

**FIRST AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING
BETWEEN THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT,
THE COUNTY OF LOS ANGELES, AND THE CITIES OF
AGOURA HILLS, CALABASAS, HIDDEN HILLS, AND WESTLAKE VILLAGE**

REGARDING THE ADMINISTRATION AND COST SHARING FOR IMPLEMENTING THE COORDINATED INTEGRATED MONITORING PROGRAM AND NECESSARY REPORTS FOR THE MALIBU CREEK WATERSHED, AND SPECIAL STUDY TO ADDRESS TECHNICAL AND REGULATORY ISSUES IN ATTAINABILITY AND APPLICABILITY OF MALIBU CREEK WATERSHED NUTRIENT AND BENTHIC COMMUNITY TOTAL MAXIMUM DAILY LOADS

This FIRST AMENDMENT (“FIRST AMENDMENT”), made and entered into as of the date of the last signature set forth below by and between the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT (“LACFCD”), a body corporate and politic, the COUNTY OF LOS ANGELES (“COUNTY”), a political subdivision of the State of California, and the CITIES OF AGOURA HILLS, CALABASAS, HIDDEN HILLS AND WESTLAKE VILLAGE. Collectively, these entities shall be known herein as “PARTIES” or individually as “PARTY.”

WITNESSETH

WHEREAS, the PARTIES entered into the original Memorandum of Understanding (“AGREEMENT” or “MOU”) on May 14, 2020 regarding the administration and cost sharing for implementing the Coordinated Integrated Monitoring Program (“CIMP”) and necessary reports for the Malibu Creek Watershed, and the Enhanced Watershed Management Plan (“EWMP”) described Nutrient Special Study as part of the PARTIES compliance with the Malibu Creek Watershed Nutrient and Benthic Community Total Maximum Daily Loads (“NUTRIENT SPECIAL STUDY”); and

WHEREAS, the PARTIES have agreed to enter into this AGREEMENT to share costs in the continued implementation of the Malibu Creek CIMP as set forth in Table A2 of Exhibit B, that maintains the same land area-based cost sharing formula that was used to conduct CIMP monitoring since 2016; and

WHEREAS, the PARTIES have agreed to enter into this AGREEMENT to share costs in the implementation of the NUTRIENT SPECIAL STUDY in the Malibu Creek Watershed as set forth in Table B4 of Exhibit B; and

WHEREAS, an error in the calculation of open space (“VACANT”) land under the jurisdiction of state parks was mistakenly assigned to the PARTIES in the analysis and this FIRST AMENDMENT corrects the land area totals used for the CIMP and NUTRIENT

SPECIAL STUDY cost-sharing formulas in Exhibit "B" of the AGREEMENT, which caused a redistribution of cost allocation per PARTY.

NOW, THEREFORE, in consideration of the mutual benefits to be derived by the PARTIES, and of the promises contained in this FIRST AMENDMENT and the AGREEMENT, the PARTIES agree as follows:

1. **Exhibit "B"** to the Agreement is hereby amended by replacing said **Exhibit "B"** in its entirety with a new **Exhibit "B"** as set forth in **Attachment "A"** to this Amendment, which is attached hereto and incorporated herein as though set forth in full.

2. Except for the changes specifically set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the PARTIES hereto have caused this FIRST AMENDMENT to be executed by their duly authorized representatives and affixed as of the date of signature of the PARTIES:

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COUNTY OF LOS ANGELES

By _____
Mark Pestrella, Director of Public Works

Date

APPROVED AS TO FORM:

RODRIGO A. CASTRO-SILVA
County Counsel

By _____
Deputy

Date

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

By _____
Mark Pestrella, Chief Engineer

Date

APPROVED AS TO FORM:

RODRIGO A. CASTRO-SILVA
County Counsel

By _____
Deputy

Date

CITY OF AGOURA HILLS

By _____
Denis Weber, Mayor

Date

ATTEST:

