



## Report to City Council

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**TO:** Mayor and City Council

**FROM:** Melissa Walker, Public Works Director/City Engineer

**AGENDA DATE:** June 18, 2024

**TITLE:** NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM REGULATORY RATE SCHEDULE FOR FY2024-2025 (REPORT OF: PUBLIC WORKS)

**TITLE SUMMARY:** Public Hearing Regarding the National Pollutant Discharge Elimination System Regulatory Rate Schedule for New and Existing Residential, Common Interest, Commercial, Industrial, and Quasi-Public Use Development Proposed Fiscal Year 2024/2025 Annual Rates

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### Recommendation(s)

That the City Council:

1. Conduct a Public Hearing to review and confirm the annual regulatory rate schedule for the National Pollutant Discharge Elimination System Program for New and Existing Residential, Common Interest, Commercial, Industrial and Quasi-Public Land Uses.
2. Adopt Resolution No. 2024-XX, a Resolution of the City Council of the City of Moreno Valley, California, Authorizing and Approving the Levy of the National Pollutant Discharge Elimination System Regulatory Rates for New and Existing Residential, Common Interest, Commercial, Industrial, and Quasi-Public Use Development of the County of Riverside Property Tax Roll.
3. Authorize the Chief Financial Officer to adjust the rates levied on the property tax bills in the event there are any parcel changes between the City Council meeting date and the date the fixed charges are submitted to the County of Riverside or other adjustments, provided the applied rate does not exceed the maximum rate, is in compliance with the ballot for each parcel, and is consistent with the adopted budget.

## **SUMMARY**

This report recommends that the City Council conduct a Public Hearing to receive public testimony on the proposed maximum and applied National Pollutant Discharge Elimination System (NPDES) Regulatory Rates for Fiscal Year (FY) 2024/2025. The proposed maximum rates have been adjusted for inflation, reflecting the latest applicable Consumer Price Index, as previously approved by the property owners. NPDES Regulatory Rate revenues support specific services provided by the Storm Water Management Program and have been included in the FY 2024/2025 proposed budget.

The applied parcel charges may reflect a change in amount based upon adjustments in service levels. Revenue received from the NPDES rates is restricted and can only be used within the Storm Water Management program.

## **DISCUSSION**

The Clean Water Act of 1987 established requirements for the discharge of Urban Runoff from Municipal Separate Storm Sewer Systems under the NPDES program. The Santa Ana Regional Water Quality Control Board administers the NPDES program through the issuance of a Permit. The NPDES program requires public agencies to obtain coverage under the Permit to discharge urban storm water runoff from municipally owned drainage facilities, including streets, highways, storm drains, and flood control channels. The City's current NPDES Permit requires all new development projects to comply with storm water management requirements.

As a condition of approval for development projects, the City requires property owners to provide a funding source to support activities for the NPDES program requirements. The City Council adopted the NPDES residential regulatory rate on June 10, 2003, and the NPDES commercial/industrial regulatory rate on January 10, 2006. Revenue received from the rate supports the increased compliance activities related to development. It also reduces the financial impact to the General Fund to maintain compliance with the unfunded requirements of the NPDES Permit.

With revenue received from the NPDES commercial/industrial regulatory rate, the City annually inspects site design, source and treatment control Best Management Practices, monitors maintenance records for those on-site facilities that require periodic monitoring and performs annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State. With revenue received from the NPDES residential rate, the City monitors residential developments by providing the necessary services for the continuous operation, enhancement, and maintenance of the storm water treatment system, and performs inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements.

The City offers the NPDES funding program to assist property owners in satisfying the funding requirement. After a property owner approves the City's NPDES regulatory rate through a mail ballot proceeding, the City can levy the applicable rate on the annual

property tax bill of the authorized parcel(s).

The attached resolution sets the proposed maximum and applied regulatory rates for both Residential Development, Common Interest, Commercial, Industrial, and Quasi-Public Use Development and authorizes the County to levy the applicable rates on the FY 2024/2025 property tax roll. The proposed applied regulatory rates are consistent with the programs and budgets included within the City’s FY 2024/2025 adopted budget.

### **Proposed Regulatory Rates**

The proposed rates shall be levied against each assessable benefiting parcel of real property that is required to comply with the City’s NPDES Storm Water Management Program and whose property owners have previously approved by ballot to participate.

The FY 2024/2025 proposed maximum regulatory rates are calculated by applying an annual inflationary adjustment to the FY 2023/2024 maximum rates. The annual inflationary adjustment is based on the Consumer Price Index (3.47%), as approved by the property owners at the time they approved the rates to be applied to their annual property tax bill.

The proposed applied regulatory rate is the amount actually levied on the property tax roll. It is the amount necessary to fund the applicable service levels required to fund the costs of maintaining the improvements benefiting each parcel during the upcoming FY. An individual analysis of each parcel, its current development status, and maintenance needs was completed to determine the necessary levels of service required. The applied regulatory rate can be lower than the maximum regulatory rate, but it cannot be higher. The applied rates for each parcel were made available at the City Clerk’s Office as well as posted online at <https://moval.gov/departments/public-works/services-stormwater.html>.

For FY 2024/2025, the proposed maximum regulatory rate per parcel for single-family Residential Development is \$406.62. Table 1 outlines the service levels provided.

<b>Table 1 Service Level</b>	
LEVEL I	NPDES Administration and Overhead
LEVEL II	Water Quality Pond/Basin Maintenance
LEVEL II-A* (Base FY 2008/2009)	Sand Filter Maintenance
LEVEL III	Water Quality Pond/Basin Remediation/Reconstruction
LEVEL IV	Water Quality System Retrofit

For FY 2024/2025, the proposed maximum regulatory rate for Common Interest, Commercial, Industrial, and Quasi-Public Use Development is \$306.19. Table 2 outlines the service levels provided.

