

Intergovernmental Agreement Regarding the Operation, Function,
and Funding of the Storm Water Team

THIS AGREEMENT is made and entered into this 27th day of August, 2008, by and among the County of Bernalillo (“COUNTY”), the City of Albuquerque (“COA”), the Albuquerque Metropolitan Arroyo Flood Control Authority (“AMAFCA”), the New Mexico Department of Transportation (“NMDOT”), the Southern Sandoval County Arroyo Flood Control Authority (“SSCAFCA”), and the Ciudad Soil and Water Conservation District (“CIUDAD”), all political subdivisions of the State of New Mexico, and the University of New Mexico (“UNM”), a state educational institution, individually referred to as “Party” and collectively referred to as “Parties.”

WITNESSETH:

WHEREAS, the National Pollution Discharge Elimination System (NPDES) storm water discharge permits for small and large municipal separate storm sewer systems (“MS-4”) include a minimum control measure regarding public outreach and education; and

WHEREAS, this minimum control measure requires each permittee to develop and distribute educational materials to the community or conduct equivalent public outreach activities about the impacts of storm water discharges on receiving water bodies and the actions that the public can take to reduce pollutants in storm water runoff; and

WHEREAS, COA, AMAFCA, NMDOT, and UNM, co-permittees of a MS-4 Phase I permit, and the COUNTY, a permittee of a Phase II permit, entered into a Cooperative Agreement dated October 20, 2005 in order to accomplish said public outreach and education, and the group informally became known as the Storm Water Team; and

WHEREAS, the Storm Water Team hired a Storm Water Quality Education Coordinator (“Coordinator”) to help develop a public education campaign and produce public service announcements including print materials for distribution, and that contract expires November 2008; and

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WHEREAS, SSCAFCA desires to combine efforts to educate the public on storm water quality as required in their Phase II storm water discharge permit, and to become one of the participating agencies of the Storm Water Team; and

WHEREAS, CIUDAD desires to combine efforts to educate the public on storm water quality as part of their Watershed Restoration Action Strategy, and to become one of the participating agencies of the Storm Water Team; and

WHEREAS, SSCAFCA and CIUDAD both desire to provide funding as part of their membership to the Storm Water Team; and

WHEREAS, each Party has an interest in reducing pollution and/or meeting storm water permit requirements within their respective boundaries, which are shown in Exhibit 1; and

WHEREAS, with new members being added, it is appropriate to enter into this Agreement in order to formalize the Storm Water Team mission and function, and establish future funding streams.

THEREFORE IN CONSIDERATION OF THE PROMISES AND COVENANTS CONTAINED HEREIN, THE PARTIES HERETO AGREE AS FOLLOWS:

1. The Storm Water Team (“Team”) will include all members that have signed a Cooperative Funding Agreement, comply with its terms and continue to fund the team. Additional non-voting members will include other agencies, organizations, or individuals that will provide technical assistance needed to allow the Team to accomplish its mission.
2. The Team will serve as the focal point on public education and outreach regarding storm water quality in the Albuquerque Reach of the Rio Grande watershed, which is

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the area that drains to the Rio Grande between Algodones and Isleta Pueblo. The Team mission statement is hereby agreed to by the Parties:

The Storm Water Team is a multi-agency committee dedicated to providing public education and awareness regarding storm water pollution and how to reduce debris and other pollutants in the Albuquerque Reach of the Rio Grande and its tributary arroyos.

3. The Team will have an Executive Committee made up of one voting member from each Party in good standing, which is defined as having paid their expected contribution, as described in Section 4. Each Party in good standing will designate a staff member to be on the Executive Committee. Other staff liaisons will be assigned to the Team as necessary to support the Team mission. Other/outside agencies may participate on the Team by attending meetings and giving input; however, only the Executive Committee may vote on Team decisions. The purpose of the Executive Committee will be to administer and direct the Team and Coordinator in accordance with the provisions herein. Decisions of the Executive Committee will be decided by majority vote of the Executive Committee.
4. Each Party agrees to provide payment for Fiscal Year 2009 in the amount shown in the Contribution Schedule, which may include the value of Executive Committee approved in-kind services, in Attachment A. For subsequent Fiscal Years, the Contribution Schedule may be adjusted by the Executive Committee, including the value of in-kind contributions.
5. AMAFCA will be the fiscal agent for the purposes of this Agreement. All funds will be held in a separate bank account for the purposes of this Agreement. AMAFCA shall make available to any interested Party, all records, receipts, and other

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documentation with respect to all matters concerning this Agreement, and shall have this account included in its annual audit.

