

DATE: SEPTEMBER 11, 2024

FROM: ENVIRONMENTAL MANAGEMENT

SUBJECT: RESOLUTION NO. _____ - FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING WITH GATEWAY AUTHORITY AND HARBOR TOXICS TOTAL MAXIMUM DAILY LOAD RESPONSIBLE PARTIES TO CONDUCT REQUIRED MONITORING IN THE GREATER HARBOR WATERS

SUMMARY:

Staff requests approval of the proposed First Amendment (Amendment) to Memorandum of Understanding (MOU) No. 19-3653 with the Los Angeles Gateway Region Integrated Regional Water Management Joint Powers Authority (GWMA) and the Toxic Pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Total Maximum Daily Load (Harbor Toxics TMDL) responsible parties to perform monitoring and related services required by the Harbor Toxics TMDL as well as to establish a cost-share agreement amongst the responsible parties.

The proposed Amendment will extend the MOU by five years to December 31, 2029, and increase the City of Los Angeles Harbor Department's (Harbor Department) cost share obligation by \$547,820 from \$265,655 currently to \$813,475 as proposed. The Harbor Department will be financially responsible for the additional expenses incurred under the proposed Amendment.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that the Director of Environmental Management has determined that the proposed action is administratively and categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) and Article III Class 6(2) of the Los Angeles City CEQA Guidelines;
2. Approve the First Amendment to MOU No.19-3653 with the Los Angeles Gateway Region Integrated Regional Water Management Joint Powers Authority and Harbor Toxics Total Maximum Daily Load responsible parties for the reimbursement to cover the City of Los Angeles Harbor Department's cost share obligation of \$547,820 over a five-year period;

DATE: SEPTEMBER 11, 2024

PAGE 2 OF 5

SUBJECT: FIRST AMENDMENT TO MOU WITH GATEWAY AUTHORITY AND HARBOR TOXICS TMDL RESPONSIBLE PARTIES

3. Authorize the Executive Director to execute and Board Secretary to attest to said Amendment for and on behalf of the Board; and
4. Adopt Resolution No. _____.

DISCUSSION:

Background/Context - The Harbor Toxics TMDL became effective on March 23, 2012, naming the City of Los Angeles (City) and Harbor Department as responsible parties. Other named parties under the Harbor Toxics TMDL include the City/Port of Long Beach, City of Signal Hill, Los Angeles County Flood Control District, and other cities that drain directly to the greater harbor waters, which are defined as including Eastern San Pedro Bay. The TMDL Basin Plan Amendment specifies that parties are individually responsible for conducting the required monitoring; however, the parties have chosen to form a coalition as a cost-saving measure and to avoid duplication of effort and data.

MOU No. 19-3653 is for a five-year period and reflects the cost share obligations that the Regional Monitoring Coalition (RMC) members, including the Harbor Department, have agreed to and names the GWMA as the responsible agent to perform administrative, fiduciary, and contractual services. This MOU was a successor agreement to a similar MOU executed in 2014, MOU No. 14-3257.

Among the many requirements for responsible parties is the mandate to prepare a comprehensive monitoring and reporting plan and to sample the sediment, water column, and fish tissue in the greater harbor waters area. The three samples must be analyzed for an extended list of pollutants, including metals and bio-accumulative organics. In addition, the sediment must be analyzed for toxicity and health of the benthic community, and the sediment and fish must be sampled twice in a five-year period. The water column must be sampled annually in both wet and dry weather (dry weather once per year, wet weather twice per year). The comprehensive monitoring and reporting plan was approved by the Los Angeles Regional Water Quality Control Board (Regional Board) and has been undertaken under the previous MOUs with GWMA.

Cost Sharing - MOU No. 19-3653 identifies GWMA as the fiduciary party, responsible for collection of funds and hiring and paying contractor(s). The total cost for the monitoring and reporting program is \$3,234,020. These costs are to be shared among participating Harbor Toxics TMDL responsible parties in accordance with a cost-sharing formula previously agreed upon by RMC members that is a combination of jurisdictional land/water area weighting and fixed base cost. The Harbor Department/City obligation using this formula is \$547,820 over the five-year period of the MOU.

DATE: SEPTEMBER 11, 2024

PAGE 3 OF 5

SUBJECT: FIRST AMENDMENT TO MOU WITH GATEWAY AUTHORITY AND HARBOR TOXICS TMDL RESPONSIBLE PARTIES

The City and Harbor Department are co-named as responsible parties under the Harbor Toxics TMDL. Harbor Department staff coordinates with the City Department of Public Works, Bureau of Sanitation, Watershed Protection Division (BOS/WPD), which is the City's lead on TMDL matters. Staff from BOS/WPD and the Harbor Department have coordinated on how best to use City resources to comply with the Harbor Toxics TMDL requirements, as well as related requirements under the Municipal Stormwater Permit.

