

SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

4193



FROM: General Manager-Chief Engineer

SUBMITTAL DATE: August 20, 2013

SUBJECT: Agreement To Form The Middle Santa Ana River Watershed TMDL Task Force Districts 1, 2, 3 & 5/Districts 1, 2, 3 & 5

RECOMMENDED MOTION:

- 1. Ratify and approve the Agreement to Form the Middle Santa Ana River Watershed TMDL Task Force between the District and Task Force Agencies; and
2. Authorize the Chairman to execute the Agreement on behalf of the District.

BACKGROUND:

The purpose of the Middle Santa Ana River Task Force is to facilitate a coordinated and cost effective approach to comply with the Middle Santa Ana River Total Maximum Daily Load (MSAR TMDL). The TMDL was adopted by the Santa Ana Regional Water Quality Control Board (Regional Board) on August 26, 2005.

Continued on Page 2

Handwritten signature: Steve Thomas

FOR WARREN D. WILLIAMS General Manager-Chief Engineer

Table with 3 columns: FINANCIAL DATA, Current F.Y. District/County Cost, Annual Net District Cost, In Current Year Budget, Budget Adjustment, For Fiscal Year.

Table with 2 columns: SOURCE OF FUNDS (25190 947560 527240 NPDES Santa Ana Assessment NPDES Contributions), Positions To Be Deleted Per A-30, Requires 4/5 Vote.

C.E.O. RECOMMENDATION:

APPROVE BY: [Signature] Steven C. Horn, MPA

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

On motion of Supervisor Jeffries, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley

Nays: None

Absent: None

Date: August 29, 2013

xc: Flood

Kecia Harper-Ihem Clerk of the Board

By: [Signature] Deputy

(Comp. Item 3-13)

Prev. Agn. Ref.:

District: 1st, 2nd, 3rd & 5th/1st, 2nd, 3rd & 5th

Agenda Number:

11-7

APPROVED COUNTY COUNSEL DATE: 8/21/13

FISCAL PROCEDURES APPROVED BY: REGINAL L. NEAL

Policy Consent checkboxes and Dept/Per Exec. Ofc. labels

**FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD SUBMITTAL
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

SUBJECT: Agreement To Form The Middle Santa Ana River Watershed TMDL Task Force
Districts 1, 2, 3 & 5/Districts 1, 2, 3 & 5

SUBMITTAL DATE: August 20, 2013

Page 2

BACKGROUND (continued)

The proposed TMDL Task Force Agreement requires specified Santa Ana Watershed NPDES Municipal Permittees to accomplish certain TMDL Implementation Plan tasks, either individually or in cooperation with the other named stakeholders. The stakeholders include the District, the County of San Bernardino, the County of Riverside, the Cities of Corona, Norco, Riverside, Eastvale, Jurupa Valley, Claremont and Pomona, the Regional Board, Agricultural Operators (represented by Chino Basin Watermaster) and the Santa Ana Watershed Project Authority (SAWPA) ("Task Force Agencies").

The Agreement is necessary to continue work of the Santa Ana River TMDL Task Force ("Task Force"). The Task Force was originally formed in 2007, and the current Task Force Agreement expired on April 17, 2012. The purpose of the Task Force is to implement tasks identified in the TMDL Implementation Plan and to pursue TMDL related tasks as agreed upon by the Task Force Agencies, including the following:

1. Review and develop recommendations to update the MSAR TMDL based on scientific information collected by the Task Force;
2. Implement MSAR TMDL Implementation Plan Tasks jointly assigned to Task Force stakeholders; and
3. Allow watershed stakeholders to participate in regional efforts to achieve appropriate water quality standards so that Middle Santa Ana River can be removed from the Clean Water Act Section 303(d) list of impaired water bodies.

County Counsel has approved the Agreement as to legal form. A companion item appears on the County of Riverside's agenda this same date.

FINANCIAL:

The TMDL Task Force Agreement will have a term of five (5) years. The TMDL Task Force annual budget is adopted by majority vote. Subsequent work plan implementation costs are identified and shared among the Task Force stakeholders as set forth in Section IV of the Agreement. The District is not obligated to make any financial contributions to the MSAR Task Force at this time. The District may choose to fund special studies and/or projects that may be necessary to comply with District's Federal Clean Water Act regulatory requirements related to the MSAR TMDL. Any future District contributions will be included in the District's annual budget and will not exceed \$150,000. Funding for the District contribution will be provided by the District's annual NPDES Benefit Assessments levied in the Santa Ana Benefit Assessment area and budgeted in the next fiscal year.

