

MEMORANDUM OF UNDERSTANDING CREATING THE NORTH BAY WATERSHED ASSOCIATION

This Memorandum of Understanding (MOU) is made and entered into by and between the parties that are signatories to this MOU, listed in Exhibit A attached hereto and incorporated by reference.

Section A. Recitals:

1. Each of the parties to this MOU is a local government entity functioning within the watershed of the San Pablo Bay.
2. The parties desire to establish a watershed association in order to facilitate partnerships across political boundaries that promote the ecological vitality of the San Pablo Bay watershed.
3. It is to the parties' mutual advantage and benefit to develop and implement cooperative restoration and protection efforts throughout the watershed and promote a regional alliance that supplements local government programs.
4. The parties hereto plan to develop joint proposals for funding and to obtain public support for local, state, federal, and other funding opportunities for programs that implement the mission and goals of the Association.
5. The parties hereto recognize the value of using common resources effectively.
6. The parties hereto desire to be proactive on watershed-based regulatory issues which affect areas beyond traditional political boundaries.
7. The parties hereto desire to educate the communities in the San Pablo Bay watershed about the importance of watershed stewardship.
8. The parties hereto wish to coordinate on local, state and federal policies and programs.
9. The parties hereto find that promoting the stewardship of the San Pablo Bay watershed resources is in the public interest and for the common benefit of all within the San Pablo Bay watershed.
10. The parties recognize that there are current and future regulatory requirements which apply to water resources in the San Pablo Bay watershed affecting one or more of said parties, and that these multiple regulatory requirements may be conflicting whenever one party's response to a regulatory requirement affects other requirements and/or parties. The parties agree to share information and coordinate efforts to comply with said regulatory requirements.

11. Although the initial focus of the Association will be on the northern portion of the San Pablo Bay, the geographic boundaries of the Association shall be the entire San Pablo Bay watershed.

Section B. General Provisions:

1. **Definitions.** As used in this MOU, the following words and phrases shall have the meanings set forth below unless the context clearly indicates otherwise.

(a) "MOU" shall mean this memorandum of understanding establishing the North Bay Watershed Association.

(b) "Association" shall mean the North Bay Watershed Association.

(c) "Board of Directors" shall mean the governing board established pursuant to this MOU.

(d) "Member" or "Members" shall mean the local and/or regional public agencies regulated under the Clean Water Act, 33 U.S.C. § 1251 et seq., the federal Safe Drinking Water Act, 42 U.S.C. § 300f et seq., and/or the state Safe Drinking Water Act, Health & Safety Code § 116275 et seq., that operate within or have jurisdiction over any area within the boundaries of the Association, and that are signatories to this MOU.

(e) "Watershed" shall mean the entire San Pablo Bay watershed. A map depicting the boundaries of the Association is attached hereto and incorporated herein as Exhibit B.

2. **Purpose.** This MOU is being entered into in order to establish the North Bay Watershed Association to carry out the mission, goals and objectives stated herein and as stated in the mission and goals attached hereto and incorporated herein as Exhibit C.

3. **Establishment of the Association.** There is hereby established the North Bay Watershed Association ("Association"). Although the initial focus of the Association will be on the northern portion of the San Pablo Bay, the geographic boundaries of the Association shall be the entire San Pablo Bay watershed (see Exhibit B).

4. **Association Membership.** The Association shall have three categories of members, as follows:

(a) Member. Any local and/or regional public agency regulated under the Clean Water Act, 33 U.S.C. § 1251 et seq., the federal Safe Drinking Water Act, 42 U.S.C. § 300f et seq., and/or the state Safe Drinking Water Act, Health & Safety Code § 116275 et seq., that operates within or has jurisdiction over any area within the boundaries of the Association may be a Member of the Association. Each Member must be a signatory to this MOU, and shall be entitled to one vote.