The Harbor Department and BOS/WPD staff have agreed that the costs for complying with these regulations should be divided as follows: the Harbor Department takes the lead for TMDL activities in the harbor area. BOS/WPD takes the lead for areas north of the harbor, including the Dominguez Channel Estuary, which has a tidal connection to the harbor. BOS/WPD leads the efforts and bears the costs for the Enhanced Watershed Management Program and Coordinated Integrated Monitoring Program required under the Municipal Stormwater Permit, which includes the harbor area. Thus, the share under this Amendment (\$547,820) includes both the Harbor Department and the City. This arrangement between City departments has been implemented since 2014 and in this way, City resources are used efficiently to cover regulatory requirements.

Proposed First Amendment – The proposed Amendment to MOU No. 19-3653, which has been in effect since 2019, will extend the MOU by five years and add \$547,820 to the contract amount.

The Reconsideration of the Harbor Toxics TMDL (pending approval by the United States Environmental Protection Agency) adds significant new monitoring requirements. These include more extensive chemical monitoring and detailed investigation of areas that exceed prescribed criteria. This MOU reflects the new requirements and the resulting increase in costs.

Need for Amendment – Approval of the proposed Amendment will allow the Harbor Department and other responsible parties to collaborate in the required monitoring under the Harbor Toxics TMDL and reduce costs and avoid duplication of effort and data (Transmittal 1). In the absence of a collaborative agreement, each party, per the Harbor Toxics TMDL, is individually responsible for undertaking the monitoring requirements. The cost for just the Harbor Department and City of Los Angeles under such a scenario is estimated to be well in excess of \$1,000,000 over a five-year period.

The total cost and Harbor Department obligation may be reduced by allowing individual discharge permittees to use the RMC monitoring data as non-members. These permittees are obligated to perform monitoring under their National Pollutant Discharge Elimination System (NPDES) permits. The five-year contribution of these permit holders would be \$171,155 each, should they elect to join. Seven NPDES permittees contributed to the costs of monitoring over the prior five-year period. There is no increase in the scope of

DATE: SEPTEMBER 11, 2024

PAGE 4 OF 5

SUBJECT: FIRST AMENDMENT TO MOU WITH GATEWAY AUTHORITY AND HARBOR TOXICS TMDL RESPONSIBLE PARTIES

the monitoring and reporting program resulting from the financial contribution of the NPDES permittees.

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of an Amendment to a MOU with the GWMA to perform monitoring and related services required by the Harbor Toxics TMDL, which is an administrative activity related to basic data collection that does not result in a serious or major disturbance to an environmental resource. Therefore, the Director of Environmental Management has determined that the proposed action is administratively and categorically exempt from the requirements of CEQA in accordance with Article II Section 2 (f) and Article III Class 6 (2) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed Amendment will extend MOU No. 19-3653 by five years to December 31, 2029, and add \$547,820 to the Harbor Department's cost share obligation for a total authority of \$813,475. Through June 30, 2024, the Harbor Department has expended \$200,922.

It is anticipated that future funds under the amendment will be expended as follows:

Fiscal Year	Amount
2024/25	\$ 109,564
2025/26	\$ 109,564
2026/27	\$ 109,564
2027/28	\$ 109,564
2028/29	\$ 109,564
TOTAL:	\$ 547,820

The Harbor Department recognizes the Harbor Toxics TMDL required monitoring as a pollution remediation obligation (GASB 49). As such, all expenditures are charged to Account 21995 (Remediation), Center 7000 (Liability), Program 000 (Base Budget).

CITY ATTORNEY:

The Office of the City Attorney has reviewed and approved the First Amendment to the MOU as to form and legality.

DATE: SEPTEMBER 11, 2024

PAGE 5 OF 5

SUBJECT: FIRST AMENDMENT TO MOU WITH GATEWAY AUTHORITY AND
HARBOR TOXICS TMDL RESPONSIBLE PARTIES

TRANSMITTAL:

1. First Amendment to MOU 19-3653 Cost Share MOU with GWMA and Harbor Toxics TMDL Responsible Parties

FIS Approval: JS

CA Approval: JC



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APPROVED:

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APP No.: 970203-532

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