

DECLARATION OF MARYAM BABAKI

CITY OF COMMERCE

I, Maryam Babaki, hereby declare and state as follows:

1. I am the Director of Public Works and Development Services of the City of Commerce (“City”). In that capacity, I share responsibility for the compliance of the City with regard to the requirements of California Regional Water Quality Control Board, Los Angeles Region (“LARWQCB”) Order No. R4-2012-0175 (“the Permit”) as they apply to the City.

2. I have reviewed sections of the Permit and its attachments as set forth herein and am familiar with those provisions. I am also familiar with how the Permit changed requirements that were previously imposed on the City by the prior permit that had issued to the City by the LARWQCB in 2001 (“2001 Permit”).

3. I have an understanding of the City’s sources of funding for programs and activities required to comply with the Permit.

4. I make this declaration based on my own personal knowledge, except for matters set forth herein based on information and belief, and as to those matters I believe them to be true. If called upon to testify, I could and would competently to the matters set forth herein.

5. In Section 5 and Section 7 of this Test Claim, which contains exhibits to the test claim filed by the City and other permittees under the Permit, the specific sections of the Permit at issue in the test claim have been set forth. I hereby incorporate such provisions of Sections 5 and 7 into this declaration as though fully set forth herein.

6. The City has elected to participate in a Watershed Management Plan or Enhanced Watershed Management Plan (“WMP/EWMP”) that will be designed to address, in whole or in

part, the “Total Maximum Daily Load (TMDL)” provisions of the Permit as well other requirements of the Permit, including those set forth in this Declaration.

7. Based on my understanding of the Permit, I believe that the Permit requires the City to undertake the following programs either directly or through the mechanism of a WMP/EWMP, which represent new programs and/or higher levels of service or the shifting of state responsibilities to the City, which activities were not required by the 2001 Permit and which are unique to local government entities:

8. **Implementation of TMDLs:**

(a) Part VI.E.1.c requires the permittees to “comply with the applicable water quality-based effluent limitations and/or receiving water limitations contained in Attachments L through R, consistent with the assumptions and requirements of the WLAs established in the TMDLs, including implementation plans and schedules, where provided for in the State adoption and approval of the TMDL (40 CFR 122.44(d)(1)(vii)(B); Cal. Wat. Code § 13263(a)).”

(b) Attachment K to the Permit sets forth the TMDLs with which the City must comply.

(c) Attachments L through R of the Permit set forth the requirements of each TMDL and its “waste load allocations” with which the City must comply.

(d) Part VI.B of the Permit requires the City “to comply with the [Monitoring and Reporting Program] and future revisions thereto, in Attachment E of this Order or may, in coordination with an approved Watershed Management Program per Part VI.C, implement a customized monitoring program that achieves the five Primary Objectives set forth in Part II.A of Attachment E and includes the elements set forth in Part II.E of Attachment E.”

(e) Attachment E to the Permit requires the monitoring program to include monitoring at “TMDL receiving water compliance points” and other “TMDL monitoring requirements specified in approved TMDL Monitoring Plans.” (Permit, Attachment E, Parts II.E.1 through 3 and Part V; *see also* Attachment E, Parts VI.A.1.b.(iii) and (iv), VI.B.2, VI.C.1.a, VI.D.1.a, VIII.B.1.b.(ii), IX.A.5, IX.C.1.a, IX.E.1.a and b, IX.G.1.b., and IX.G.2.)

(f) To the best of my information and belief, based on City records, the cost to the City to comply with these TMDL requirements in FY 2012-2013, including costs in participating in the WMP/EWMP process, was \$1,947,952. These costs were first incurred by the City in January 2013, upon or shortly after the Permit became effective. Based on City records, the cost to the City to comply with these requirements in FY 2013-2014 was \$3,056,952.

9. **Requirements Related to Discharge Prohibitions for Non-Stormwater:**

(a) Permit Part III.A.1 prohibits certain non-stormwater discharges through the municipal separate storm sewer system (“MS4”) to receiving waters. I have been advised that this requirement exceeds the requirements of the Clean Water Act (“CWA”).

(b) Part III.A.2 requires the City to employ best management practices (“BMPs”) for discharges from essential non-emergency firefighting activities and, with regard to unpermitted discharges by drinking water suppliers, to work with those suppliers on the conditions of their discharges.