AMR:bjp

CLERK'S COPY

to Riverside County Clerk of the Board, Stop 1010

Post Office Box 1147, Riverside, Ca 92502-1147

Thank you

**AGREEMENT TO FORM
THE MIDDLE SANTA ANA RIVER WATERSHED
TMDL TASK FORCE**

This Agreement, is made this **1st day of December, 2012**, between the SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT ("SB FLOOD CONTROL"), the RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT ("RIVERSIDE FLOOD CONTROL"), the CITY OF CORONA ("CORONA"), CITY OF NORCO ("NORCO"), CITY OF RIVERSIDE ("RIVERSIDE"), CITY OF EASTVALE ("EASTVALE"), CITY OF JURUPA VALLEY ("JURUPA VALLEY"), COUNTY OF RIVERSIDE, CITY OF CLAREMONT ("CLAREMONT"), CITY OF POMONA ("POMONA"), the SANTA ANA REGIONAL WATER QUALITY CONTROL BOARD ("REGIONAL BOARD"), AGRICULTURAL OPERATORS (represented by CHINO BASIN WATERMASTER) and the SANTA ANA WATERSHED PROJECT AUTHORITY ("SAWPA"). SB FLOOD CONTROL, RIVERSIDE FLOOD CONTROL, CITIES of RIVERSIDE, CORONA, NORCO, EASTVALE, JURUPA VALLEY, CLAREMONT and POMONA, COUNTY OF RIVERSIDE, REGIONAL BOARD and SAWPA are individually and collectively referred to herein as "PARTY" and "PARTIES" respectively.

RECITALS

This Agreement is entered into on the basis of the following facts, understandings, and intentions of the PARTIES:

- A. SAWPA is a joint powers public agency, organized and existing pursuant to the laws of the State of California and that certain Joint Exercise of Powers Agreement ("JPA") dated January 1975, as amended, exercising powers common to its Member Agencies, which include Eastern Municipal Water District, Inland Empire Utilities Agency, Orange County Water District, San Bernardino Valley Municipal Water District, and Western Municipal Water District.
- B. SAWPA's mission is to initiate and to assist its Member Agencies in cooperative programs and projects to improve and protect water quality, including planning, financing, and implementation; and to coordinate such programs and projects with federal, state, regional, and local agencies.
- C. The Middle Santa Ana River Watershed (MSAR) is regulated by the REGIONAL BOARD, is within the Santa Ana River Watershed and within the jurisdictions of both the SB FLOOD CONTROL and RIVERSIDE FLOOD CONTROL.
- D. The Reach 3 Santa Ana River Bacterial Indicator Total Maximum Daily Loads ("TMDL") for six MSAR Waterbodies were incorporated into the Water Quality Control Plan – Santa Ana River Basin ("BASIN PLAN") by Resolution No. R8-2005-0001, adopted by the "REGIONAL BOARD" on August 26, 2005.
- E. The San Bernardino County Flood Control District, Orange County and Riverside County Flood Control and Water Conservation District formed the Storm Water Quality Standards Task Force ("Storm Water Task Force") to evaluate the REGIONAL BOARD's BASIN PLAN criteria for bacterial indicators and recreational beneficial use designations for waterbodies within the Santa Ana Watershed, including the MSAR.
- F. The Storm Water Task Force has recommended several modifications to the BASIN PLAN including alternative bacterial quality indicators and modifications to recreational beneficial use designations. These recommendations were approved by the Santa Ana Regional Board on June 15, 2012. The State Water Resource Control Board, Office of Administrative Law and U.S. Environmental Protection Agency have yet to review and approve the amendment. Adoption of these regulations will directly affect the implementation of the TMDL.

AUG 20 2013 11-7

G. Coordinating TMDL Implementation Plan tasks contained within Chapter 5 of the Basin Plan with the work of the Storm Water Task Force will benefit the public by ensuring that beneficial uses of the Santa Ana River are protected appropriately and ensuring efficient use of government resources.

H. The TMDL identifies the County of San Bernardino, the County of Riverside, the Cities of Ontario, Chino, Chino Hills, Montclair, Rancho Cucamonga, Upland, Rialto, Fontana, Norco, Riverside, Corona, Pomona and Claremont and agricultural operators, including confined animal and feeding operations ("CAFOs") as dischargers who must comply with the TMDL requirements (hereinafter "DISCHARGERS"). The Cities of Eastvale and Jurupa Valley incorporated after the adoption of the TMDL. The cities of Eastvale and Jurupa Valley within the County of Riverside have incorporated since the adoption of the TMDL and the Riverside County MS4 Permit. The Cities of Eastvale and Jurupa Valley have submitted Letters of Intent dated March 27, 2012 and December 21, 2011, respectively, to the Regional Board indicating their intent to comply with the Riverside County MS4 Permit requirements, including applicable TMDL requirements. They are herein also considered DISCHARGERS for the purposes of this Agreement.

I. Both SB FLOOD CONTROL and RIVERSIDE FLOOD CONTROL serve as Principal Permittees for the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Permits ("MS4 Permit") issued to their respective counties and cities within the Santa Ana Watershed by the REGIONAL BOARD. The San Bernardino County MS4 Permit (Board Order No. R8-2010-0036) and the Riverside County MS4 Permit (Board Order No. R8-2010-0033) are subject to revision based on studies and plans developed in compliance with the TMDL.