(b) Associate Member. Any association, stakeholder, organization, private group, or public agency supportive of the purposes of this Association may be an Associate Member of the Association to serve in an advisory capacity to the Association. The Board of Directors shall set the conditions and privileges of membership for Associate Members, and these conditions and privileges shall not be inconsistent with the terms of this MOU. Associate Members are not entitled to vote, and their membership is at the will of the Board of Directors.

(c) Ex Officio Member. State and federal agencies with regulatory authority over or an interest in the Watershed may participate as ex officio members of

the Association to serve in an advisory capacity to the Association. The Board of Directors shall set the conditions and privileges of ex officio membership for state and federal agencies. Ex officio members are not entitled to vote, and their membership is at the will of the Board of Directors.

5. Membership of the Board of Directors.

(a) The governing body of the Association shall be a Board of Directors consisting of a representative from each Member agency. The governing board of each of the Member agencies shall appoint one representative and one alternate representative.

(b) If the total number of Member agencies exceeds seventeen (17) Member agencies, the Members may vote to create an Executive Board of Directors smaller than 17 members. The Members may decide the composition, terms of office, method of appointment and number of representatives on the Executive Board of Directors, but the Board of Directors shall consist of at least five (5) members. The Members will strive to reflect on the Executive Board of Directors the variety and diversity of Member agencies. The vote to create an Executive Board of Directors must be a unanimous vote of all Members of the Association. If the Members decide to establish an Executive Board of Directors under this Section, each Member which is not represented on the Board of Directors shall continue to appoint one representative and one alternate to be that Member's representative to the Association and to cast votes on behalf of the Member agency when a vote of the membership is required. All references herein to "Board of Directors" shall include the Executive Board of Directors.

6. Voting Requirements.

(a) Each member of the Board of Directors of the Association shall have one vote. With the exception of the items set forth in subsections (b) and (c) below and as otherwise specified herein, if a quorum is present, the affirmative vote of the majority of members of the Board of Directors present is required to approve any item. In addition to conducting the regular business of the Association and to any authority outlined in the Association's bylaws, the Board of Directors may award, modify or accept work under any contract in an amount not to exceed \$10,000 by majority vote.

(b) A two-thirds majority vote of all Member agencies shall be required to adopt or modify the budget, award, modify or accept work under any contract in excess of \$10,000, grant any licenses or permits, accept any interest in land, and adopt or modify the by-laws of the Association.

(c) A unanimous vote of the governing body of each Member agency shall be required to modify this MOU.

7. Quorum. A majority of the members of the Board of Directors shall constitute a quorum for purposes of transacting business, except less than a quorum may vote to adjourn a meeting.

8. Terms of Office. Each member of the Board of Directors shall serve at the pleasure of his or her appointing body and may be removed as a member of the Board of Directors by the appointing body at any time. If at any time a vacancy occurs on the Board of Directors, a replacement shall be appointed by the Member agency to fill the unexpired term of the previous representative within ninety (90) days of the date that such position becomes vacant.

9. Alternates. Alternate representatives to the Association shall be empowered to cast votes in the absence of the regular member or, in the event of a conflict of interest preventing the regular member from voting, to vote because of such a conflict of interest.

10. Officers of the Association. The Board of Directors of the Association shall elect a Chair, a Vice-Chair and such other officers from the Board of Directors, as the Board of Directors deems appropriate. In electing a Chair and Vice-Chair, the Board of Directors shall encourage the election of individuals who are elected officials of the Member agencies. Such officers shall serve for a term of one (1) year unless sooner terminated at the pleasure of the Board of Directors. The duties of the Chair and Vice-Chair are as follows:

(a) Chair. The Chair shall represent the Board of Directors and, subject to the approval of the Board of Directors, oversee and carry out the affairs of the Association and the activities of the officers of the Board of Directors, the staff, and consultants. The Chair shall perform all duties incident to the office and such other duties as may be required to carry out this MOU or which may be prescribed from time to time by the Board of Directors.

