



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: 1/4/2011

Report Type: Consent

Title: Memorandum of Understanding for Stormwater Ordinance Compliance Inspections

Report ID: 2011-00001

Location: Citywide

Recommendation: Adopt a Resolution authorizing the City Manager to sign a Memorandum of Understanding with Sacramento County for the Sacramento County Environmental Management Department (EMD) to continue to perform stormwater ordinance compliance inspections at industrial and commercial facilities in the City.

Contact: Bill Busath, Eng Mgr,(916) 808-1443; Sherill Huun, (916) 808-1455, Department of Utilities.

Presenter: N/A

Department: Department of Utilities

Division: Water Quality Engineering

Dept ID: 14001331

Attachments:

- 1-Description/Analysis
- 2-Background
- 3-Resolution-Agreement
- 4-Unexecuted Agreement Cover
- 5-Exhibit A-Agreement

City Attorney Review

Approved as to Form
Joe Robinson
12/29/2010 3:37:52 PM

City Treasurer Review

Prior Council Financial Policy Approval or
Outside City Treasurer Scope
Russell Fehr
12/2/2010 3:20:36 PM

Approvals/Acknowledgements

Department Director or Designee: William Busath - 12/29/2010 1:16:18 PM

Assistant City Manager: Cassandra Jennings - 12/29/2010 2:47:05 PM



Description/Analysis

Issue: In 2003, the City of Sacramento and County of Sacramento entered into a cooperative agreement (Agreement No. 2003-221) for the County's Environmental Management Department (EMD) to perform industrial and commercial facility inspections within the City for stormwater ordinance compliance. Such inspections are required by the terms of the National Pollutant Discharge Elimination System (NPDES) permit (Permit No. CAS082597) that governs the City's stormwater system. The term of the prior agreement has expired and City and County staff have negotiated a new Memorandum of Understanding (MOU) for the County EMD to continue these inspections.

Policy Considerations: Approval of this MOU is in accordance with the City's operating principles of promoting safety and enhancing livability.

Environmental Considerations:

California Environmental Quality Act (CEQA): The Environmental Services Manager has determined that the recommended action is exempt from the CEQA under section 15308 of the Guidelines. Exemption 15308 consists of actions taken by regulatory agencies for protection of the environment where the regulatory process involves procedures for protection of the environment.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: EMD's continued enforcement of the City's stormwater ordinance by inspecting industrial and commercial facilities will allow the City to remain in compliance with its NPDES permit in the most cost effective manner.

Financial Considerations: The recommended action to approve the new agreement will not have a financial impact. The cost for EMD's stormwater inspection program is covered by fees charged by EMD to the businesses and industrial facilities that EMD inspects.

Emerging Small Business Development (ESBD): Not applicable.

Background

In September 2008, the Regional Water Quality Control Board - Central Valley Region reissued a National Pollutant Discharge Elimination System (NPDES) permit (Permit No. CAS082597) to the County of Sacramento and the Cities of Sacramento, Citrus Heights, Elk Grove, Folsom, Galt, and Rancho Cordova (Permittees) regulating the discharge of stormwater into local water bodies. The Permit requires implementation of programs to reduce the pollution conveyed by stormwater runoff into local water bodies.

A provision in the NPDES permit requires that one stormwater ordinance compliance inspection be conducted every three years at the following types of businesses: auto repair and body shops, retail gasoline outlets, restaurants, kennels, equipment rentals, nurseries, auto dealers, and facilities covered under the State's General Permit for Storm Water Discharges Associated with Industrial Activities that are located in Sacramento County.

Activities at each facility must be examined for compliance with City and State stormwater regulations. The Sacramento County EMD, as both the State designated Certified Unified Program Agency (CUPA) and Environmental Health Agency for Sacramento County, was tracking, conducting inspections and otherwise regulating the majority of the commercial and industrial facilities that are listed in this provision of the NPDES permit. Therefore utilizing EMD's existing staff, which is already in the field for other inspection activities, was more cost effective than the creation of a separate inspection program administered by the City. The business community also benefits by avoiding the need for another single purpose regulatory inspection. The City and County entered into a cooperative agreement in 2003 (Agreement No. 2003-221) for the EMD to perform these services on the City's behalf. The term of the existing agreement, as extended, expired on December 31, 2010.

EMD has been very effective at enforcing the City's Stormwater Ordinance and ensuring that the commercial and industrial facilities within the City of Sacramento stay in compliance with the NPDES permit. The costs for the stormwater inspections are covered by EMD fees charged to the businesses.



