

Effective Date: _____

**MEMORANDUM OF UNDERSTANDING
BETWEEN
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
LOS ANGELES REGION
AND
THE CITY OF AGOURA HILLS
REGARDING ONSITE WASTEWATER TREATMENT SYSTEMS**

I. RECITALS

WHEREAS, section 13260 of the California Water Code (CWC) requires any person discharging waste or proposing to discharge waste that could affect the quality of waters of the State, except to a community sewer system, to file a report of waste discharge with the local California regional water quality control board which has jurisdiction over the discharge;

WHEREAS, in accordance with section 13260 of the CWC, the California Regional Water Quality Control Board, Los Angeles Region, hereafter referred to as the Regional Board, issues waste discharge requirements (WDRs) to dischargers covering specific waste discharges or types of waste discharge, including discharges from onsite wastewater treatment systems;

WHEREAS, section 13269 of the CWC authorizes a Regional Board to waive the requirement for a report of waste discharge or waive the need for the regional board to issue WDRs as to specific discharges or types of discharges where such waiver is consistent with any applicable state or regional water quality control plans and is in the public interest;

WHEREAS, sections 13290 and 13291 of the CWC require the State Water Resources Control Board (State Board) to establish statewide standards for the regulation of certain onsite wastewater treatment systems (OWTSs) and authorize the Regional Board to delegate implementation of these standards to a Qualified Local Agency (QLA);

WHEREAS, in 1952, the Regional Board adopted Order 52-4, which waived the requirement for homeowners to obtain WDRs for residential OWTSs in the Region. Section 13269 of the CWC required the Regional Board to review and renew these waivers by June 30, 2004. The waivers may not exceed five years in duration and may be terminated by the State Board or Regional Board at any time;

WHEREAS, at its regular Board meeting on June 10, 2004, the Regional Board voted to extend the waivers for 120 days in the incorporated portions of the County of Los Angeles with the understanding that, during the 120 day period, the County of Los Angeles (County) and other local agencies would enter into MOUs with the RWQCB regarding the regulation of certain OWTSs. The Regional Board also resolved that these waivers should be extended to five years for onsite wastewater treatment systems located in areas where a local agency has entered into an individual MOU with the Regional Board;

WHEREAS, OWTSSs have been used as a form of wastewater disposal for many decades. Currently, the number of individual residential OWTSSs in the Region (Ventura and Los Angeles Counties) exceeds 100,000. In many instances, the discharge from these systems does not adversely affect the beneficial uses of groundwater or surface water quality;

WHEREAS, in some areas, the distance between the leach field or seepage pit and the groundwater may not be sufficient to provide adequate treatment of wastes discharged to OWTSSs. In some cases, the proximity of these systems to surface water bodies may result in surface water contamination from inadequately treated wastes. In other instances, the area density and cumulative effects of numerous systems may result in inadequate waste treatment. Additional factors may also impede the effectiveness of these systems and create conditions that adversely affect water quality;

WHEREAS, the Regional Board and the City of Agoura Hills (City) desire to protect water quality and the public health;

WHEREAS, the City, through the adoption of applicable portions of the California Plumbing Code in Chapter 3 of Article VIII of the Agoura Hills Municipal Code (Municipal Code), including without limitation, Appendix K of the California Plumbing Code, as well as other provisions, has established requirements for the design, siting and operation of OWTSSs that are in the incorporated areas of the City;

WHEREAS, the Regional Board wishes to designate the City as the QLA for the regulation of certain OWTSSs within the City, and the City is willing to accept such designation for the term of this Memorandum of Understanding (MOU);

WHEREAS, the Regional Board has found that this MOU satisfies the requirements of section 13269 of the CWC and enables the Regional Board to issue waivers of WDRs for those OWTSSs regulated by the City, as detailed in this document; and

WHEREAS, pursuant to Resolution R4-008, the Regional Board has delegated to its Executive Officer the power to negotiate and enter into this MOU on behalf of the Regional Board.

