



COUNCIL AGENDA: 1/31/2023

ITEM: 6.1

FILE NO: 23-133

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: January 31, 2023

SUBJECT: Municipal Regional Stormwater Permit Reissuance

Recommendation

As recommended by the Transportation and Environment Committee on December 5, 2022, accept the report on the Municipal Regional Stormwater National Pollutant Discharge Elimination System permit reissuance.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Environmental Services)
[Transportation and Environment Committee referral 12/5/22 - Item (d)2]



Memorandum

TO: TRANSPORTATION AND
ENVIRONMENT COMMITTEE

FROM: Kerrie Romanow

**SUBJECT: MUNICIPAL REGIONAL
STORMWATER PERMIT
REISSUANCE**

DATE: November 16, 2022

Approved

Date

11/23/22

RECOMMENDATION

Accept this update on the status of the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit reissuance and recommend this item for full Council consideration at the January 31, 2022, City Council meeting.

OUTCOME

Acceptance of this recommendation will result in acceptance of the staff report.

EXECUTIVE SUMMARY

The City of San José operates a Citywide stormwater program under the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit (Stormwater Permit) issued by the San Francisco Bay Regional California Water Board (Water Board). The current five-year Stormwater Permit was adopted by the Water Board on May 11, 2022, became effective July 1, 2022, and is set to expire on June 30 2027.

There are significant changes compared to previous permits that will impact several existing programs and will require additional new programs that will focus on protecting the storm sewer system and waterways. Compliance with the Stormwater Permit may require the City to increase certain permit fees. Even so, additional funding is needed for the City to support programs and ongoing maintenance needs in order to comply with the Stormwater Permit and Clean Water Act.

This memorandum provides an update on the potential impacts of key requirement changes and/or additions in the provisions of the new Stormwater Permit as noted in the table below:

Provision	Compliance Requirements	Effective due date
C.2 Municipal Operations	Wash down sidewalks, plazas, and other paved areas particularly on surfaces impacted by human habitation shall include sanitizing procedures. This may increase costs for local businesses, business districts, and City operations.	July 1, 2022
C.3 New Development/ Redevelopment (Green Stormwater Infrastructure)	Various types of properties (new or redevelopments, single family homes, trails, roadways) will require the use of green infrastructure to address water quality. This may increase staff resources to review increased permits and funding needs for Capital Improvement projects.	July 1, 2023
C.10 Trash Load Reduction	Reduce or eliminate 100% trash from storm sewer system and waterways by and maintain compliance through additional programs until the permit term, June 30, 2027. This includes both public and private properties that are connected to the storm sewer system and waterways through the Direct Discharge Trash Control Program. This will require additional staffing and program needs.	June 30, 2025
C.12 Polychlorinated Biphenyls (PCBs) Controls	Develop a plan and schedule to reduce PCBs in Old Industrial Areas to reduce impact water quality and further enhance Building Demolition Permit Program. This will require additional staffing and program needs.	Mar 31, 2023
C.15 Exempted-Conditionally Exempted Discharges	Develop Regional Fire Fighting Discharge Report. This may require additional staffing and program needs to implement recommendations from this report.	Sept 30, 2025
C.17 Discharges Associated with Unsheltered Homeless Populations	Address the need to address water quality needs for our community experiencing homelessness in the waterways (trash) and living in vehicles (biowaste) and biennial point in time surveys. It will require additional funding for staffing, trash removal and disposal and additional services to support sanitary needs for our community experiencing homelessness.	
C.20 Cost Reporting	Produce and submit a fiscal analysis of the capital and operation and maintenance costs incurred to comply with the Stormwater Permit	June 2025
C.21 Asset Management	Implement an Asset Management Plan to ensure the July 1, 2025 satisfactory condition of all structural controls, such as bioretention cells, pervious pavement systems, full trash capture devices, trash receptacles, and pet waste stations that serve a water quality function.	