(b) Vice-Chair. The Vice-Chair shall serve as the Chair in the absence of the regularly-elected Chair. In the event both the Chair and Vice-Chair are absent from a meeting which would otherwise constitute a quorum and a temporary Chair was not designated by the Chair at the last regular meeting, any Board member may call the meeting to order, and a temporary chair may be elected by majority vote to serve until the Chair or Vice-Chair is present.

11. Treasurer and Controller. The controller and the Treasurer of the Association shall be the financial officer or functional equivalent of one of the Member agencies, with the consent of the Member Agency, and shall be designated Treasurer and controller of the Association by a two-thirds majority vote of the Association. The Treasurer of the Association shall be the depositor and shall have custody of all money of the Association from whatever source. The controller of the Association shall draw warrants to pay demands against the Association when the demands have been approved by the Association or by its authorized representative pursuant to any delegation of authority authorized by the Association. The controller shall cause an independent annual audit of the Association's finances to be made by a certified public accountant.

The governing body of the same Member agency as the Treasurer and controller may determine charges to be made against the Association for the services of the Treasurer and controller. Payment of these charges shall be subject to the approval of the Board of Directors.

12. Clerk and Legal Counsel. The Board of Directors of the Association may appoint a clerk and legal counsel, as it deems appropriate. The clerk and/or legal counsel may be appointed from the staff of one of the Member agencies, with the consent of the Member agency. If the clerk and/or legal counsel is appointed from the staff of one of the Member agencies, the governing body of that Member agency may determine charges to be made against the Association for the services of the clerk

and/or legal counsel. Payment of these charges shall be subject to the approval of the Board of Directors.

13. Executive Director. The Board of Directors of the Association may appoint an Executive Director who shall be responsible to the Board of Directors for the proper and efficient administration of the Association as directed by the Board of Directors pursuant to the provisions of this MOU or of any resolution or order of the Board of Directors. The Executive Director may be appointed from the staff of one of the Member agencies, with the consent of the Member agency. If the Executive Director is appointed from the staff of one of the Member agencies, the governing body of that Member agency may determine charges to be made against the Association for the services of the Executive Director. Payment of these charges shall be subject to the approval of the Board of Directors.

The Executive Director serves at the will of the Board of Directors, and must give at least thirty (30) day's notice if he or she chooses to resign from the position.

In addition to any other duties that may be assigned, the Executive Director shall have the following authority:

- (a) to carry out action and direction from the Board of Directors as necessary;
- (b) under the policy direction of the Board of Directors, to plan, organize and supervise Association activities;
- (c) to authorize expenditures within the designations and limitations of the budget approved by the Association; and
- (d) to make recommendations to and requests of the Board of Directors concerning any matter which is to be performed, done or carried out by the Board of Directors.

14. Staff and Consultants. Through a Member agency, the Association may employ or contract for any staff or consultants as may be reasonably necessary to carry out the purposes of this MOU. If an employee from any Member agency performs staff or consulting work for the Association, the governing body of that Member Agency may determine charges to be made against the Association for the services of that employee. Payment of these charges shall be subject to the approval of the Board of Directors.

15. Annual Work Plan. Within ninety days after the first meeting of the Board of Directors, and each year by January 1, the Association shall prepare an annual work plan describing the work to be done by the Association in the ensuing fiscal year. The work plan shall segregate all work of the Association into two categories: overhead and programs. Work falling into the category of programs will be further segregated into sub-categories: programs of general benefit to all Member agencies and programs of specific benefit to one or more Member agencies. For each program, the work plan will set forth information including the following:

- (a) the purpose of the program;
- (b) the method by which the program will be carried out;
- (c) the products to be produced by the program;
- (d) the schedule for carrying out the program;
- (e) the responsibility for carrying out the program; and
- (f) the budget for the program.

