

**City of Culver City, California
Agenda Item Report**

Meeting Date: 11/12/13		Item Number: <u>C-4</u>	
CITY COUNCIL AGENDA ITEM: Approval of Cost Sharing Memoranda Of Understanding to Develop Enhanced Watershed Management Programs and Coordinated Integrated Monitoring Plans for the Ballona Creek in an Amount Not-to-Exceed \$48,593 (Plus an Additional \$4,860 in Contingency Funding) and Marina Del Rey Harbor Watersheds in an Amount Not-to-Exceed \$11,838 (Plus an Additional \$1,184 in Contingency Funding) as Needed to Comply with Municipal Separate Storm Sewer System Permit Requirements.			
Contact Person/Dept.: Kaden Young/PW- EPO Phone Number: (310) 253-6445			
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐	
Public Hearing: ☐		Action Item: ☐ Attachments: ☐	
Commission Action Required: Yes ☐ No ☐ Date: _____			
Public Notification: (E-mail) Agenda and Meetings – City Council (11/05/13); (E-Mail) Sustainability and Environmental Issues (11/05/13)			
Department Approval: Charles D. Herbertson (10/30/13)		City Attorney Approval: Carol Schwab (by H. Baker) (11/05/13)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller)		City Manager Approval: John M. Nachbar (11/05/13)	
<u>RECOMMENDATION:</u> Staff recommends the City Council approve the following Memoranda of Understanding: 1. Memorandum of Understanding Between the City of Los Angeles, The City of Beverly Hills, The City of Culver City, The City of Inglewood, The City of Santa Monica, The City of West Hollywood, The Los Angeles County Flood Control District and The County of Los Angeles Regarding the Administration and Cost Sharing for Development of the Enhanced Watershed Management Program for the Ballona Creek Watershed (Ballona Creek Cost Sharing MOU); and 2. Memorandum of Understanding Between The Los Angeles County Flood Control District, The County of Los Angeles, and the Cities of Culver City and Los Angeles Regarding the Administration and Cost Sharing for Development of the Enhanced Watershed Management Program (EWMP) and Coordinated Integrated Monitoring Program (CIMP) for the Marina del Rey Watershed (Marina del Rey Cost Sharing MOU).			

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BACKGROUND:

On November 8, 2012, the Los Angeles Regional Water Quality Control Board adopted a new National Pollutant Discharge Elimination System (NPDES) Permit under the Federal Clean Water Act (Act) for discharges from municipal separate storm sewer systems (MS4) within Los Angeles County.

This latest permit incorporates water quality-based effluent limits via adopted Total Maximum Daily Load (TMDL) provisions. TMDL is a regulatory term included in the Act which describes the maximum amount of a pollutant that a body of water can receive while still meeting water quality standards required to support assigned water body beneficial uses¹. Beneficial uses are assigned to water bodies by the Regional Water Quality Control Board (RWQCB) and include uses such as swimming, boating, fishing, marine habitat, and others. The new permit that became effective on December 28, 2012 maintains the requirements that were part of the previous (2001) permit with several additions and revisions. The most significant of these changes is the incorporation of numerous TMDLs for water bodies within Los Angeles County. TMDLs have been issued to Ballona Creek, Ballona Creek Estuary, and Marina del Rey addressing trash, metals, pesticides and bacteria.

In developing this permit, the RWQCB acknowledged the need to allow municipalities to develop comprehensive management plans for the purpose of complying with the TMDLs. For this reason, the permit established criteria for the development of Watershed Management Plans (WMPs) or Enhanced Watershed Management Plans (EWMPs) and allows agencies several alternatives to achieve compliance.

Culver City and all other watershed agencies have elected to pursue the EWMP alternative to achieve compliance within both the Ballona Creek and Marina del Rey watersheds and, in June 2013, both watershed groups submitted notices of intent to prepare EWMPs by the June 2015 deadline.

Under the previous MS4 Permit (Previous Permit) the City spent a great amount of time and money to develop storm water programs in compliance with the Previous Permit and TMDLs enforceable at that time. City departments worked with one another to comply with the permit, spending approximately \$500,000 annually on compliance activities such as inspections, public outreach, development planning, and administrative efforts required to manage the City's storm water program. In addition, over the last six years, the City collaborated with other agencies in the

¹ Beneficial uses are assigned to water bodies by the Regional Water Quality Control Board (RWQCB) through the "Water Quality Control Plan for the Los Angeles County Region" (Basin Plan) which was originally adopted in 1994 and has been amended numerous times. Any change to a beneficial use designation requires an amendment to the Basin Plan that must be concurred with by RWQCB staff, approved by the RWQCB, the State Water Resources Control Board (SWRCB), the State Office of Administrative Law (OAL), and, ultimately, the United States Environmental Protection Agency (USEPA).

