

## **INTERLOCAL AGREEMENT**

### **PROVIDING FOR IMPLEMENTATION OF NPDES PHASE II STORM WATER QUALITY MANAGEMENT PLAN**

THIS INTERLOCAL AGREEMENT is made, entered into and effective as of November 5, 2008 by and between the following undersigned public agencies, all which are referred to collectively as the Parties:

MORGAN COUNTY, a subdivision of the State of Indiana; CITY OF MARTINSVILLE, a municipal corporation of the State of Indiana; TOWN OF MOORESVILLE, a municipal corporation of the State of Indiana; TOWN OF BROOKLYN, a municipal corporation of the State of Indiana; and, TRI-COUNTY CONSERVANCY DISTRICT, a political subdivision created pursuant to I.C. 14-33.

#### **RECITALS**

A. The National Pollutant Discharge Elimination System (NPDES) Phase II permit system authorized by the Clean Water Act as implemented pursuant to Indiana Department of Environmental Management (IDEM) Rule 13, requires that the PARTIES develop a Storm Water Quality Management Plan (SWQMP) to control the discharge of pollutants from urban runoff.

B. In furtherance of their responsibility for development and implementation of such NPDES Phase II SWQMP, the PARTIES have previously entered into a series of agreements to jointly fund the cost of preparing the NPDES SWQMP Notice of Intent (Part A), SWQMP Part B and SWQMP Part C, to evaluate nonpoint source pollutants, monitor identified pollutants and develop control measures and Best Management Policies to mitigate or reduce nonpoint sources of pollutants. Collectively, the measures undertaken pursuant to the previous agreements and anticipated to continue pursuant to this Agreement, are known as the Morgan County Storm Water Quality Management Plan (hereinafter referred to as "SWQMP"). The SWQMP contains certain elements which provide a general benefit to the parties (such as monitoring, public education and outreach, SWQMP program administration, etc.), and these elements of joint

responsibility among the parties are termed the "General Program". In addition, the SWQMP contains other elements which are an individual Party responsibility and which provide individual benefits (such as construction site controls, catch basin cleaning, and illicit and illegal connection inspections, monitoring and enforcement, etc.), and these elements are termed the "Individual Programs". A description of the General and Individual Programs' elements, major tasks, schedules, and budgets will be developed as part of the implementation plan for the SWQMP.

C. The PARTIES desire to continue developing and implementing the SWQMP and to enter into this Agreement for the purpose of ensuring continued participation, in terms of cost and administrative responsibilities.

D. This Agreement does not amend or supersede any prior agreement among the PARTIES regarding the SWQMP, but is to be read as in accord with and in implementation thereof.

E. The PARTIES are each subdivisions or agencies of the State with authority to control the discharge of surface waters from their respective jurisdictions.

F. The PARTIES intend to enter into this Agreement pursuant to I.C. 36-1-7, to the extent this Agreement does not conflict with other local, state or federal laws.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. A Project Team consisting of one representative and one alternate from each party is hereby created to provide overall program direction, review and budget oversight, and to recommend an annual budget for the general program for approval by the Parties, all in accordance with the SWQMP. Project Team members, and their alternates, shall be appointed by and shall serve at the pleasure of the Executive officer(s) of the respective Parties. They shall be appointed within thirty (30) days of the date of this Agreement and a confirming letter sent to the President of the Board of Commissioners of Morgan County, the Project Team "MS4 Operator" designated in the Rule 13 Notice of Intent (Part A) Initial Application Certification filed November 5, 2003 and approved November 11, 2008.

(a) Each Party to this agreement is allocated the number (or fraction thereof) of votes shown in Exhibit A.

1. A quorum for the conduct of business by the Project Team shall be a majority of the voting Parties to the Agreement. The voting strength allocated to a Party shall not be considered in the determination of a quorum.
2. Approval of actions by the Project Team shall require a two-thirds affirmative vote of all allocated votes as shown in Exhibit A.

No action shall be taken by the MS4 Operator which requires expenditures by any party other than the MS4 Operator without prior Project Team approval.