RESOLUTION NO. 2011-

Adopted by the Sacramento City Council

January 04, 2011

MEMORANDUM OF UNDERSTANDING FOR STORMWATER ORDINANCE COMPLIANCE INSPECTIONS

BACKGROUND

- A. In September 2008, the Regional Water Quality Control Board - Central Valley Region reissued a National Pollutant Discharge Elimination System (NPDES) permit (Permit No. CAS082597) to the County of Sacramento and the Cities of Sacramento, Citrus Heights, Elk Grove, Folsom, Galt, and Rancho Cordova (Permittees) regulating the discharge of stormwater to local bodies of water.
- B. The NPDES permit requires that the Permittees develop and implement programs to reduce pollution caused by stormwater runoff. One of those programs is to inspect industrial and commercial facilities for compliance with the City's stormwater ordinance and the NPDES permit.
- C. In 2003, the City of Sacramento and Sacramento County entered into an agreement for the Sacramento County Environmental Management Department (EMD) to perform stormwater ordinance compliance inspections at industrial and commercial facilities within the City. The agreement term expired on December 31, 2010, and City and County staff have negotiated a new Memorandum of Understanding to continue these services.
- D. EMD has been very effective at enforcing the City's Stormwater Ordinance and ensuring that the commercial and industrial facilities within the City of Sacramento stay in compliance with the NPDES permit.
- E. The cost for EMD's stormwater inspection program is covered by fees charged to the businesses and industrial facilities that EMD inspects.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Manager is authorized to sign a Memorandum of Understanding with Sacramento County for implementing the commercial and industrial stormwater compliance program pursuant to National Pollutant Discharge Elimination System Stormwater Permit No. CAS082597.

Section 2. The agreement described in Section 1 is attached as Exhibit A and made a part of this Resolution.

Table of Contents:

Exhibit A - Memorandum of Understanding

Unexecuted Contract/Agreements

- The Unexecuted Contract/Agreement is signed by the other party, is attached as an exhibit to the resolution, and is approved as to form by the City Attorney.
- The Unexecuted Contract/Agreement (Public Project) is NOT signed by the other party, is attached as an exhibit to the resolution, and is not approved as to form by the City Attorney.
- The Unexecuted Contract is NOT included as an exhibit to the Resolution because the Agreement(s) is with other another governmental agency and it is not feasible to obtain the other agency's signature prior to Council action (be they denominated Agreements, MOUs, MOAs, etc.); however, the City Attorney approves the forwarding of the report to Council even though the signed agreement is not in hand yet.
- The Unexecuted Contract is NOT included as an exhibit to the resolution because, due to special circumstances, and the City Attorney confirms in writing that it is okay to proceed with Council action even though the signed agreement is not in hand yet.

All unexecuted contracts/agreements which are signed by the other parties are in the Office of the City Clerk before agenda publication.



MEMORANDUM OF UNDERSTANDING

COUNTY OF SACRAMENTO RESPONSIBILITIES FOR IMPLEMENTING THE COMMERCIAL AND INDUSTRIAL STORMWATER COMPLIANCE PROGRAM PURSUANT TO NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER PERMIT NO. CAS082597

This Memorandum of Understanding (“MOU”) is made and entered into this ____ day of _____ 2011, by and between the County of Sacramento, acting through its Environmental Management Department (EMD) and the City of Sacramento (City).

RECITALS

WHEREAS, in 1987 Congress amended Section 402 of the Federal Clean Water Act to require the United States Environmental Protection Agency (“EPA”) to promulgate regulations for permits for stormwater discharges; and

WHEREAS, the regulations are designed to control pollutants associated with stormwater discharges through the use of the National Pollutant Discharge Elimination System (“NPDES”) permit system which allows the lawful discharge of stormwater into the waters of the United States; and

WHEREAS, the EPA has delegated to the State of California the authority to issue NPDES permits; and

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region (“Regional Board”) has been charged by the California State Water Resources Control Board with the responsibility to issue NPDES permits within the Central Valley Region; and

WHEREAS, on September 11, 2008, the Regional Board adopted a NPDES stormwater permit No. CAS082597, Order No. R5-2008-0142, (hereinafter referred to as “Permit”) for the County of Sacramento and the Cities of Citrus Heights, Elk Grove, Folsom, Galt, Rancho Cordova and Sacramento (hereinafter collectively referred to as the “Permittees”); and

WHEREAS, the County of Sacramento and the cities of Sacramento, Citrus Heights, Elk Grove, Folsom, Galt and Rancho Cordova partner on regional stormwater management program activities and when doing so, collectively refer to themselves as the Sacramento Stormwater Quality Partnership (Partnership); and

