

**APPENDIX F**

**2004 San Diego Region Implementation Agreement (Santa Margarita)**

## AGREEMENT

National Pollutant Discharge Elimination System  
Stormwater Discharge Permit  
Implementation Agreement  
San Diego Region

(Santa Margarita Drainage Area)

This Agreement, entered into by the RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (the “DISTRICT”), the COUNTY OF RIVERSIDE (the “COUNTY”), and the CITIES OF MURRIETA and TEMECULA (the “CITIES”), establishes the responsibilities of each party concerning compliance with the National Pollutant Discharge Elimination System (“NPDES”) Municipal Separate Storm Sewer System (“MS4”) Discharge Permit (the “NPDES Permit”) issued by the California Regional Water Quality Control Board – San Diego Region (CRWQCB-SDR) pursuant to Order No. R9-2004-001.

### RECITALS

WHEREAS, Congress in 1987 added Section 402(p) to the Federal Clean Water Act (CWA) (33 U.S.C. §1342(p)); and

WHEREAS, Section 402(p) of the CWA requires certain municipalities to obtain NPDES Permits in order to discharge storm water from MS4s to waters of the United States; and

WHEREAS, Section 402(p) of the CWA requires operators of certain industrial facilities to obtain NPDES Permits for storm water discharges associated with designated industrial activities, including construction activities; and

WHEREAS, Section 402(p) further requires the United States Environmental Protection Agency (EPA) to promulgate regulations for NPDES Permit applications; and

WHEREAS, EPA adopted such regulations in November 1990; and

WHEREAS, EPA delegated authority to the California State Water Resources Control Board (“SWRCB”) to administer the NPDES Permit process within the boundaries of the State of California; and

WHEREAS, SWRCB has in turn delegated its NPDES permitting authority to the California Regional Water Quality Control Boards to administer the NPDES Permit process within the boundaries of their respective regions; and

WHEREAS, the jurisdiction of the California Regional Water Quality Control Board-San Diego Region (“CRWQCB-SDR”) includes that portion of Riverside County known as the Santa Margarita Region; and

WHEREAS, DISTRICT was created to provide for the control of flood and storm waters within the County of Riverside and is empowered to investigate, examine, measure, analyze, study and inspect matters pertaining to flood and storm waters; and

WHEREAS, on May 30, 2003, DISTRICT, COUNTY and CITIES submitted a Report of Waste Discharge as an application to renew NPDES Permit No. CAS0108766; and

WHEREAS, the application for renewal of the NPDES Permit was submitted in accordance with the provisions of the previous NPDES Permit (Order No. R9-98-02, NPDES No. CAS0108766) which expired on November 8, 2003; and

WHEREAS, on July 14, 2004, CRWQCB-SDR adopted Order No. R9-2004-001 to serve as Waste Discharge Requirements in accordance with Section 13263(a) of the California Water Code and as an NPDES Permit pursuant to Section 402(p) of the CWA; and

WHEREAS, the NPDES Permit issued pursuant to Order No. R9-2004-001 meets both the requirements of Section 402(p)(3)(B) of the CWA and those requirements issued under CRWQCB-SDR discretionary authority in accordance with Section 402(a)(1)(B) of the CWA; and

WHEREAS, the NPDES Permit designates DISTRICT as “PRINCIPAL PERMITTEE” and DISTRICT, COUNTY and CITIES as “PERMITTEES”; and

WHEREAS, cooperation between PERMITTEES in the administration and implementation of the NPDES Permit is in the best interest of PERMITTEES; and

WHEREAS, DISTRICT is willing to utilize its staff to coordinate the activities of PERMITTEES to facilitate compliance with the NPDES Permit and CWA requirements; and

WHEREAS, DISTRICT established the Santa Margarita Watershed Benefit Assessment Area (the “BENEFIT ASSESSMENT”) pursuant to District Ordinance 14 on May 14, 1991 to offset the DISTRICT’s program and administrative costs associated with the development, implementation and management of the federally-mandated NPDES Program and DISTRICT is willing to use the BENEFIT ASSESSMENT funds to support DISTRICT’s role as PRINCIPAL

PERMITTEE and to support regional program costs to the extent that BENEFIT ASSESSMENT funds are available; and

WHEREAS, PERMITTEES are to perform and/or execute certain activities prescribed in the NPDES Permit that will benefit all parties.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Incorporation of the NPDES Permit. The NPDES Permit issued to PERMITTEES by CRWQCB-SDR pursuant to Order No. R9-2004-001 is attached to this Agreement as Exhibit “A” and is hereby incorporated by reference in its entirety and made a part of this Agreement.