The work plan will be prepared in three parts. Part A shall consist of the information on overhead. Part B shall consist of the information on programs of general benefit to all Member agencies. Part C shall contain the information on the programs of specific benefit to one or more Member agencies.

16. Annual Budget. Within ninety days after the first meeting of the Board of Directors of the Association, and thereafter prior to the commencement of each fiscal year (defined as July 1 through June 30), the Board of Directors shall adopt a budget for consideration and approval by the Association for the ensuing fiscal year. The budget shall include, but not be limited to, the following parts, with funding sources identified:

Part A of the budget shall set forth the cost of overhead and the allocation of overhead cost among Member agencies;

Part B of the budget shall set forth the cost of programs of general benefit and the allocation of costs of such programs among Member agencies;

Part C of the budget shall set forth the cost of programs of specific benefit to one or more agencies and the allocation of costs among participating agencies.

17. Allocation of Costs.

(a) Costs for work described in Parts A and B of the annual work plan shall be allocated equally among each of the Member agencies as follows:

(i) One half of these costs shall be allocated equally among each of the Member agencies;

(ii) One half of these costs shall be allocated among Member agencies in proportion to each agency's annual operating budget.

(iii) the allocation of costs to Associate Members for work described in Parts A and B of the annual work plan shall be determined by the Board of Directors on a case-by-case basis.

(b) Costs for work described in Part C of the annual work plan shall be allocated among those agencies participating in the programs in direct proportion to the benefits received by each agency in a manner established by the Board of Directors at the time each program of specific benefit is approved or revised.

18. Dues and Allocated Costs. The Board of Directors shall have the authority to assess dues for each membership category, not to exceed \$5,000. The Board of Directors shall also have the authority to assess each Member and Associate Member for costs set out in the annual budget, adopted pursuant to Section 16, and consistent with the allocation of costs, adopted pursuant to Section 17.

19. Termination of Membership.

(a) Causes. The membership and rights of membership shall terminate on the occurrence of any of the following causes:

(1) the voluntary resignation of a Member with notice as prescribed by Section 19(b) below;

(2) the nonpayment of dues or assessments subject to the limitations set forth in Section 19(c) below; or

(3) the occurrence of an event which renders an entity no longer eligible for membership, as determined by the Board of Directors.

(b) Resignation by Giving Notice. The membership of any Member of the Association shall automatically terminate on such Member's written request for

termination delivered to the Chair of the Board of Directors. Such notice shall be given at least sixty (60) days before the effective date of such resignation. There shall be no refund of any dues or assessments upon such resignation.

(c) **Nonpayment of Dues or Allocated Costs.** Any Member, which fails to pay its dues or allocated costs when due and within one hundred and twenty (120) days thereafter shall terminate its membership at the end of such one hundred and twenty (120) day period. Termination is effective upon the majority vote of the Board of Directors. Such Member shall be given fifteen (15) day's prior written notice of the termination stating the reasons therefore. The notice shall be given personally to such Member or sent by first-class mail to the last address of such Member as shown on the records of the Association.

(d) **Effect of termination.** All rights of a Member in the Association shall cease on the termination of such Member's membership. Termination shall not relieve the Member from any obligation for charges incurred or service or benefits actually rendered before the date of termination.

(e) **Application of this Section.** For purposes of this Section only, the term "Member" shall include Associate Members and ex officio members.

20. Procedures. The Board of Directors may adopt bylaws, rules of conduct of meetings, and operating procedures. The administrative procedures and policies of a Member agency may be adopted by the Association.

21. Meetings. The Association shall provide for regular and special meetings in accordance with the Ralph M. Brown Act (Chapter 9 (commencing with section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) or with any successor provision.

22. Reports to Member Agencies. Each year the Association shall submit a written report to the governing body of each of the Member agencies. This report shall describe the technical and financial activities of the Association during the preceding year.