2. Pursuant to direction of the Project Team, the MS4 Operator shall administer and coordinate the Program, which duties include but are not limited to:

1. Applying on behalf of the PARTIES to become co-applicants for a National Pollutant Discharge Elimination System (NPDES) SWQMP Permit;
2. Administering General Project Funds, including preparing draft annual budget and, periodic status reports on General Program activities and expenditure and distributing same to PARTIES at least quarterly, or as may be required by the SWQMP.
3. Consolidating and submitting reports prepared by the several PARTIES required by the SWQMP, Rule 13, or the NPDES permit;
4. Letting and administering approved consultant contracts for General Program implementation according to the MS4 Operator's policies and procedures and considering other members' requirements. All consultant contracts will contain hold harmless and indemnity provisions and insurance requirements for the benefit of all PARTIES;

5. Conducting audits of General Program consultant contracts in accordance with the MS4 operator's policies and procedures;
  6. Maintaining knowledge of and advising the PARTIES regarding current and proposed state and federal policies, regulations and programs that impact nonpoint source pollutant control programs; assisting the PARTIES in development and presentation of positions on these issues before local, State and Federal agencies;
  7. Preparing an annual report on the implementation of the Program, in accordance with Rule 13.
  8. Formally advising the appropriate State and Federal agencies of termination or amendment of this Agreement.
3. The PARTIES accept and agree to perform the following duties:
- (a) Each will authorize a representative to apply for an NPDES SWQMP Permit as co-applicants with the other PARTIES;
  - (b) Each will fully comply with the NPDES SWQMP Permit conditions applicable to its Individual Program and its identified portion of the General Program;
  - (c) Each will select a representative and an alternate to participate in Project Team meetings and other required meetings of the PARTIES;
  - (d) Each will fund and implement its own Individual Program, and will fund and implement its share of the General Program.
  - (e) Each will provide agreed upon reports (certified under penalty of perjury) to the MS4 Operator on compliance with applicable provisions of the NPDES permit and program implementation.
4. The MS4 Operator shall prepare a proper accounting of funds and reports of all receipts and disbursements, including funds disbursed to individual parties for implementation of permit programs. Upon completion of the purposes of this Agreement, any surplus money on

hand shall be returned in proportion to the contributions made. In the event a Party terminates this Agreement, any uncommitted portion of its share of cost funds shall be returned to it.

5. By agreement of the PARTIES, budget allocations for the General Program shall be made according to attached Exhibit B. The attached Exhibit C provides a copy of the formulas which are used to allocate costs. Each Parties' share of the General Program's annual costs for each fiscal year will be according to the percentages provided in Exhibit B, as it may from time to time be amended. Cost shares will be recalculated prior to the beginning of each NPDES Phase II Permit Term. The budget allocation for the Individual Programs shall be made directly by the individual responsible parties.

6. This Agreement shall have an initial term beginning on November 5, 2008, and continuing through November 5, 2013, subject to automatic renewal for a five (5) year period in the absence of objection thereto made in writing by any Party 90 days in advance of the renewal date. The participation of any Party to this Agreement may be terminated by a two-thirds affirmative vote of all allocated votes upon thirty (30) days priors written notice in the event that such party fails to perform its obligations hereunder or the funds necessary for its continued involvement are not appropriated by its legislative body.

7. This Agreement may be amended from time to time by written agreement of the Parties representing two-thirds or more of all allocated votes as shown in Exhibit A.


8. Participation in this Agreement may be terminated by any Party for any reason after the Party complies with all of the conditions of termination. The conditions of termination include the following: the Party shall notify the MS4 Operator 120 days prior to its termination of the Agreement, the Party shall obtain its own NPDES Rule 13 Permit for urban runoff, and the Party shall have its name deleted as a co-permittee of the Parties' NPDES permit. Any expenses associated with terminating the Agreement including but not limited to filing for and obtaining the individual NPDES permit and the amendment of the Parties' NPDES permit will be solely the responsibility of the Party terminating its participation in the Agreement.