NOW, THEREFORE, THE REGIONAL BOARD AND THE CITY HEREBY AGREE, AS FOLLOWS:

II. DESIGNATION AND AGREEMENT

1. The Regional Board designates the City as the QLA, and the City accepts that designation, for the implementation of applicable siting, permitting, construction, inspection, monitoring, and performance requirements pursuant to the Municipal Code and this MOU for certain OWTSSs within the City (City-regulated OWTSSs), as defined in section III.1 of this MOU.
2. The Regional Board and the City agree that the Municipal Code, the County Plumbing Code and Section V of this MOU will govern applicable siting, permitting, construction, inspection, monitoring, and performance requirements for the City-regulated OWTSSs.

3. This MOU shall be effective for a term of five (5) years from the effective date hereof, in accordance with the provisions of Section VIII hereof, and shall be renewable subject to the provisions of Section VII hereof.

III. APPLICABILITY

1. "City-regulated OWTSSs" shall consist of those OWTSSs that generate 20,000 gallons per day or less of "Domestic Sewage" (as that term is defined in Title 28 of the County Plumbing Code) that is disposed of below the ground surface from single family residential structures not covered under Subsection III.2 below.

Notwithstanding the provisions set forth above, City-regulated OWTSSs shall not include those systems that, upon mutual agreement of the City and the Regional Board, require the issuance of a WDR by the Regional Board. In the event that the City requests the Regional Board to issue a WDR to the operator of such OWTSSs, the Regional Board shall not unreasonably delay such request or unreasonably delay issuance of the WDR.

2. This MOU shall not apply to any other OWTSSs within the City, including those that:
 - a. generate over 20,000 gallons per day, or
 - b. discharge wastes from residential developments of more than two homes, or
 - c. discharge wastes from multifamily residential facilities, or
 - d. discharge wastes from commercial facilities, or
 - e. dispose of sewage containing any industrial waste, or
 - f. are proposed to utilize above ground dispersal or storage of sewage effluent.
3. Nothing in this MOU shall in any way diminish or affect the ability of the City to exercise its authority through the Municipal Code or otherwise to regulate the type, siting, operation or any other aspect of OWTSSs to be operated in the incorporated areas of the City. Issuance of a WDR or other permit by the Regional Board shall not constitute authorization to any person or entity to construct, install or operate any OWTSS without City approval or otherwise in violation of the Municipal Code or the County Plumbing Code.

IV. GENERAL PROVISIONS

City Responsibility:

1. The City shall remain the agency responsible for the enforcement of all applicable Code requirements, as well as any "Interim Measures" set forth in Section V below, for the siting, design, approval, installation, operation, maintenance, and monitoring of City-regulated OWTSSs. *The Regional Board acknowledges and agrees that the City has delegated enforcement of such requirements to the County through a separate Health Services Agreement with the County.*

2. The City shall amend the Code within the time required under applicable state law or regulation following the effective date of any statewide standards adopted pursuant to sections 13290 and 13291 of the CWC, if necessary, in order to retain its QLA status under this MOU.
3. Upon the effective date of this MOU, the City shall request that the County begin an inventory of all existing City-regulated OWTSSs, utilizing an electronic database¹. Such inventory shall be completed within ten (10) years. The County shall prioritize this inventory based on threat to water quality as determined by the County Health Officer. The timeframe for submittal of the first phase of the inventory to the Regional Board is five (5) years. Within one year of the effective date of this MOU, the City shall provide to the County any information available to the City to assist the County in populating the database for City-regulated OWTSS¹.

The inventory shall consist of:

- The total number of existing City-regulated OWTSSs.
 - The location of each existing City-regulated OWTSS by street address, by parcel number, GPS location, or intersection.
 - The estimated depth to regional groundwater based on available data identified for the region of Los Angeles County wherein the City lies.
 - To the extent applicable, the distance of the nearest point of any part of the OWTSS to any stream, channel, or other watercourse or water body or, if exact location of the OWTSS is unknown, the City shall provide the distance between the nearest point of the property boundary to any stream, channel, or other watercourse or water body. In the alternative, the City shall provide available information regarding the size and other relevant characteristics of the parcel on which the OWTSS is located.
4. The City shall require any applicant for a Sewer Permit for a Private Sewage Disposal System (“Permit”) to install or repair an OWTSS that is subject to the Regional Board’s jurisdiction pursuant to Section III hereof to notify the Regional Board and shall not issue any such Permit until the applicant has received a WDR from the Regional Board.