WHEREAS, the Partnership must comply with the Permit, its successor Permit, and other stormwater compliance documents subject to modification by the Regional Board; and

WHEREAS, the Permit specifies that the November 2009 Stormwater Quality Improvement Plan (SQIP), which was approved by the Regional Board on January 29, 2010, is included by reference as part of the Permit, and is enforceable as such; and

WHEREAS, references in this MOU to the Permit shall be construed as including applicable sections of the SQIP, and any other valid order or instrument issued by the Regional Board regarding implementation of the Permit; and

WHEREAS, the members of the Partnership are individually and separately liable for compliance with the Permit within their respective jurisdictions; and

WHEREAS, Provision 9 of the Permit includes the requirement to track, inspect and ensure compliance with the Stormwater Ordinance at industrial and commercial facilities; and

WHEREAS, the SQIP identifies the EMD's Commercial and Industrial Stormwater Compliance Program (CISCP) as a mechanism for addressing industrial sources of top priority target pollutants; and

WHEREAS, the County of Sacramento and City have adopted ordinances codified at Chapter 15.12 and Chapter 13.16 of the County and City Codes, respectively, to prohibit the discharge of pollutants to the municipal storm drain system and local creeks and rivers (individually referred to as the "County Stormwater Ordinance" and "City Stormwater Ordinance", respectively, and collectively referred to as the "Stormwater Ordinances"); and

WHEREAS, EMD, as both the State designated Certified Unified Program Agency (CUPA) and Environmental Health Agency for Sacramento County, is currently tracking, conducting inspections and otherwise regulating, pursuant to Chapter 6.11, Division 20 and Chapter 2, Part 7, Division 104 of the Health and Safety code, the majority of the commercial and industrial facilities that are subject to compliance with the Stormwater Ordinances; and

WHEREAS, the City has determined that the cost to track, inspect and ensure stormwater compliance at commercial and industrial facilities in the City is such that it would be more economical, feasible, and appropriate to utilize the services of EMD to fulfill the commercial and industrial stormwater program requirements of the Permit; and

WHEREAS, pursuant to Sacramento City Code Section 13.16.150, City may enter into agreements with Sacramento County for Sacramento County and its authorized officials and employees to administer and enforce the City Stormwater Ordinance with respect to commercial and industrial facilities in the City by including these facilities in EMD's commercial and industrial compliance program; and

WHEREAS, pursuant to Sacramento City Code Section 13.16.180(C), if the City and Sacramento County enter into such an agreement, any administrative or civil enforcement by EMD of the City Stormwater Ordinance with respect to such commercial and industrial facilities shall be governed by and conducted pursuant to the County Stormwater Ordinance.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, the parties hereto agree as follows:

I. SCOPE OF SERVICES

EMD shall provide services in the amount, type and manner described in Exhibit A, which is attached hereto and incorporated herein.

City shall provide services in the amount, type and manner described in Exhibit B, which is attached hereto and incorporated herein.

II. COORDINATION WITH PERMITTEES

EMD and City shall coordinate their activities under this MOU with the other Permittees, as described in Exhibit C of this MOU, which describes elements related to coordinating the CISCP with the similar programs that EMD anticipates implementing on behalf of the other Permittees.

III. FUNDING

Each party shall be responsible for its own costs of performing its respective responsibilities, as specified in Exhibit A and B.

IV. TERM

This Agreement shall be effective and commence as of the date first written above and shall end on June 30, 2015, unless extended by the mutual written agreement of the parties or sooner terminated as provided herein.

V. NOTICE

Any notice, demand, request, consent, or approval that either party gives the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail, addressed as follows:

TO City	TO EMD
Marty Hanneman	Val Siebal, Director
City of Sacramento	County of Sacramento
Department of Utilities	Department of Environmental Management
1395 35 th Avenue	10590 Armstrong Avenue
Sacramento, CA 95822	Mather, CA 95635

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

VI. COMPLIANCE WITH LAWS

CITY and COUNTY and their respective officers and employees shall observe and comply with all applicable Federal, State, County and City laws, regulations and ordinances, including but not limited to laws, regulations and ordinances governing conflict of interest.

VII. SHARE OF LIABILITIES

Notwithstanding any provision hereof to the contrary, if the Regional Board or other regulatory agency imposes penalties on the CITY, or any third party files a lawsuit against the CITY, based on any violation of the Permit by CITY, and such violation is related to any activities performed by either party under this Agreement, each party shall be responsible for the costs of such penalties or third party lawsuits to the extent that such penalties or lawsuits arise from activities performed or required to be performed by that party, its officers, directors, agents, employees, and volunteers, under this Agreement.