23. Offices. For the purposes of forming the Association and for initial operation, the Board of Directors shall designate a location for the principal office of the Association and provide notice of the location to all Members, Associate Members, and ex officio members. The Board of Directors is hereby granted full power and authority to change said principal office from one location to another. Fifteen days prior to such change, the Chair shall each Member, Associate Member, and ex officio member in writing of the change.

24. Termination. This MOU shall remain in effect until terminated by a two-thirds majority vote of all Member agencies.

25. Disposition of Property and Surplus Funds. At the termination of this MOU, any and all property, funds, assets, and interests therein of the Association shall become the property of and be distributed to the Member agencies. Money collected from Member agencies and held in reserve by the Association for payment of costs of programs shall be allocated among Member Agencies in proportion to each agency's contributions to such reserves. All other property, funds, assets, and interests shall be

distributed to Member agencies in proportion to each agency's contributions to the Association for costs set forth in the annual budgets.

26. Minutes. The clerk appointed by the Board of Directors of the Association shall cause to be kept minutes of all meetings of the Board of Directors, and shall cause a copy of the minutes to be forwarded to each member of the Board of Directors

27. Effective Date. This MOU shall become effective and the Association shall be established when at least five agencies have authorized its execution.

**Memorandum of Understanding Creating
the North Bay Watershed Association**

Exhibit A

Napa County Flood Control and Water Conservation District,
a special district of the State of California

By: _____
Bill Dodd, Chairperson of the Board of Directors

Attest: Gladys I. Coil,
Secretary of the District Board

By: _____

Approved as to Form,
Office of District Counsel

By: Robert C. Martin (By E-Sign)

