

Attachment B

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RESOLUTION NO. 2020 - 33

**A RESOLUTION OF THE SALINAS VALLEY SOLID WASTE AUTHORITY
APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE COUNTY OF MONTEREY FOR
LITTER ABATEMENT SERVICES \$100,000 FOR FISCAL YEAR 2020-2021**

WHEREAS, on June 21, 2018 the Authority Board of Directors received and approved the funding request from the County of Monterey for Litter Abatement Services; and,

WHEREAS, the Authority Board of Directors has approved \$100,000 of funding in the fiscal year 2020-21 budget to support this service.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SALINAS VALLEY SOLID WASTE AUTHORITY that the President of the Board is hereby authorized and directed for, and on behalf of, the Salinas Valley Solid Waste Authority to approve the MOU with the County of Monterey for providing Litter Abatement Services, as attached hereto and marked "Exhibit A" for the amount of \$100,000 fiscal year 2020-21.

PASSED AND ADOPTED by the Board of Directors of the Salinas Valley Solid Waste Authority at a regular meeting duly held on the 20th day of August 2020, by the following vote:

AYES: BOARD MEMBERS: CROMEENES, CULLEN, DE LA ROSA, LARA, PHILLIPS, SILVA, TIPTON, VILLEGAS

NOES: BOARD MEMBERS: NONE

ABSENT: BOARD MEMBERS: LOPEZ

ABSTAIN: BOARD MEMBERS: NONE

DocuSigned by:

Robert Cullen

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Robert Cullen, President of the Board

ATTEST:

DocuSigned by:

Erika J. Trujillo

087ACDFB22A74F6...

Erika J. Trujillo, Clerk of the Board

APPROVED AS TO FORM:

DocuSigned by:

Roy C Santos

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Roy Santos, Authority General Counsel

MEMORANDUM OF UNDERSTANDING

between

COUNTY OF MONTEREY

and

SALINAS VALLEY SOLID WASTE AUTHORITY

Litter Abatement Program

This MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into as of the last date opposite the respective signatures by and between the COUNTY OF MONTEREY, a political subdivision of the State of California (“COUNTY”), and the SALINAS VALLEY SOLID WASTE AUTHORITY (“SVSWA” or “AUTHORITY”), a joint powers authority, with reference to the following facts:

RECITALS

WHEREAS, COUNTY administers a Litter Abatement Program (“Program”) to collect waste and mitigate illegal dumping throughout the County, and relies on the Monterey County Sheriff’s Office Work Alternative Program labor for staffing litter crews;

WHEREAS, SVSWA, a Joint Powers Authority, manages Salinas Valley solid waste as a resource, promoting sustainable, environmentally sound and cost-effective practices through an integrated system of waste reduction reuse, recycling, innovative technology, customer service, and education;

WHEREAS, litter and illegal dumping continue to be a significant issue across the County and cause blight and adversely impact agricultural operations and adversely affect environmental resources;

WHEREAS, COUNTY’s Program has experienced a significant drop in available labor for litter abatement due to a variety of reasons including changes in State legislation and competition for labor resources from other agencies and institutions, thereby, limiting the Program’s ability to mitigate litter and illegal dumping;

WHEREAS, the SVSWA Board of Directors at their meeting of June 21, 2018 voted unanimously to appropriate \$100,000.00 of AUTHORITY Funds to COUNTY for the sole purpose of funding COUNTY’s Program during Calendar Year (CY) 2019;

WHEREAS, the Monterey Regional Waste Management District's (MRWMD) Board of Directors at their meeting of January 19, 2019 committed to appropriate \$100,000.00 to COUNTY for the sole purpose of funding COUNTY's Program during CY 2019;

WHEREAS, funding was allocated from SVSWA and MRWMD before having a workable program, and the parties were not able to move forward under the funding restrictions in 2019;

WHEREAS, SVSWA Board of Directors expressed interest in continued support of COUNTY's Program and has decided to keep their original funding commitment of \$100,000.00 for fiscal year 2020-21;

WHEREAS, MRWMD Board of Directors at their meeting of May 22, 2020 committed to appropriate \$25,000.00 to COUNTY for the sole purpose of funding COUNTY's Program during CY 2020; and

WHEREAS, the parties desire to complete a MEMORANDUM OF UNDERSTANDING to implement the payment of these funds to COUNTY.