(c) Part III.A.4.a requires the City to develop and implement procedures covering non-permitted discharges of non-stormwater to the City’s MS4 in compliance with the requirements of Part III.A.4.a.i-vi of the Permit.

(d) Part III.A.4.b requires the City to develop and implement procedures to minimize the discharge of landscape irrigation water into the MS4, including to coordinate with local water purveyors to promote water use efficiency, use of drought tolerant vegetation and use of less toxic options for pest control and landscape management and to develop and implement an outreach and education program to minimize the discharge of irrigation water and associated pollutants.

(e) Part III.A.4.c requires the City to evaluate monitoring data collected pursuant to the Permit's Monitoring and Reporting Program (Permit Attachment E) and other associated data and information to determine, among other things, if authorized or conditionally authorized non-stormwater discharges are a source of pollutants that may be causing or contributing to an exceedance of receiving water limitations and/or water quality based effluent limitations.

(f) Part III.A.4.d requires the City to take action to address such non-stormwater discharges if they are found to be such a source of pollutants, through effective prohibition, conditions, diversions or treatment. These tasks involve, among other things, meeting with non-stormwater dischargers, identifying and analyzing the nature of non-stormwater discharges, the development and implementation of discharge procedures, conducting public education efforts and evaluating monitoring data.

(g) To the best of my information and belief, based on City records, the cost to the City to comply with these non-stormwater prohibition requirements in FY 2012-2013, including costs in participating in the WMP/EWMP process, was \$73,000. These costs were first incurred by the City in January 2013, upon or shortly after the Permit became effective. Based on City records, the cost to the City to comply with these requirements in FY 2013-2014 was \$91,000.

10. **Public Information Program Requirements:**

(a) Permit Part VI.D.5.a requires the City to “measurably increase” the knowledge of target audiences about the MS4, the adverse impacts of stormwater pollution on receiving waters and potential solutions to mitigate impacts, to “measurably change” waste disposal and stormwater pollution generation behavior by developing and encouraging implementation of “appropriate alternatives” and to “involve and engage a diversity of socio-economic groups and ethnic communities” to participate in stormwater pollution impact mitigation.

(b) Permit Part VI.D.5.b requires the City to implement Public Information and Participation Program activities by participating in either a County-wide, Watershed Group-sponsored or individual effort.

(c) Permit Part VI.D.5.c requires the City to provide a means for public reporting of clogged catch basin inlets and illicit discharges/dumping, faded or missing catch basin labels and general stormwater and non-stormwater pollution prevention information through a telephone hotline or in public information or government pages of the telephone book, identify staff or departments serving as contact persons and providing current, updated hotline information. The City is also required to organize events targeted to residents and population subgroups to “educate and involve the community in storm water and non-storm water pollution prevent and clean-up (e.g., education seminars, clean-ups, and community catch basin stenciling).”

(d) Permit Part VI.D.5.d requires the City to conduct stormwater pollution prevention public service announcements and advertising campaigns and provide public education materials on the proper handling of vehicle waste fluids, house, and construction waste, pesticides and fertilizers (including the use of integrated pest management practices), green waste and animal

wastes. This Part further requires the City (a) to distribute public education materials at automotive parts stores, home improvement centers, lumber yards and hardware and paint stores, landscaping and gardening centers and pet shops and feed stores, and (b) to maintain stormwater websites or provide links to stormwater websites via the City's website, which must include educational material and opportunities for public participation in stormwater pollution and cleanup activities and provide schools within the City's jurisdiction with materials to education K-12 students on stormwater pollution. In each of these requirements, Permit Part VID.5.d. requires the City to "use effective strategies to educate and involve ethnic communities in storm water pollution prevention through culturally effective methods."

(e) To the best of my information and belief, based on City records, the cost to the City to comply with these public information program requirements in FY 2012-2013, including costs in participating in the WMP/EWMP process, was \$59,000. These costs were first incurred by the City in January 2013, upon or shortly after the Permit became effective. Based on City records, the cost to the City to comply with these requirements in FY 2013-2014 was \$75,000.