VIII. CONFLICT OF INTEREST

CITY and CITY officers and employees, and COUNTY and COUNTY officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property, or source of income which could be financially affected by or otherwise conflict in any manner or degree with the performance of services required under this MOU.

IX. EMPLOYMENT STATUS OF PERSONNEL

1. Any persons employed by COUNTY for the performance of services pursuant to this Agreement shall remain employees of COUNTY, shall at all times be under the direction and control of the COUNTY, and shall not be considered employees of the CITY. All persons employed by the COUNTY to perform services pursuant to this Agreement shall be entitled solely to the rights and privileges afforded to COUNTY employees and shall not be entitled, as a result of providing services hereunder, to any additional rights or privileges that may be afforded to CITY employees.
2. For the purpose of performing the services provided for in this Agreement, and for the purpose of giving official status to the performance thereof where necessary, every COUNTY officer and employee engaged in the performance of any service hereunder shall be deemed to be an agent of the CITY while performing such services for CITY, provided that such services are within the scope of this Agreement, are purely municipal functions and are performed as authorized by the Sacramento City Code. Notwithstanding the agency relationship established by this subsection, the CITY shall not be liable for any act or omission of any COUNTY officer or employee.
3. CITY shall not be liable for the payment of any salaries, wages, compensation or other benefits to any COUNTY employee performing services pursuant to this Agreement, or for compensation or indemnity to any COUNTY employee for injury or sickness arising out of his or her employment with the COUNTY and providing services pursuant to this Agreement.
4. COUNTY hereby indemnifies and holds CITY harmless from any and all claims that may be made against CITY based on any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

X. INDEMNIFICATION

City shall defend, indemnify and hold harmless County, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against all demands, claims, actions, liabilities, losses, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the performance of the Agreement, caused in whole or in part by the negligent or intentional acts or omissions of City officers, directors, agents, and employees (including its volunteers and students).

County shall defend, indemnify, and hold harmless City, its City Council, officers, directors, agents, employees, and volunteers from and against all demands, claims, actions, liabilities, losses, damages and costs, including reasonable attorneys' fees, arising out of or resulting from the performance of the Agreement, caused in whole or in part by the negligent or intentional acts or omissions of County's Board of Supervisors, officers, directors, agents, and employees (including its volunteers and students).

It is the intention of County and City that the provisions of this paragraph be interpreted to impose on each party responsibility to the other for the acts and omissions of their respective officers, directors, agents, employees, volunteers and students, County's Board of Supervisors, and City's City Council. It is also the intention of County and City that, where comparative fault is determined to have been contributory, principles of comparative fault will be followed and each party shall bear the proportionate cost of any damage attributable to the fault of that party, its officers, directors, agents, employees, volunteers and students, County's Board of Supervisors and City's City Council.

For tort liability purposes, neither City nor County nor their respective officials, officers, agents or employees shall be considered an agent of the other.

The parties shall provide written notification to the other party, within a reasonable time frame, of receipt of any claims, administrative actions or legal actions with respect to any of the matters described in this indemnification provision

XI. SUBCONTRACTS, ASSIGNMENT

1. Any subcontracting will be subject to all applicable provisions of this Agreement. Subcontracting services delivered under this Agreement shall not in any way relieve COUNTY of any duty or responsibility under this Agreement and COUNTY shall remain primarily obligated for the performance of all services.
2. This Agreement is not assignable by COUNTY in whole or in part, without the prior written consent of CITY.

XII. AMENDMENT

Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties.

XIII. INTERPRETATION

This MOU shall be deemed to have been prepared equally by both of the parties, and the MOU and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

XIV. TERMINATION

Either party may terminate this Agreement upon one hundred and eighty (180) days written notice to the other party. Notice shall be deemed served on the date of mailing.

XV. PRIOR AGREEMENTS

This MOU constitutes the entire contract between COUNTY and CITY regarding the subject matter of this MOU. Any prior agreements, whether oral or written, between COUNTY and CITY regarding the subject matter of this MOU are hereby terminated effective immediately upon full execution of this MOU.

XVI. EXHIBITS

The provisions of Exhibit A, Exhibit B, and Exhibit C are part of this MOU. Any terms used in the MOU and these Exhibits shall have the same meaning throughout, except where context clearly indicates otherwise.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be duly executed as of the day and year first written above.

