

MEMORANDUM OF UNDERSTANDING

by and between the

COUNTY OF MONTEREY

and the

MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

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 (“County”), a subdivision of the State of California, and the MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT (“MRWMD”), a joint powers authority, with reference to the following facts:

RECITALS

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

Whereas, MRWMD, a public agency, operates a landfill and associated facilities with a mission to turn waste into resources in the most cost effective and environmentally sound manner to benefit the community;

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

Whereas, County’s Litter Abatement Program (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 Board of Directors of Monterey Regional Waste Management District at their meeting of June 22, 2018 voted to adopt Resolution 2018-11 approving a Final Budget for Fiscal Year 2018-19 and, in part, to appropriate \$75,000 to the County for the sole purpose of funding litter and dumping abatement programs in the County during the fiscal year 2018-19;

Whereas, the Board of Directors of Salinas Valley Solid Waste Authority at their meeting of June 21, 2018 voted unanimously to appropriate \$100,000 of Authority Funds to the County for the sole purpose of funding litter and dumping abatement programs in the County during calendar year 2019;

Whereas, the parties desire to complete a *MEMORANDUM OF UNDERSTANDING* to implement the payment of these funds to the 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, 2019. This MOU may be amended from time to time by mutual written agreement of the parties.

2. Obligations of the Parties

- a. The County shall conduct litter pickup (Work) using labor services from nonprofit agencies including but not limited to Hope Services and Rancho Cielo. The Work locations shall be as equally distributed as possible between MRWMD and SVSWA jurisdictional areas.

- b. The County and MRWMD shall each be responsible for establishing accounting procedures to track costs and transfer funds between the Parties. Payment shall be made on a reimbursement basis. The County shall submit an invoice to MRWMD by the 15th day of the month following each contract quarter with an accounting of use of the funds and the locations where Work was performed.
- c. MRWMD shall reimburse the County for fifty percent (50%) of the County's actual expenses incurred for third party labor services in the performance of the MOU for a sum not to exceed \$50,000 and MRWMD shall reimburse the County for one hundred percent (100%) of the County's actual expenses incurred for third party labor services in the performance of the MOU for a sum not to exceed \$25,000 for the fiscal year 2018-19. MRWMD shall not reimburse the County for services not yet performed.
- d. The County is solely responsible for payments to all its vendors, suppliers and subcontractors used in the performance of the Litter Abatement Program and such third parties shall have no right, nor make any claim to payment from MRWMD with respect thereto.
- e. MRWMD shall authorize payment to the County hereunder no later than 30 calendar days after receipt and approval of an invoice verifying expenditures.

3. Termination

A. By the County

The County may terminate this MOU only for cause, which shall be defined as failure to make any payment required by section 2 above, subject to the following:

i. The County shall provide sixty (60) days written notice to the MRWMD in advance of the termination and the reasons therefore. The MRWMD shall be given 30 calendar days to correct the reason for the termination. If the County is satisfied, in its sole discretion, that the reasons for the termination have been remedied, the MOU shall not terminate and shall continue in full force and effect.

ii. If the MRWMD does not remedy the reasons for the termination to the satisfaction of the County in the County's sole discretion, the County shall give the MRWMD

written notice thereof and the MOU shall terminate on a date provided by the County in said notice. Upon termination, MRWMD shall pay to the County all sums due and owing for services performed through the effective date of the termination.

B. By the MRWMD

The MRWMD may terminate this MOU at any time for its convenience and without cause upon giving sixty (60) calendar days written notice to the Agency. The effective date of termination is the termination date contained in MRWMD's notice of termination, unless otherwise agreed to by the parties. Upon termination, the MRWMD shall pay to the 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, the County shall defend, indemnify and hold harmless the MRWMD, 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 the MRWMD arising from or related to the performance by the County of its obligations under this MOU excepting therefrom any damages arising from or related to the gross negligence or willful misconduct of the MRWMD, its officers, agents, or employees.

B. To the maximum extent permitted by law, the MRWMD shall defend, indemnify and hold harmless the 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 the County arising from or related to the performance by the MRWMD of its obligations under this MOU excepting therefrom any damages arising from or related to the gross negligence or willful misconduct of the 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 MRWMD a constituent part of the County, or any officer, employee, consultant or other agent of the MRWMD an officer or employee of the County. Neither the MRWMD nor its officers, employees, consultants or other agents shall have the authority to bind the County in any manner without the express written consent of the County.

C. 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 five (5) days after the notice is deposited in the U.S. 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 the County:</p> <p>Carl Holm, RMA Director</p> <p>1441 Schilling Place 2nd Floor - South Salinas, CA 93901</p> <p>(831) 755-5103</p> <p>holmcp@co.monterey.ca.us</p> <p>Copy to:</p> <p>Office of the County Counsel</p> <p>Charles J. McKee, County Counsel</p> <p>168 W. Alisal St., 3rd Floor</p>	<p>To the MRWMD:</p> <p>Tim Flanagan, General Manager</p> <p>14201 Del Monte Blvd.</p> <p>Monterey County, CA 93933-1670</p> <p>(831) 384-5313</p> <p>tflanagan@mrwmd.org</p> <p>Copy to:</p> <p>Rob Wellington, MRWMD Counsel</p> <p>857 Cass Street, Ste D</p>
--	---

Salinas, CA 93901 (831) 755-5045 mckeecj@co.monterey.ca.us	Monterey, CA 93940 831-373-8733 attys@wellingtonlaw.com
--	---

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.

D. 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.

E. No Waiver

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

F. 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.

G. 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.

H. 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.

I. 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

MONTEREY REGIONAL WASTE
MANAGEMENT DISTRICT

By: _____

Chair, Board of Supervisors

By: _____

Chair, Board of Directors

Date: _____

Date: _____

APPROVED AS TO FORM:

Office of the County Counsel

Charles J. McKee, County Counsel

APPROVED AS TO FORM:

MRWMD Counsel

By: _____

Mary Grace Perry

Deputy County Counsel

By: _____

Rob Wellington,

MRWMD Counsel

Date: _____

Date: _____