water Management Area Program, which is budgeted from the storm water fee revenue funds.

**ONGOING FISCAL IMPACT**

The requested action by itself will not result in any ongoing fiscal impact to the City. However, compliance with the Municipal Permit requires ongoing program expenditures. Based on experience, with each re-issuance of the Municipal Permit, more stringent and costly requirements can be expected.

The total Shared Cost Budget authorized under this MOU may not exceed the Cumulative Limits specified for each budgeted category in Table 1 below. The City’s cumulative cost share expenditure is estimated to be around \$260,000 for the Regional General Program and \$825,000 for the San Diego Bay WMA program. These values represent the maximum amount that may be cost-shared for each budgeted category for the duration of this MOU. Once a Cumulative Limit has been reached, the Copermittees must establish separate agreements for sharing additional costs for that budget category. The estimated annual limits shown for each fiscal year are for planning purposes only (except FY2018-2019 as explained in the Current Year Fiscal Impact section above). Where an estimated annual limit is not reached in any fiscal year, the surplus amount may be carried over into subsequent fiscal years, so long as the Cumulative Limit is not exceeded.

Table 1  
Regional and Watershed Not-To-Exceed Limits (Estimated Annual Spending Limits)

<b>Budget Category</b>	<b>FY 2019-20</b>	<b>FY 2020-21</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>	<b>FY 2023-24</b>	<b>Cumulative Limit</b>
1. Regional Programs	\$850,560	\$920,800	\$1,158,300	\$764,000	\$814,000	\$4,507,660
2. San Diego Bay WMA	\$828,000	\$770,000	\$792,000	\$814,000	\$727,000	\$3,931,000

**ATTACHMENTS**

1. Current MOU dated July 2, 2015
2. Fourth Amendment to the Original MOU

*Staff Contact: Marisa Soriano, Storm Water Program Manager, Department of Engineering & Capital Projects, Storm Water Management Section*