J. The COUNTY OF RIVERSIDE and CITIES OF RIVERSIDE, CORONA and NORCO are Co-Permittees to the Riverside County MS4 Permit. The County of San Bernardino and the Cities of Chino, Chino Hills, Fontana, Montclair, Ontario, Rancho Cucamonga, Rialto and Upland are Co-Permittees to the San Bernardino County MS4 Permit. The Cities of Claremont and Pomona are Co-Permittees to the Los Angeles County MS4 Permit (Board Order R4-2006-0074). The cities of Eastvale and Jurupa Valley within the County of Riverside incorporated after the adoption of the Riverside County MS4 Permit. The Cities of Eastvale and Jurupa Valley have submitted Letters of Intent dated March 27, 2012 and December 21, 2011, respectively, to the Regional Board indicating their intent to comply with the Riverside County MS4 and are herein considered Co-Permittees to the Riverside County MS4 Permit.

K. In the interest of ensuring that TMDL Implementation Plan compliance requirements are met, SB FLOOD CONTROL, as Principal Permittee for its respective NPDES MS4 Permit, and on behalf of its NPDES MS4 Permit Co-Permittees named individually and/or jointly in the TMDL under Resolution No. R8-2005-0001; and RIVERSIDE FLOOD CONTROL, the CITY OF RIVERSIDE, NORCO, CORONA, EASTVALE, JURUPA VALLEY the COUNTY OF RIVERSIDE, SAWPA, CITY OF CLAREMONT AND THE CITY OF POMONA, AGRICULTURAL OPERATORS, and REGIONAL BOARD have hereby agreed to enter into a cooperative agreement to form a task force ("TMDL TASK FORCE") to coordinate certain tasks identified in the TMDL Implementation Plan with the work of the Storm Water Task Force.

L. The participation of the Parties in this Agreement and the TMDL TASK FORCE is voluntary and for the mutual benefit of the Parties as a means of achieving the water quality goals set forth in the TMDL. Nothing contained in this Agreement shall be interpreted as an admission of liability or acceptance of responsibility for any tasks not explicitly assigned to the Parties or an individual Party by this Agreement, or an admission of liability or acceptance of responsibility for compliance with the TMDL.

M. The remaining DISCHARGERS identified in Recital H above which are not PARTIES to this Agreement may join this TMDL TASK FORCE at a later date. Pro Rata Cost shares for non-PARTY DISCHARGERS will be calculated as part of each Budget. Because those non-PARTY DISCHARGERS have not yet agreed to participate in the TMDL TASK FORCE, certain TMDL Implementation Plan requirements will not receive the full resources and funding contemplated by the REGIONAL BOARD at the time of the TMDL adoption.

N. The REGIONAL BOARD is appointed as a non-voting, non-funding PARTY of the TMDL TASK FORCE. As a non-voting, non-funding PARTY, the REGIONAL BOARD is authorized only to make recommendations upon the functioning of this TMDL TASK FORCE and the development of this program. The REGIONAL BOARD retains authority to regulate the TASK FORCE PARTIES to the extent that they are so authorized under state or federal law and do not relinquish any existing authority or responsibility as a result of participation in this Agreement.

O. In exchange for taking the lead in implementing the TMDL Implementation Plan through the TMDL TASK FORCE, the REGIONAL BOARD has agreed to work with TMDL TASK FORCE members to determine priorities and modified schedules necessary to accommodate the TMDL Implementation Task requirements within available and reasonable budgets and to ensure that TMDL Implementation Plan requirements are coordinated to the maximum extent practicable with the Storm Water Task Force work. The TMDL TASK FORCE and REGIONAL BOARD will take into consideration those DISCHARGERS that are PARTIES to this AGREEMENT in determining appropriate priorities and schedules for the TMDL TASK FORCE work.

P. It is expected that revisions to the BASIN PLAN proposed by the Storm Water Task Force may result in new or modified Recreational Beneficial Uses and Water Quality Objectives for stream segments regulated by the TMDL, including Reach 3 of the Santa Ana River, Cucamonga Creek and Chino Creek. If attainment of Water Quality Objectives, and thereby Beneficial Uses in Reach 3 of the Santa Ana River, Cucamonga Creek, or Chino Creek is achieved as a result of the Storm Water Task Force effort, BMPs implemented by watershed stakeholders, or other conditions that result in attainment of such Beneficial Uses, the PARTIES to this Agreement shall evaluate the continued need to evaluate and monitor those waterbodies under this Agreement. Removal of waterbodies from such evaluation and monitoring may also release such PARTIES to this Agreement from future participation in the TMDL TASK FORCE if those participants are no longer tributary to remaining impaired waterbodies identified in the TMDL.