BACKGROUND

History of Municipal Regional Stormwater Permit

The Federal Clean Water Act requires the City to operate its municipal separate storm sewer system under a National Pollutant Discharge Elimination System permit (Stormwater Permit) for the discharge of stormwater to waterways. The State Water Resources Control Board and its regional agencies (Water Board) administer the Clean Water Act's permit requirements. On May 11, 2022, the Water Board adopted a new Stormwater NPDES Permit that replaces the Permit adopted in 2015. The new five-year Stormwater Permit became effective July 1, 2022 and will remain in effect through July 2027.

The Environmental Protection Agency (EPA) identified stormwater runoff as a significant contributor to contamination in the nation's waterways and implemented Federal Stormwater Regulations in response. The City's storm sewer system and waterways have been regulated for decades. Since 1990 when the first permit was issued, the City has demonstrated its commitment to implementing stormwater pollution prevention programs. In 2000, the Water Board informed jurisdictions of the need to focus efforts to reduce non-stormwater discharges into local creeks, waterways, and the San Francisco Bay. Then in 2001, the Water Board significantly increased Stormwater Permit requirements for Bay Area jurisdictions. In 2009, the Water Board issued the first Municipal Regional Stormwater NPDES Permit for all 76 Bay Area co-permittees which drastically increased regulatory requirements. The second of these permits issued in 2015 further augmented both the regulatory requirements and scrutiny. This latest permit continues to increase regulatory requirements that are more complex to comply with in an urban environment.

The Stormwater Permit specifies actions necessary to prohibit non-stormwater discharges into the municipal storm sewer system and waterways to protect local creeks and the San Francisco Bay. Accordingly, the City's stormwater program is comprised of a variety of elements that minimize pollutants in stormwater runoff and into the creeks and rivers. Actions to prevent pollution from entering the City's storm sewer system involve various citywide operations, as well as the daily activities of San José residents, schools, and businesses. Within the City, collaborative efforts are critical in preventing stormwater pollution and protecting water quality. The City's Environmental Services Department (ESD); Public Works Department (PW); Department of Planning, Building and Code Enforcement (PBCE); Transportation Department (DOT); Department of Parks, Recreation and Neighborhood Services (PRNS); Airport; Housing Department; Fire Department; Office of Economic Development (OED), and the City Attorney's Office are tasked to ensure Stormwater Permit requirements are met.

While permit compliance is important, the City is equally driven to achieve the vision of a clean and healthy watershed. Urban creeks provide open space for all residents and many of the City's most prominent parks, such as Kelley Park and Guadalupe Gardens, are located along riparian corridors. As the City continues to fill with urban villages and denser developments, these riparian open spaces will become indispensable resources for both mental and physical health in our communities. Denser living requires well planned, safe, clean spaces for people to gather,

exercise, and share in community. The current state of many of our creeks has been significantly degraded. The EPA's healthy watershed index states both Coyote Creek and Guadalupe River are impaired for aquatic life, fish/shellfish consumption and recreational use.

Current pollutants such as pesticides, sediment, and trash, as well as legacy pollutants such as mercury and polychlorinated biphenyls, continue to impact our storm sewer system and waterways and need bold, creative solutions rooted in both data and equity. Any vision of vibrant and healthy communities in San José must include revitalized waterways that will support a healthier lifestyle for our City. To achieve this vision, the City should continue to focus its resources and prioritize funding to restore and protect local waterways, revitalize riparian areas for community activity, and foster climate resiliency.

ANALYSIS

Latest Adopted Municipal Regional Stormwater Permit

The intent of the Stormwater Permit aligns with the City's Enterprise Priority Item #6 for Clean, Vibrant, + Inclusive Neighborhoods + Public Life. However, compliance requires additional funding to expand existing and perhaps create new City programs that include both administrative and operational costs.

In Table 1 and the following sections summarize some of the significant changes that impact several City departments in terms of the current status of implementation, required enhancements, and next steps addressing administrative actions and funding needs.