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watersheds to comply with TMDL requirements and spent over \$200,000 (approximately \$33,000 per year in addition to the \$500,000 mentioned above) on TMDL compliance to perform water quality monitoring, conduct special studies, and to prepare Implementation Plans to meet the TMDL requirements. Much of the existing work product will be used to develop EWMPs under the new MS4 permit requirements.

DISCUSSION:

Compliance Alternatives

The MS4 Permit offers the permittees several compliance alternatives, each with specific compliance timelines as follows:

1. Minimum Control Measures (MCMs) – ***(This alternative is not feasible for Culver City.)*** Compliance under this option is required by December 2013. This option consists of implementation of basic municipal measures to achieve water quality standards such as street sweeping, catch basin cleaning, industrial commercial inspections, and other non-structural practices. This compliance path applies to agencies in less urban settings and where monitoring points can be cited to determine compliance. The complex nature of Culver City's drainage system and the urban nature of the City and surrounding watersheds make this approach infeasible for Culver City.
2. Watershed Management Plan (WMP) – An agency may elect to pursue a WMP individually or collectively with other agencies in their watershed. This approach consists of developing a plan by June 2014 to meet water quality standards through implementation of best management practices (BMPs) that maximize the storm water retention, infiltration and reuse.
3. Enhanced Watershed Management Plan (EWMP) – This plan is similar to the WMP with the addition of larger regional projects that would capture, filtrate, and reuse storm flows from an 85th percentile storm event or roughly ¾" of rain. This is the option preferred by the RWQCB. As an incentive to agencies to pursue EWMPs and acknowledging the additional planning involved, the MS4 Permit gives agencies until June 2015 to complete the EWMP. As additional incentive, the permit provides that areas draining to the regional retention projects would be declared compliant even if discharges from larger storms from the area exceed water quality standards.

Alternative Selected by Watersheds

Culver City and all other agencies in both the Ballona Creek and Marina del Rey watersheds have elected to collectively pursue the EWMP compliance path. Culver City staff and other watershed agencies deem the EWMP compliance alternative to

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be the most effective approach to utilize opportunities to retain and reuse runoff and to address the unique challenges of the watershed. An additional requirement when pursuing an EWMP is the preparation of a Coordinated Integrated Monitoring Plan (CIMP) which is a plan to monitor water quality in a coordinated inter-agency manner to address the many pollutants addressed by the various TMDLs. CIMP costs are included in the recommended cost sharing MOUs.

Adaptive Management Process

The MS4 Permit allows WMPs and EWMPs to be implemented and improved over time through an iterative process referred to in the MS4 Permit as the Adaptive Management Process (AMP). The AMP enables agencies to monitor the effectiveness of WMPs or EWMPs and make adjustments or additions to the plans as needed to improve water quality to comply with TMDLs. Agencies will be deemed compliant as long as they are implementing an approved WMP or EWMP and make adjustments to the plans on a biennial basis as needed to meet water quality standards.

Cost Sharing Memoranda of Understanding

One EWMP/CIMP will be developed for the Ballona Creek and one EWMP/CIMP will be developed for Marina del Rey. They will be developed by consultants with costs shared among the agencies by drainage area percentage.

Ballona Creek Cost Sharing MOU

The recommended MOU addresses the sharing of costs among watershed agencies to develop the EWMP and CIMP for the Ballona Creek Watershed.

The City of Los Angeles is the lead agency and will conduct all contracting and project administration for the EWMP/CIMP development effort. The City of Los Angeles solicited proposals from qualified consulting firms and received three proposals. The proposals were evaluated and interviews were conducted with candidate firms. Ultimately, the consultant team lead by Black and Veatch was selected to prepare the EWMP/CIMP for the watershed for the negotiated contract amount of \$1,291,990. The City of Los Angeles will be reimbursed for their project administration efforts in the agreed amount of 5% of consultant contract costs bringing total estimated costs to \$1,356,590. The Los Angeles County Flood Control District (LACFCD) will fund 10% of project costs in the amount of \$135,659 reducing costs to share among watershed agencies to \$1,220,931. Culver City's area percentage is 3.98% yielding a cost share in the amount of \$48,593. The tables below illustrate this calculation and also indicate cost sharing amount for all parties to the MOU. These costs will be incurred between now and June 30, 2015 when the EWMP is required to be completed.

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Ballona Creek –

Estimated Total Cost and LACFCD Contribution

Item	Estimated Cost
Contract Cost	\$1,291,990
LA City Project Admin. & Management (5%)	\$64,600
Estimated Total Cost	\$1,356,590
LACFCD Contribution (10%)	-\$135,659
Cost for area cost sharing	\$1,220,931

Ballona Creek

Cost Allocation for Area Cost Sharing and Estimated Total Cost by Party

Party	Acres	Percent of Area (%)	Cost	Total Cost w/ 10% Contingency
City of Los Angeles	65,272.89	83.21	\$1,015,936	\$1,117,529.60
City of Beverly Hills	3,618.95	4.62	\$56,407	\$62,047.70
City of Culver City	3,125.00	3.98	\$48,593	\$53,452.30
City of Inglewood	1,907.72	2.43	\$29,669	\$32,635.90
City of Santa Monica	217.31	0.28	\$3,419	\$3,760.90
City of West Hollywood	1,135.00	1.45	\$17,703	\$19,473.30
County of Los Angeles	3,164.76	4.03	\$49,204	\$54,124.40
LACFCD	NA	NA	\$135,659	\$149,224.90
Total	78,441.63	100	\$1,356,590	\$1,492,249.00

Marina del Rey Cost Sharing MOU

The recommended MOU addresses the sharing of costs among watershed agencies to develop the EWMP and CIMP for the Marina del Rey Watershed.