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

SECTION I - Delegation of Responsibilities

A. The PARTIES shall:

1. Jointly participate in the TMDL TASK FORCE, providing technical guidance and input to TMDL TASK FORCE tasks.
2. Review and comment on draft and final draft deliverables and reports.
3. Provide the TMDL TASK FORCE Administrator with information needed to satisfy the study and reporting requirements described in the TMDL Implementation Plan or other work of the TMDL Task Force.
4. Provide the TMDL TASK FORCE Administrator with staff support and resources to assist in completing work of the TMDL TASK FORCE, as required and as agreed to by PARTIES.

B. LOS ANGELES COUNTY PERMITTEES.

1. The City of Claremont and the City of Pomona shall participate as normal members of the TMDL TASK FORCE under Section 1.A, however, pursuant to Recital L., above, the participation of the Parties in this Agreement and the TMDL TASK FORCE is voluntary and for the mutual benefit of the Parties as a means of achieving the water quality goals set forth in the TMDL. Nothing contained in this Agreement shall be interpreted as an admission of liability or acceptance of responsibility for any tasks not explicitly assigned to the Parties or an individual Party by this Agreement, or an admission of liability or acceptance of responsibility for compliance with the TMDL.

2. The City of Claremont and the City of Pomona expressly reserve the right to withdraw from this Agreement and the Task Force at any time, for any reason, with appropriate notice as set forth in section VII.A., below.
3. Notwithstanding the requirements of Section VII, the Cities expressly reserve the right to withdraw from this Agreement and the Task Force upon thirty (30) days notice to the Parties in the event that the Los Angeles Regional Water Quality Control Board imposes requirements on the City of Claremont and the City of Pomona that contradict or render moot any work of the Task Force as defined in Section II, below, or that would significantly increase the cost to the Cities of implementing any work of the Task Force as defined in Section II, below.

C. SAWPA shall:

Function as the TMDL TASK FORCE Administrator and shall:

1. Organize and facilitate TMDL TASK FORCE meetings.
2. Perform secretarial, clerical and administrative services, including providing meeting summaries to TMDL TASK FORCE members.
3. Manage TMDL TASK FORCE funds and prepare annual reports of TMDL TASK FORCE assets and expenditures.
4. Act as the contracting party, for the benefit of the TMDL TASK FORCE, for contracts with all consultants, contractors, vendors, and other entities.
5. Seek funding grants to assist with achieving the work of the TMDL TASK FORCE and other goals and objectives of the TMDL TASK FORCE.
6. Coordinate with other agencies and organizations as necessary to facilitate TMDL TASK FORCE work.
7. Prepare quarterly and annual reports, as required by the TMDL Implementation Plan or as requested by the TMDL Task Force, and submit them as required by the TMDL Implementation Plan or as requested by the TMDL Task Force on behalf of the TMDL TASK FORCE.
8. Provide TMDL TASK FORCE members an opportunity to comment and approve any reports or other work product developed.
9. Coordinate and facilitate the addition of other DISCHARGERS to the TMDL TASK FORCE.

D. REGIONAL BOARD shall:

1. Function as an advisory member without financial obligation to the TMDL TASK FORCE, which may seek REGIONAL BOARD advice, input and support.
2. Work with the TMDL TASK FORCE to determine appropriate priorities and schedules for TMDL Implementation Plan tasks based on available resources and TMDL Implementation Plan DISCHARGER participation.

SECTION II – Work of the TASK FORCE

A. The TMDL TASK FORCE shall retain consulting services and provide staff support as necessary to review scientific and other assumptions contained within the TMDL, and perform other work as necessary to complete the tasks described below:

1. Investigate Long Term TMDL Implementation Structure, Cost Sharing Formula, and Funding Sources.
2. TMDL Implementation Task 3 –Implement, Report and Update a Watershed-Wide Bacterial Indicator Water Quality Monitoring Program.
3. TMDL Implementation Task 4 –Implement, Report and Update Bacterial Indicator Urban Source Evaluation Activities as authorized by the Task Force.
4. Undertake such other plans, programs, and studies as authorized by the TMDL TASK FORCE.
5. Develop and approve an annual workplan and budget (hereinafter "BUDGET") prior to December 31st of each year.

SECTION III – Budget

A. Each annual BUDGET shall be adopted by a majority vote of the TMDL TASK FORCE and ratified by a majority of the PARTIES prior to January 31st of each year during which this Agreement remains in force. Each such approved annual BUDGET shall take effect during the next fiscal year following the adoption of that BUDGET, commencing on July 1st of each year and continuing through June 30th of the following year.

B. Each annual BUDGET shall not exceed a total of Three Hundred Thousand Dollars (\$300,000.00), excluding the value of in-kind services and aggregate grant funding, unless a majority of the PARTIES vote to authorize an amount in excess of the \$300,000.00 cap for any one proposed annual BUDGET.

C. The TMDL TASK FORCE Administrator shall prepare and submit a written proposed annual BUDGET for the subsequent fiscal year to the TMDL TASK FORCE and thereafter to the PARTIES prior to November 30th. The proposed BUDGET prepared by the TMDL TASK FORCE Administrator shall include a line-item explanation of proposed expenditures and anticipated costs for the subsequent fiscal year, according to the scope of work developed by the TMDL TASK FORCE for that fiscal year.

