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0/29/2021

(O-2021-132 REV.)

ORDINANCE NUMBER O-21343 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 16 2021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING A COST SHARE AGREEMENT
BETWEEN PARTIES NAMED IN THE SAN DIEGO
REGIONAL WATER QUALITY CONTROL BOARD TOTAL
MAXIMUM DAILY LOAD FOR SEDIMENTATION IN LOS
PEÑASQUITOS LAGOON.

WHEREAS, by Resolution No. R9-2012-0033, the San Diego Regional Water Quality Control Board (RWQCB) amended the Water Quality Control Plan for the San Diego Basin (9) to incorporate the Total Maximum Daily Load for Sedimentation in Los Peñasquitos Lagoon (Sediment TMDL); and

WHEREAS, by Resolution No. R9-2013- 0001, the RWQCB issued the National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds Within the San Diego Region, as amended by R9-2015-0001 and R9-2015-0100 (MS4 Permit); and

WHEREAS, final compliance with the Sediment TMDL will be achieved by the restoration of 84 acres of salt marsh habitat in the Los Peñasquitos Lagoon (Lagoon) no later than December 31, 2034; and

WHEREAS, the RWQCB adopted Resolution No. R9-2012-0033 approving an amendment to the Water Quality Control Plan for the San Diego Basin to incorporate the Sediment TMDL on June 13, 2012; and

WHEREAS, the RWQCB adopted Order No. R9-2013-0001 issuing the MS4 Permit to the Phase I MS4s in the San Diego Region on May 8, 2013; and

WHEREAS, the RWQCB has determined that the responsible Copermittees for the Peñasquitos Watershed Management Area under the MS4 Permit are the Cities of San Diego, Del Mar, and Poway, and the County of San Diego (Copermittees); and

WHEREAS, the RWQCB has determined that Caltrans is a Responsible Party for purposes of the Sediment TMDL; and

WHEREAS, the State Water Resources Control Board adopted Resolution No. 2014-0001 approving the amendment to the Water Quality Control Plan for the San Diego Basin to incorporate the Sediment TMDL on January 21, 2014; and

WHEREAS, the Sediment TMDL was approved by the California State Office of Administrative Law and became effective on July 14, 2014 (Approval Date); and

WHEREAS, the RWQCB has determined that the responsible parties under the Sediment TMDL are the Copermittees, as well as certain Phase II Small MS4 NPDES permittees, general construction storm water NPDES permittees, and general industrial storm water NPDES permittees who may contribute costs at a later date; and

WHEREAS, the Copermittees have agreed to cooperate on implementation measures (e.g., load reduction, lagoon monitoring, lagoon restoration) as necessary to achieve compliance with the Sediment TMDL; and

WHEREAS, the Copermittees developed a Water Quality Improvement Plan pursuant to the Sediment TMDL and the MS4 Permit to guide their efforts to comply with the requirements of the Sediment TMDL; and

WHEREAS, the Copermittees have jointly developed the Los Peñasquitos Lagoon Restoration Phase I Project to guide their cooperative activities in order to achieve compliance with the Sediment TMDL; and

WHEREAS, the Copermitees are required by the Sediment TMDL to develop and agree upon interim milestones that must be met to attain required reductions in sediment loading and/or show progress in restoring historic salt marsh habitat in the Lagoon within 15 years after the Approval Date of the Sediment TMDL; and

WHEREAS the Copermitees desire to enter into a Cost Share Agreement to establish the responsibilities of each PARTY with respect to carrying out collaborative activities in the Los Peñasquitos Watershed Management Area; and

WHEREAS, the Copermitees recognize that funding will be needed for implementation of the Lagoon Restoration Project over the term of the Cost Share Agreement, and that the expenditures will be shared equitably among the parties as indicated in the Cost Share Agreement; and

WHEREAS, under San Diego City Charter section 99, no contract, agreement, or obligation extending for a period of more than five years may be authorized except by Ordinance approved by a two thirds' majority vote of the Council; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, that the Council:

1. Authorizes the Mayor, or his designee, to execute a Cost Share Agreement in an amount not to exceed \$35,225,451.82 with the City of Del Mar, the City of Poway, and the County of San Diego for the Los Peñasquitos Lagoon Restoration Phase I Project to achieve compliance with the Total Maximum Daily Load for Sedimentation in Los Peñasquitos Lagoon, on file with the City Clerk as Document No. OO-21343.

2. Authorizes the Chief Financial Officer to accept reimbursements from other agencies for Fiscal Years 2020 to 2027 expenditures incurred in an amount up to \$7,788,700 for the Los Peñasquitos Lagoon Restoration Phase I Project.

3. Authorizes the Chief Financial Officer to increase the Capital Improvement Program (CIP) budget in CIP ACC0001, Watershed CIP (B17033, Los Peñasquitos Lagoon Restoration Ph 1), and to appropriate and expend received reimbursements of actual expenditures from other agencies in an amount not to exceed \$7,788,700, contingent upon the Chief Financial Officer furnishing certificates certifying that funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

4. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

5. That this Ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Corrine L. Neuffer
Corrine L. Neuffer
Chief Deputy City Attorney

CLN:MMM:nja:cm

05/24/21

07/14/21 REV.

Or. Dept: Transportation & Storm Water

Doc. No.: 2667029_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 29 2021.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: 7/14/21
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JUN 29 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 16 2021

AUTHENTICATED BY:

(Seal)

TODD GLORIA
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Linda Rivera, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on JUN 15 2021, and on JUN 29 2021.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Linda Rivera, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21343