Table 1. Department Stormwater Permit Responsibility by Provision

[illegible]

Municipal Operations

Compliance Requirements and Status

The Stormwater Permit requires the enhancement of Best Management Practices for washing down sidewalks, plazas, and other paved areas particularly on surfaces impacted by human habitation which include sanitizing procedures. Cleaning and sanitizing these surfaces generate pollutants that must not enter the storm drain and requires additional time and specialized tools and procedures to complete in a compliant manner. This requirement will affect businesses and public spaces impacted by these activities and add additional financial burden to be compliant.

Next Steps

This requirement is effective as of July 1, 2022. City staff will collaborate and work with business districts and vendors to ensure the development of sanitation procedures and the implementation of proper Best Management Practices in the public right-of-way.

New Development and Redevelopment (Green Stormwater Infrastructure)

Compliance Requirements and Status

New development or Redevelopment

The Stormwater Permit now requires new development or redevelopment projects that create or replace 5,000 square feet of impervious surface to include stormwater treatment. This would apply to approximately 20,645 commercial, municipal, and multi-family residential properties if they undergo redevelopment. This is a more stringent requirement and change from the former permit, which regulated projects that created or replaced 10,000 square feet or more of impervious surface which was approximately 8,605 properties of similar nature within San José. This requirement now applies to sidewalk improvements or any other portions of the public right-of-way (e.g., roadways) that are either developed or redeveloped as part of the projects. The Stormwater Permit may require potentially 58% more new permits to comply with these requirements if developed or redeveloped.

Single Family Homes

Additionally, the Stormwater Permit includes for the first-time stormwater treatment requirements (e.g., green stormwater infrastructure or bioretention) for new and redeveloped detached single-family homes that are not part of a larger development. This requirement will only apply if a single family home is being redeveloped. Treatment is required for the new or replaced impervious surfaces such as roofs and driveways if they are equal to or greater than 10,000 square feet. It is estimated that over 13,900 single family home properties within the City will now be required to comply to the Stormwater Permit requirements if any redevelopment occurs within this permit period and beyond. Essentially, 100% increase of potential additional permits within this category.

Trails

This provision will also impact trail development because many trail projects include pavement installation exceeding 5,000 square feet. Trails are often built along narrow corridors where space for stormwater treatment may be limited. Past trail planning did not evaluate viable sites for stormwater treatment which may require projects to find offsite, in lieu of alternative treatment sites. Project costs will increase for design, construction, and operation and maintenance of stormwater treatment sites adjacent to trails or at in lieu offsite locations.

Reconstructed Roadways

In addition, the Stormwater Permit includes requirements for significantly reconstructed roadways one contiguous acre in size, regardless of whether new lanes are added. These requirements apply to projects that disturb the top of the subbase below the pavement, extend the roadway width, or change surfaces from pervious to impervious (e.g., dirt to asphalt, concrete, or gravel). This may require the inclusion of green stormwater infrastructure (GSI) into a greater number of DOT projects, including bikeway and maintenance projects.

Green Stormwater Infrastructure

These new Stormwater Permit requirements pose new challenges for any project discussed above that were not previously required to install GSI. Although GSI is likely feasible on many of these projects, there may be several that will need to rely upon alternative compliance as identified in the Stormwater Permit, which would allow treatment at an offsite location or provide an option for payment into an in-lieu fee system. An alternative compliance in lieu fee program would consist of a fee structure and a list of GSI capital improvement projects planned for construction within a specified time frame. The challenge is defining a fair cost to pay into this system since this is a relatively new option and there are few examples throughout the State that can help define a fee. Also, the City will need to develop an in-lieu fee payment system that can support these projects. The Airport will be similarly impacted as it balances the need for stormwater treatment and protection with its Federal Aviation Administration requirements.