<b>Table 2 Service Level</b>	
LEVEL I	NPDES Administration and Overhead
LEVEL II	Storm water and non-storm water runoff monitoring, inspection of the project's site-design, source control and treatment control BMPs; evaluation of site storm water compliance site activities; review site-specific technical reports and treatment control BMP maintenance records

**Conflict of Interest Analysis**

Regarding a special finance program pertaining to the provision of a public service, a council member who lives in said district may participate in adjusting the amount of the district's assessment so long as the increase or decrease is the same for everyone else living within the assessment district. This is known as the "Public Generally Exception."

FPPC Regulations § 18703. Public Generally.

(e) Specific Rules for Special Circumstances. The financial effect on a public official's financial interest is deemed indistinguishable from that of the public generally where there is no unique effect on the official's interest if the official establishes:

- (1) Public Services and Utilities. The decision sets or adjusts the amount of an assessment, tax, fee, or rate for water, utility, or other broadly provided public services that is applied equally, proportionally, or by the same percentage to the official's interest and all businesses, properties, or individuals subject to the assessment, tax, fee, or rate. This exception does not apply if the decision would impose the assessment, tax or fee, or determine the boundaries of a property, or who is subject to the assessment, tax, or fee. Under this exception, an official is only permitted to take part in setting or adjusting the amount of the assessment, tax, or fee, once the decisions to implement, and determine the property or persons subject to the assessment, tax, or fee, have already been made.

Approval of the maximum and applied parcel charges is a routine City Council action item. This action meets the Strategic Plan Priorities by managing and maximizing Moreno Valley's public infrastructure to ensure an excellent quality of life, develop and implement innovative, cost-effective infrastructure maintenance programs, public facilities management strategies, and capital improvement programming and project delivery.

## **ALTERNATIVES**

1. Conduct a Public Hearing and approve the recommended actions as presented in this staff report. Staff recommends this alternative because these actions are needed to place the NPDES Regulatory Rates on the County property tax roll.
2. Do not conduct a Public Hearing and do not approve the recommended actions as presented in this staff report. Staff does not recommend this alternative because the County of Riverside may challenge our ability to place the NPDES Regulatory Rates on the County property tax roll and increase General Fund obligations.

## **FISCAL IMPACT**

With the recommended actions, property owners will pay the regulatory rate as a part of their annual property tax bill. The maximum regulatory rate, including inflationary adjustments where applicable, has been approved by the affected property owners through prior proceedings. The NPDES Regulatory Rates are only applied to the property tax bills of those parcels where the property owners previously approved the rates to be applied to the property tax bill.

Adoption of the recommended maximum and applied regulatory rates and authorization of the annual levy will ensure that the City receives its authorized funding from this source. With the implementation of the federally mandated NPDES program, the City uses NPDES Regulatory Rate revenues together with other funding sources (including the General Fund). The costs associated with the Storm Water Program are included in the City approved Operating Budget. Approving the FY 2024/2025 NPDES Regulatory Rate schedule will ensure this funding source is available for specific program costs. Funds collected from the NPDES Regulatory Rate annual levy are restricted for use only within the Storm Water Management program.

For FY 2024/2025, projected revenue from the applied NPDES Regulatory Rates is \$975,393.09 and is included in the City's FY 2024/2025 budget detail (Attachment 2). Costs to maintain compliance with current NPDES regulations, that are not otherwise funded by the revenue from the NPDES Regulatory Rate, are subsidized by other funding sources, including the General Fund.

## **NOTIFICATION**

Publication of Agenda.

Newspaper advertising was published on June 4, 2024, and June 11, 2024, with information about the June 18, 2024, Public Hearing.

FY 2024/2025 applied rates for each parcel are available at the City Clerk's office as well as posted online at <https://moval.gov/departments/public-works/services-stormwater.html>.

## **PREPARATION OF STAFF REPORT**

Prepared By:  
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Department Head Approval:  
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Concurred By:  
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## **CITY COUNCIL GOALS**

**Community Image, Neighborhood Pride and Cleanliness**: Promote a sense of community pride and foster an excellent image about our City by developing and executing programs which will result in quality development, enhanced neighborhood preservation efforts, including home rehabilitation and neighborhood restoration.

**Positive Environment**: Create a positive environment for the development of Moreno Valley's future.

**Public Facilities and Capital Projects**: Ensure that needed public facilities, roadway improvements, and other infrastructure improvements are constructed and maintained.

**Revenue Diversification and Preservation**: Develop a variety of City revenue sources and policies to create a stable revenue base and fiscal policies to support essential City services, regardless of economic climate.

## **CITY COUNCIL STRATEGIC PRIORITIES**

1. Economic Development
2. Public Safety
3. Library
4. Infrastructure
5. Beautification, Community Engagement, and Quality of Life
6. Youth Programs

Objective 4.2: Develop and maintain a comprehensive Infrastructure Plan to invest in and deliver City infrastructure.

See the Discussion section above for details of how this action supports the City Council's Strategic Priorities.

## Report Approval Details

Document Title:	STAFFREPORT_24-0448_PW_LD_NPDES_REG_RATE_FY2024-25.docx
Attachments:	- Proposed Resolution 2024-XX_NPDES Regulatory Rate FY2024-25.doc - NPDES Regulatory Rate FY2024-25 Budget Detail.pdf
Final Approval Date:	Jun 12, 2024

This report and all of its attachments were approved and signed as outlined below:

Melissa Walker

Sean Kelleher

Natalia Lopez

**No Signature - Task assigned to Launa Jimenez was completed by workflow administrator Patty Rodriguez**

Launa Jimenez

**No Signature - Task assigned to Brian Mohan was completed by workflow administrator Patty Rodriguez**

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