SACRAMENTO COUNTY

ENVIRONMENTAL MANAGEMENT DEPARTMENT

By: _____

Date: _____

Val Siebal, Director

REVIEWED AND APPROVED BY COUNTY COUNSEL

By: _____

Date: _____

Deputy County Counsel

CITY OF SACRAMENTO

By: _____

City Manager

Date: _____

ATTEST:

City Clerk

Date: _____

Approved as to form:

City Attorney

Date: _____

EXHIBIT A
EMD DESCRIPTION OF RESPONSIBILITIES

EMD will implement a commercial and industrial facility stormwater regulatory program within the City of Sacramento limits. For the purposes of this memorandum, EMD's activities shall be referred to collectively as the Commercial and Industrial Stormwater Compliance Program, or CISCSP. For a set of commercial and industrial facilities that is defined herein, the CISCSP comprises activities by EMD described in this MOU, which include but are not limited to complaint response, facility screening, inspection, staff training, outreach, and enforcement. In coordination with complementary activities conducted by the City, the CISCSP will be designed and implemented to enforce the City Stormwater Ordinance and fulfill the City's requirements under Provision 9 of the Permit. The CISCSP shall be conducted in accordance with procedures specified in the County Stormwater Ordinance.

EMD will coordinate the CISCSP within the City limits, to the maximum extent practicable, with similar programs it implements on behalf of the other Permittees. Exhibit C describes some key provisions for coordinating this MOU with EMD's separate agreements with the other Permittees.

EMD is responsible for implementing the CISCSP in accordance with the following:

1. Facilities to be inspected

- a) Categories of facilities to be inspected by EMD as part of the CISCSP (CISCSP categories), which have been recognized through adoption of Chapter 6.99 of the Sacramento County Code - Environmental Management Department Regulatory Fees (Fee Ordinance), as of the date of execution of this MOU, and are listed as follows:
 - (1) Auto Body Shops
 - (2) Auto Dealers
 - (3) Auto Repair Shops
 - (4) Equipment Rentals
 - (5) Nurseries
 - (6) Kennels
 - (7) Restaurants
 - (8) Retail Gasoline Outlets
 - (9) General Permit Industry

- b) As necessary to comply with provisions of the Permit, categories may be proposed by the City or EMD for addition to or deletion from the CISCSP, according to procedures described in Exhibit C.

- c) EMD will work with City to evaluate potential changes to CISCSP categories.

- d) EMD may de-list facilities found during inspections to have no exposure of pollutants from their commercial/industrial activities. EMD will report these de-listed facilities for inclusion in the annual report, and continue to track such facilities in its database.
- e) EMD will only be responsible for implementing the CISCOP at facilities within CISCOP categories for which the Board of Supervisors has authorized the collection of fees for the program.

2. Maintenance of CISCOP facilities inventory

EMD will:

- a) maintain and regularly update the inventory of CISCOP facilities utilizing appropriate business-related data sources, and EMD area surveys. The inventory will be updated at least annually.
- b) maintain and update, as necessary, protocols for completing area surveys. Area surveys are a systematic program of field visits conducted by EMD to locate and identify businesses required to participate in one or more of EMD's compliance programs. Area surveys will be conducted in a manner to ensure that new CISCOP facilities are identified and incorporated into the CISCOP inspection cycle in a timely manner.
- c) at the request of the City or the Regional Board, evaluate a commercial or industrial facility to determine if it is within a CISCOP category, and add them to the inventory, as appropriate.

3. Inspections

EMD will:

- a) conduct stormwater compliance inspections of each individual facility (CISCOP facility) within the CISCOP categories at least once every three years.
- b) maintain and update, as necessary, forms used by its personnel to guide and document inspections for Permit compliance and reporting purposes, and to support enforcement actions.
- c) in consultation with the City, develop procedures to inspect mitigation measures for priority industrial target pollutant sources at CISCOP facilities, that are identified by the City as described in Exhibit C. Inspection procedures will be designed to provide reasonable assurance that pollutant sources are adequately managed to reduce pollutant discharge, while making efforts to coordinate them with existing inspection procedures, and to minimize the amount of additional time and resources necessary to implement them.

- i) As of the effective date of this MOU, and subject to the limitations described in Section 11 of this Exhibit, this provision shall apply to inspection of mercury switch management at scrap metal recyclers and automobile dismantlers (SIC Codes 5015 and 5093 respectively).

