



Meeting Date: 06 / 03 / 08

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Anthony Emmert Agenda Item No. **I-16**
 Reviewed By: City Manager [Signature] City Attorney [Signature] Finance [Signature] Other (Specify) [Signature]

DATE: May 13, 2008

TO: City Council

FROM: Mark Norris, Assistant Public Works Director
Public Works Department, Utilities Services Branch [Signature]

SUBJECT: Fiscal Agent Contract for Calleguas Creek Watershed
Total Maximum Daily Loads Implementation

RECOMMENDATION

That City Council approve and authorize the Mayor to execute Fiscal Agent Contract No. A-6966 with Calleguas Municipal Water District to collect and disburse funds associated with the implementation of Total Maximum Daily Loads (TMDLs) in the Calleguas Creek Watershed (CCWS).

DISCUSSION

The Regional Water Quality Control Board – Los Angeles Region (Regional Board) has adopted TMDLs for pollutants that have impaired water quality in the Calleguas Creek Watershed. These TMDLs set Wasteload Allocations for discharges permitted under the National Pollutant Discharge Elimination System (NPDES) program, and Load Allocations for other sources of impairment, such as agriculture. Oxnard is a minor discharger of urban runoff to the Revolon Slough/Beardsley Wash segment of the CCWS, and has participated in the development of the TMDLs.

On October 23, 2007, City Council approved and authorized the Mayor to execute a Memorandum of Agreement (MOA) with other dischargers in the CCWS for the implementation and monitoring of the TMDLs. This MOA calls for a separate public agency to serve as the Fiscal Agent with respect to collections of funds for the program elements agreed to under the MOA. Services required of the Fiscal Agent are described in the MOA, in particular Section 3 of Article II and Article III.

FINANCIAL IMPACT

There are no financial impacts related to the Fiscal Agent Contract.

MSN:AAE:MP:ss

Attachment #1 - Fiscal Agent Contract

FISCAL AGENT CONTRACT

This Fiscal Agent Contract ("Agreement"), effective as of June 3, 2008, is by and between the Calleguas Municipal Water District, a California special district ("Fiscal Agent") and the Parties of the Memorandum of Agreement for the Management, Funding and Cost Sharing for the Implementation of the Calleguas Creek Watershed Total Maximum Daily Load Program (collectively "Parties"). The Parties are the cities of Camarillo, Moorpark, Oxnard, Simi Valley, Thousand Oaks; the County of Ventura, Ventura County Waterworks District No. 1, Camarillo Sanitary District, Camrosa Water District, U.S. Department of the Navy, California Department of Transportation, and the Ventura County Agricultural Irrigated Lands Group within the Calleguas Creek watershed.

RECITALS

- A. Parties have entered into that certain Memorandum of Agreement for the Management, Funding and Cost Sharing for the Implementation of the Calleguas Creek Watershed Total Maximum Daily Load Program dated March 1, 2008 ("MOA"), which is attached and incorporated as Exhibit A. Unless otherwise defined in this Agreement, all initially capitalized words and terms will have the meanings provided in the MOA.
- B. The MOA calls for a separate public agency to serve as the Fiscal Agent with respect to the operations of the Program established under the MOA.
- C. Calleguas Municipal Water District is willing to provide the services required of the Fiscal Agent under the MOA and as provided in this Agreement.

AGREEMENT

1. Scope and Performance of Services:

Calleguas Municipal Water District agrees to perform the services ("Services") required of the Fiscal Agent in the time and manner described in the MOA, in particular, Section 3 of Article II and Article III.

Calleguas Municipal Water District will furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, and all other means whatsoever, except as otherwise expressly specified in this Agreement, necessary or proper to perform and complete the Services required of Fiscal Agent under this Agreement.

Fiscal Agent will not be compensated for any Services rendered in connection with this Agreement that are in addition to or outside of the Services set forth in this Agreement, unless such additional Services are authorized in advance and in writing by Parties.

Parties may request changes to the Services, consisting of additions, deletions, or other revisions, and the compensation to be paid Fiscal Agent will be adjusted

accordingly. All such changes must be authorized in writing, and executed by Fiscal Agent and Parties. The cost or credit to Parties resulting from changes in the Services will be determined by the written agreement between the parties.

2. Payment for Services:

Parties agree to pay or cause to be paid Fiscal Agent the sum of \$2,390.00 per month for the Services, which represents reimbursement for the anticipated reasonable and customary costs incurred as described in Section 3.2.C of the MOA. The Fiscal Agent and the Management Committee will review the Fiscal Agent's level of effort and reimbursement semi-annually and upon the concurrence of the Management Committee and Fiscal Agent may adjust the monthly payment up or down with an aggregate annual reimbursement not to exceed \$35,000.00. The annual audit required in the MOA, Section 2.3.J shall be submitted as a separate budget item and is not included in the monthly payment for Services. Parties have caused sufficient funds to be deposited with Fiscal Agent or in an account managed by Fiscal Agent to cover the monthly cost of such Services, Fiscal Agent is authorized to withdraw during the following month the amount owed for the prior month's Services.

Any payment to Fiscal Agent for Services performed under this Agreement will not be deemed to waive any defects in the Services performed by Fiscal Agent.