Regional Board Responsibility:

5. After the City amends the Municipal Code, if necessary, as provided in Section IV.2 hereof, the Regional Board shall conduct an evaluation of the City’s performance under this MOU at least once every five years to ensure that such performance is in conformance with the statewide requirements. Such evaluation shall be based upon the information submitted by the City as set forth in Appendix A, attached hereto and incorporated herein by reference.

¹ The City and County shall obtain the required information through such means that do not require the City and County or its employees or contractors to gain access to private property.

6. The Regional Board shall provide assistance to the City upon request from the City. This assistance may be in the form of technical guidance, training opportunities, notification of grant or other funding opportunities and/or review of OWTSS.
7. The Regional Board shall provide timely notice to the City of the development of regulations, any proposed Basin Plan amendments, Regional Board orders or policies related to OWTSS subject to this MOU.
8. The Regional Board shall invite input from the City and other stakeholders during the review of any statewide standards adopted pursuant to sections 13290-13291.7 of the CWC or during the Basin Plan amendment process or the development of Regional Board Orders or policies that regulate OWTSS.
9. The Regional Board shall notify applicants for OWTSS that require WDRs and are to be located in the City that the applicant will also need to obtain a Permit from the City.
10. The Regional Board shall provide the City copies of WDRs, notices of violation, and any other permitting and enforcement actions related to OWTSS located within the unincorporated areas of the County.

V. INTERIM MEASURES

The following interim measures shall be implemented by the City as part of its obligation under this MOU.

1. The County Health Officer and the City Building Official (or their authorized designees) will act as the enforcing agencies for compliance with the Code and applicable State standards for new and existing City-regulated OWTSS. This shall include enforcement actions involving corrective measures necessary to cease the potential degradation of surface or ground waters by failing systems. Special attention shall be provided in areas adjacent to or hydraulically connected to water bodies identified as impaired under section 303(d) of the Clean Water Act and priority areas identified in section IV.3.
2. Where the County Health Officer or the City Building Official (or their authorized designee) has determined that the potential for ground or surface water degradation exists due to the existence of a failing City-regulated OWTSS, the property owner shall be ordered to initiate corrective action as follows:
 - a. utilize the 100% expansion area required by the County Plumbing Code to accommodate additional seepage pits or subsurface drain fields to mitigate failure.
 - b. if the 100% expansion area has been previously utilized or is deemed unsuitable by the County Health Officer or the City Building Official, an approved alternative or enhanced system may be used to the satisfaction of the County Health Officer or the City Building Official. The approval will require a recorded covenant and agreement between the homeowner and a third party contractor for maintenance and monitoring services, quarterly reports (telemetry and inspection) and annual effluent sampling to be

submitted to the County Health Officer and the City Building Official to determine compliance with the County Plumbing Code and the Municipal Code.

3. Once the County establishes a program to issue renewable operating permits for alternative or enhanced OWTSS (renewable at regular intervals), the City will adopt the same or similar program for alternative or enhanced OWTSS City-regulated OWTSS.
4. The City will require persons providing pumping services for City-regulated OWTSS to be licensed by the County.

VI. ALTERNATIVE SYSTEMS:

Use of alternative systems in circumstances and conditions other than those described in section V shall be permitted only after the County Health Officer and the City Building Official (or the City's authorized designee) are satisfied as to their adequacy. The adequacy determination will be based on extensive field and test data from conditions similar to those at the proposed site or on such additional data as may be necessary to provide assurance that the alternative system will produce continuous and long range performance at the proposed site. The approval will require a recorded covenant and agreement between the homeowner and a third party contractor for maintenance and monitoring service, quarterly reports (telemetry and inspection) and annual sampling.