2. Delegation of Responsibilities. The responsibilities of each of the parties shall be as described in the NPDES Permit and reiterated as follows:

a. DISTRICT shall assume the responsibilities and meet the requirements of the NPDES Permit by:

(1) Complying with Section M (Principal Permittee Responsibilities), including providing COUNTY and CITIES an opportunity to review and comment on the Watershed Storm Water Management Plan (SWMP), Watershed SWMP Annual Report and any other reports prepared by the District for the Permittees.

(2) Complying with Sections A through N (Prohibitions, Non-Storm Water Discharges, Receiving Water Limitations, Legal Authority, SWMP, Development Planning, Construction, Existing Development, Education, Illicit Discharge Detection and Elimination Program, Watershed-Based Activities, Monitoring and Reporting Program, and Standard Provisions, respectively), as they pertain to DISTRICT facilities and operations, at no cost to COUNTY and CITIES.

(3) Coordinating watershed efforts specified in Provision K.

b. COUNTY and CITIES shall, at no cost to DISTRICT, assume the responsibilities and meet the requirements of the NPDES Permit for land area within their individual jurisdictions by:

(1) Complying with Sections A through N (Prohibitions, Non-Storm Water Discharges, Receiving Water Limitations, Legal Authority, SWMP, Development Planning, Construction, Existing Development, Education, Illicit Discharge Detection and Elimination Program, Watershed-Based Activities, Monitoring and Reporting Program, and Standard Provisions, respectively), as they pertain to COUNTY and CITIES facilities and operations.

(2) Demonstrating compliance with NPDES Permit requirements through timely implementation of the approved Individual and Watershed SWMPs and any approved modifications, revisions or amendments thereto.

(3) Providing to DISTRICT (on DISTRICT provided forms) information needed to satisfy the reporting requirements as described in the Provisions E, L and K or to respond to information requests from the CRWQCB-SDR. COUNTY and CITIES shall specifically:

(a) Submit their Individual SWMPs and data necessary to prepare the Watershed SWMP and Receiving Waters Monitoring Reports no later than September 15 of each year.

(b) Provide information on existing MS4 facilities and/or other data as it pertains to COUNTY or CITIES facilities when requested by DISTRICT.

c. Public Education Program. On behalf of PERMITTEES, DISTRICT

shall conduct public education activities on a regional basis that focus on reducing pollution of Urban Runoff within the Santa Margarita Region, including radio and print advertising, developing brochures, and attending public events. DISTRICT shall also develop and implement mechanisms to determine the effectiveness of the regional public education program. The COUNTY and CITIES shall be individually responsible for developing and implementing public education programs targeted at individual communities or stakeholders within their respective jurisdictions.

- d. Monitoring Program. DISTRICT shall perform sampling of surface water and urban runoff in accordance with the provisions of the NPDES Permit Monitoring and Reporting Program (M&RP), Provision II.A. The location of the sampling sites shall be determined by PERMITTEES, subject to approval by CRWQCB-SDR. The PERMITTEES shall be individually responsible for complying with Provision II.B of the M&RP. The DISTRICT shall also enter into a contract with a local lab to provide analysis of water quality samples collected under the M&RP for PERMITTEES. The contract shall be used strictly for water quality samples collected to comply with Provision II of the M&RP.
- e. Consultant's Services. In the event DISTRICT requires the services of a consultant or consultants to assist in preparing manuals, developing programs or performing studies relevant to the entire Santa Margarita Region, the cost of said consultant services shall be shared by PERMITTEES in accordance with the cost sharing provisions set forth in Section 3 of this Agreement. COUNTY and CITIES shall be notified in writing of DISTRICT's request for proposals from consultants, selection of a consultant, consultant's fee,

- contract timetable and payment schedule, and be allowed the opportunity to participate in decisions related to consultant's services.
- f. Support for Regional Programs. The PERMITTEES shall jointly provide funding for certain regional efforts that benefit the Santa Margarita Region, including but not limited to: County Environmental Health's Compliance Assistance Program; the County Fire Department's Hazardous Materials Team; County Environmental Health's Household Hazardous Waste and Antifreeze, Batteries, Oil and Paint collection program; the DISTRICT's membership with the California Stormwater Quality Association (CASQA) on behalf of PERMITTEES; the DISTRICT's administration of Principal Permittee duties, and other NPDES support activities as needed. Where these programs are implemented countywide in support of other NPDES permit regions, the DISTRICT shall estimate the portion of the total cost of these regional programs that benefits the Santa Margarita Region.
- g. Regulation and Enforcement. COUNTY and CITIES shall be responsible for the regulation and enforcement of local ordinances and regulations within their respective jurisdictions to ensure compliance with the NPDES Permit. This includes the exercise of land use controls, the exercise of police powers and the enforcement of ordinances that COUNTY or CITIES presently have adopted or will adopt in the future.

3. Shared Costs. Costs for services to be performed in accordance with Sections 2.c., 2.d., 2.e. and 2.f. of this Agreement shall be shared by the PERMITTEES in accordance with the procedure specified below.