By _____
Kimberly M. Rodrigues, City Clerk

Date

APPROVED AS TO FORM:

By _____
Candice K. Lee, City Attorney

Date

CITY OF CALABASAS

By _____
James R. Bozajian, Mayor

Date

ATTEST:

By _____
Maricela Hernandez, City Clerk

Date

APPROVED AS TO FORM:

By _____
Scott H. Howard, City Attorney

Date

CITY OF HIDDEN HILLS

By _____
Stuart E. Siegel, Mayor

Date

ATTEST:

By _____
Kerry Kallman, City Manager

Date

APPROVED AS TO FORM:

By _____
Roxanne M. Diaz, City Attorney

Date

CITY OF WESTLAKE VILLAGE

By _____
Susan McSweeney, Mayor

Date

ATTEST:

By _____
Josephine Wilson, Interim City Clerk

Date

APPROVED AS TO FORM:

By _____
Terence Boga, City Attorney

Date

ATTACHMENT "A"

Effective as of June 1, 2021

EXHIBIT B

MALIBU CREEK WATERSHED COST SHARING TABLES

Table A1. Estimated Consultant Contract Costs for CIMP

Item		Fiscal Year 2019-2020	Fiscal Year 2020-2021	Fiscal Year 2021-2022	Fiscal Year 2022-2023
Consultant Contract Cost	(a)	\$691,710.00	\$1,007,455.00	\$600,445.00	\$623,339.00
Management Fee	(b) = (a) x 5%	\$34,585.50	\$50,372.75	\$30,022.25	\$31,166.95
LACFCD 5% Allocation	(c) = ((a) + (b)) x 5%	\$36,314.78	\$52,891.39	\$31,523.36	\$32,725.30
Total Cost to be Shared	(d) = (a) + (b) – (c)	\$689,980.73	\$1,004,936.36	\$598,943.89	\$621,780.65
Total Cost Per Year	(e) = (c) + (d)	\$726,295.50	\$1,057,827.75	\$630,467.25	\$654,505.95
Contract Contingency ⁽¹⁾	(f) = (e) x 10%	\$72,629.55	\$105,782.78	\$63,046.73	\$65,450.60

(1) Only invoice through special agreement, and written authorization by PARTIES.

Table A2. Cost Share Allocation Formula for CIMP

Party	Acres	Percent of Area ⁽²⁾	Fiscal Year 2019-2020 ⁽³⁾	Fiscal Year 2020-2021 ⁽³⁾	Fiscal Year 2021-2022 ⁽³⁾	Fiscal Year 2022-2023 ⁽³⁾	Total Cost
City of Agoura Hills	5,178	15.7%	\$99,765.40	\$145,305.34	\$102,527.63	\$110,003.24	\$457,601.61
City of Calabasas	4,941	15.0%	\$94,567.21	\$137,734.32	\$98,466.75	\$105,888.64	\$436,656.93
City of Hidden Hills	105	0.3%	\$2,139.26	\$3,115.77	\$1,962.86	\$2,061.40	\$9,279.29
City of Westlake Village	3,540	10.7%	\$66,317.00	\$96,588.74	\$71,982.99	\$77,955.94	\$312,844.67
County of Los Angeles Unincorporated	19,228	58.3%	\$427,191.86	\$622,192.21	\$324,003.66	\$325,871.40	\$1,699,259.13
Los Angeles County Flood Control District ⁽¹⁾	-	-	\$36,314.78	\$52,891.39	\$31,523.36	\$32,725.30	\$153,454.82
Totals	32,992	100%	\$726,295.50	\$1,057,827.75	\$630,467.25	\$654,505.95	\$3,069,096.45

(1) Los Angeles County Flood Control District's cost share equals 5% of total costs as expressed by "c" in Table A1.

(2) Based on percent of land in each Party area of the EWMP area (excludes Angeles National Forest land).