11. **Inventory and Inspections of Industrial/Commercial Sources:**

(a) Permit Part VI.D.6.b requires the City to track nurseries and nursery centers and to include various information for each facility on the inventory, including the industrial classification code, the status of exposure of materials to stormwater, the name of the receiving water, whether the facility is tributary to a waterbody listed as impaired under CWA section 303(d) where the facility generates pollutants for which the waterbody is impaired, and whether the facility has filed a "No Exposure Certification" ("NEC") with the State Water Resources

Control Board (“State Board”). The City is required to update the inventory at least annually, through collection of information through field activities or from other means.

(b) Permit Part VI.D.6.d requires the City to inspect restaurants, automotive service facilities, retail gasoline outlets and nurseries and nursery centers twice during the Permit term, including an inspection within two years after the Permit’s effective date. In such inspection, the City is required, among other things, to evaluate whether the source is implementing effective source control BMPs for each corresponding activity and to require implementation of additional BMPs where stormwater from the facility discharged to the MS4 discharges to a Significant Ecological Area (“SEA”), a water body subject to TMDL provisions or a CWA section 303(d) listed waterbody.

(c) Permit Part VI.D.6.e requires the City to inspect industrial facilities, including those identified in 40 C.F.R. section 122.26(b)(14)(i-xi) and facilities identified in 40 C.F.R. section 122.26(d)(12)(iv)(C). In such inspections, the City is required to confirm that each facility has a current Waste Discharge Identification number for coverage under the State Board-issued General Industrial Activities Stormwater Permit or has applied for and received a no exposure certification, and to require implementation of additional BMPs where stormwater from the MS4 discharges to a waterbody subject to a TMDL or is a CWA section 303(d) listed impaired waterbodies. Additionally, for facilities discharging to MS4s that discharge to an SEA, the permittees, including the City, are required to require operators to implement additional pollutant-specific controls to reduce pollutants that are causing or contributing to exceedances of water quality standards.

(d)To the best of my information and belief, based on City records, the cost to the City to comply with these inventory and inspection requirements in FY 2012-2013, including costs in participating in the WMP/EWMP process, was \$105,000. These costs were first incurred by the City in January 2013, upon or shortly after the Permit became effective. Based on City records, the cost to the City to comply with these requirements in FY 2013-2014 was \$205,000.

12. **Post-Construction BMP Requirements:**

(a) Permit Part VI.D.7.d.iv(1)(a) requires the City to implement a GIS or other electronic system for tracking projects that are required to have post-construction BMPs, including project identification, acreage, BMP type and description, BMP locations, dates of acceptance and maintenance agreements, inspection dates and summaries and corrective action.

(b) Permit Part VI.D.7.d.iv(1)(b) requires the City to inspect all development sites upon completion of construction and before issuance of an occupancy certificate to ensure “proper installation” of Low Impact Development (“LID”) measures, structural BMPs, treatment control BMPs and hydromodification control BMPs.

(c) Permit Part VI.D.7.d.iv (1)(c) requires the City to develop a post-construction BMP checklist and to inspect at an interval of at least once every two years, City-operated post-construction BMPs to assess operation conditions.

(d)To the best of my information and belief, based on City records, the cost to the City to comply with these post-construction BMP requirements in FY 2012-2013, including costs in participating in the WMP/EWMP process, was \$6,800. These costs were first incurred by the City in January 2013, upon or shortly after the Permit became effective. Based on City records, the cost to the City to comply with these requirements in FY 2013-2014 was \$14,300.

13. **Construction Site Requirements:**

(a) Permit Part VI.D.8.g.i requires the City to develop an electronic system to inventory grading, encroachment, demolition, building or construction permits (or other municipal authorizations to move soil and/or construct or destruct that involves land disturbance).

(b) Permit Part VI.D.8.g.ii requires the City to complete and update an inventory containing, among other items, contact information for a project, basic site information, the proximity of all water bodies, significant threats to water quality status, current construction phase where feasible, required inspection frequency, start and anticipated completion dates, whether the project has submitted a Notice of Intent to be covered under the State Board-issued General Construction Activities Stormwater Permit (“GCASP”), whether it has obtained GCASP coverage, the date the Erosion and Sediment Control Plan (“ESCP”) was approved and post-construction structural BMPs subject to operation and maintenance requirements.