In December of each year of this Agreement the DISTRICT shall:

- a. Estimate the costs of services specified in Sections 2.c., 2.d., 2.e. and

- 2.f. for the upcoming fiscal year (ESTIMATED COSTS);
- b. Estimate the DISTRICT's internal costs for developing, implementing and administering the NPDES program in the Santa Margarita Region as specified in 2.a. (INTERNAL COSTS); and
  - c. Estimate the revenues expected from the BENEFIT ASSESSMENT program (the "ASSESSMENT REVENUES").
  - d. Determine actual costs for NPDES programs administered in the previous fiscal year.
  - e. Determine Credits or Debits (the "CREDITS" or "DEBITS") due to COUNTY and CITIES based on the difference of the actual contributions from the previous fiscal year with the actual contributions provided by the COUNTY and CITIES for that fiscal year.

By February 1 of each year of this Agreement, the DISTRICT, CITIES and COUNTY, through a NPDES representative assigned by the General Manager-Chief Engineer, City Managers, and County Executive Office, respectively, shall approve, by majority vote, ESTIMATED COSTS for the upcoming fiscal year.

### 3.1 DISTRICT'S Contribution

The DISTRICT's contribution (the "DISTRICT CONTRIBUTION") to programs specified in Sections 2.c., 2.d., 2.e., and 2.f. for the upcoming fiscal year shall be determined using the following formula:

$$\text{DISTRICT CONTRIBUTION} = \text{ASSESSMENT REVENUES} - \text{INTERNAL COSTS} - 20\% \text{ ASSESSMENT REVENUE. } 1$$

If the calculation yields a negative result, the DISTRICT shall have no contribution for the upcoming fiscal year other than the INTERNAL COSTS it has incurred.

### 3.2 COUNTY and CITIES Contribution

The total shared COUNTY and CITIES contribution (the "COMBINED

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1 District retains 20% of assessment revenue as a reserve for District's administrative and program costs associated with the NPDES Permit pursuant to RCFC&WCD Ordinance No. 14.



CONTRIBUTION”) shall be determined using the following formula:

$$\text{COMBINED CONTRIBUTION} = \text{ESTIMATED COSTS} - \text{DISTRICT CONTRIBUTION}$$

The COUNTY and individual CITIES respective pro rata share of the COMBINED CONTRIBUTION (the “INDIVIDUAL CONTRIBUTION) shall be determined on the basis of an equally weighted average of population and Benefit Assessment Units within the Santa Margarita Region of Riverside County. More specifically, such percentage contribution shall be calculated as the equally weighted average of:

- a) the population of COUNTY or individual CITIES within the Santa Margarita Region, divided by the total population of the COUNTY and CITIES in the Santa Margarita Region and;
- b) the calculated number of Benefit Assessment Units (BAU) for COUNTY or individual CITIES, divided by the total BAU for COUNTY and individual CITIES.

The INDIVIDUAL CONTRIBUTION shall be further adjusted by any CREDITS or DEBITS due from the previous fiscal year.

The population of CITIES shall be determined by the latest California State Department of Finance population figures issued in May of each year. COUNTY population shall be based on the most current Tax Rate Area (TRA) information best fitting the NPDES PERMIT area.

The BAU count of COUNTY and CITIES shall be estimated by comparing the most current TRA information best fitting the NPDES PERMIT area with the Assessment Rolls from the current fiscal year’s BENEFIT ASSESSMENT Engineer’s Report.

COUNTY and CITIES may generate credits toward payments due by providing labor or services in lieu of cash payments. DISTRICT shall determine value of labor or services based on ESTIMATED COSTS for the fiscal year.

Starting in Fiscal Year 2004-2005, DISTRICT shall invoice COUNTY and CITIES for INDIVIDUAL CONTRIBUTION in two installments. The first installment, for 50% of

INDIVIDUAL CONTRIBUTION, shall be prepared upon approval of this agreement, or after Fiscal Year 2004-2005 at the beginning of the fiscal year, by DISTRICT and paid within 60 days of receipt of invoice from DISTRICT. The second installment, due for the balance of INDIVIDUAL CONTRIBUTION, will be invoiced after January 1 of the current fiscal year and shall be paid by April 30 or within 60 days of invoice from DISTRICT if received after March 1. The COMBINED CONTRIBUTION for COUNTY and CITIES shall not exceed \$500,000 annually under this Agreement.

4. Term of the Agreement. The term of this Agreement shall commence on the date of execution by the last duly authorized representative of the PERMITTEES. The term of the Agreement shall be indefinite or as long as required for compliance with the CWA, unless each of the parties withdraws in accordance with the terms of this Agreement.