(3) Percent of Area multiplied by Item "d" of Table A1 for corresponding year; LACFCD cost is determined by Item "c" of Table A1. Totals include the 5% management fee. The FIRST AMENDMENT corrected the land area totals after FY19/20 and FY20/21 had been invoiced. The difference between the already invoiced amount and the corrected amount for FY19/20 is recognized in FY21/22, and FY20/21 is recognized in FY22/23.

Table B1. Estimated Consultant Contract Costs for Nutrient Special Study

Item		Fiscal Year 2019-2020	Fiscal Year 2020-2021	Fiscal Year 2021-2022	Total Cost
Consultant Contract Cost	(a)	\$986,529.04	\$354,235.48	\$354,235.48	\$1,695,000.00
LACFCD 5% Allocation	(b) = (a) x 5%	\$49,326.45	\$17,711.77	\$17,711.77	\$84,750.00
Contract Cost to be Shared	(c) = (a) - (b)	\$937,202.59	\$336,523.71	\$336,523.71	\$1,610,250.00
Contract Management Fee (5%)	(d) = (a) x 5%	\$49,326.45	\$17,711.77	\$17,711.77	\$84,750.00
Total Cost Per Year	(e) = (a) + (d)	\$1,035,855.49	\$371,947.25	\$371,947.25	\$1,779,750.00
Contract Contingency ⁽¹⁾	(f) = (e) x 10%	\$103,585.55	\$37,194.73	\$37,194.73	\$177,975.00

(1) Only invoice through special agreement, and written authorization by PARTIES.

Table B2: Land Use Risk Breakdown Per Agency

Land Description (2005 SCAG, Using 2016 SCAG Codes)	Nutrient Risk Prioritization ⁽¹⁾	Agoura Hills		Calabasas		Hidden Hills		Westlake Village		County	
		Acres	%	Acres	%	Acres	%	Acres	%	Acres	%
Single-Family Residential	MN	1728	34.5	511	10.8	69	64.5	757	21.5	516	2.4
Multi-Family Residential	LN	194	3.9	134	2.8			129	3.7		
Other Residential	MN			44	0.9			40	1.1	1348	6.3
General Office	MN	87	1.7	88	1.9			177	5.0	24	0.1
Commercial and Services	MN	180	3.6	35	0.7			77	2.2	1	0.0
Facilities	MN	29	0.6	26	0.5			32	0.9	20	0.1
Education	MN	86	1.7	26	0.5	5	4.7	38	1.1	30	0.1
Industrial	LN	34	0.7	24	0.5			74	2.1	6	0.0
Transportation, Communication, & Utilities	LN	147	2.9	79	1.7			104	3.0	332	1.6
Mixed Commercial & Industrial	LN	34	0.7								
Open Space and Recreation	MN	108	2.2	27	0.6			150	4.3	230	1.1
Agriculture	HN	25	0.5	99	2.1	1	0.9			387	1.8
Vacant	LN	2495	48.2	3735	75.6	30	28.6	1735	49.0	16194	84.2
Water	-	14	0.3					205	5.8	45	0.2
Under Construction	MN	17	0.3	113	2.4			22	0.6	95	0.4

(1) LN = Low Nutrient Risk, MN = Medium Nutrient Risk, HN = High Nutrient Risk

Table B3: Per Party Land Area by Risk and Assignment of Weighting Factor

Party	High Nutrient (HN) Contribution Risk			85%			Medium Nutrient (MN) Contribution Risk			10%			Low Nutrient (LN) Contribution Risk			5%		
	Acres	% of HN	% Total	Acres	% of MN	% Total	Acres	% of MN	% Total	Acres	% of LN	% Total	Acres	% of LN	% Total	Acres	% of LN	% Total
City of Agoura Hills	25	4.9	0.1	2,235	33.2	6.8	2,904	11.4	8.9									
City of Calabasas	99	19.3	0.3	870	12.9	2.7	3,972	15.6	12.1									
City of Hidden Hills	1	0.2	0.0	74	1.1	0.2	30	0.1	0.1									
City of Westlake Village	-	0.0	0.0	1,293	19.2	4.0	2,042	8.0	6.2									
County of Los Angeles Unincorporated	387	75.6	1.2	2,264	33.6	6.9	16,532	64.9	50.5									
Los Angeles County Flood Control District	-	-	-	-	-	-	-	-	-									
Total	512	100	1.6	6,736	100	20.6	25,480	100	77.8									