The lead agency, County of Los Angeles, selected the Weston Group due to their extensive experience with water quality monitoring and pollutant source identification within the Marina del Rey Watershed. Culver City staff participated in development of the contract scope of work and cost negotiation. A contract in the amount of \$417,544 was negotiated with Weston to prepare the EWMP/CIMP. The County of Los Angeles will be reimbursed for their project administration efforts in the agreed amount of 5% of consultant contract costs bringing total estimated costs to \$438,422. The Los Angeles County Flood Control District (LACFCD) will fund 10% of project costs in the amount of \$43,842 reducing costs to share among watershed agencies to \$394,580. Culver City's area percentage is 3% yielding a cost share in the amount of \$11,838. The tables below illustrate this calculation and also indicate cost sharing amount for all parties to the MOU. These costs will be incurred between now and June 30, 2015 when the EWMP is required to be completed.

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Marina del Rey

Estimated Total Cost and LACFCD Contribution

Item	Total Cost
Contract Cost	\$ 417,544
County Admin Costs (5%)	\$ 20,878
Estimated Total Costs	\$438,422
LACFCD Contribution (10 %)	-\$43,842
Cost for area cost sharing	\$394,580

Cost Allocation for Area Cost Sharing and Estimated Total Cost by Party

Party	Acres	Percent of Area	Total Cost	Total Cost w/ 10% Contingency
County of Los Angeles	396	28	\$110,482	\$121,530
City of Los Angeles	974	69	\$272,260	\$299,486
City of Culver City	42	3	\$11,838	\$13,022
LACFCD	N/A	N/A	\$43,842	\$48,226
Total	1412	100	\$438,422	\$482,264

The EWMPs/CIMPs must be submitted to the RWQCB for review and approval by June of 2015. It is expected that the plan will be approved by the RWQCB in Spring/Summer 2016 after which the implementation phase will begin. Implementation will involve construction of the projects identified in the EWMPs. Cost estimates have not yet been developed; however, costs are expected to be significant with accumulated costs to Culver City in the tens of millions of dollars over the five year period from 2016 through 2021. Estimates are based on the draft TMDL compliance plan prepared by Ballona Creek agencies and submitted to the RWQCB in 2009. The City has not yet identified a funding source for the implementation phase. Staff will continue to pursue grant funding and explore other alternatives to fund TMDL and MS4 requirements.

FISCAL ANALYSIS:

Culver City's cost share as stipulated in the Ballona Creek Cost Sharing MOU is not to exceed \$53,452.30 (including 10% contingency) and would be paid to the City of Los Angeles on a reimbursement basis.

Culver City's cost share as stipulated in the Marina del Rey Cost Sharing MOU is not to exceed \$13,022 (including 10% contingency) and would be paid to the County of Los Angeles on a reimbursement basis.

Funding for both MOUs is provided in Capital Improvement Project budget PZ 497, account number 42380000.730100.

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ATTACHMENTS:

None.

MOTION:

That the City Council:

1. Approve a Memorandum of Understanding Between the City of Los Angeles, The City of Beverly Hills, The City of Culver City, the City of Inglewood, The City of Santa Monica, The City of West Hollywood, The Los Angeles County Flood Control District and The County of Los Angeles Regarding the Administration and Cost Sharing for Development of the Enhanced Watershed Management Program for the Ballona Creek Watershed (Ballona Creek Cost Sharing MOU) in an amount not to exceed \$48,593 (plus an additional \$4,860 in contingency funding, subject to the approval of the Director of Public Works/City Engineer); and,
2. Approve a Memorandum of Understanding Between The Los Angeles County Flood Control District, The County of Los Angeles, and the Cities of Culver City and Los Angeles Regarding the Administration and Cost Sharing for Development of the Enhanced Watershed Management Program (EWMP) and Coordinated Integrated Monitoring Program (CIMP) for the Marina del Rey Watershed (Marina del Rey Cost Sharing MOU)) in an amount not to exceed \$11,838 (plus an additional \$1,184 in contingency funding, subject to the approval of the Director of Public Works/City Engineer); and,
3. Authorize the City Attorney to review/prepare the necessary documents; and,
4. Authorize the City Manager to execute such documents on behalf of the City.