

MEMORANDUM OF UNDERSTANDING  
between  
THE MONTEREY COUNTY WATER RESOURCES AGENCY  
and  
THE COUNTY OF MONTEREY  
and  
PAJARO COUNTY SANITATION DISTRICT  
regarding  
PAJARO FORCE MAIN RELOCATION

THIS MEMORANDUM OF UNDERSTANDING (hereinafter the “MOU”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the County of Monterey (“County”), the Monterey County Water Resources Agency (“Agency”), and the Pájaro County Sanitation District (“District”)(separately a “Party”, collectively the “Parties”).

WHEREAS, the County is a political subdivision of the State of California with duties and responsibilities set forth in various provisions of the California Constitution, and state laws and regulations; and,

WHEREAS, the Agency is a flood control and water agency established in 1990 by special act of the state legislature codified at Water Code Appendix Chapter 52, and is the successor to the Monterey County Flood Control and Water Conservation District established in 1947, also by special act of the state legislature; and,

WHEREAS, the District is a county-dependent special district that provides wastewater collection services to approximately 1,047 customers in the Pájaro and Las Lomas communities, and the Board of Supervisors of the County of Monterey serves as the Board of Directors of the District; and,

WHEREAS, the Pájaro River Federal Flood Control Project (“Pájaro Levee”) was built in 1949 by the United States Army Corps of Engineers (“USACE”) and the left (southern) bank is maintained by the Agency, who is the non-federal sponsor; and,

WHEREAS, the Pájaro Regional Flood Management Agency (“PRFMA”) was formed under the Joint Exercise of Powers Act, Government Code section 6500 *et seq.*, pursuant to a Joint Exercise of Powers Agreement (“JPA Agreement”) dated July 21, 2021 in order to coordinate, finance, acquire, construct, improve, operate or maintain flood management infrastructure on the Pájaro River in Santa Cruz and Monterey Counties; and,

WHEREAS, an Operations, Maintenance, Repair, Replacement, and Rehabilitation Assignment Agreement (“OMRR&R”) to transfer the operation, maintenance, repair, replacement, and rehabilitation of the Pájaro Levee Project to PRFMA was approved by the Agency Board of Supervisors in April 2023 and by PRFMA on November 9, 2022; and,

WHEREAS, the OMRR&R between the Agency and PRFMA became effective on July 1, 2023; and,

WHEREAS, the Agency and PRFMA staff continue to coordinate on the transition of the activities, including transferring the designation of non-federal sponsor from the Agency to PRFMA; and,

WHEREAS, the District owns a sewer force main that is located near the Pájaro Levee Left Bank and State of California's Route 1 bridge ("State Route 1 bridge") at the Pájaro River; and,

WHEREAS, there was an existing casing at the toe of the Levee that contained an irrigation line connecting the water supply on one ranch from the east side of State Route 1 bridge to the west side; and

WHEREAS, during the March 2023 storm events and the District's sewer force main and the irrigation line and casing were damaged; and,

WHEREAS, under Public Law 84-99, the federal government's Flood and Coastal Storm Emergencies Act, the USACE will be repairing critical portions of the Pájaro Levee beginning August 2023 with the goal of completing all repairs prior to storm events anticipated in the 2023/24 winter; and,

WHEREAS, the District's sewer force main must be permanently relocated outside of the Pájaro Levee prism and repair work area prior to USACE repairing that portion of the Pájaro Levee; and,

WHEREAS, the Agency needs to protect the structural integrity of the Levee and have oversight of work adjacent to or within fifteen feet of the toe of the Levee; and,

WHEREAS, the District will seek approval from the Agency, PRFMA, USACE, and California Department of Transportation (Caltrans), to relocate a portion of the sewer force main in the vicinity of the State Route 1 bridge, to an alignment outside of USACE's planned levee repair under the State Route 1 bridge, outside of the Caltrans bridge abutment slope, and installed within a steel casing approximately five (5) feet below grade; and,

WHEREAS, the County is tracking the cost of the sewer force main relocation and will submit to California Office of Emergency Services (Cal OES) and Federal Emergency Management Agency (FEMA) for reimbursement.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the County, the Agency, and the District agree as follows:

1. Effective Date and Term.

This MOU will be effective August 29, 2023 thru December 31, 2023, unless terminated as set forth in Section 3, below.