D. The TMDL TASK FORCE Administrator shall prepare and submit pro rata cost share invoices to each PARTY based on the approved annual BUDGET and the methodology described in Section IV of the Agreement prior to the date of July 1 in the fiscal year which the BUDGET takes effect.

E. Each of the PARTIES shall pay a pro rata cost share of each annual budget, based on the TMDL TASK FORCE Administrator's pro rata cost share invoice, and which amount and any amount in arrears shall be due and payable to the TMDL TASK FORCE Administrator prior to the date of August 31st in the fiscal year for which it is due.

F. The BUDGET for the fiscal year 2012-2013 is attached hereto as Exhibit "A" and incorporated herein by this reference. Approval of this Agreement shall constitute approval of the BUDGET for fiscal year 2012-2013. Each of the PARTIES shall pay its pro-rata cost share of the BUDGET for fiscal year 2012-2013, as calculated in Section IV of this Agreement within 30 days of its approval of this Agreement. Pro rata cost shares for fiscal year 2012-2013 are attached hereto as Exhibit "A".

G. The TMDL TASK FORCE Administrator shall endeavor to minimize carry-over fund balances to those necessary to complete work of the TMDL TASK FORCE and shall limit contingencies to those necessary to ensure work of the TMDL TASK FORCE is not impeded. Excess not necessary to complete budgeted work of the TMDL TASK FORCE or maintain adequate reserves shall be credited back to the PARTIES in the BUDGET consistent with the pro rata cost share methodology described in Section IV below within 60 days after the accounting provided. The PARTIES shall agree to a reasonable reserve balance as part of each year's BUDGET.

H. After September 30 of each year, the TMDL TASK FORCE Administrator shall provide an accounting of all pro rata cost shares collected via cash or in-kind contributions collected per Section IV below. If pro rata cost shares collected are less than BUDGET, the TMDL TASK FORCE shall meet with Regional Board staff to determine appropriate priorities for scheduled TMDL TASK FORCE work and revise BUDGET based on available funds. The TMDL TASK FORCE and REGIONAL BOARD should take into account which DISCHARGERS are PARTIES to this AGREEMENT in determining appropriate priorities and schedules for the TMDL TASK FORCE.

Section IV – Pro Rata Cost Shares

The pro rata cost shares to fund the BUDGET shall be calculated as follows:

A. TMDL TASK FORCE administrative costs to develop plans and reports required under Tasks 3 and 4 (see Exhibit "A") shall be shared equally by the DISCHARGERS.

B. Pro rata cost shares assigned to DISCHARGERS who are not PARTIES to this Agreement shall be considered unfunded portions of the BUDGET and be addressed per Section III.H of this Agreement.

C. In addition, in the event that the TMDL TASK FORCE requires the services of a consultant or consultants to prepare manuals, develop programs, or perform studies relevant to the TMDL TASK FORCE work, the costs of said consultant services will be shared by the PARTIES, in such a manner as approved by the PARTIES. Each PARTY may choose to provide in-kind services in lieu of cash payment, if acceptable to the PARTIES. The value of the in-kind services shall be determined by TMDL TASK FORCE Administrator based on the approved BUDGET.

SECTION V – Term of the Agreement

This Agreement shall become effective on the date the last PARTY of the TMDL TASK FORCE executes it or December 1, 2012 (whichever occurs later). The term of the Agreement shall be for five (5) years unless terminated by a PARTY as provided in Section VII below. This Agreement may be renewed or extended for an additional term(s) in up to 5-year increments by written mutual consent of the PARTIES.

SECTION VI – Additional Parties

Any agency, entity or person recognized by the TMDL TASK FORCE as a DISCHARGER responsible for TMDL Implementation Plan Tasks 3 or 4 may be added as a PARTY to this Agreement by a written amendment signed by all of the current PARTIES.

SECTION VII – Withdrawal

A. Any PARTY may withdraw from the TASK FORCE effective 60 days after giving written notice to TASK FORCE Administrator. The withdrawing PARTY shall not be entitled to a refund of any unspent contribution that that PARTY made toward the current, future or preceding BUDGET. The withdrawing PARTY shall be responsible for all lawfully assessed penalties as a consequence of that PARTY's withdrawal from the TASK FORCE. The costs allocations to the remaining PARTIES will be recalculated in the following BUDGET year.

B. As a non-voting, non-funding PARTY of the TASK FORCE, the REGIONAL BOARD may withdraw from the TASK FORCE effective 30 days after giving written notice to the TASK FORCE Administrator. Notwithstanding withdrawal from the TASK FORCE, at all times, the REGIONAL BOARD retains authority to regulate TASK FORCE PARTIES only to the extent that they are so authorized under state and federal law and do not relinquish any existing authority or responsibility as a result of non-participation as a TASK FORCE PARTY under this Agreement.