4. Enforcement

EMD will:

- a) maintain and update its progressive enforcement policy as needed, and in consultation with the City, to provide consistent enforcement of the City Stormwater Ordinance.
- b) provide the Regional Board enforcement assistance at CISC facilities that is consistent with the Permit, this MOU, and EMD's Enforcement Policy. Such assistance may include sharing of EMD records for the facility. At its discretion, EMD may assign staff to participate in joint inspections of CISC facilities with the Regional Board.

5. Complaint Response

For complaints related to stormwater discharges or other issues related to the Permit and City Stormwater Ordinance EMD will:

- a) respond to complaints at CISC facilities
- b) respond to complaints received regarding facilities not currently inventoried as a CISC facility, but for which there is credible information indicating a reasonable likelihood that it is in fact a CISC facility. Based on its investigation of the facility, EMD will determine whether or not it is a CISC facility. EMD will be responsible for investigation and enforcement of complaints at facilities it determines to be CISC facilities, and will refer complaints regarding non-CISC facilities to the City.
- c) Design and implement a system to review and refer complaints in a timely manner, so that complaints related to stormwater discharges or other issues related to the Permit and City Stormwater Ordinance at sites that are clearly not CISC facilities (based on available information), are referred to the City within a goal of one business day, to the extent practicable.
- d) respond to complaints in accordance with timelines specified in the Permit and Stormwater Ordinances. EMD will investigate within three business days complaints received from the Regional Board regarding CISC facilities.

6. Mitigation of Pollutant Sources

- a) If EMD discovers during an inspection or in response to a complaint that pollutants from a CISCOP facility pose an imminent threat of entering the City's storm drain system or natural surface water, and causing an exceedance of a receiving water limitation, EMD will take reasonable action to ensure that timely measures are taken to mitigate the pollutant source. EMD will either:
 - i) ensure that the responsible party has acted to effectively mitigate the pollutant source; or
 - ii) promptly notify the appropriate agencies that have the authority to abate the discharge in lieu of the responsible party.
- b) EMD will establish, maintain, and provide its staff with proper procedures and a current list of contacts for making appropriate notifications to other agencies for timely pollutant mitigation.
- c) EMD will not be financially responsible for pollutant mitigation.

7. Industry Outreach

EMD will:

- a) distribute during inspections, appropriate educational materials, which may include general industrial stormwater materials, and/or category specific materials.
- b) at its discretion, and using its funding sources, develop, reproduce, and distribute industrial outreach materials related to the CISCOP, in the interest of providing compliance assistance to CISCOP facilities.
- c) make reasonable efforts to accommodate requests by the City to distribute, during inspections, industrial stormwater outreach materials provided by the City.
- d) when requesting copies of the City produced outreach materials, do so in a timely manner to accommodate the need for the City to budget for their production. In general, such requests should be made by November 1 for the upcoming fiscal year.
- e) consult with the City on the content of outreach materials, and to the extent practicable, include information that the City determines is critical for overall compliance with the provisions of the Permit and City Stormwater Ordinance.

- f) at its discretion and in consultation with the City, conduct workshops and other outreach efforts to inform the regulated community of program activities, such as changes to CISCSP categories, proposed fee changes, significant compliance issues, and inspection/mitigation of target pollutant sources.

8. Staff training

EMD will:

- a) conduct annual training for all EMD staff involved in implementing the CISCSP. These trainings shall include an assessment tool to measure inspection staff's level of knowledge relevant to CISCSP.
- b) consult with the City on the content and timing of staff training, and include information that the City determines is critical for overall compliance with the provisions of the Permit.
- c) in consultation with the City, establish and implement a method to obtain data for assessing the effectiveness of staff training, that is consistent with the effectiveness assessment requirements of the Permit.
- d) provide training records and effectiveness assessment data to the City by August 10th of each year for the preceding fiscal year.

9. Record-keeping and notification systems

EMD will:

- a) maintain records related to the CISCSP (e.g. inspection forms, correspondence, photographs) for a minimum of five years
- b) modify its record keeping system, as needed and within the practical constraints of its existing system, to comply with data management and reporting requirements of the Permit.
- c) provide to the City by August 10th of each year inspection, enforcement, and complaint response data and documentation needed to achieve compliance with reporting requirements contained in the Permit for the preceding fiscal year.
- d) confer with the City at least annually to determine record keeping and reporting needs for Permit compliance, including but not limited to the annual report and effectiveness evaluation requirements.

- e) as with its other regulatory programs, EMD will prepare required records or documentation relating to the CISCSP for the purpose of a financial review or analysis by the County Auditor.
- f) refer to the Regional Board, significant violations of the City Stormwater Ordinance, and potential General Permit non-filers, as described in Provision 9 of the Permit, and Section 2.7.5 of the SQIP.