The Parties also acknowledge that the obligation of the California Department of Transportation ("Caltrans") to contribute funds under the MOA is subject to the appropriation of funds by the California Legislature and the allocation of funds by the California Transportation Commission.

3. Indemnification:

Fiscal Agent agrees to indemnify, defend, protect and hold harmless Parties from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively, "Claims"), which Parties may suffer or incur or to which Parties may become subject to the extent caused by the negligent or willfully wrongful acts or omissions of Fiscal Agent, its officers, employees, or agents committed in performing any Services under this Agreement. For the purposes of this section, "Parties" includes Parties' officers, officials, employees, agents and volunteers. The provisions of this paragraph do not apply to Claims occurring as a result of Parties' sole negligence or willful acts or omissions.

Parties shall jointly and severally, indemnify, defend, protect and hold harmless Fiscal Agent from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively, "Claims"), which Fiscal Agent may suffer or incur, or to which Fiscal Agent may become subject by reason of, or arising out of this Agreement and/or the MOA, including without limitation any claim for breach of contract or any other claim or action brought by any contractor or subcontractor. For the purposes of this section, "Parties" includes Parties' officers, officials, employees, agents and volunteers. The provisions of this paragraph do not

apply to Claims occurring as a result of Fiscal Agent's sole negligence or willful acts or omissions.

The provisions of this section will survive the expiration or earlier termination of this Agreement.

4. Insurance

Calleguas Municipal Water District (CMWD) is a member of the Association of California Water Agencies - Joint Powers Insurance Authority (ACWA-JPIA). As a member of this association, the District participates in both pooled and excess insurance coverage. Specifically the District maintains the following insurance coverage: Crime Policy including Employee Dishonesty, Forgery or Alteration, and Computer Fraud coverage and Liability Insurance including General Liability and Automobile coverage. Calleguas Municipal Water District shall maintain coverage as described in this section for the duration of this Agreement and shall notify the Parties of any intent to alter its coverage.

5. Termination of Agreement:

Parties may terminate this Agreement, with or without cause, at any time by written notice of termination to Fiscal Agent and reassignment of all contracts executed by the Fiscal Agent on behalf of the Parties. In the event such notice is given, Fiscal Agent must cease immediately all Services in progress.

Fiscal Agent may terminate this Agreement in accordance with Section 2.3 of the MOA.

6. General Provisions:

There are no understandings or agreements between Fiscal Agent and Parties other than those set forth in this Agreement. This Agreement may not be modified or amended except by written agreement of the parties. Fiscal Agent may not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Fiscal Agent's duties or obligations under this Agreement without the prior written consent of Parties. This Agreement is governed by California law.

IN WITNESS WHEREOF, the undersigned authorized representatives of the PARTIES have caused this Agreement to be executed on their behalf as of the date specified above, as follows:

PARTIES

CAMROSA WATER DISTRICT

Date: _____

APPROVED AS TO FORM:

By: _____
Chair, Board of Directors

By: _____
General Counsel

CAMARILLO SANITARY DISTRICT

Date: _____

By: _____
Chair, Board of Directors

APPROVED AS TO FORM:

By: _____
General Counsel

CITY OF CAMARILLO

Date: _____

By: _____
Mayor, City Council

APPROVED AS TO FORM:

By: _____
City Attorney

CITY OF MOORPARK

Date: _____

By: _____
Mayor, City Council

APPROVED AS TO FORM:

By: _____
City Attorney

CITY OF OXNARD

Date: _____

By: _____
Mayor, City Council

APPROVED AS TO FORM:

By: *James S. Rupp Jr.*
City Attorney

CITY OF SIMI VALLEY

Date: _____

By: _____
Mayor, City Council

APPROVED AS TO FORM:

By: _____
City Attorney

CITY OF THOUSAND OAKS

Date: _____

By: _____
Mayor, City Council

APPROVED AS TO FORM:

By: _____
City Attorney

COUNTY OF VENTURA

Date: _____

APPROVED AS TO FORM:

By: _____
Chair, Board of Supervisors

By: _____
County Counsel

VENTURA COUNTY WATERWORKS DISTRICT NO. 1

Date: _____

APPROVED AS TO FORM:

By: _____
Chair, Board of Directors

By: _____
General Counsel

UNITED STATES DEPARTMENT OF NAVY

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____
General Counsel

VENTURA COUNTY AGRICULTURAL IRRIGATED LANDS GROUP, a subdivision of the Farm Bureau of Ventura County

Date: _____

APPROVED AS TO FORM:

By: _____

By: _____
General Counsel

STATE OF CALIFORNIA
Department of Transportation
Will Kempton
Director of Transportation

By _____
Douglas R. Failing
District Director

Approved as to Form & Procedure:

By: _____
Attorney

Certified as to Funds:

By: _____
District Budget Manager

Certified as to Financial Terms and Conditions:

By: _____
Accounting Administrator

Calleguas Municipal Water District as FISCAL AGENT:

By: _____
General Manager

Exhibit A

(Copy of Memorandum of Agreement on file in City Clerk's Office)
Contract No. A-6966