The new Stormwater Permit also includes requirements aimed at improving creek health through GSI implementation by requiring treatment of a minimum of five acres of drainage area. Fortunately, the River Oaks Stormwater Capture Regional GSI project, identified in the City's GSI Plan and currently under design, will exceed the requirement by treating over 200 impervious acres of drainage area.

Next Steps

These compliance requirements will become effective July 1, 2023. Staff will be moving forward with proposed changes to the City Municipal Code, City policies, outreach to developers, and relevant internal and external guidance documents prior to this due date. This will impact staffing resources to address the additional workload. City staff will be exploring new funding mechanisms and seeking funding to develop alternative compliance program options.

Trash Load Reduction

Compliance Requirements and Status

Stormwater Permit Trash Credits status

The Stormwater Permit requires the City to achieve a 100% trash load reduction by 2025 with an interim target of 90% by 2023. Since the City had a Direct Discharge Trash Control Plan to address trash in waterways, the Permit requires the City to update this trash control plan by January 3, 2023 for approval by the Water Board if the City intends to continue to claim this credit. However, the Permit will cancel the 15% offset the City claims for the direct discharge program and the 10% credit for river and creek cleanups after June 30, 2025. Additionally, the adopted permit will no longer include the 10% credit the City claims for policy efforts for existing source controls (i.e., Single Use Plastic Bag and Foam Food Container (Expanded Polystyrene commonly known as Styrofoam™) ordinances). For example, for 2020-2021 and 2021-2022, the City achieved 100% trash reduction and has a target for 2022-2023 of 109% reduction. Without these credits, the City would have only achieved 65% and 74% trash load reduction, respectively, meaning the City would not be in compliance. Therefore, these changes will substantially impact the City's ability to comply with the Stormwater Permit and will require the City to sustain, expand or develop new programs to attain the 100% trash load reduction compliance requirement by 2025, until the end of the permit term in June 2027, and beyond.

Direct Discharge Trash Control Plan

Since 2016, this program has focused on addressing trash and direct illicit discharges in the waterways. Recent investments and programs developed by BeautifySJ such as Cash for Trash and partnerships with the City's nonprofit partners such as Keep Coyote Creek Beautiful, South Bay Clean Creeks Coalition and Trash Punx have been impactful to engage the community and remove trash in waterways. After June 30, 2025, the City will lose the 15% trash reduction credit this program provides, as the Stormwater Permit phases it out. This means that the City will be required to address trash in other ways to achieve the 100% compliance requirement throughout the permit term. However, the City will need to continue to address trash contributed by homeless encampments in the waterways based on Water Board Resolution No. R2-2015-0024 "Actions to Address the Adverse Water Quality Impacts of Homeless Encampments" and the federal Clean Water Act.

Long-Term Trash Load Reduction Plan

The Stormwater Permit also requires the City to update its Long-Term Trash Load Reduction Plan (Plan) and submit it to the Water Board by September 30, 2023. The updated Plan will outline measures the City will expand or implement to attain the trash load reduction goals of 90% by 2023 and 100% by 2025. Currently the City has several programs such as Adopt-A-Park, Anti-Litter Program, Public Litter Cans, Solid Waste Inspection Program, Downtown San Jose Property-Based Improvement District, RAPID, Free Junk Pick-up, BeautifySJ and Street Sweeping. In addition to complying with the Stormwater Permit, the benefits of the strategies outlined in the Plan will help keep litter out of our waterways, keep San Francisco Bay clean, minimize harm to wildlife, and ultimately improve the quality of life for San José residents. The

City will need to expand and implement additional programs to compensate for credits that will no longer be allowed.

Large Trash Capture in Public Right of Way

The City has been on the forefront in installing large trash capture devices; more than any other municipality in the Bay Area. These devices intercept trash that enters the storm sewer system and removes it before it can be discharged through an outfall and into waterways. In addition to capturing trash, these devices can also capture other sediment-bound pollutants of concern, such as polychlorinated biphenyls and mercury, aiding the City's compliance with multiple provisions of the Stormwater Permit. To date, the City has installed 32 large trash capture devices, will install 7 more by June 30, 2023, invested \$27 million, and established partnerships with Caltrans to further expand the program in addressing trash within the stormwater system.

