

MEMORANDUM OF UNDERSTANDING BETWEEN THE
CITY OF STOCKTON AND THE COUNTY OF SAN JOAQUIN
AS CO-PERMITTEES FOR THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT AND
WASTE DISCHARGE REQUIREMENTS GENERAL PERMIT FOR DISCHARGES
FROM MUNICIPAL SEPARATE STORM SEWER SYSTEMS

This Memorandum of Understanding (MOU) is made and entered into this ____ day of _____, 2018, by and between the CITY of Stockton, a municipal corporation (CITY), and the COUNTY of San Joaquin, a political subdivision of the State of California, (COUNTY).

WHEREAS, this National Pollutant Discharge Elimination System (NPDES) MOU is entered into by the CITY and COUNTY, collectively the hereinafter referred to as Permittees, to collaborate and to promote consistency in the administration and management of the National Pollutant Discharge Elimination System Permit (General Permit) and Program; and

WHEREAS, this MOU defines the coordination and collaboration of resources for regional monitoring between the CITY and COUNTY, public outreach / education, and planning and coordination of other activities the Permittees are required to implement for the General Permit and Program; and

WHEREAS, Congress in 1987 amended Section 402 of the Federal Clean Water Act requiring the United States Environmental Protection Agency to establish permit regulations for storm water discharges; and

WHEREAS, the United States Environmental Protection has delegated to the State of California the authority to issue NPDES Permits and the State of California has given the State Water Resources Control Board and Regional Water Quality Control Boards the authority to issue NPDES Permits for municipal storm water discharges; and

WHEREAS, the Central Valley Regional Water Quality Control Board (Regional Water Board) granted the Permittees their first NPDES Permit (Order No. 95-035 CA0082597) in February 1995 to jointly manage the urbanized Stockton area. In October 2002 Permittees were granted a second Permit (Order No. R5-2002-0181 CAS083470) through December 5, 2007. On December 6, 2007 Permittees were granted a third permit (Order No. R5-2007-0173-CAS083470) through April 16, 2015. On April 17, 2015 Permittees were granted a limited term Permit (Order No. R5-2015-0024 CAS083470) through June 22, 2016. On November 30, 2016 Permittees were granted Notices of Applicability under the General Permit (Order

Nos. R5-2016-0040-002 and R5-2016-0040-003 for the CITY and COUNTY respectively) through September 30, 2021; and

WHEREAS the Permittees have jurisdiction over and maintenance responsibilities for municipal storm drains in the Stockton Urbanized Area and thereby have joint responsibilities and benefits under the Permit and have agreed to enter into this MOU; and

WHEREAS, this MOU supersedes the MOU between the CITY AND THE COUNTY dated September 16, 2008 and the Cost Sharing Agreement dated September 16, 2008.

NOW, THEREFORE, the CITY and COUNTY agree as follows:

I. Filing Status

The Permittees will file the applications or Notices of Intent for future municipal storm water permits as Co-Permittees. The CITY and COUNTY will each be a Permittee under the General Order. Each of the Permittees shall be entitled to review each other's applications and addendums to the applications at least thirty (30) days before the submission to the Regional Water Board and cooperatively expedite the finalization of the applications.

II. Term of MOU

This MOU shall be effective as long as the CITY and the COUNTY are Permittees of the General Permit and have agreed to cooperatively implement certain provisions of the General Permit unless terminated pursuant to Clause IX. Termination. This MOU may be terminated by written consent of either party with 90 days' advance notice. Any change or amendments to this MOU are subject to Clause XII. Amendments to the MOU.

III. Delegation of Responsibilities:

Shared Responsibilities

- A. CITY shall perform for the Permittees water quality monitoring required within the monitoring and reporting program and water quality based programs for Permit compliance including monitoring except the dry weather field screening. Any consultants, contractors, and/or laboratories retained to conduct the monitoring and reporting shall be contracted by the CITY, subject to review of and written authorization by the COUNTY Department of Public Works for the budget and the scope of work in

advance of entering in the contract / agreement. A copy of the executed contract/agreement will be provided to the COUNTY for information. The monitoring and reporting program and water based program documentation will be submitted to the COUNTY for its records.

- B. CITY shall manage for the Permittees the data and information collected as a part of the water quality monitoring program and shall analyze the data for submittals required or requested by the Regional Water Board. Any consultants or contractors retained for data analysis or management services will be contracted by the CITY, subject to review of and written authorization by the COUNTY Department of Public Works for the budget and the scope of work in advance of entering into the contract/agreement. A copy of the executed contract or agreement will be submitted to the COUNTY for its records.
- C. Permittees shall work cooperatively to negotiate, develop, implement and update uniform criteria/guidance documents for implementation of the General Permit.
- D. Permittees shall jointly cooperate to enforce municipal storm water regulation compliance for areas where there is jurisdictional overlap or coexistence.
- E. Permittees shall cooperatively and continuously evaluate the business practices, resources and efficiencies of joint responsibilities of the General Permit and may elect to jointly implement activities pursuant to General Permit requirements under the Cost-Sharing provisions of this MOU.

Individual Responsibilities:

Each Permittee:

- F. Is solely responsible for compliance with the General Permit within its respective jurisdictions.
- G. Is a legal entity and has the authority to develop, administer, implement, and enforce the General Permit NPDES program or that which is related within its own jurisdictions.
- H. Is solely responsible for the records management required by the Permit or agencies' records management requirements whichever is greater, except as noted in Clause III. B., above.