NOW, THEREFORE, in consideration of mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. Effective Date and Term.

This MOU will be effective as of the date last signed by either of the parties, and unless earlier terminated as provided in this MOU, shall remain in effect until the close of business, June 30, 2021. This MOU may be amended by mutual written agreement of the parties. COUNTY acknowledges that the City of Salinas has issued a notice of intent to withdraw from the SVSWA and if such action comes to fruition, future funding levels provided by the SVSWA may be proportionally reduced or eliminated.

2. Obligations of the Parties.

- a. COUNTY shall contract for litter and dumping removal (Work) from locally or regionally available contractors or non-profit agencies capable of timely response to litter or illegal dumping removal requests.

- b. COUNTY and SVSWA shall each be responsible for establishing accounting procedures to track costs and transfer funds between Parties. Payment shall be made on a reimbursement basis. COUNTY shall submit an invoice to SVSWA by the 15th day of the month following each contract quarter with an accounting of the use of the funds and the dates and locations where Work was performed.
- c. SVSWA shall reimburse COUNTY for fifty percent (50%) of COUNTY's actual expenses incurred for third-party labor services in the performance of the MOU; provided however, under no circumstances shall SVSWA's contribution for fiscal year 2020-2021, and any subsequent fiscal year funding extension, exceed \$100,000.00 without prior amendment to this MOU. SVSWA shall not reimburse COUNTY for services not yet performed.
- d. COUNTY is solely responsible for payments to all vendors, suppliers and subcontractors used in the performance of the Program and such parties shall have no right, nor make any claim to payment from SVSWA with respect thereto.
- e. SVSWA shall authorize payment to COUNTY hereunder no later than 30 calendar days after receipt and approval of an invoice verifying expenditures.
- f. MOU services and modifications to litter abatement services shall be addressed by Monterey County Resource Management Agency (RMA) and RMA shall seek service providers.
- g. Monterey County Health Department-Environmental Health Bureau (EHB) shall work with USA Waste of California, Inc. dba Carmel Marina Corporation (CMC) to provide for more frequent community cleanup events countywide.
- h. EHB shall review the existing Unified Franchise Agreement (UFA_ as amended to reinstate a process where CMC shall respond to countywide community cleanup events instead of funding RMA-Public Works disposal costs.
- i. EHB shall negotiate additional cleanup events and expanded road cleanup response while amending the existing UFA which is currently under negotiation.
- j. EHB shall negotiate with CMC to implement use of interns to canvass areas to promote and schedule removal of bulky items to discourage further illegal dumping.
- k. EHB shall expand its outreach efforts to reduce illegal dumping through the illegal dumping task force.

3. Termination

BY COUNTY

- a. COUNTY may terminate this MOU only for cause, which shall be defined as failure to make any payment required as described in section 2 above, subject to the following:
 - i. COUNTY shall provide sixty (60) calendar days written notice to SVSWA in advance of the termination and the reason(s) therefor. SVSWA shall be given 30 calendar days to correct the reason(s) for the termination. If COUNTY is satisfied, in its sole discretion, that the reason(s) for the termination have been remedied, the MOU shall not terminate and shall continue in force and effect.
 - ii. If SVSWA does not remedy the reason(s) for the termination to the satisfaction of COUNTY in COUNTY's sole discretion, COUNTY shall give SVSWA written notice thereof and the MOU shall terminate on a date provided by COUNTY in said notice. Upon termination, SVSWA shall pay to COUNTY all sums due and owing for services performed through the effective date of the termination.

BY SVSWA

- a. SVSWA may terminate this MOU at any time for its convenience and without cause upon giving sixty (60) calendar days written notice to COUNTY. The effective date of termination is the termination date contained in SVSWA's notice of termination, unless otherwise agreed to by the parties. Upon termination, SVSWA shall pay to COUNTY all sums due and owing for services performed through the effective date of the termination.

