

REPORT TO CITY COUNCIL

DATE: JUNE 28, 2023

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: JESSICA FORTE, PUBLIC WORKS DIRECTOR/CITY ENGINEER

SUBJECT: REQUEST TO APPROVE THE SECOND AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF AGOURA HILLS AND THE COUNTY OF LOS ANGELES, LOS ANGELES FLOOD CONTROL DISTRICT, AND THE CITIES OF CALABASAS, HIDDEN HILLS, AND WESTLAKE VILLAGE FOR THE MALIBU CREEK WATERSHED COORDINATED INTEGRATED MONITORING PROGRAM

The National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Permit (MS4 Permit) establishes water quality monitoring requirements for stormwater and non-stormwater discharges within the coastal watersheds of Los Angeles County.

The MS4 Permit, which is a highly complex document, allows the flexibility to coordinate and streamline monitoring efforts to meet the compliance monitoring requirements by developing a Coordinated Integrated Monitoring Program (CIMP). Since 2016, the Malibu Creek Watershed Enhanced Watershed Management Program (MCW EWMP) group, consisting of the County of Los Angeles (County), Los Angeles Flood Control District (LAFCD), and the cities of Agoura Hills, Calabasas, Hidden Hills, and Westlake Village have worked together to develop and implement the CIMP for the Malibu Creek Watershed.

The City Council approved a Memorandum of Understanding (MOU) with the other watershed agencies on October 23, 2019, which included estimated costs for monitoring and reporting for a total of four (4) years. Furthermore, the MOU included a special study that considered the attainability of limits required by the MCW Nutrient and Benthic Community Total Maximum Daily Loads (TMDLs). In addition to the shared costs, it was agreed upon that the City of Agoura Hills (City) would continue to administer the compliance monitoring program on behalf of the MCW EWMP group.

On May 26, 2021, the City Council approved the First Amendment to the MOU which corrected an error in the calculation of open space land under the jurisdiction of state parks that was inadvertently assigned to the County, which inflated their cost-share incorrectly.

With the current MOU set to expire on June 30, 2023, the MCW agencies wish to enter into a second amendment to the MOU. The proposed second amendment would extend the terms of the agreement for an additional four (4) years, fund the annual California Stormwater Quality Association (CASQA) regional membership fee, and define the shared costs for the continued implementation of the Malibu Creek CIMP. As with the previous MOU, the CIMP cost-share is based on jurisdictional area. The estimated breakdown of the proposed CIMP annual costs are as follows:

Estimated CIMP Costs

Agency	Acres	Percent of Area	FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27
County of Los Angeles	19,228	58.3%	\$493,665.64	\$474,339.79	\$778,367.73	\$45,687.07
City of Agoura Hills	5,178	15.7%	\$132,941.58	\$127,737.23	\$209,610.36	\$12,303.29
City of Calabasas	4,941	15.0%	\$126,856.77	\$121,890.62	\$200,016.38	\$11,740.16
City of Westlake Village	3,540	10.7%	\$90,887.06	\$87,329.04	\$143,302.57	\$8,411.29
City of Hidden Hills	105	0.3%	\$2,695.80	\$2,590.27	\$4,250.50	\$249.49
LA County Flood Control District	-	-	\$44,397.20	\$42,651.95	\$70,107.77	\$3,941.65

It should be noted the costs listed above include a 10% contingency, and the 5% management fee paid to the City for managing the compliance monitoring program. The City's estimated fair share has been accounted for in the proposed Fiscal Year 2023-24 Budget pending adoption by the City Council.

The proposed Second Amendment to the MOU has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff respectfully recommends the City Council approve the Second Amendment to the Memorandum of Understanding between the City of Agoura Hills and the County of Los Angeles, Los Angeles Flood Control District, and the cities of Calabasas, Hidden Hills, and Westlake Village for the Malibu Creek Watershed Coordinated Integrated Monitoring Program.

Attachment: Second Amendment to Memorandum of Understanding

**SECOND 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 SECOND AMENDMENT (“SECOND 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, in May of 2021 the PARTIES agreed to the First Amendment to correct 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

WHEREAS, the PARTIES have agreed to extend the terms of this AGREEMENT for an additional four fiscal years, fund the annual California Stormwater Quality Association regional membership fee (“CASQA FEE”) and 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.

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

1. **Section 5 (Term)** of the AGREEMENT is hereby amended to read as follows:

“Section 5. Term. This MOU shall become effective on the last date of execution by a PARTY and shall remain in effect until June 30, 2027.”