Table B4: Party Cost Share Allocation for Nutrient Special Study

Party	(x)	Weighted Formula ⁽²⁾	Flat Fee ⁽³⁾	Subtotal	Management Fee	Total Cost Share
City of Agoura Hills	1	\$165,329.44	\$100,000.00	\$265,329.44	\$13,266.47	\$278,595.91
City of Calabasas	2	\$156,765.12	\$100,000.00	\$256,765.12	\$12,838.26	\$269,603.38
City of Hidden Hills	3	\$4,133.77	\$100,000.00	\$104,133.77	\$5,206.69	\$109,340.45
City of Westlake Village	4	\$98,108.05	\$100,000.00	\$198,108.05	\$9,905.40	\$208,013.45
County of Los Angeles Unincorporated	5	\$585,913.63	\$200,000.00	\$785,913.63	\$39,295.68	\$825,209.31
Los Angeles County Flood Control District ⁽¹⁾	-		\$84,750.00	\$84,750.00	\$4,237.50	\$88,987.50
Totals		\$1,010,250.00	\$684,750.00	\$1,695,000.00	\$84,750	\$1,779,750.00

(1) Los Angeles County Flood Control District's cost share equals 5% of total costs as expressed by "(e)" in Table B1.

(2) Special formula, each Party area of the EWMP area (excludes Parks land).

$$Party_{(x)} \text{ Cost Share} = [(c) - \$600,000] \times \frac{[(HN_{\%} \times HN_x) + (MN_{\%} \times MN_x) + (LN_{\%} \times LN_x)]}{[(HN_{\%} \times HN_T) + (MN_{\%} \times MN_T) + (LN_{\%} \times LN_T)]}$$

Where,
x=Item (x) of Table B4
c=Item (c) of Table B1
*HN*_%=85% from Table B3
*HN*_T=512 acres from Table B3
*MN*_%=10% from Table B3
*MN*_T=6,736 acres from Table B3
*LN*_%=5% from Table B3
*LN*_T=27,263 acres from Table B3

(3) A Flat Fee of \$100,000 is applied to each Party to recognize an equal weighting portion of the study beyond the formula in Footnote (2). County of Los Angeles Unincorporated opted to cover the \$100,000 Flat Fee for Los Angeles County Flood Control District.

Table B5: Fiscal Year Invoicing for Nutrient Special Study

Party	Fiscal Year 2019-2020 ⁽³⁾	Fiscal Year 2020-2021 ⁽³⁾	Fiscal Year 2021-2022 ⁽³⁾	Total Cost Share
City of Agoura Hills	\$53,720.38	\$107,440.76	\$117,434.77	\$278,595.91
City of Calabasas	\$51,827.96	\$103,655.92	\$114,119.50	\$269,603.38
City of Hidden Hills	\$21,845.37	\$43,690.73	\$43,804.36	\$109,340.45
City of Westlake Village	\$40,782.42	\$81,564.84	\$85,666.19	\$208,013.45
County of Los Angeles Unincorporated	\$849,881.88	-	(\$24,672.57)	\$825,209.31
Los Angeles County Flood Control District ⁽¹⁾	\$17,797.50	\$35,595.00	\$35,595.00	\$88,987.50
Total	\$1,035,855.50	\$371,947.25	\$371,947.25	\$1,779,750.00