4. Indemnification

- a. To the maximum extent permitted by law, COUNTY shall defend, indemnify, and hold harmless SVSWA, its officers, agents, and employees, from and against any and all demands, claims, causes of action, suits, judgments, liabilities, liens, losses, damages, expenses, fines, penalties, and assessments (collectively, "damages") incurred or sustained by SVSWA arising from or related to the performance by COUNTY of its obligations under this MOU excepting therefrom any damages arising from or related to the gross negligence or willful misconduct of SVSWA, its officers, agents, or employees.
- b. To the maximum extent permitted by law, SVSWA shall defend, indemnify, and hold harmless COUNTY, its officers, agents, and employees, from and against any and all demands, claims, causes of action, suits, judgments, liabilities, liens, losses, damages, expenses, fines, penalties, and assessments (collectively, "damages") incurred or sustained by COUNTY arising from or related to the performance by SVSWA of its

obligations under this MOU excepting therefrom any damages arising from or related to the gross negligence or willful misconduct of COUNTY, its officers, agents, or employees.

5. General Provisions

a. No Assignment

This MOU cannot be assigned or transferred without the express written consent of both parties.

b. Independent Contractor

Nothing in this MOU shall be construed or interpreted to make the SVSWA a constituent part of COUNTY, or any officer, employee, consultant or other agent of COUNTY, or an officer or employee of COUNTY. Neither SVSWA nor its officers, employees, consultants, or other agents shall have the authority to bind COUNTY in any manner without the express written consent of COUNTY.

c. Non-Disclosure of Information

Except as required by law, the SVSWA shall not disclose, without the express written consent of COUNTY, any information relating to COUNTY business which has been submitted by COUNTY to the SVSWA pursuant to the terms of this MOU. In the event that this MOU is terminated, the SVSWA shall immediately return all COUNTY papers, documents, data, and like belongings to COUNTY.

d. Notices

i. Notices permitted or required to be given to the respective parties under this MOU shall be deemed given (1) when personally delivered to the individuals identified below; (2) when personally delivered to the party's principal place of business during normal business hours, by leaving the notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; or (3) five (5) days after the notice is deposited in the United States Postal Services (USPS) mail, first class, postage prepaid, and addressed to the party as indicated below.

ii. Notices mailed to the parties shall be addressed as follows:

<p>To COUNTY:</p> <p>RESOURCE MANAGEMENT AGENCY ATTN CARL HOLM RMA DIRECTOR 1441 SCHILLING PL SOUTH FL2 SALINAS CA 93901-4527</p> <p><i>Copy to:</i></p> <p>OFFICE OF THE COUNTY COUNSEL ATTN LESLIE GIRARD, COUNTY COUNSEL 168 W ALISAL ST FL3 SALINAS CA 93901-2439</p>	<p>To SVSWA:</p> <p>SVSWA ATTN PATRICK MATHEWS GM/CAO 128 SUN ST STE 101 SALINAS CA 93901-3751</p> <p><i>Copy to:</i></p> <p>SVSWA ATTN ROY C. SANTOS GENERAL COUNSEL 128 SUN ST STE 101 SALINAS CA 93901</p>
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The addresses and other information in this paragraph may be changed by either party, by giving notice to the other in the manner provided herein.

e. 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.

f. No Waiver

No covenant or condition of this MOU can be waived except by the written consent of COUNTY. Forbearance or indulgence by COUNTY in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by SVSWA. COUNTY shall be entitled to invoke any remedy available to COUNTY under this MOU or by law or in equity despite said forbearance or indulgence.

g. 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.

h. Venue

If any party herein initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that venue thereof shall be the Monterey County Superior Court.

i. Construed Pursuant to California Law

The parties hereto agree that the provisions of this MOU will be construed pursuant to the laws of the State of California.

j. 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 parties, intending to be legally bound, have executed this Memorandum of Understanding on the date last signed below:

COUNTY OF MONTEREY

SALINAS VALLEY SOLID WASTE AUTHORITY

By: _____
Carl P. Holm, AICP
Resource Management Agency Director

Date: _____

APPROVED AS TO FORM:

Office of the County Counsel

By: ^{DocuSigned by:}
Mary Grace Perry

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Mary Grace Perry
Deputy County Counsel

Date: 8/21/2020

By: ^{DocuSigned by:}
Robert Cullen

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Rob Cullen
Chair, Board of Directors

Date: 8/21/2020

APPROVED AS TO FORM:

SVSWA General Counsel

By: ^{DocuSigned by:}
Roy C Santos

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Roy C. Santos
SVSWA General Counsel

Date: 8/21/2020