C. Notwithstanding the foregoing, any PARTY may withdraw from the TMDL TASK FORCE upon 60 days written notice in the event that all waterbodies to which it is tributary are delisted from the Clean Water Act 303(d) List of Water Quality Limited Segments ("303(d) List") or otherwise removed from the Middle Santa Ana River Pathogen TMDL Implementation Plan requirements via Basin Plan Amendment. Upon providing such notice to the TMDL TASK FORCE Administrator, the PARTY or PARTIES shall no longer be responsible for paying a pro rata share of the BUDGET until and unless a waterbody or waterbodies to which it is tributary is added to the 303(d) List for impairment of Recreational Beneficial Uses via pathogen indicators. Within 60 days of receiving notice of the withdrawal pursuant to this sub-paragraph B, the TMDL TASK FORCE Administrator shall provide the withdrawing PARTY with an accounting of the funds allocated for evaluation or monitoring of the delisted or otherwise removed waterbody or waterbodies, which are no longer needed by reason of such delisting, and shall credit any unused excess to the withdrawing PARTY on a pro rata cost share basis.

SECTION VIII – Non-compliance with TMDL Requirements

Any PARTY found in non-compliance by the REGIONAL BOARD with conditions of the TMDL within its jurisdictional boundaries shall be solely liable for any enforcement actions and assessed penalties.

SECTION IX – Amendments to this Agreement

This AGREEMENT may be amended in writing signed by all of the PARTIES.

SECTION X – Authorized Signatories

Except for Agreements and documents authorized by the TMDL TASK FORCE to be signed by the TMDL TASK FORCE Administrator, the General Manager-Chief Engineer of the RIVERSIDE FLOOD CONTROL and the Flood Control Engineer of SB FLOOD CONTROL, the Chief Executive Officers of the COUNTY OF RIVERSIDE, and the City Managers of the CITIES OF CORONA, NORCO, EASTVALE, JURUPA VALLEY, RIVERSIDE, AGRICULTURAL OPERATORS CLAREMONT and POMONA are hereby authorized to execute all documents related to this TMDL TASK FORCE. The aforementioned authorized signatories may also designate in writing alternative representatives to sign such documents.

SECTION XI – Notices

All notices shall be deemed effective when personally delivered or five (5) days after deposit in the U.S. Mail, postage prepaid.

Any notices sent or required to be sent to any PARTY shall be mailed to the following addresses:

SAN BERNARDINO COUNTY
FLOOD CONTROL DISTRICT
825 East Third Street
San Bernardino, CA 92415

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501

CITY OF CORONA
400 S. Vicentia Avenue
Corona, CA 92882

CITY OF NORCO
2870 Clark Avenue
Norco, CA 91760

CITY OF RIVERSIDE
3900 Main Street
Riverside, CA 92522

COUNTY OF RIVERSIDE
Executive Office
4080 Lemon Street, 4th Floor
Riverside, CA 92501

CITY OF EASTVALE
12363 Limonite Ave., Ste. 910
Eastvale, CA 91752

CITY OF JURUPA VALLEY
8304 Limonite Ave., Ste. M
Jurupa Valley, CA

CITY OF CLAREMONT
207 Harvard Avenue
Claremont, CA 91711

CITY OF POMONA
505 S. Garey Avenue
Pomona, CA 91766

AGRICULTURAL OPERATORS
Chino Basin Watermaster Agricultural Pool
13545 South Euclid, Unit B
Ontario, CA 91762

SANTA ANA REGION REGIONAL WATER QUALITY CONTROL BOARD
3737 Main Street, Suite 500
Riverside, CA 92501

SANTA ANA WATERSHED PROJECT AUTHORITY
11615 Sterling Avenue
Riverside, CA 92503

SECTION XII – Governing Law

This Agreement will be governed and construed in accordance with the laws of the State of California. If any provision or provisions of this agreement shall be held 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.

SECTION XIII – Consent to Waiver or Breach

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

SECTION XIV – Execution in Counterparts

This Agreement may be executed and delivered in any number of counterparts or copies ("counterpart") 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.

SECTION XV – Deliverables

All work, documents or things produced, including originals prepared by anyone in connection with, or pertaining to, the work under this Agreement shall become the property in whole and in part of all PARTIES, jointly and severally.

SECTION XVI – Indemnification

Each PARTY agrees to indemnify, defend, and hold harmless the remaining PARTIES, including their special districts, officials, agents, officers and employees from and against any and all liabilities, claims, expenses, damages, fines, penalties arising from any act or omission of the indemnifying PARTY, its officials, agents, officers, and employees, in connection with this Agreement, including but not limited to defense costs, legal fees, claims, actions, and causes of action for damages of any nature whatsoever, including but not limited to bodily injury, death, personal injury, or property damage; provided, however, that no PARTY shall indemnify another PARTY for that PARTY'S own negligence or willful misconduct.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the day and year first above written.

