



REPORT TO CITY COUNCIL

DATE: AUGUST 12, 2015

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER 

BY: RAMIRO ADEVA, DIRECTOR OF PUBLIC WORKS/CITY ENGINEER 

SUBJECT: REQUEST TO APPROVE THE FIRST AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING FOR THE MALIBU CREEK WATERSHED TRASH MONITORING AND REPORTING PLAN

On November 30, 2014, the Malibu Creek Watershed (MCW) group, consisting of the County of Los Angeles and the cities of Agoura Hills, Calabasas, Hidden Hills, Malibu, and Westlake Village, became subject to the monitoring requirements for a Trash Total Maximum Daily Load (TMDL). On November 12, 2014, the City Council approved entering into a Memorandum of Understanding with the MCW group for the Trash Monitoring and Reporting Plan (TMRP). In addition, the Council authorized staff to administer the compliance monitoring program at the request of the other agencies.

Background

On September 11, 2006, the Los Angeles Regional Water Quality Control Board (Regional Board) approved the Malibu Creek Watershed Bacteria TMDL Compliance Monitoring Plan (CMP). The preparation of the plan was a collaborative effort amongst the watershed agencies (Cities of Calabasas, Westlake Village, Hidden Hills, Malibu, and Thousand Oaks; Counties of Los Angeles and Ventura, and Caltrans), and was a requirement of the Malibu Creek and Lagoon Bacteria TMDL, which became effective January 24, 2006. At the request of the Regional Board staff, monitoring began March 11, 2008.

On May 1, 2008, the Regional Board adopted the Malibu Creek Watershed Trash TMDL, and became effective on July 7, 2009. The Trash TMDL identified point and non-point sources as the methods for which trash enters the waterbodies within our watershed. Point source refers to trash entering the storm drainage system, while non-point typically refers to trash entering the waterbody by other methods, such as wind. The TMDL requires agencies to install full capture devices in 20% of their catch basins, annually, for the next five (5) years to address point sources; while a TMRP is the required mitigation measure for non-point sources. The TMRP was developed under a consultant contracted by the County of Los Angeles, in concert with the other watershed agencies. The TMRP was submitted to the Regional Board on April 29, 2010, and

subsequently approved in a letter from the Regional Board's Executive Officer dated May 30, 2014.

The National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit was adopted on November 8, 2012, by the Regional Board and became effective December 28, 2012. This permit incorporated both the Bacteria and Trash TMDLs, and included new requirements and specifications for a Monitoring and Reporting Plan (MRP) with the following primary objectives:

- Assess the chemical, physical, and biological impacts of discharges from the MS4 on receiving waters.
- Assess compliance with receiving water limitations (RWLs) and water quality-based effluent limitations (WQBELs) established to implement TMDL wet weather and dry weather waste load allocations (WLAs).
- Characterize pollutant loads in MS4 discharges.
- Identify sources of pollutants in MS4 discharges.
- Measure and improve the effectiveness of pollutant controls implemented under the Permit.

Default monitoring requirements are specified in the MRP; however, Permittees had the option to develop a Coordinated Integrated Monitoring Program (CIMP) that utilized alternative approaches to meet the stated primary objectives. The CIMP option is designed to provide the means to develop the information necessary to guide management decisions and to measure compliance with the permit. The City of Agoura Hills, along with its watershed partners, submitted the Final Draft CIMP prior to the June 28, 2014 deadline. Even though the submitted CIMP includes TMRP implementation measures that will supersede our existing plans and programs, the Regional Board staff stated the responsible agencies were required to implement the TMRP starting November 30, 2014, and remain in effect until the CIMP has begun.

Since the TMRP is inclusive of many agencies, an agreement was executed on December 8, 2014, with the watershed agencies paying a fair share of the contract based on the number of monitoring sites, a 10% contingency, and a 10% management fee, which is covered collectively by all of the watershed agencies to the lead city providing management of the compliance monitoring program. Staff supports this request since the management fee collected from the agencies reduces the net fiscal impact to the City. The original Memorandum of Understanding (MOU) anticipated the CIMP would be approved by the end of June 2015, but now may be delayed until next year. This report seeks to amend the original MOU by increasing the budget and specify the cost share allocations through June 30, 2016. The estimate from the consultant to implement the TMRP is \$114,833.84 and is based on a CIMP approval in June 2016.

The proposed breakdown of the TMRP costs, including the 10% contingency and 10% management fee, are as follows:

Agency	Jurisdictional Sites	Jurisdictional Weighting	Agency Annual Total
City of Agoura Hills	2	25%	\$28,708.46
City of Calabasas	2	25%	\$28,708.46
City of Hidden Hills	1	12.5%	\$14,354.23
City of Malibu	1	12.5%	\$14,354.23
City of Westlake Village	1	12.5%	\$14,354.23
County of Los Angeles	1	12.5%	\$14,354.23
Total	8	100%	\$114,833.84

The City's fair-share costs have been accounted for in the FY15-16 stormwater budget.

The proposed amendment has been reviewed and approved as to form by the City Attorney.

RECOMMENDATION

Staff respectfully recommends the City Council authorize the Mayor to sign the First Amendment to the Memorandum of Understanding with the participating agencies for the Malibu Creek Watershed Trash and Monitoring Plan.