- I. Shall prepare its respective annual work plans and operating budgets for each fiscal year (July 1-June 30) for its individual responsibilities. A copy of the work plan and budget shall be exchanged between Permittees, upon request, for information purposes only.
- J. Shall prepare and submit annual reports and any other information necessary for the individual implementation of the General Permit to the Regional Water Board.
- K. Shall perform the dry weather field screening for permit compliance within its respective jurisdictions and report the results and any follow up actions to the Regional Water Board as a part of the annual reports.
- L. Shall manage its data and information required by the individual responsibilities of the General Permit.
- M. Shall maintain municipal storm water infrastructure maps for its respective jurisdictions.
- N. Shall implement the Illicit Discharge, Detection, and Elimination Program within its respective jurisdictions and develop, implement and enforce local codes and ordinances.
- O. Shall implement a facility inspection Program within its respective jurisdictions for municipal storm water infrastructure in accordance with the General Permit and approved Storm Water Management Program (SWMP).
- P. Shall cooperate in sharing information to effectuate best business practices. The Permittees shall continually evaluate the business practices and needs of the parties to maintain business efficiency.
- Q. Shall prepare a Report of Waste Discharge or Notice of Intent as required in the General Permit for its respective jurisdiction and individual responsibilities. A copy of the Report of Waste Discharge or Notice of Intent shall be provided to each Permittee as requested.

IV. Cost Sharing

Permittees shall discuss, negotiate and prepare an annual shared cost budget and scope of work prior to the beginning of each fiscal year (July 1 -June 30). The shared costs shall include, but are not limited to, consultants, contractors, laboratory services, equipment, supplies, advertisements, events and printing. The

Permittees' program administrative costs are not shared costs, unless otherwise determined by mutual written agreement after budget adoption by the Permittees and amended to the annual budget.

The following cost share percentage contribution algorithm shall be in effect from execution of this MOU. The initial cost share percentage contribution of 80% CITY and 20% COUNTY, shall be applied to any and all shared costs within the annual shared budget or amended to the budget by mutual written agreement. Upon receipt of new U.S. Census data, the COUNTY shall recalculate the cost-share percentage contribution using the following algorithm:

$$[(\text{Permittee Phase I Area by Acreage})/(\text{Total Phase I Area by Acreage}) + (\text{Permittee Phase I Population}/\text{Total Phase I Population})]/2 \times 100.$$

"Phase I Area by acreage" shall be based upon COUNTY generated GIS data and "Permittee Phase I Population in Phase I jurisdiction shall be based upon current U.S. Census data. The CITY shall review the percent contribution and concur in its application for future invoicing during the term of the MOU.

V. Invoicing

CITY shall invoice the COUNTY quarterly based upon the costs generated from Clause IV., Cost Sharing.

VI. Other Collaborative Arrangements for Compliance

Nothing in this MOU shall prevent the CITY and/or COUNTY from entering into agreements/MOUs with each other or with other parties to obtain to provide services related to implementation of the General Permit or MOU obligations. Such service agreements do not relieve the CITY and/or COUNTY from their obligations under the General Permit or this MOU. Obligations under this MOU will supersede any conflicting obligations of separate agreements.

VII. Indemnification

The Permittees shall indemnify, defend and hold harmless each other, its elected officials, officers and employees in connection with any claims, imposition of penalties or any enforcement or other actions, including, but not limited to those brought by federal, state or local agencies having regulatory jurisdiction over the subject matter of this MOU. Where any legal action is deemed necessary to enforce any provision of this MOU, the prevailing Permittee shall be entitled to receive from the other Permittee enumeration.

VIII. Precedence of State or Federal Guidelines or Laws

The terms of all applicable federal and state guidelines, as presently written or as changed during the life of this MOU are hereby incorporated by reference and made part of this MOU and take precedence over any inconsistent terms of this MOU. Inconsistencies between the terms of the General Permit and final State or Federal regulations are not applicable unless mandated by court order.

IX. Termination

This MOU may be terminated by written consent of either party with 90 days' advance notice. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and agreed to by both Permittees.

X. Applicable Law

This MOU shall be construed and enforced in accordance with the laws of the State of California. Any lawsuits between the parties arising out of this MOU shall be brought and concluded in the Superior Court of the County of San Joaquin, Stockton Branch, or, where applicable, in the federal District Court of California, Eastern District, Sacramento Division, which shall have exclusive jurisdiction over such lawsuits.

XI. Notice

All notices required by this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid.

Notice required to be given to the County shall be addressed as follows:

Kris Balaji, PMP, P.E.
Director of Public works
San Joaquin County
1810 East Hazelton Ave.
Stockton, CA 95205

Notice required to be given to the City shall be addressed as follows:

Kurt Wilson
City Manager
City of Stockton
425 N. El Dorado Street
Stockton, CA 95202

XII. Amendments to the MOU

No Permittee can alter, revise or amend the MOU without mutual written consent by both parties. Amendments to the MOU shall be prepared and become an attachment to the MOU.

XIII. Authorization

This Agreement shall only be executed by an authorized representative of the parties. The person executing this Agreement represents that he/she has the express authority to enter into agreements on behalf of his/her respective party.

XIV. Novation

This MOU shall replace the Cost Sharing Agreement #A-08-692 between the CITY of Stockton and the COUNTY of San Joaquin for the Joint CITY-COUNTY National Pollutant Discharge Elimination System Permit Program dated September 16, 2008.

IN WITNESS THEREOF, this Memorandum of Understanding is executed based upon the date of the last signature applied hereto.

CITY OF STOCKTON

Kurt O. Wilson, City Manager

ATTEST:

Bret Hunter, CMC, City Clerk

APPROVED AS TO FORM:

Tara M. Mazzanti, Deputy City Attorney

SAN JOAQUIN COUNTY

APPROVED AS TO FORM:

Lawrence P. Meyers
Deputy County Counsel

Kris Balaji, PMP, P.E.
Director of Public Works

Date:_____