SANTA ANA WATERSHED PROJECT AUTHORITY

BY _____

TITLE _____

DATE _____

SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT

RECOMMENDED FOR APPROVAL:

By _____

By _____

JOSIE GONZALES, Chair
San Bernardino County Flood Control District

APPROVED AS TO FORM

ATTEST:

JEAN-RENE BASLE
County Counsel

LAURA H. WELCH
Clerk to the Board

By _____

SCOTT M. RUNYAN
Deputy County Counsel

By _____

Deputy

(SEAL)

RECOMMENDED FOR APPROVAL:

By Steve Thomas
For WARREN D. WILLIAMS
General Manager-Chief Engineer

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

By Marion Ashley
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

PAMELA J. WALLS
County Counsel

By Neal R. Kipnis
NEAL R. KIPNIS
Deputy County Counsel

ATTEST:

KECIA HARPER-IHEM
Clerk of the Board

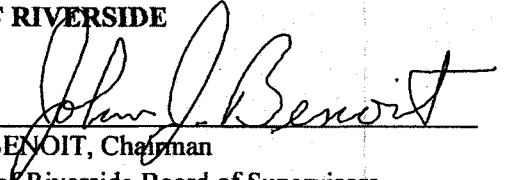
By Kallie Batten
Deputy

(SEAL)

RECOMMENDED FOR APPROVAL:

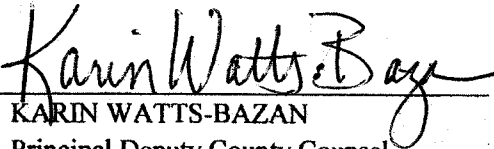
By _____
JAY ORR
County Executive Officer

COUNTY OF RIVERSIDE

By 
JOHN BENOIT, Chairman
County of Riverside Board of Supervisors

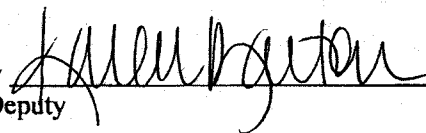
APPROVED AS TO FORM

PAMELA J. WALLS
County Counsel

By 
KARIN WATTS-BAZAN
Principal Deputy County Counsel

ATTEST:

KECIA HARPER-IHEM
Clerk to the Board

By 
Deputy

(SEAL)

CITY OF CORONA

BY _____
Mayor

DATE _____

APPROVED AS TO FORM

By _____
City Attorney

CITY OF RIVERSIDE

RECOMMENDED FOR APPROVAL:

BY _____
City Manager

DATE _____

APPROVED AS TO FORM _____

ATTEST:

By _____
Deputy City Attorney

By _____
City Clerk

CITY OF NORCO

BY _____
Mayor

DATE _____

APPROVED AS TO FORM

By _____
City Attorney

CITY OF EASTVALE

BY _____
Mayor

DATE _____

APPROVED AS TO FORM

By _____
City Attorney

CITY OF JURUPA VALLEY

BY _____
Mayor

DATE _____

APPROVED AS TO FORM

By _____
City Attorney

CITY OF CLAREMONT

BY _____
Mayor

DATE _____

APPROVED AS TO FORM

By _____
City Attorney

IN WITNESS WHEREOF, the Parties have executed this Agreement entitled
"AGREEMENT TO FORM THE MIDDLE SANTA ANA WATERSHED TMDL TASK FORCE"

SANTA ANA REGIONAL WATER QUALITY CONTROL BOARD

BY _____
Kurt V. Berchtold
Executive Officer

DATE _____

APPROVED AS TO FORM

By _____
Eric Spiess
Legal Counsel

AGRICULTURAL OPERATORS (represented by CHINO BASIN WATERMASTER)

BY _____

TITLE _____

DATE _____

APPROVED AS TO FORM

By _____
Attorney

Exhibit A

Approved 2012-13: Middle Santa Ana River Pathogen TMDL Task Force

Summary: TMDL Task Force Implementation Schedule and Budget		A	B	C
Summary Expenses		Task Force Draft Budget 2012-13	tier 1 monit Draft Budget 2012-13	Total Draft Budget 2012-13
TASK FORCE: Administration (assumes quarterly meetings)		\$ 30,000		\$ 30,000
Grant Preparation		\$ 20,000		\$ 20,000
TASK FORCE: TMDL Compliance Expert		\$ 25,000		\$ 25,000
TMDL Implementation: Task 3 - Watershed-wide Monitoring Program		\$ 80,000		\$ 80,000
San Bernardino County MS4 Program (estimated in-kind contribution)		\$ 50,000		\$ 50,000
TMDL Implementation: Tasks 4 & 5 - Source Evaluation / Management			\$ 134,460	\$ 134,460
Estimated Total Annual TMDL Implementation Budget	\$ 205,000		\$ 134,460	\$ 339,460
Applied Task Force Carryover Funds:	\$ 80,000			\$ 80,000
Estimated Total Stakeholder Cash Contribution	\$ 75,000		\$ 134,460	\$ 209,460

