



## Legislation Details (With Text)

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**Title:** 2023-28 NEWPORT BAY WATERSHED COOPERATIVE AGREEMENT

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**Attachments:** 1. Agenda Report, 2. 1. 2023-2028 NB TMDL Agreement, 3. 2. 2018-2023 NB TMDL Agreement

Date	Ver.	Action By	Action	Result
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### TITLE:

#### 2023-28 NEWPORT BAY WATERSHED COOPERATIVE AGREEMENT

**DEPARTMENT:** PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION

**PRESENTED BY:** RAJA SETHURAMAN, PUBLIC WORKS DIRECTOR

**CONTACT INFORMATION:** SEUNG YANG, P.E., CITY ENGINEER, (714) 754-5633

### RECOMMENDATION:

Staff recommends the City Council:

1. Approve the Agreement to fund Total Maximum Daily Load (TMDL) programs and related activities in the Newport Bay Watershed, Cooperative Agreement No. MA-080-23010376.
2. Authorize the Mayor and the City Clerk to execute Cooperative Agreement No. MA-080-23010376.
3. Authorize the City Manager to execute any future amendments to this agreement.

### BACKGROUND:

On June 14, 2002, the United States Environmental Protection Agency (USEPA) established Total Maximum Daily Loads (TMDLs) for toxic pollutants in the Newport Bay watershed. As a result, the Santa Ana Regional Water Quality Control Board (SARWQCB) and the Environmental Protection Agency (EPA) set specific TMDL requirements for nutrients, fecal coliform, selenium, chlordane, and other toxic compounds in the Newport Bay watershed.

Agreement D99-128 was approved by the City Council on September 18, 2003, allowing the City to

enter into a cooperative agreement with other affected cities in developing implementation plans for the reduction of 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. Agreement D99-128 has been amended several times over the years to add or remove parties and to extend the expiration dates of the agreement. Agreement D11-066 replaced D99-0128 to continue funding programs, studies, monitoring, and other required elements to implement the TMDL requirements within the Newport Bay watershed through June 30, 2018. Subsequently, Agreement MA-080-18011416 (Attachment 2) replaced D11-066 to continue funding programs, studies, monitoring, and other required elements to implement the TMDL requirements within the Newport Bay watershed through June 30, 2023.

Agreement MA-080-23010376 (Attachment 1) is a new cooperative agreement to continue funding the required TMDL program elements in the Newport Bay watershed for a new five-year term ending on June 30, 2028.

### **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 Newport Bay watershed TMDL working group provides Costa Mesa direct access to potential regional and local funding for projects, and maintains the City's involvement in governance issues associated with Federal and State TMDL mandates. The working group meets monthly and provides input on plans, data analysis, policy guidance, and framework for coordination on a broad array of water quality and water restoration issues within the Newport Bay watershed.

Due to the upcoming expiration of Agreement MA-080-18011416 (Attachment 2), Agreement MA-080-23010376 (Attachment 1) was developed to continue implementation of existing watershed programs until June 30, 2028. In addition, Agreement MA-080-23010376 revises the existing cost share formula, allows for pilot projects, and includes other minor revisions. Parties to the agreement include the City of Costa Mesa, the County of Orange, the Orange County Flood Control District, Irvine Ranch Water District, the Irvine Company, and eight other cities within the Newport Bay watershed.

Agreement MA-080-23010376 includes a new formula for determining a party's share of the watershed costs based on a combination of population and land area within the watershed, rounded to the nearest percent. As shown in Exhibit A of Attachment 1, this new formula will increase Costa Mesa's cost share from 4.00% to 4.317% for the duration of the term.

### **ENVIRONMENTAL DETERMINATION:**

The proposed action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15306, 15307 and 15308 of the CEQA Guidelines, because it consists of basic data collection, research and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource and because the proposed action consists of actions taken by regulatory agencies, as authorized by state law or local ordinance, to assure the maintenance, restoration, enhancement or protection of a natural resource and the environment, where the regulatory process involves procedures for protection of the environment.

## **ALTERNATIVES:**

The City Council may choose to decline participation in this agreement. By not participating in this TMDL working group, the City would not have input on activities pertaining to the Newport Bay watershed. Any programs or costs associated with compliance of USEPA mandates, as they relate to Costa Mesa, would be the sole responsibility of the City. Therefore, staff does not recommend this action since it would exclude Costa Mesa from the TMDL working group and create additional costs to maintain compliance with the requirements set forth in the Newport Bay watershed TMDL program.

## **FISCAL REVIEW:**

Funding requirements are determined through a separate funding partner working group, which is reviewed and approved annually. Funding for the City's share of the Newport Bay Watershed programs is appropriated from the City's General Fund. The projected City's share for Fiscal Year 2023-24 is \$56,503 (Exhibit A in Attachment 1).

## **LEGAL REVIEW:**

The City Attorney's Office has reviewed this report and the Cooperative Agreement MA-080-23010376 and approves them both as to form.

## **CITY COUNCIL GOALS AND PRIORITIES:**

This item supports the following City Council Goal:

- Strengthen the Public's Safety and Improve the Quality of Life

## **CONCLUSION:**

Staff recommends the City Council:

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