Full Trash Capture requirements for Private Lands

In addition, the Stormwater Permit requires all existing private parcels in medium, high, or very high trash generating areas that are plumbed directly to the municipal storm sewer system to install structural controls for trash or to implement practices that would be equivalent to full trash capture by July 1, 2025. The City will also need to develop an inspection program and associated ordinances and procedures to verify and ensure installed trash capture devices are maintained. Parcels in areas of the City that are currently or will be treated by the City's large trash capture devices are considered treated and will be exempt from this requirement. Staff is still evaluating the number of parcels that will be affected by this requirement. In 2021, City staff did preliminary research and determined that approximately 70% of the 1,200 parcels that are 10,000 square feet or larger are located in the lowest three median household income ranges and with the highest percentage of people of color according to the San José Equity Atlas. The new permit will require **all properties** in the medium, high, and very high trash generating areas to be evaluated and City staff will further reevaluate the overall impacts. It is estimated to 5-15% additional parcels below 10,000 square feet may be impacted by this requirement.

This new requirement will create a significant burden on various departments such as Planning Department's Development Services permitting, Environmental Services Department, Planning, Building and Code Enforcement Department's Code Enforcement group, and Public Works Department inspection programs. It will impose new costs on local businesses and property owners. The estimated full trash capture device or equivalent cost to install can be between \$900 to \$1500 per device and ongoing operations and maintenance may be required bi-annually or quarterly which can cost \$100-\$150 for cleaning each device.

Next Steps

The Direct Discharge Trash Control Plan is required to be submitted to the Water Board by January 3, 2023 and staff will submit the updated plan for Council approval on December 13, 2022. Staff will pursue any necessary Municipal Code changes and program development and staffing needs related to the private land requirements. This is anticipated to impact staffing resources to address the additional workload. Staff will also need to identify additional funds for programs and efforts such as structural controls, staffing, consultant support, new and enhanced

programs detailed in the Long-Term Plan, Private Lands and Direct Discharge Trash Control Plan.

Discharges Associated with Unsheltered Homeless Populations

Compliance Status and Required Enhancements

The Water Board raised concerns that the unhoused community including encampments in waterways, vehicles and recreational vehicles, and safe parking areas can create adverse water quality impacts in local waterways and implemented this new provision.

The Stormwater Permit includes new requirements to identify and to prioritize housing options for the unhoused community living within waterways. It requires:

- Tracking and reporting data related to services provided (including sanitary services)
- Conducting biennial point in time census data.
- Mapping of the unsheltered populations within a 500 foot offset from waterway banks and storm sewer system.

The City is required to “identify and implement” appropriate best management practices to address discharges associated with homelessness that impact water quality, and report on the effectiveness of the control measures.

Next Steps

BeautifySJ, in collaboration with several partner departments, have provided an informational memorandum that discusses how biowaste from recreational vehicles may be addressed. The Stormwater Permit does require to identify and implement this type of service for recreational vehicles. In addition, to meet compliance requirements, the City shall submit maps that show where encampments are along the waterways starting in September 2023 and September 2025. Lastly, City staff will participate in a regional effort to develop and provide data on Best Management Practices to address any discharges associated with encampments in waterways. This report is due to the Water Board in September 2023. This will impact staffing resources to address the additional workload. Overall, to meet the City’s compliance requirements, staff resources and funding will be needed to ensure these new programs can be initiated and sustained.