6. Each Party agrees that a Storm Water Quality Education Coordinator will be hired through the Request for Proposal (RFP) process in advance of the expiration of the current Coordinator's contract. The Coordinator shall be a contractor and not an employee of AMAFCA. Responsibilities included in the Storm Water Quality Education Coordination contract will be to develop and manage a comprehensive educational and awareness campaign, arrange all purchases for deliverables and advertising on behalf of the Team, and make presentations to the public as directed. Each Party will have one representative on the Selection Advisory Committee for the request for proposals process. The Selection Advisory Committee will rank proposals and recommend the top three respondents to the AMAFCA Board of Directors. Upon AMAFCA Board of Directors' approval, AMAFCA will negotiate an agreement with the selected consultant. The Executive Committee will provide input on scope and fees; however, final negotiations and approval will be at AMAFCA's sole discretion.
7. The Parties agree that the Storm Water Quality Education Coordination contract is an ongoing program. The effectiveness of the Storm Water Quality Education Coordination contract, with regard to the Team mission statement, will be evaluated prior to annual renewal(s) or request for proposals.
8. AMAFCA will invoice each Party for their respective participation, minus the value of any Executive Committee approved in-kind contributions, in July, at the start of the Fiscal Year. Each Party will pay such invoices to AMAFCA within forty-five

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(+5) days of the date of the invoice. Invoices will be sent to Team members listed in Attachment B.

9. It is intended that the Team's operation and function described in this Agreement are ongoing, subject to continued support and authorized funding by each of the Parties. Each Party has the option to not participate in this Agreement in the future by sending written notice to all the other participating Parties at or before the expiration of the Fiscal Year. In such event, the terminating Party shall not be entitled to return of any contribution(s) made under this Agreement; and this Agreement shall remain in full force and effect by and among the remaining Parties.
10. The Team may accept one-time contributions from outside funding sources, to be used to support the Team mission. The Executive Committee will consider the requested uses of such one-time contributions and will ensure the uses are consistent with the Team's ongoing public outreach and education program. Such contributions shall not constitute voting privileges on the Executive Committee.
11. The Parties agree that effort will be expended within the respective boundaries of each participating agency, proportional to funding contributions.
12. If any situation arises which adversely affects any Party's participation in this Agreement, said Party will immediately, and in writing, notify the other Parties. Any circumstance that materially affects this Agreement will be promptly and equitably resolved by all Parties and if necessary, an amendment to this Agreement shall be executed.
13. The obligations of each Party under this Agreement shall be performed in compliance with all applicable laws, statutes and ordinances. Nothing herein is intended to

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constitute any agreement for the Parties to perform any activity in violation of the Constitution or Laws of the State of New Mexico or the Ordinances of any entity that is a Party to this Agreement.

14. If any clause or provision in this Agreement is illegal, invalid or unenforceable, under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby.
15. It is specifically agreed among the Parties that this Agreement does not, and is not intended to, create in the public, or any member thereof, any rights whatsoever, such as but not limited to, the rights of a third Party beneficiary, nor to authorize anyone not a Party to this Agreement to maintain a suit for wrongful death or any other claim whatsoever.
16. As among the Parties, each shall be solely responsible for any and all liability from personal injury, including death, or damage to property, arising from any negligent or intentional act or failure to act of the respective Party, its officials, agents, contractors or employees pursuant to this Agreement. Liabilities of each Party shall be subject to the immunities and limitations of the Tort Claims Act, §§41-4-1, et seq., NMSA, 1978, and any amendments thereto. By entering into this Agreement, the COUNTY and its "public employees" as defined in the New Mexico Tort Claims Act, the COA and its "public employees" as defined in the New Mexico Tort Claims Act, AMAFCA and its "public employees" as defined in the New Mexico Tort Claims Act, NMDOT and its "public employees" as defined in the New Mexico Tort Claims Act, UNM and its "public employees" as defined in the New Mexico Tort Claims

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Act, SSCAFCA and its "public employees" as defined in the New Mexico Tort Claims Act, and CIUDAD and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.

17. The effective date of this Agreement shall be the latest date of approval by all of the interested Parties.
18. Upon approval by all Parties, the covenants, terms and conditions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors and assigns.

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IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as
of the day and year set forth above.