10. Program updates and coordination

EMD will be available to meet at least quarterly with the City to provide program updates and to facilitate coordination between EMD and the City.

11. Funding

- a) All of EMD's responsibilities defined in this MOU are contingent upon having approval by the Board of Supervisors for an adequate funding source. This limitation applies to
 - i) CISCSP activities currently funded by the Fee Ordinance. This is in recognition that funding currently authorized under the Fee Ordinance is subject to change by the Board of Supervisors, and that current funding levels may not adequately cover future program costs.
 - ii) any program changes, including:
 - (1) new activities or service levels resulting from this MOU and its Exhibits, that are not funded by the Fee Ordinance in force at the time of MOU execution.
 - (2) any new activities requested in the future by the City pursuant to this MOU and its Exhibits.
- b) EMD will
 - i) work with the City annually to evaluate compliance of the CISCSP with the requirements of the Permit and identify program elements that require additional funding, which may include program development and administration costs, data management, compliance assistance, inspection procedure changes, CISCSP category changes, and for any other reasons necessary to comply with the Permit.
 - ii) lead the effort to recommend necessary amendments by the Board of Supervisors to Chapter 6.99 of the Sacramento County Code - Environmental Management Department Regulatory Fees (Fee Ordinance) for fee adjustments related to CISCSP implementation. The Fee Ordinance will include a fee schedule detailing annual fees for all facilities included in the CISCSP.

EXHIBIT B

CITY DESCRIPTION OF RESPONSIBILITIES

City responsibilities under this Agreement include:

1. CISCOP Categories

The City will:

- a) identify and prioritize target pollutants as required by the Permit. Top priority target pollutants will be evaluated to identify significant commercial and industrial sources.
- b) as described in Exhibit C, identify categories of businesses as candidates to be added or deleted to the list of CISCOP categories. Since routine inspection is one of several options for controlling pollutants, commercial and industrial sources of target pollutants identified will be evaluated by the Permittees, in consultation with EMD, to determine if inclusion in the CISCOP is an appropriate, practical, and effective control measure.
- c) make the final determination of whether or not to propose to the Board of Supervisors changes to CISCOP categories.

2) Pollutant source identification and mitigation

The City, in cooperation with the other Permittees will identify and evaluate sources of and mitigation measures for top priority industrial pollutants, which may result in changes to inspection procedures, as described in Exhibit C.

3) Stormwater presentations

The City will, upon request by EMD, and pending availability of City staff, assist in the presentation of stormwater-related issues before the Board of Supervisors, other organizations, and individuals.

4) Maintain City Stormwater Ordinance

The City will:

- a) seek amendments to the City Stormwater Ordinance if and as necessary to ensure that EMD has adequate authority to implement and enforce the CISCOP.
- b) coordinate amendments to the City Stormwater Ordinance with EMD and as appropriate with other Permittees.

5) Support Outreach to CISC facilities

City will, in coordination with the other Permittees:

- a) supply EMD with copies of existing educational materials produced by City or the Permittees to be distributed during CISC inspections.
- b) participate in workshops and other outreach efforts with EMD to inform CISC facilities of significant program activities, such as changes to CISC categories, proposed fee increases, target pollutant control measures, and significant compliance issues.
- c) consult with EMD as appropriate on the content of industry outreach materials, and identify information that is critical to overall compliance with Permit and City Stormwater Ordinance requirements.
- d) develop and provide to EMD compliance assistance materials that are necessary to address control measures adopted to specifically address priority industrial pollutants identified through the process described in Exhibit C.

6) Staff training

City will, upon request by EMD, provide assistance in developing staff training modules and materials and identify information that is critical to overall compliance with Permit and City Stormwater Ordinance requirements.

7) Complaint response

City will respond to complaints related to commercial and industrial facilities located in the City that are not within CISC categories.

8) Reporting and documentation requirements

The City, in coordination with the other Permittees, will coordinate with EMD to develop reports that include data fields necessary to comply with reporting requirements contained in the Permit and to assess the effectiveness of the CISC.

9) Funding

- a) When making requests for program changes that are likely to require CISC fee increases, the City will make such requests no later than November 1 of the year preceding the fiscal year for which the change is requested, in consideration of the process and timeline necessary for EMD to propose and obtain amendments to the Fee Ordinance. Change requests made after November 1 may be considered on a case-by-case basis at the discretion of EMD.