2. **Exhibit “B”** to the AGREEMENT is hereby amended by replacing said **Exhibit “B”** in its entirety with a new **Exhibit “B-1”** as set forth in **Attachment “A”** to this SECOND AMENDMENT, which is attached hereto and incorporated herein as though set forth in full.

3. 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 SECOND AMENDMENT to be executed by their duly authorized representatives and affixed as of the date of signature of the PARTIES:

//
//
//

COUNTY OF LOS ANGELES

By _____
Mark Pestrella, Director of Public Works

Date

APPROVED AS TO FORM:

DAWYN R. HARRISON
County Counsel

By _____
Deputy

Date

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT

By _____
Mark Pestrella, Chief Engineer

Date

APPROVED AS TO FORM:

DAWYN R. HARRISON
County Counsel

By _____
Deputy

Date

CITY OF AGOURA HILLS

By _____
Chris Anstead, 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 _____
David J. Shapiro, Mayor

Date

ATTEST:

By _____
Maricela Hernandez, City Clerk

Date

APPROVED AS TO FORM:

By _____
Matthew T. Summers, City Attorney

Date

CITY OF HIDDEN HILLS

By _____
Steve Freedland, 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 _____
Ray Pearl, Mayor

Date

ATTEST:

By _____
Antoinette Mann, City Clerk

Date

APPROVED AS TO FORM:

By _____
Terence Boga, City Attorney

Date

ATTACHMENT "A"

Effective as of July 1, 2023

EXHIBIT B-1

MALIBU CREEK WATERSHED COST SHARING TABLES

Table A1. Estimated Consultant Contract Costs for CIMP

Item		Fiscal Year 2023-2024	Fiscal Year 2024-2025	Fiscal Year 2025-2026	Fiscal Year 2026-2027 ⁽²⁾
Consultant Contract Cost	(a)	\$845,661.00	\$812,418.00	\$1,335,386.00	\$75,079.00
Management Fee	(b) = (a) x 5%	\$42,283.05	\$40,620.90	\$66,769.30	\$3,753.95
LACFCD 5% Allocation	(c) = ((a) + (b)) x 5%	\$44,397.20	\$42,651.95	\$70,107.77	\$3,941.65
Total Cost to be Shared ⁽³⁾	(d) = (a) + (b) – (c) + \$3,500	\$847,046.85	\$813,886.96	\$1,335,547.54	\$78,391.30
Total Cost Per Year	(e) = (c) + (d)	\$891,444.05	\$856,538.90	\$1,405,655.30	\$82,332.95
Contract Contingency ⁽¹⁾	(f) = (e) x 10%	\$89,144.41	\$85,653.89	\$140,565.53	\$8,233.30

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

(2) Consultant costs for completing the July 2025-June 2026 Annual Report and conducting associated meetings.

(3) "Total Cost to be Shared" includes up to \$3,500 per fiscal year for Agoura Hills to pay the regional membership CASQA FEE on behalf of the PARTIES, except for the LACFCD since it has its own CASQA membership and pays for it separately.

Table A2. Cost Share Allocation Formula for CIMP

Party	Acres	Percent of Area ⁽²⁾	Fiscal Year 2023-2024 ⁽³⁾	Fiscal Year 2024-2025 ⁽³⁾	Fiscal Year 2025-2026 ^{(3) (4)}	Fiscal Year 2026-2027 ⁽³⁾	Total Cost
City of Agoura Hills	5,178	15.7%	\$132,941.58	\$127,737.23	\$209,610.36	\$12,303.29	\$482,592.46
City of Calabasas	4,941	15.0%	\$126,856.77	\$121,890.62	\$200,016.38	\$11,740.16	\$460,503.93
City of Hidden Hills	105	0.3%	\$2,695.80	\$2,590.27	\$4,250.50	\$249.49	\$9,786.06
City of Westlake Village	3,540	10.7%	\$90,887.06	\$87,329.04	\$143,302.57	\$8,411.29	\$329,929.96
County of Los Angeles Unincorporated	19,228	58.3%	\$493,665.64	\$474,339.79	\$778,367.73	\$45,687.07	\$1,792,060.23
Los Angeles County Flood Control District ⁽¹⁾	-	-	\$44,397.20	\$42,651.95	\$70,107.77	\$3,941.65	\$161,098.56
Totals	32,992	100%	\$891,444.05	\$856,538.90	\$1,405,655.30	\$82,332.95	\$3,235,971.20

(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.

(4) Fiscal Year 2025-2026 includes an optional task for a full watershed management plan update in the amount of \$287,422. Written concurrence in support of the optional task from each agency representatives shall be made prior to the invoicing of the pro rata share.

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