Attachment: First Amendment to Memorandum of Understanding for the Malibu Creek Watershed Trash Monitoring and Reporting Plan

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

REGARDING THE ADMINISTRATION AND COST SHARING FOR IMPLEMENTING
THE TRASH MONITORING AND REPORTING PLAN ("TMRP") FOR THE MALIBU
CREEK WATERSHED

This First Amendment ("FIRST AMENDMENT") is made and entered into as of the date of the last signature set forth below by and between the COUNTY OF LOS ANGELES ("COUNTY"), a political subdivision of the State of California, and the CITIES OF AGOURA HILLS, CALABASAS, HIDDEN HILLS, MALIBU AND WESTLAKE VILLAGE. Collectively, these entities shall be known herein as "PARTIES" or individually as "PARTY."

WITNESSETH

WHEREAS, the Regional Water Quality Control Board, Los Angeles Region ("Regional Board") adopted Basin Plan Amendment - Resolution No: 2008-007 for the Malibu Creek Watershed Trash Total Maximum Daily Load ("Trash TMDL") on May 1, 2008, which became effective on July 7, 2009; and

WHEREAS, the Trash TMDL required the development and submittal of the TMRP to the Regional Board within 6 months from effective date of Trash TMDL; and

WHEREAS, the TMRP was submitted to the Regional Board by the PARTIES on April 29, 2010 and subsequently approved by the Regional Board Executive Office on May 30, 2014; and

WHEREAS, the Trash TMDL requires the PARTIES to begin implementing the TMRP within six (6) months from receipt of letter of approval from Regional Board Executive Officer; and

WHEREAS, on December 8, 2014, the PARTIES entered into that certain agreement entitled "MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF LOS ANGELES AND THE CITIES OF AGOURA HILLS, CALABASAS, HIDDEN HILLS, MALIBU AND WESTLAKE VILLAGE REGARDING THE ADMINISTRATION AND COST SHARING FOR IMPLEMENTING THE TRASH MONITORING AND REPORTING PLAN ("TMRP") FOR THE MALIBU CREEK WATERSHED" ("MOU").

WHEREAS, Section 5 of the MOU states that it shall remain in effect until November 30, 2016, and

WHEREAS, the MOU set forth the budget and cost share allocations only through June 2015 in Exhibit "A" to the MOU, and

WHEREAS, the PARTIES now desire to amend Exhibit "A" to increase the budget and specify the cost share allocations through June 30, 2016; and

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

1. Exhibit "A" (MALIBU CREEK WATERSHED COST SHARE FORMULA) to the MOU is hereby amended in its entirety by replacing it with Exhibit "A" as attached hereto and incorporated herein as though set forth in full.

2. Except for the changes specifically set forth herein this FIRST AMENDMENT, 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 _____
GAIL FARBER, Director of Public Works

Date

APPROVED AS TO FORM:

MARY C. WICKHAM, Interim County Counsel

By _____
Deputy

Date

CITY OF AGOURA HILLS

By _____
Illece Buckley Weber, Mayor

Date

ATTEST:

By _____
Kimberly Rodrigues, City Clerk

Date

APPROVED AS TO FORM:

By _____
Candice K. Lee, City Attorney

Date

CITY OF CALABASAS

By _____
Lucy M. Martin, 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 _____
Larry G. Weber, Mayor

Date

ATTEST:

By _____
Deana L. Graybill, City Clerk

Date

APPROVED AS TO FORM:

By _____
Roxanne M. Diaz, City Attorney

Date

CITY OF MALIBU

By _____
Jim Thorsen, City Manager

Date

ATTEST:

By _____
Lisa Pope, City Clerk

Date

APPROVED AS TO FORM:

By _____
Christi Hogin, City Attorney

Date

CITY OF WESTLAKE VILLAGE

By _____
Ned E. Davis, Mayor

Date

ATTEST:

By _____
Beth Schott, City Clerk

Date

APPROVED AS TO FORM:

By _____
Terence Boga, City Attorney

Date

**EXHIBIT A
MALIBU CREEK WATERSHED
COST SHARE FORMULA**

Table 1. Estimated Consultant Contract Costs

Item		Total Cost 12/2014-6/2015	Total Cost 7/2015-6/2016
Consultant Contract Cost	(a)	\$59,583.00	\$94,904.00
Contract Contingency	(b) = (a) x 10%	\$5,958.30	\$9,490.40
Contract Cost Subtotal	(c) = (a) + (b)	\$65,541.30	\$104,394.40
Management Fee	(d) = (c) x 10%	\$6,554.14	\$10,439.44
Total Cost to be Shared	(e) = (c) + (d)	\$72,095.44	\$114,833.84

Table 2. Cost Allocation Formula

Party	Jurisdictional Sites (CMS) ¹	Jurisdictional Weighting	Cost Share ² 12/2014-6/2015	Cost Share ² 7/2015-6/2016
City of Agoura Hills	2	25.0%	\$18,023.86	\$28,708.46
City of Calabasas	2	25.0%	\$18,023.86	\$28,708.46
City of Hidden Hills	1	12.5%	\$9,011.93	\$14,354.23
City of Malibu	1	12.5%	\$9,011.93	\$14,354.23
City of Westlake Village	1	12.5%	\$9,011.93	\$14,354.23
County of Los Angeles	1	12.5%	\$9,011.93	\$14,354.23
Total	8	100%	\$72,095.44	\$114,833.84

¹ Based on number of TMRP Compliance Monitoring Sites (CMS) attributed to each jurisdiction.

² Share based on Item "e" in Table 1.