(c) Permit Part VI.D.8.h requires the City to develop and implement review procedures for construction plan documents, including preparation and submittal of an appropriate ESCP, verification of GCASP or other permit coverage and other items. The Part further requires permittees, including the City, to develop and implement a checklist to conduct and document the review of each ESCP.

(d) Permit Part VI.D.8.i.i requires the City to develop and implement technical standards for the selection, installation and maintenance of construction BMPs for all such sites within the City.

(e) Permit Part VI.D.8.i.ii requires that such BMPs be tailored to the risks posed by the project, as well as in minimum conformance with standards set forth in Permit Table 15, use of

BMPs meeting the requirements of Permit Tables 14 and 16 for construction sites equal or greater than one acre or paving projects, detailed installation designs and cut sheets for use in ESCPs and maintenance expectations for each BMP or category of BMPs.

(f) Permit Part VI.D.8.i.iv further requires that such technical standards must be “readily available” to the development community and must be “clearly referenced” within the City’s stormwater or development services website, ordinance, permit approval process and/or ESCP review forms.

(g) Permit Part VI.D.8.i.v requires local BMP technical standards to cover all items set forth in Tables 13, 14, 15 and 16 of the Permit.

(h) Permit Part VI.D.8.j requires the City to inspect all construction sites of one acre or greater in size on the frequencies set forth in the Permit, which requires inspections prior to land disturbance activities, during active construction and at the conclusion of the project and as a condition to approving and/or issuing a Certificate of Occupancy. The frequency of inspections is set in addition in Table 17 of the Permit. As part of the inspection obligations, the permittees, including the City, must develop, implement and revise as necessary standard operating procedures that identify the inspection procedures to be followed by each permittee. Additionally, during inspections, the City must verify “active coverage” under the GCASP for specified projects; review the ESCP; inspect the site to determine whether all BMPs have been selected, installed, implemented and maintained; assess the appropriateness of planned and installed BMPs, and their effectiveness; visually observe and record non-stormwater discharge, potential illicit discharges and connections and potential discharge of pollutants in stormwater runoff; develop a written or electronic inspection report generated from a field inspection

checklist; and track the number of inspections for the site to ensure that it meets the minimum requirements of Permit Table 17.

(i) Permit Part VI.D.8.1.i and ii requires the City to ensure training for “all staff whose primary job duties are related to implementing the construction storm water program,” including plan reviewers and permitting staff with regard to the “technical review of local erosion and sediment control ordinance, local BMP technical standards, ESCP requirements, and the key objectives of the State Water Board QSD program, erosion sediment control/storm water inspectors in inspection procedures consistent with various standards. Additionally, if outside parties conduct inspections or review plans, the City is required to ensure that such staff are trained under the same requirements.

(j) To the best of my information and belief, based on City records, the cost to the City to comply with these construction site requirements in FY 2012-2013, including costs in participating in the WMP/EWMP process, was \$37,000. These costs were first incurred by the City in January 2013, upon or shortly after the Permit became effective. Based on City records, the cost to the City to comply with these requirements in FY 2013-2014 was \$100,000.

14. **Public Agency Requirements:**

(a) Permit Part VI.D.9.c requires the City to maintain an “updated inventory” of all permittee-owned or operated facilities that are potential sources of stormwater pollution, including 24 separate categories of facilities that are required to be in the inventory. The inventory must include the name and address of the facility, contact information, a narrative description of activities performed and potential pollution sources, coverage under any individual or general NPDES permits or waivers. The inventory must be updated at least once during the

five-year term of the Permit with information collected through field activities or other means.

(b) Permit Part VI.D.9.d.(i) requires the City to develop an inventory of “retrofitting opportunities” in areas of existing development.

(c) Permit Part VI.D.9.d.ii and iii requires the City to screen existing areas of development “to identify candidate areas for retrofitting using watershed models or other screening level tools” and then evaluate and rank areas of existing development to prioritize retrofitting candidates.

(d) Permit Part VI.D.9.d.iv requires the City to consider the results of the evaluation by giving “highly feasible” projects a “high priority” to implement source control and treatment control BMPs in the their Storm Water Management Plan (“SWMP”) and consider high priority retrofit projects as candidates for off-site mitigation for new development and redevelopment projects.