Polychlorinated Biphenyls Controls

Compliance Status and Required Enhancements

History of Polychlorinated Biphenyls in Old Industrial Areas

Polychlorinated Biphenyls (PCBs) are persistent, toxic substances that exist in unhealthy quantities in the San Francisco Bay. They are a legacy pollutant that are found in old electrical equipment, building materials, and unfortunately in sediments on properties that either have or had used PCBs in the past. PCBs have been shown to cause cancer and other adverse health effects. The Water Board has assigned a particularly high priority to PCBs in the Stormwater

Permit since urban stormwater runoff from industrial areas is thought to be the primary pathway and source of new PCBs loads to the San Francisco Bay. Bay-wide, stormwater permittees are required to reduce PCBs loads by implementing a variety of control measures. This requirement will potentially impact small local businesses and property owners in old industrial areas that are in historically underserved communities.

The Stormwater Permit mandates much more prescriptive requirements to achieve PCBs load reductions. The City is required to implement PCBs controls such as removal of impacted sediments that collect in large trash capture devices, additional street sweeping, inlet cleaning, implementation of GSI, and the referral of suspected PCBs source properties to the Water Board in approximately 660 acres countywide of old industrial areas, of which over 300 acres are in San José. By March 31, 2023, the City must submit a PCB Control Plan and Schedule to the Water Board detailing its progress in addressing PCBs source properties.

Building Demolition Activities

The Stormwater Permit also increases requirements for demolition activities, as demolition of buildings containing PCBs are a source which must be identified and mitigated. In addition to tracking and reporting on PCB-containing structures demolished, the Stormwater Permit requires contractors to provide notification to the Permittees, the Water Board, and U.S. Environmental Protection Agency at least one week before any new demolition occurs, effective July 1, 2023. The City is responsible for inspecting the demolition site to ensure PCB controls are in place. Following demolition, the permit applicant must submit verification to the City that PCBs in their demolished buildings were properly disposed.

Next Steps

City staff will develop a PCB Control Plan and Schedule by March 31, 2023. City staff is updating permit screening forms and guidance documents to inform both public and private project developers about compliance requirements for PCBs. Staff will also analyze Trash Load Reduction and New and Redevelopment requirements and plans, as certain structural controls can provide multiple benefits for each Stormwater Permit requirement and may help minimize additional funding needs by the City or by private property owners.

Emergency Discharges of Firefighting Water and Foam Status and Required Enhancements

Compliance Status and Required Enhancements

The permit states that “During emergency firefighting situations, priority of efforts shall be directed toward life, property, and the environment (in descending order). Permittee staff, contractors, or firefighting personnel shall control the pollution threat from their activities during emergency firefighting situations to the extent that time and resources allow.” The Water Board has increased both scrutiny and requirements to mitigate the impacts of emergency firefighting water and foam discharges to the storm sewer system and waterways. Both the potable water and chemical foams used to fight fires have been linked to fish kills and other impairments of water

quality. The adopted permit requires several tasks, including participating in a regional working group tasked to develop best practices and procedures to minimize and mitigate impacts from emergency firefighting flows, assessing firefighting practices and procedures at large industrial and fire-prone businesses, and training all City firefighting staff on best practices.

Next Steps

Regional collaboration is anticipated to begin in 2023 and a final Fire Fighting Discharge report will be due by September 30, 2025. Staff will be reviewing existing practices to ensure permit compliance. The Fire Department will participate in the Regional Working group to share information on best management practice. This will impact staffing resources to address the additional workload which includes (1) updating existing policies and practices to ensure permit compliance; (2) collaborating with other City Departments (Department of Transportation and Environmental Services) to identify appropriate Best Management Practices that will help reduce and mitigate the impacts of emergency firefighting runoff into the storm sewer system and/or waterways; (3) seeking additional funding to pilot and to further enhance methods in reducing and mitigating the impacts of emergency firefighting runoff flows and (4) training all City firefighting members on best practices for mitigation of impacts of firefighting water runoff.

Cost Reporting and Asset Management

Compliance Status and Required Enhancements

The adopted Stormwater Permit includes new requirements related to reporting costs for publicly funded projects required to implement the new Stormwater Permit, as well as an Asset Management Plan for structural controls installed in the City. The details of the cost reporting approach will be included in a framework developed during the first year of the next Stormwater Permit and submitted to the Water Board by June 30, 2023. However, the Stormwater Permit includes requirements to report detailed costs such as staff, capital, additional contractual, operation and maintenance, and administrative costs.