2. Obligations of the Parties.

- A. As the non-federal sponsor, the Agency will provide necessary information related to the Pájaro Levee Left Bank, including design plans, permits, agreements, and property information. The Agency will be the point of contact with the USACE related to the non-federal sponsor duties related to the Pájaro Levee, such as review all design plans and

identify any concerns with construction methods, project specifications and location. The Agency will coordinate with PRFMA on items related to the existing Pájaro Levee as well as the future design plans and related items and prepare a letter of no objection to the USACE in support of any necessary Section 408 permit requirements.

- B. The County, as the service provider for the District, will prepare the plans and specifications for the District's force main relocation and irrigation line casing; obtain necessary permits for the force main relocation project, which includes a USACE Section 408 permit for abandoning the existing force main in the Pájaro Levee and the construction of a relocated line within 15 feet of the levee toe; secure a contractor to perform the relocation work; provide construction management and oversight of the force main relocation and irrigation line casing installation; perform any necessary restoration of the Pájaro Levee caused from pre-construction investigations; and provide for any necessary environmental review related to the force main relocation.
  - C. The County will appropriate funds on behalf of the District to cashflow the relocation and repairs of the sanitary sewer force main and steel casing for an irrigation line; and, submit reimbursement requests for state and federal storm event disaster recovery assistance.
  - D. The Agency will reimburse the County for the cost of reconstructing the steel casing for an irrigation line within fifteen feet of the toe of the Levee, and consistent with the drawing plans and specifications submitted for the 408 permit and Caltrans Encroachment Permit. The reimbursement shall also include a pro-rata share of the design and construction management to perform the irrigation line steel casing installation. The reimbursement will be reduced by any direct costs incurred by the Agency in support of the sanitary sewer force main.
3. Termination.

This MOU may be terminated prior to December 31, 2023, by mutual agreement of the Parties.

4. General Provisions.

A. Notices.

All notices regarding performance under this MOU shall be sent by hand delivery, electronic mail, or U.S. mail (certified mail, return receipt requested and postage prepaid) to the persons and addresses listed below. Either party may change the designated person by notice to the other party. If sent by U.S. mail, delivery shall be presumed five (5) days following deposit with the U.S. Postal Service.

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| <p>To the Agency:</p> <p>General Manager<br/>1441 Schilling Pl., North Bldg.,<br/>Salinas, CA 93901<br/>(831) 755-4860</p> <p>Copy to:<br/>Kelly L. Donlon, Assistant County Counsel<br/>168 W. Alisal St., 3<sup>rd</sup> Floor<br/>Salinas, CA 93901<br/>(831) 755-5313</p> | <p>To the County and District:</p> <p>County Administrative Officer<br/>163 W. Alisal St., Third Floor<br/>Salinas, CA 93901<br/>(831) 755-5115</p> <p>Copy to:<br/>Leslie J. Girard, County Counsel<br/>168 W. Alisal St., 3<sup>rd</sup> Floor<br/>Salinas, CA 93901<br/>(831) 755-5365</p> |
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B. Modifications.

This MOU may be modified or amended only by written agreement of the Parties. No waiver or modification of this MOU or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the Parties hereto.

C. No Waiver.

No covenant or condition of this MOU can be waived except by the written consent of the Agency. Forbearance or indulgence by the Agency in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the County.

D. Sole Agreement.

This MOU contains the entire agreement of the Parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this MOU shall be of no force or effect excepting a subsequent modification in writing, signed by the parties hereto.

E. Authority to Execute.

The persons executing this MOU on behalf of their respective party represent and warrant that they have, or have received, the proper authority to so execute this MOU.

IN WITNESS WHEREOF, the County, the Agency, and the District have caused the Memorandum of Understanding to be executed:

Monterey County Water Resources Agency

County of Monterey and  
Pájaro County Sanitation District

By \_\_\_\_\_  
Ara Azhderian  
General Manager

By \_\_\_\_\_  
Randell Ishii, MS, PE, TE, PTOE  
Director of PWF

Date : \_\_\_\_\_

Date : \_\_\_\_\_

APPROVED AS TO FORM:

Monterey County Water Resources Agency

County of Monterey and  
Pájaro County Sanitation District

By \_\_\_\_\_  
Kelly L. Donlon  
Assistant County Counsel

\_\_\_\_\_  
Leslie J. Girard  
County Counsel

Date : \_\_\_\_\_

Date : \_\_\_\_\_