Detailed: Named TMDL Party Pro Rata Budget Cost Shares		Task Force Draft Budget 2012-13	tier 1 monit Draft Budget 2012-13	Total Draft Budget 2012-13**
MSAR TMDL Task Force Participants Cost Shares:				
A. San Bernardino County MS4 Program *	\$ (10,713)	\$ 66,784	\$ 56,071	
San Bernardino County	\$ (1,190)	\$ 7,420	\$ 6,230	
Ontario	\$ (1,190)	\$ 7,420	\$ 6,230	
Chino	\$ (1,190)	\$ 7,420	\$ 6,230	
Chino Hills	\$ (1,190)	\$ 7,420	\$ 6,230	
Rancho Cucamonga	\$ (1,190)	\$ 7,420	\$ 6,230	
Upland	\$ (1,190)	\$ 7,420	\$ 6,230	
Fontana	\$ (1,190)	\$ 7,420	\$ 6,230	
Montclair	\$ (1,190)	\$ 7,420	\$ 6,230	
Rialto	\$ (1,190)	\$ 7,420	\$ 6,230	
B. County of Riverside	\$ 6,389	\$ 11,279	\$ 17,668	
C. City of Riverside	\$ 6,389	\$ 11,279	\$ 17,668	
D. City of Corona	\$ 6,389	\$ 11,279	\$ 17,668	
E. City of Norco	\$ 6,389	\$ 11,279	\$ 17,668	
F. City of Eastvale	\$ 11,389	\$ 11,279	\$ 22,668	
G. City of Jurupa Valley	\$ 11,389	\$ 11,279	\$ 22,668	
H. Agriculture	\$ 6,389	\$ -	\$ 6,389	
I. Forest Service	\$ -	\$ -	\$ -	
J. City of Pomona	\$ 6,389	\$ -	\$ 6,389	
K. City of Claremont	\$ 6,389	\$ -	\$ 6,389	
Applied Task Force Carryover Funds:	\$ 98,213		\$ 98,213	
Subtotal:	\$ 155,000	\$ 134,460	\$ 289,460	
		\$ 10,713		

Notes:

* San Bernardino County MS4 Program includes in-kind contribution for staff time to conduct watershed compliance monitoring estimated at \$50,000

** Includes cash adjustment to San Bernardino County MS4 Program to bring all stakeholder contributions to equal.

Description of Revised 2009-11 Task Force Budget		
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Annual Task Force Administration

1. Organize and facilitate TMDL TASK FORCE meetings,
2. Perform secretarial, clerical and administrative services, including providing meeting summaries to TMDL TASK FORCE members,
3. Manage TMDL TASK FORCE funds and prepare annual reports of TMDL TASK FORCE assets and expenditures,
4. Act as the contracting party, for the benefit of the TMDL TASK FORCE, for contracts with all consultants, contractors, vendors and other entities,
5. Seek funding grants to assist with achieving the work of the TMDL TASK FORCE and other goals and objectives of the TMDL TASK FORCE.
6. Coordinate with other agencies and organizations as necessary to facilitate TMDL TASK FORCE work.
7. Administer the preparation of quarterly and annual reports, as required by the TMDL Implementation Plan, and submit them as required by the TMDL Implementation Plan on behalf of the TMDL TASK FORCE.
8. Provide TMDL TASK FORCE members an opportunity to comment and approve any reports or other work product developed.
9. Coordinate and facilitate the addition of other DISCHARGERS to the TMDL TASK FORCE.

TMDL Compliance Expert

Task #1: Support stakeholders as a Regulatory Strategist and Compliance Expert .

Task #2: Develop approach for considering natural background loads when assessing TMDL compliance with bacteria targets

Task #3: Facilitate development of a practical regulatory definition for "maximum extent practicable" wrt reducing bacterial loads from controllable human sources.

Task #4: Coordinate with CDM to prepare the final reports for the USE and ASE studies.

TMDL Task 3 - Annual Watershed-wide Monitoring Program

Watershed-Wide Monitoring Program to assess compliance with REC-1 use water quality objectives for fecal coliform and evaluate numeric targets established for E. coli.

Constituents:

Field Analysis: Temperature, conductivity, pH, dissolved oxygen, and turbidity

Laboratory Water Quality Analysis: Fecal coliform, E. coli, and total suspended solids (TSS)

Sample sites (6): Icehouse Canyon Creek, Chino Creek at Central Avenue, Santa Ana River at Pedley Avenue, Santa Ana River at MWD Crossing, Prado Park Lake at Lake Outlet, Mill Creek at Chino-Corona Road

Dry Season (April 1 – October 31):

15 continuous weeks – July to October

5 continuous weeks – May to June (2008)

Wet Season (November 1 – March 31):

11 continuous weeks – December to February

4 samples from one storm event

TMDL Task 4 - Urban Source Evaluation / Management

Additional Characterization of Pathogen Indicator Pollution using available water quality data

Additional Bacteroides Analysis