The Asset Management requirements apply to physical assets operated and maintained by the City to comply with Permit requirements, such as Large Trash Capture devices and Green Stormwater Infrastructure installations. Asset Management Plans must include inventory information as well as Operation, Maintenance, Rehabilitation, and Replacement Plans for each asset. Assets are operated and maintained by multiple City departments, each with its own inventory and asset management programs.

Overall, the complexity in obtaining each department's cost tracking and asset management data required by the Stormwater Permit will be labor intensive and time consuming, requiring additional administrative cost for staff.

Next Steps

Regional Cost Reporting and Methodology reports will need to be submitted by June 2023 and the City will be required to implement starting with Annual Report September 2025. City staff will be required to develop an Asset Management Plan by June 2025 and begin implementation

by July 2025. City staff will work with regional partners to develop a standardized cost reporting template. Staff will collaborate across City departments to identify and track costs associated with implementing stormwater permit-related tasks, and asset management. Additional funding will be required for staffing and asset management development.

CONCLUSION

Our creeks are a vital part of our community. City departments are collaborating to enhance existing programs and develop new programs that are equitable, sustainable, grounded in science, and implemented for the protection and enhancement of our environment. As indicated, the cost to implement the new Stormwater Permit requirements will be significant, though additional work is required to provide appropriate cost estimates. Recommendations are anticipated to be included in the 2023-2024 Proposed Budget process and beyond. This is a continuation of stormwater permit updates that were provided to the Transportation and Environment Committee in November 2020, June 2021, and November 2021.

EVALUATION AND FOLLOW-UP

This item will be heard at City Council on January 31, 2022.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the December 5, 2022 Transportation and Environment Committee meeting.

COORDINATION

This memorandum has been coordinated with the Departments of Planning, Building and Code Enforcement; Housing, Public Works; Transportation; Parks, Recreation and Neighborhood Services; Airport; Fire; the Office of Economic Development; the City Attorney's Office; and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

The City's current suite of stormwater protection, management, and capital improvement programs are primarily funded through storm sewer service and use charge fees paid by individual property owners, with additional funding from various Federal and State grants, the Measure T capital program for several stormwater protection and green infrastructure capital projects, and the General Fund in the limited instances where other sources are not eligible to pay for the required costs (e.g. creek cleanup events). As described within the 2022-2023 Proposed Capital Budget and 2023-2027 Capital Improvement Program, the combined expenditure needs of the operating and capital components eclipse ongoing revenues from storm sewer service and use charge fees; the fund balance built up in prior years is currently being spent down and identifying additional funding within the next three fiscal years must be a priority.

Though its intent is to improve overall environmental and community health, full implementation of the Stormwater Permit will result in significant policy and program cost implications above what the City already faces. These new cost requirements will impact a wide range of community members – from commercial property owners and businesses to individual homeowners – as well as multiple City departments and capital programs. Staff will continue to review these changes and coordinate across the impacted departments and with the City Manager's Budget Office to develop an implementable approach to the new requirements, which may include a re-examination and reallocation of existing resources to meet the most immediate needs, the identification of new or increased fees to pay for new and expanded services, leveraging Federal and State grant opportunities where available, and potentially require limited application of additional General Fund resources. Full implementation that does not divert resources from other important City services will likely require creative funding and expenditure solutions and substantial new revenues. These considerations will be considered during the 2023-2024 Proposed Budget development process and in future years, with additional discussion likely at Transportation and Environment Committee meetings and City Council as programs and policies are more precisely defined.

CEQA

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City Action.

/s/
KERRIE ROMANOW
Director, Environmental Services

For questions, please contact Rajani Nair, Deputy Director, at rajani.nair@sanjoseca.gov or (408) 799-7462.