5. Additional Parties. Any City which incorporates after the date of issuance of the NPDES Permit and/or after the date of execution of this Agreement may file a written request with DISTRICT asking to be added as a party. Upon receipt of such a request, DISTRICT shall solicit the approval or denial of PERMITTEES. If a majority of the PERMITTEES, each having one, co-equal vote, approves the addition of the City, DISTRICT, on behalf of the PERMITTEES, will ask CRWQCB-SDR to add the City to the NPDES Permit as an additional Permittee. Once the City is made an additional PERMITTEE to the NPDES Permit, this Agreement shall be amended to reflect the addition, and the City shall, thereafter, comply with all provisions of the NPDES Permit and this Agreement. Upon execution of the amended Agreement, the City shall be responsible for the shared costs discussed in Section 3 of this Agreement for the current and any subsequent budget year.

6. Withdrawal from the Agreement. Any party may withdraw from this Agreement 60 days after giving written notice to DISTRICT and CRWQCB-SDR. The withdrawing party shall agree in such notice to file for a separate NPDES Permit and to comply with all of the requirements established by CRWQCB-SDR. In addition, withdrawal shall constitute forfeiture of all of the withdrawing party's share of the costs paid as described in Section 3. The withdrawing party shall be responsible for all lawfully assessed penalties as a consequence of its withdrawal. The

cost allocations to the remaining parties shall be recalculated in the following budget year.

7. Non-compliance with Permit Requirements. Any party found to be in non-compliance with the conditions of the NPDES Permit within its jurisdictional boundaries shall be solely liable for any lawfully assessed penalties. Common or joint penalties shall be calculated and allocated between the affected parties in equal shares.

8. Amendments to the Agreement. Except as provided in Section 5, this Agreement may only be amended by consent of all parties to this Agreement. No amendment to this Agreement shall be effective unless it is in writing and signed by the duly authorized representatives of all parties to the Agreement.

9. Authorized Signatories. The General Manager-Chief Engineer of DISTRICT, the Chief Executive Officer of COUNTY and the City Managers of CITIES (or their designees) shall be authorized to execute all documents and take all other procedural steps necessary to file for and obtain an NPDES Permit(s) or amendments thereto.

10. Notices. All notices shall be deemed duly given when delivered by hand; or three (3) days after deposit in the U.S. Mail, postage prepaid.

11. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California. If any provision or provisions of this Agreement shall be determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired hereby.

12. Consent to Waiver and Breach. No term or provision hereof shall be deemed waived and no breach excused, unless the waiver or breach is consented to in writing, and signed by the party or parties affected. Consent by any party to a waiver or breach by any other party shall not constitute consent to any different or subsequent waiver or breach.

13. Applicability of Prior Agreements. This Agreement and the exhibits attached hereto constitute the entire Agreement between the parties with respect to the subject matter; all prior agreements, representations, statements, negotiations and undertakings are superseded hereby.

14. Execution in Counterparts. This Agreement may be executed and delivered in any number of counterparts or copies (counterparts) by the parties hereto. When each party has

signed and delivered at least one counterpart to the other parties hereto, each counterpart shall be deemed an original and, taken together, shall constitute one and the same Agreement, which shall be binding and effective as to the parties hereto.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date the last duly authorized representative executed it. This Agreement will only become effective when fully executed by each of the parties hereto.

RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT**

By \_\_\_\_\_  
WARREN D. WILLIAMS  
General Manager-Chief Engineer  
Riverside County Flood Control  
and Water Conservation

By \_\_\_\_\_  
JAMES A. VENABLE, Chairman  
District Board of Supervisors

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

ATTEST:

WILLIAM C. KATZENSTEIN  
County Counsel

NANCY ROMERO  
Clerk to the Board

By \_\_\_\_\_  
DAVID H. K. HUFF, Deputy

By \_\_\_\_\_  
Deputy

Dated: \_\_\_\_\_

(SEAL)

RECOMMENDED FOR APPROVAL:

**COUNTY OF RIVERSIDE**

By \_\_\_\_\_  
LARRY PARRISH  
County Executive Officer

By \_\_\_\_\_  
ROY WILSON, Chairman  
Riverside County Board of Supervisors

Dated: \_\_\_\_\_

ATTEST:

NANCY ROMERO  
Clerk to the Board

By \_\_\_\_\_  
Deputy

(SEAL)

JU:MHW:blj  
11/16/04

APPROVED AS TO FORM:

**CITY OF TEMECULA**

By \_\_\_\_\_  
City Attorney

By \_\_\_\_\_  
Mayor

ATTEST:

By \_\_\_\_\_  
City Clerk

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

**CITY OF MURRIETA**

By \_\_\_\_\_  
City Attorney

By \_\_\_\_\_  
Mayor

ATTEST:

By \_\_\_\_\_  
City Clerk

Dated: \_\_\_\_\_