(e) Permit Part VI.D.9.d.v requires the City to cooperate with private landowners to “encourage site specific retrofitting projects.” In such cooperation, demonstration retrofit projects, retrofits on public lands and easements, education and outreach, subsidies for retrofit projects, requiring retrofit projects as enforcement, mitigation or ordinance compliance, public and private partnerships, fees for existing discharges to the MS4 and reduction of such fees for retrofit implementation must be considered.

(f) Permit Part VI.D.9.g.ii requires the City to implement an Integrated Pest Management (“IPM”) program, including restrictions on the use of pesticides, restricting treatments only to remove the target organism, selection of pest controls that minimize risks to human health, “beneficial non-target organisms” and the environment, partnering with other agencies and

organizations to “encourage” the use of IPM and adopt and “verifiably implement” policies, procedures and/or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques for public agency facilities and activities. Additionally, the City must commit and schedule to reduce the use of pesticides that cause impairments of surface waters by preparing and updating annually an inventory of pesticides, quantify pesticide use by staff and contractors and demonstrate implementation of IPM alternatives where feasible to reduce pesticide use.

(g) Permit Part VI.D.9.k.ii requires the City to train all employees and contractors “who use or have the potential to use pesticides or fertilizers” that address the potential for pesticide-related surface water toxicity, in the proper use, handling, and disposal of pesticides, least toxic methods of pest prevention and control, including IPM and the reduction of pesticide use.

(h) To the best of my information and belief, based on City records, the cost to the City to comply with these construction site requirements in FY 2012-2013, including costs in participating in the WMP/EWMP process, was \$131,000. These costs were first incurred by the City in January 2013, upon or shortly after the Permit became effective. Based on City records, the cost to the City to comply with these requirements in FY 2013-2014 was \$150,000.

15. **Illicit Connection and Discharge Requirements:**

(a) Permit Part VI.D.10.d.iii requires the City to “ensure that signage adjacent to open channels . . . include information regarding dumping prohibitions and public reporting of illicit discharges.”

(b) Permit Part VI.D.10.d.iv requires the City to develop and maintain written procedures that document how complaint calls are received, documented and tracked “to ensure that all

complaints are adequately addressed.” Such procedures must be “evaluated to determine whether changes or updates are needed to ensure that the procedures adequately document the methods employed by the Permittee.”

(c) Permit Part VI.D.10.d.v requires the City to maintain documentation of complaint calls and to record the location of the reported spill or illicit discharge and the action undertaken in response.

(d) Permit Part VI.D.10.e.i requires, in pertinent part, that the City implement a “spill response plan” for all sewage and other spills that may discharge into its MS4.

(e) Permit Part VI.D.10.e.i(1) requires that the plan must identify agencies responsible for spill response and cleanup, phone numbers and e-mail addresses for contacts and shall further address coordination with spill response teams “throughout all appropriate departments, programs and agencies so that maximum water quality protection is provided.”

(f) Permit Part VI.D.10.e.i (3) and (4) requires the City to respond to spills for containment within four hours of becoming aware of the spill, or if on private property, within two hours of gaining legal access to the property and reporting of spills that may endanger health or the environment to appropriate public health agencies and the Office of Emergency Services (“OES”).

(g) To the best of my information and belief, based on City records, the cost to the City to comply with these illicit connection and discharge requirements in FY 2012-2013, including costs in participating in the WMP/EWMP process, was \$9,000. These costs were first incurred by the City in January 2013, upon or shortly after the Permit became effective. Based on City records, the cost to the City to comply with these requirements in FY 2013-2014 was \$12,000.

Section 6: Declarations in Support of Joint Test Claim of Los Angeles County Local Agencies
Concerning Los Angeles RWQCB Order No. R4-2012-0175 (NPDES No. CAS 004001)

16. I am informed and believe that there are no dedicated state, federal or regional funds that are or will be available to pay for any of the new and/or upgraded programs and activities set forth in this Declaration. I am not aware of any other fee or tax that the City would have the discretion to impose under California law to recover any portion of the cost of these programs and activities.

17. The City has filed a joint test claim with 22 other cities. The Cities agree on all issues of the test claim.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this _____ day of August, 2017, at _____, California.