9. It is understood and agreed that, each Party (“indemnitor”) shall, to the extent permitted by law, defend, indemnify and save harmless every other Party, and its officers and employees from all claims, suits or actions of every name, kind and description resulting from indemnitor’s performance of this Agreement, excluding any personal injuries, death, or property damage resulting from the negligence or willful misconduct of the other Parties, or their officers or employees.

10. This Agreement shall be recorded in the Office of the Morgan County Recorder and within sixty (60) days of recording, the Agreement shall be filed with the State Board of Accounts pursuant to I.C. 36-1-7-6.

ALL OF WHICH IS AGREED, PASSED and APPROVED this 15 day of December, 2008.

BOARD OF COMMISSIONERS  
OF MORGAN COUNTY  
“County”

  
\_\_\_\_\_  
NORMAN VOYLES, Commissioner

MORGAN COUNTY COUNCIL

  
\_\_\_\_\_  
KENNY HALE, President

ATTEST:   
BRENDA ADAMS, Morgan County Auditor

THIS INTERLOCAL AGREEMENT PROVIDING FOR IMPLEMENTATION OF NPDES PHASE II STORM WATER QUALITY MANAGEMENT PLAN, IS HEREBY AGREED, PASSED and APPROVED this 16th day of March, 2009, by the City of Martinsville Common Council.

CITY OF MARTINSVILLE



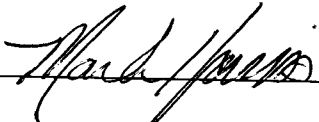
PHIL R. DECKARD,  
Mayor


ATTEST: 

MARY LOU PEDEN,  
Martinsville Clerk-Treasurer

ALL OF WHICH IS AGREED, PASSED and APPROVED this 17<sup>th</sup> day of March, 2009, by the Mooresville Town Council.

TOWN OF MOORESIVLLE

  
\_\_\_\_\_  
President Mooresville Town Council

ATTEST:   
\_\_\_\_\_  
Mooresville Clerk-Treasurer



ALL OF WHICH IS AGREED, PASSED and APPROVED this 17<sup>th</sup> day of Nov, 2008, by the Brooklyn Town Council.

TOWN OF BROOKLYN

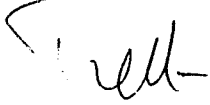
Chie Chie Bole  
VICE CHIE, CHIE BOLKS  
President Brooklyn Town Council

ATTEST: LeAnn McEneaney

Brooklyn Clerk-Treasurer

ALL OF WHICH IS AGREED, PASSED and APPROVED this 9<sup>th</sup> day of December, 2008, by the Tri-County Conservancy District.

TRI-COUNTY CONSERVANCY DISTRICT



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TIM SHROUT,  
Board of Directors Chairman

ATTEST: David N. Smith

Secretary, Board of Directors

**EXHIBIT A**

**MORGAN COUNTY SWQMP PROJECT TEAM**

	<u>Votes</u>
1. Morgan County	1
2. City of Martinsville	1
3. Town of Mooresville	1
4. Town of Brooklyn	1
5. Tri-County Conservancy District	1

**EXHIBIT B**

**MORGAN COUNTY SWQMP PROJECT TEAM**

Total General Program Budget for fiscal year 2008/2009: \$

General Program Cost Allocations: 9,500.00

<u>ENTITY</u>	<u>PERCENT</u>	<u>SHARE</u>
Morgan County	32%	3,040.00
City of Martinsville	32%	3,040.00
Town of Mooresville	27%	2,565.00
Town of Brooklyn	4%	380.00
Tri-County Conservancy Dist.	5%	475.00

**EXHIBIT C**

**Cost Share Formula**

**Total MS4 Population Divided By Entity MS4 Population Equals Percent Of Cost Share**

<b><u>Entity</u></b>	<b><u>MS4Population</u></b>	<b><u>Entity MS4 Population</u></b>	<b><u>Percent</u></b>
Morgan County	37,545	12,000	32%
City of Martinsville	37,545	12,000	32%
Town of Mooresville	37,545	10,000	27%
Town of Brooklyn	37,545	1,545	4%
Tri-County Conservancy	37,545	2,000	5%