Albuquerque Metropolitan Arroyo
Flood Control Authority

Date: March 20, 2008



Danny Hernandez
Chair of the Board of Directors

Attest:



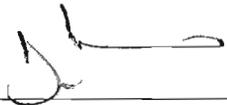
Tim Eichenberg,
Secretary/Treasurer

Date: March 20, 2008

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County of Bernalillo

Date: 5/21/08



Thaddeus Lucero, County Manager

Approved As To Form Only:



Deborah Seligman,
Assistant County Attorney

Date: 5/19/08

Recommended By:



Tom Zdunek
~~Tim West~~, Deputy County Manager
Public Works Division

Date: 5/21/08

BC CCN 2008-0264

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City of Albuquerque

Approved As To Form Only:

Roberto Williams GJS
City Attorney

Date: 5-12-08

Recommended By:

John Castillo
John Castillo, Director

Date: 5/13/08

Approved By:

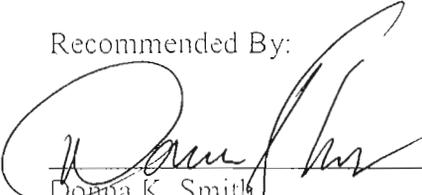
Dr. Bruce Perlman
Dr. Bruce Perlman, Chief Administrative Officer

Date: 5/16/08

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University of New Mexico

Recommended By:



Donna K. Smith

Director, Safety & Risk Services

Date: 4-23-8

Approved As To Form Only:

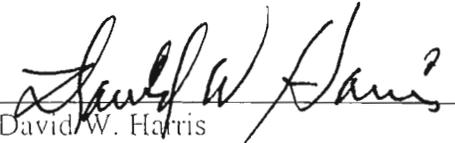


Richard Mertz

Associate University Counsel

Date: 4/29/08

Approved By:



David W. Harris

Executive Vice President for Administration

Date: 5/1/08

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New Mexico Department of Transportation

Approved As To Form Only:



Office of the General Counsel

Date: 5/22/08

Approved By:



Larry Velasquez, NMDOT District Three Engineer

Date: 8/28/08

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Ciudad Soil and Water Conservation District

Date: April 7, 2008

Lauro Silva
Lauro Silva, Chair

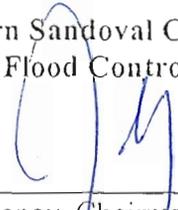
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Approved as to Form:


Bernard P. Metzgar
SSCAFCA Attorney

Date: 4/18/08

Southern Sandoval County
Arroyo Flood Control Authority

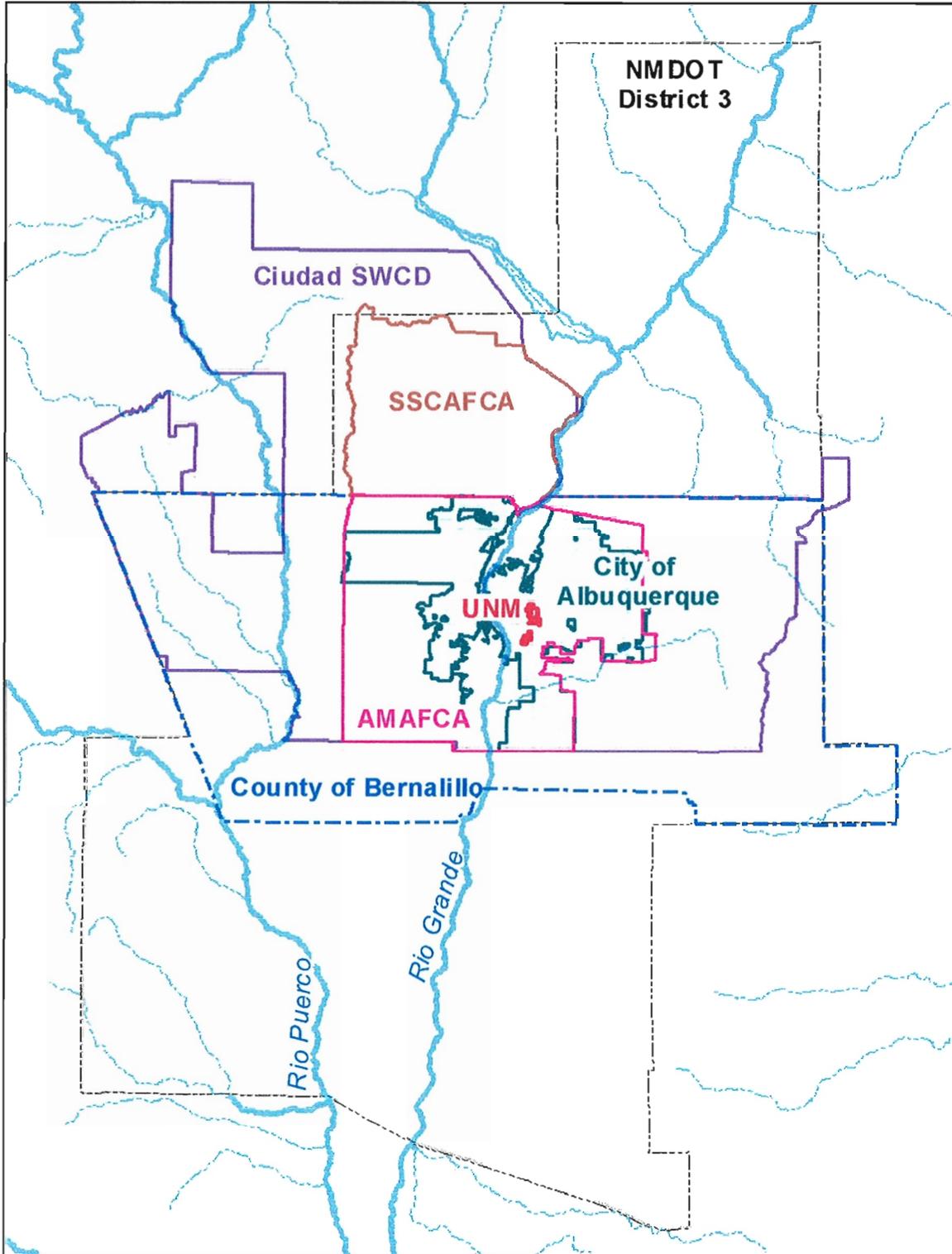


Date: 5/2/08

John Chaney, Chairman

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Exhibit 1
Boundaries of Participating Agencies



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Storm Water Team Intergovernmental Agreement – Attachment A

STORM WATER TEAM CONTRIBUTIONS

FY 05		Date received by AMAFCA
	AMAFCA	\$10,000 12/01/2004
	City of Albuquerque	10,000 04/28/2005
	County of Bernalillo	10,000 12/02/2004
	UNM	7,000* 07/19/2005 * \$5,000 in cash, \$2,000 in KNMI video
	<u>NMDOT</u>	<u>10,000</u> 05/26/2005
	Total	\$47,000
FY 06		
	AMAFCA	\$10,000 12/23/2005
	City of Albuquerque	10,000 01/23/2006
	County of Bernalillo	10,000 06/29/2006
	UNM	7,000 02/02/2006
	<u>NMDOT</u>	<u>10,000</u> 06/29/2006
	Total	\$47,000
FY 07		
	AMAFCA	\$10,000 03/21/2007
	City of Albuquerque	10,000 06/13/2007
	County of Bernalillo	10,000 02/11/2008
	UNM	7,000 05/22/2007
	<u>NMDOT</u>	<u>10,000</u> 04/02/2008
	Total	\$47,000
FY 08		
	AMAFCA	\$10,000 10/03/2007
	City of Albuquerque	10,000 09/25/2007
	County of Bernalillo	10,000 03/18/2008
	UNM	7,000 12/10/2007
	<u>NMDOT</u>	<u>10,000</u> 04/02/2008
	Total	\$47,000
FY 09	Expected Contributions	
	AMAFCA	\$10,000
	City of Albuquerque	10,000
	County of Bernalillo	10,000
	UNM	7,000
	NMDOT	10,000
	SSCAFCA	10,000
	<u>Crucial</u>	<u>10,000</u>
	Total	\$67,000

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Storm Water Team Intergovernmental Agreement - Attachment B

STORM WATER TEAM CONTACT ADDRESSES

Christy Burton
AMAFCA
2600 Prospect Ave NE
Albuquerque, NM 87107

cc Irene Jeffries (same address)
on invoices

Storm Drainage Section
Dept. of Municipal Development
Attn: Kathy Verhage
P.O. Box 1293, Rm. 301
Albuquerque, NM 87103

cc Roland Penttila (same address)
on invoices

Vern Hershberger
Safety & Risk Services
1 University of New Mexico
MSC07 4100
Albuquerque, NM 87131

277-9756

Send original invoices to:
Accounts Payable
1 University of New Mexico
MSC01 1290
Albuquerque, NM 87131

invoice must contain
P.O. Number
contact Vern Hershberger
for a P.O. # before
sending invoices.

Carol Moritz, Administrative Manager
Ciudad Soil & Water Conservation District
6200 Jefferson NE, Room 125
Albuquerque, NM 87109

Kathy Trujillo
New Mexico Department of Transportation
District 3
PO Box 91750
Albuquerque, NM 87199-1750

Patricia Dominguez
Bernalillo County
Public Works Division
2400 Broadway Blvd SE
Bldg N
Albuquerque, NM 87102

cc Mary Murnane (same address)
on invoices

David Stoliker
SSCAFCA
1041 Commerical N.E.
Rio Rancho, New Mexico 87124