

**Before the Board of Supervisors in and for the  
County of Monterey, State of California**

- a. Accept a settlement in the amount of \$273,305.12 )  
as a result of litigation with Millennium Holdings, the )  
successor in interest to former lead-based paint )  
manufacturer Glidden; )
- b. Authorize the Auditor-Controller to establish a )  
deferred revenue liability account 2832-Deferred )  
Revenue-Health for the lead settlement funds; and )
- c. Direct the Director of Health to submit an annual )  
financial report to the Board..... )

Upon motion of Supervisor Potter, seconded by Supervisor Armenta, and carried by those members present, effective December 13, 2011, the Board hereby;

- a. Accepted a settlement in the amount of \$273,305.12 as a result of litigation with Millennium Holdings, the successor in interest to former lead-based paint manufacturer Glidden;
- b. Authorized the Auditor-Controller to establish a deferred revenue liability account 2832-Deferred Revenue-Health for the lead settlement funds; and
- c. Directed the Director of Health to submit an annual financial report to the Board.

PASSED AND ADOPTED on this 13<sup>th</sup> day of December, 2011, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Potter and Parker  
 NOES: None  
 ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on December 13, 2011.

Dated: December 23, 2011

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By Denise Hancock  
Deputy

## MONTEREY COUNTY BOARD OF SUPERVISORS

<b>MEETING:</b> December 13, 2011 – Consent	<b>AGENDA NO.:</b>
<b>SUBJECT:</b>	a. Accept a settlement in the amount of \$273,305.12 as a result of litigation with Millennium Holdings, the successor in interest to former lead-based paint manufacturer Glidden;
	b. Authorize the Auditor-Controller to establish a deferred revenue liability account 2832-Deferred Revenue-Health for the lead settlement funds; and
	c. Direct the Director of Health to submit an annual financial report to the Board.
<b>DEPARTMENT:</b> Health – Public Health and Environmental Health Bureaus	

### **RECOMMENDATION:**

It is recommended that the Board of Supervisors:

- a. Accept a settlement in the amount of \$273,305.12 as a result of litigation with Millennium Holdings, the successor in interest to former lead-based paint manufacturer Glidden;
- b. Authorize the Auditor-Controller to establish a deferred revenue liability account 2832-Deferred Revenue-Health for the lead settlement funds; and
- c. Direct the Director of Health to submit an annual financial report to the Board.

### **SUMMARY:**

Monterey County has received a settlement totaling \$273,305.12 as a result of litigation with Millennium Holdings, the successor in interest to former lead-based paint manufacturer Glidden. The purpose of the litigation is to create a better mechanism to address the harm caused by lead poisoning resulting from lead-based paint, including creating a fund to defray the costs of abating lead in homes and possibly other buildings. In order to protect the original purpose for pursuing these funds, it is recommended that the funds be set aside in a deferred revenue liability account and an annual financial report to the Board be required to assure the continuing appropriate use of the funds for the costs of lead-based paint litigation, lead testing, lead abatement and/or public education about lead poisoning.

### **DISCUSSION:**

In March of 2000, Santa Clara County, the City and County of San Francisco, and several other public entities filed a lawsuit against manufacturers of lead-based paint products and their corporate successors. The original purpose of the lawsuit was to create a better mechanism to address the harm caused by lead poisoning resulting from lead-based paint and to recoup the costs of abating lead in homes and possibly other buildings throughout the prosecuting entities' jurisdictions. Because lead-based paint has not been manufactured for residential or commercial use since the 1970s, most legal theories against former lead-based paint manufacturers are barred by statutes of limitation. Consequently, the lawsuit evolved into an action for abatement of a public nuisance.

In 2006, the existing plaintiffs invited other public entities, including Monterey County, to join them as prosecuting entities in the *County of Santa Clara* litigation. On October 31, 2006, the Board of Supervisors authorized Monterey County to do so.

In 2009, Millennium Holdings ("Millennium"), the successor in interest to former lead-based paint manufacturer Glidden, declared bankruptcy in New York. Each prosecuting entity in the *County of Santa Clara* litigation, including Monterey County, filed a proof of claim in the bankruptcy case. Millennium and its insurers agreed to settle the case, as to Millennium only, for \$8.7 million, to be divided among ten cities and counties that had filed bankruptcy claims against Millennium. The counties of Alameda, Los Angeles, Monterey, San Mateo, Santa Clara and Solano, the City and

County of San Francisco, and the cities of Los Angeles, Oakland, and San Diego were allocated various amounts after litigation-related costs were deducted. Monterey County's share of the settlement totaled \$273,305.12.

Litigation between the city and county prosecuting entities and the defendants other than Millennium continues. Earmarking of the Millennium settlement funds by Monterey County for the costs of lead-based paint litigation, lead testing, lead abatement, and/or public education about lead poisoning is consistent with the purposes of Monterey County's pursuit of lead-paint litigation as a whole.

It is recommended that the funds be restricted to uses related to the costs of lead-based paint litigation, lead testing, lead abatement, and/or public education about lead poisoning by depositing the funds into a deferred revenue liability account:

- \$91,101.71 (one-third of the funds) into a Children's Medical Services Lead Paint Litigation Sub-Balance Sheet Account
- \$182,203.41 (two-thirds of the funds) into an Environmental Health Lead Paint Litigation Sub-Balance Sheet Account

Environmental Health Bureau has agreed to assume the responsibility for reimbursement to County Counsel for past and anticipated future litigation costs, thereby simplifying cost accounting within the Health Department while balancing the resources benefit for both the Public Health-Children's Medical Services and Environmental Health Bureaus.

It is further recommended that the Board of Supervisors direct the Health Department to submit an annual financial report to the Board that includes explanation of supplies, services or equipment that may have been purchased with these funds; and the relationship those expenses had to the costs of lead-based paint litigation, lead testing, lead abatement, and/or public education about lead poisoning.

#### **OTHER AGENCY INVOLVEMENT:**

The Office of the County Counsel and the Auditor-Controller's Office participated in the development of, and agree with, the recommendation of establishing a deferred revenue liability account for the lead settlement funds.

#### **FINANCING:**

There is no General Fund Contribution resulting from this Board action. There is no need to adjust appropriations for either Budget HEA004 Children's Medical Services or HEA005 Environmental Health.

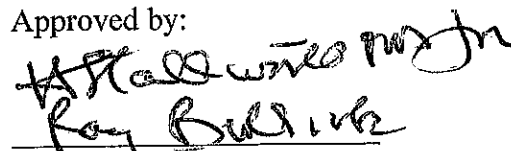
Prepared by:



Ted Pinson 796-1297  
Management Analyst I

Date: 11/30/11

Approved by:



Ray Bullick 755-4526  
Director of Health

Date: 12/2/11

cc: Lew Bauman, County Administrative Officer  
Charles J. McKee, County Counsel  
Michael Miller, Auditor Controller