VII. EVALUATION:

1. This MOU shall be evaluated pursuant to the factors set forth in Appendix A commencing no later than January 10, 2009 and every five years thereafter, and shall be re-negotiated if both parties agree to modification of the terms and conditions contained herein. If the MOU is not re-negotiated, it shall remain in effect for another five years. If re-negotiated, the re-negotiated MOU shall remain in effect for five years.
2. The evaluation of the City's performance under this MOU is a cooperative process between the City and the Regional Board. The intent of the evaluation is to identify those aspects of the program that provide desired results, and those that need improvement.
3. The information submitted to the Regional Board pursuant to Appendix A shall be used by Regional Board staff to evaluate the City's performance under the MOU. To the extent it has findings and recommended program modifications, Regional Board staff shall provide to the City in writing such findings and recommended modifications within thirty days of completion of the evaluation. The Regional Board shall provide at least twenty-one days written notice to the City prior to performance of the evaluation.
4. Within sixty (60) days of receipt of any written findings and recommended program modifications from the Regional Board, the City shall provide a written response detailing any actions taken or proposed regarding the findings and recommendations.

VIII. ENFORCEMENT OF THE MOU:

1. The Regional Board and the City each shall be responsible for enforcing its individual obligations under this MOU.
2. The City may terminate this MOU, with or without cause, upon ninety (90) days written notice to the Regional Board. The Regional Board may terminate this MOU, with or without cause, by vote of the Regional Board at a regularly noticed hearing of the Board. The Regional Board shall provide the City at least thirty days notice prior to such hearing. The City shall be given reasonable opportunity to comment upon the requested termination.
3. In addition to the foregoing, in the event that regulations under CWC sections 13290-13291.7 are not adopted by July 1, 2005, the Regional Board staff shall provide information, at a public hearing, to the Regional Board as to the status of adoption of the regulations, whereupon the Regional Board shall, at its discretion, have the right to terminate the MOU, or direct staff to renegotiate the MOU, or take other actions as the Regional Board shall deem appropriate.

IX. ACCEPTANCE:

This Memorandum of Understanding is hereby entered into by the parties on, and its effective date is, _____, 2005

[Insert the last date of the two signature dates below]

THE CITY OF AGOURA HILLS

Date

ED CORRIDORI, MAYOR

ATTEST:

KIMBERLY M. RODRIGUES, CITY CLERK

**CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD,
LOS ANGELES REGION**

Date

Jonathan Bishop
Executive Officer

**MEMORANDUM OF UNDERSTANDING
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION
AND
THE CITY OF AGOURA HILLS
APPENDIX A**

**INFORMATION REQUIRED FOR EVALUATION OF THE ONSITE WASTEWATER
TREATMENT SYSTEM PROGRAM OF THE CITY OF AGOURA HILLS**

1. The City of Agoura Hills (“City”) shall submit the following information to the Regional Board once every five years upon request:
 - The number of Permits (as that term is defined in the Memorandum of Understanding to which this Appendix A is attached (“MOU”)) issued for new construction, repairs, additions, and abandonment, organized by type (conventional or alternative) of City-regulated OWTSS (as that term is defined in the MOU).
 - The results of any monitoring program for City-regulated OWTSS.
 - A log containing complaints, directives to take corrective action and status of responses to directives for City-regulated OWTSS.
2. The five-year evaluation of the City’s implementation of the MOU by the Regional Board may include:
 - Office review of the Municipal Code.
 - Field review of City and County staff activity pertaining to the City’s performance under the MOU.
 - Field review of various types of City-regulated OWTSS. Any inspection of such OWTSS shall be done with the permission of the property owner or pursuant to appropriate legal process, the obtaining of which shall be the sole responsibility of the Regional Board.
 - Office review of files, inspection records, monitoring results and reports, plans or other information pertaining to City-regulated OWTSS.
 - Review of City-regulated OWTS owner outreach, education, and compliance assistance programs.
 - Review of any groundwater monitoring program implemented by the City for the purpose of monitoring discharges from City-regulated OWTSS.