Exhibit C

Permittee Coordination

1. Uniform Program Elements

EMD's intent, which is supported by the Permittees, is to design and implement a uniform commercial and industrial stormwater compliance program (Uniform Program) by establishing programs similar to the CISCSP within the cities of Citrus Heights, Elk Grove, Galt, Folsom, Rancho Cordova, Sacramento and the County of Sacramento, which are also subject to the Permit.

To implement such a program, separate agreements are necessary between the County (represented by EMD) and each of the Permittees. It is the intent of EMD and the Permittees to work together toward the goal of a Uniform Program supported by adoption of MOUs that establish within each city a commercial and industrial stormwater compliance program that is programatically consistent with the CISCSP defined by this MOU.

2. Procedures for incorporating changes to the CISCSP

Requests for changes to the CISCSP will be developed jointly by the Permittees, and forwarded to EMD by the Permittees.

As required by the Permit, the Permittees periodically evaluate the effectiveness of stormwater pollutant control programs, including the CISCSP. The Permit and SQIP identify the Target Pollutant Identification and Prioritization Process, and the Priority Industrial Pollutant Identification Program as key components for identifying priority pollutants associated with commercial and industrial businesses (priority pollutants). The Permittees anticipate that these processes will be conducted once during the term of this MOU.

Other components of the Permittees' effectiveness evaluation efforts, such as review of monitoring data, special monitoring studies, and evaluation of program elements such as industrial inspections and illegal discharges may also result in the identification of priority industrial pollutants. The Permittees anticipate that some or all of these processes may be conducted each year.

If, through the processes referenced above, the Permittees identify priority industrial pollutant sources that are not adequately addressed by current control measures, they will work with EMD under the terms of this MOU to evaluate these sources to determine if it is appropriate to address them through the CISCSP.

The following steps will be followed when considering additions to the CISCSP categories and/or inspection procedures, based on effectiveness evaluations:

- 1) Permittees will, through a variety of mechanisms described above, identify priority pollutants and their potential industrial sources.
- 2) Unless water quality impacts or Permit provisions dictate otherwise, the Permittees will select at most 2 top priority pollutant sources in any given fiscal year, and evaluate potential control methods for them. Routine inspections under the CISCOP will be one of several control options considered.
- 3) If, after initial consideration by the Permittees, routine inspections under the CISCOP appear to be a potentially necessary and viable control method, the Permittees will confer with EMD to more fully evaluate the practicality and effectiveness of routine inspections under the CISCOP for controlling the priority pollutant.

Factors to be considered when selecting control methods include the following:

- a) importance of the pollutant in receiving waters
 - b) importance of the industrial sources in urban runoff
 - c) financial cost and other impacts of the control measures (both to the business and regulating entity)
 - d) potential for utilizing other regulatory authorities (such as hazardous waste laws) to adequately address stormwater pollution concerns
 - e) practicality and effectiveness of the control measures.
- 4) If the Permittees and EMD determine that routine inspections under the CISCOP would be a necessary and appropriate pollutant control method, the Permittees and EMD will identify facility types that are known or likely to have priority industrial pollutant sources and are current CISCOP facilities. For these facilities, EMD will:
 - i) develop specific inspection procedures
 - ii) determine the additional cost, if any, of the new inspection procedures, over and above the cost of current inspections.
 - iii) propose any necessary fee increases for new inspection procedures in the next round of Fee Ordinance amendments.
 - iv) incorporate new inspection procedures in the CISCOP, pending approval of any necessary fee increases by the Board of Supervisors.
 - b) EMD and the Permittees will identify individual facilities that are priority industrial pollutant sources but are not within a CISCOP category. For these facilities, EMD will:
 - i) develop specific inspection procedures to address the priority industrial pollutant sources.
 - ii) determine the overall cost of including these facilities in the CISCOP.
 - iii) propose amendments to the Fee Ordinance that include necessary changes to CISCOP categories and fees.
 - iv) incorporate new facilities and inspection procedures in the CISCOP, pending approval of necessary CISCOP category changes and fee increases by the Board of Supervisors.

Effectiveness evaluations of the CISCIP may from time to time indicate that routine inspections of particular industry types may not be necessary for ensuring adequate control of stormwater pollutants from those facilities. In such case, the Permittees and EMD will evaluate the appropriateness of removing those industries from the CISCIP industry, and take action according to their findings. Factors to be considered include the following:

- a) Are inspections mandated by the Permit and how difficult would it be to obtain a Permit revision?
- b) How will ongoing control be assured?
- c) Will cessation of CISCIP inspections at these facilities negatively or positively impact EMD operations, or the CISCIP program as a whole?
- d) Would changes to inspection procedures or frequency be more appropriate?