Date: July 1, 2010

Approved by the Napa County Flood Control and
Water Conservation District

By: _____
Deputy Secretary of the District Board

Date: _____

**Memorandum of Understanding Creating
the North Bay Watershed Association**

Exhibit A

Central Marin Sanitary Agency

Las Gallinas Valley Sanitary District

County of Marin

Marin Co Sanitary Dist. #1

Marin Co. Sanitary Dist # 5

Marin Co Stormwater Poll. rev.Prog

Marin Municipal Water District

North Marin Water District

City of Novato

Novato Sanitary District

City of Petaluma

City of San Rafael

City of Sonoma

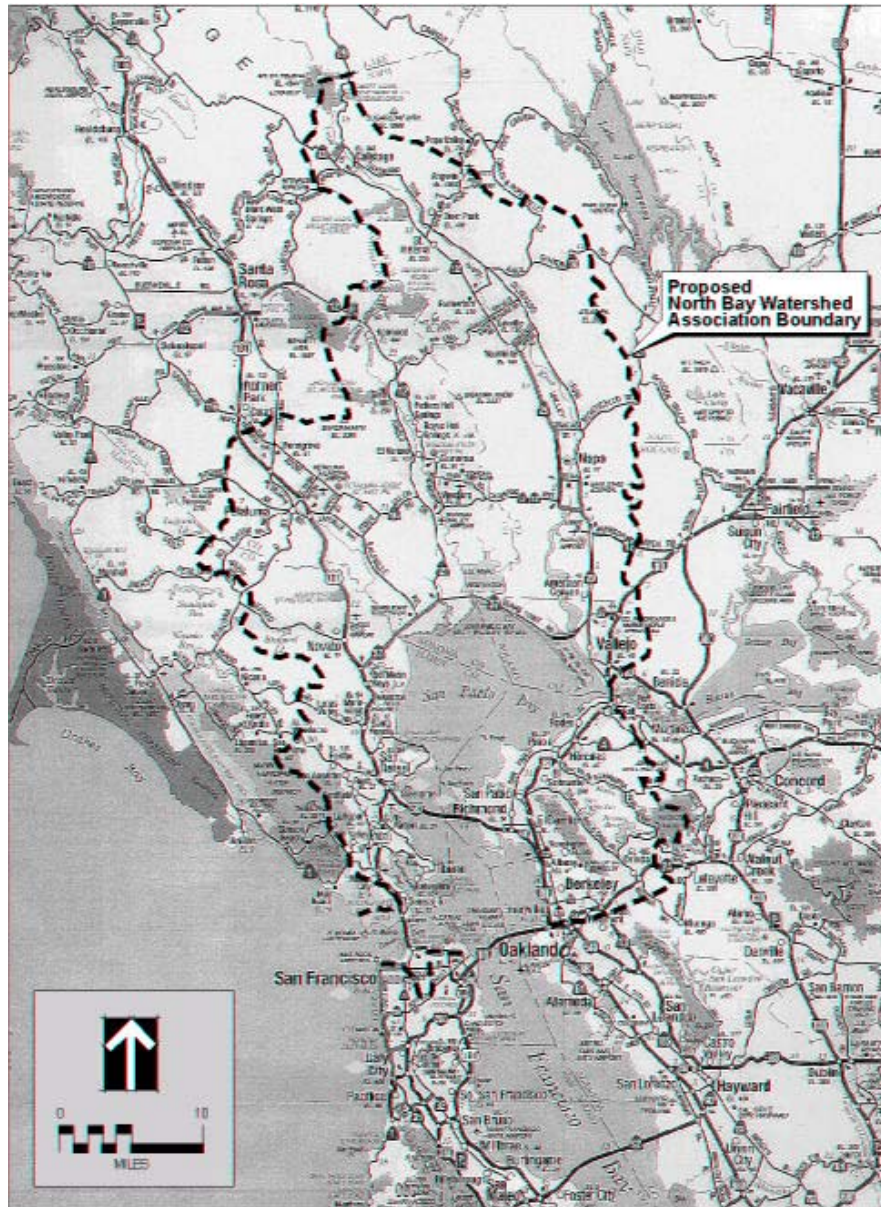
Sonoma County

Sonoma Valley County Sanitation Dist.

Sonoma County Water Agency

Memorandum of Understanding Creating the North Bay Watershed Association

Exhibit B



Proposed Boundary of
North Bay Watershed Association

Memorandum of Understanding Creating the North Bay Watershed Association

Exhibit C

NBWA Mission Statement

Facilitate partnerships across political boundaries that promote stewardship of the North San Pablo Bay watershed resources.

Goals & Objectives

Goal #1: Bring together local agencies to work cooperatively and effectively on issues of common interest.

Objectives:

1. Promote the development and implementation of cooperative restoration and protection efforts throughout the watershed.
2. Promote a regional alliance that supplements local government programs.

Goal #2: Be proactive on watershed based regulation, which increasingly affects areas beyond traditional political boundaries.

Objectives:

1. Increase the knowledge and experience base of local agencies in responding to regulatory actions.
2. Develop a unified voice for the NBWA pertinent to existing regulations.
3. Monitor legislation and take positions on behalf of the NBWA.

Goal#3: Work cooperatively to increase eligibility for watershed based funding.

Objectives:

1. Develop joint proposals for funding.
2. Leverage the strength of public support for local, state, federal, and other funding.
3. Support programs that implement the mission & goals of the NBWA.

Goal#4: Maximize effective use of resources.

Objectives:

1. Efficiently share expenses by leveraging limited funding on coordinated efforts.
2. Efficiently share information and increase communication among members.
3. Undertake a cooperative education program.

Goal#5: Enhance the NBWA's influence on local, state, and federal policies and programs.

Objectives:

1. Speak with a unified voice representing interests of the North Bay.
2. Develop liaisons and communicate effectively with key officials.

Goal#6: Educate communities about the importance of watershed stewardship.

Objectives:

1. Increase education on the importance of habitat restoration and protection and implementation of sustainability concepts.
2. Conduct outreach that attracts volunteers to cooperative programs.
3. Increase public awareness on the values of holistic planning.
4. Serve as an informational clearinghouse – repository of information to provide collective presentation of ecosystem stewardship values.