



Monterey County

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Board Order

Agreement No.: A-12354; Resolution No. 12-342

Upon motion of Supervisor Salinas, seconded by Supervisor Armenta, and carried by those members present, the Board of Supervisors hereby:

- a. Authorized the Chair of the Monterey County Board of Supervisors to sign an agreement A-12354 with the Superior Court of California, County of Monterey concerning the administration and maintenance of the Dispute Resolution Programs Act (DRPA) in Monterey County; and
- b. Approved the Board Resolution No. 12-342 that delegates administration of the DRPA Trust Fund to the Superior Court of California, County of Monterey; for purposes of dispute resolution program administration, approve an amount not to exceed 10% of the annual revenue of the DRPA Trust Fund, as provided by Section 469 of the California Business and Professions Code, which shall be used to finance the administration of the program.

PASSED AND ADOPTED on this 6th day of November 2012, 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 76 for the meeting on November 6, 2012

Dated: November 9, 2012
File Number: 12-1043

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

By Denise Hancock
Deputy

**AGREEMENT
BETWEEN THE COUNTY OF MONTEREY AND THE MONTEREY COUNTY
SUPERIOR COURT TO DELEGATE ADMINISTRATION OF THE
DISPUTE RESOLUTION PROGRAM ACT (DRPA) TRUST FUND TO THE SUPERIOR
COURT OF CALIFORNIA,
COUNTY OF MONTEREY**

This AGREEMENT is made and entered into this 1st day of January, 2013 by and between the County of Monterey, a political subdivision of the State of California ("County"), and the Superior Court of California, County of Monterey ("Court").

BACKGROUND

1. Enacted in 1986, the Dispute Resolution Programs Act ("DRPA"; section 465 through section 471.5 inclusive of the Business and Professions Code) provides for a designation of certain court civil filing fees to fund alternative dispute resolution (ADR) programs.
2. Currently, the Director of the County's Department of Social and Employment Services acts as the County's DRPA Program Coordinator and fulfills the County's duties and responsibilities under DRPA.
3. The Court has an existing ADR Committee pursuant to the requirements of California Rules of Court 10.782 and 10.783 that oversees the Court's use of ADR in civil cases, and has developed expertise in the area of ADR programs and administration.
4. The Court and County agree that ADR programs benefit Monterey County citizens.
5. The County and the Court desire to have the County delegate to Court all of the County's duties and responsibilities under DRPA and the California Code of Regulations implementing DRPA (CCRs Title 16, Chapter 36) and to concurrently assign to the Court the right to administer DRPA funds.

In consideration of the mutual covenants and promises herein contained, the parties hereby agree as follows:

1. PROGRAM ADMINISTRATION

The County designates the Court's Executive Officer or his/her designee as the Program Coordinator of the Monterey County Dispute Resolution Program and the Court accepts that designation. To the extent allowed by law, County delegates to Court all duties and responsibilities required by and assigns to Court its rights and powers under section 465 through section 471.5 inclusive of the Business and Professions Code and Title 16 CCR section 3600 et seq. The Court accepts both the delegations of duties and correlative assignment of rights.

2. ADR TRUST FUND

All revenues collected under Business and Professions Code 470.3 are currently deposited in a trust fund designated the Monterey County Alternative Dispute Resolution Program Trust Fund. The County assigns and the Court accepts the administrative authority over the Trust Fund. Court will expend funds on deposit in the Monterey County Court Alternative Resolution Program Trust Fund on alternative dispute resolution programs in accordance with DRPA and the California Code of Regulations implementing DRPA (CCRs Title 16, Chapter 36). The Court may deduct its actual administrative costs from the ADR Trust Fund, up to 10% of the annual revenue of the trust fund. Except as provided in this Agreement, the County will not provide any other funding for the administration of the DRPA funds.

3. INDEMNIFICATION

The County agrees to indemnify, defend and hold harmless the Court, its officers, agents, employees, and volunteers and each of them, from any and all actions, claims, demands, liabilities, losses, damages, and expenses, including attorney's fees, for injuries or death to persons, or damage to property, proximately caused by the acts or omissions of County, its officers, agents or employees in any ways arising out of or related to this agreement.

The Court agrees to indemnify, defend and hold harmless the County, the County's officers, agents, employees, and volunteers and each of them from any and all actions, claims, demands, liabilities, losses, damages, and expenses, including attorney's fee and any liability for funding the Monterey County Alternative Dispute Resolution Program Trust Fund, for injuries or death to persons, or damage to property, proximately caused by the acts or omissions of Court, its officers, agents or employees in any way arising out of or related to this agreement.

5. TERM OF AGREEMENT

This Agreement may be terminated by either party only upon ninety (90) days written notice to the other party specifying the termination date.

6. TERMINATION

Upon the effective date of termination of this Agreement by either party, any Resolution adopted by the Board of Supervisors pursuant to section 470.3 of the Business and Professions Code will be deemed to have no further legal effect and rescinded. Upon the effective date of termination of this Agreement by either party, Court will cease administration of the Monterey County Alternative Resolution Program Trust Fund.

7. ANNUAL REPORT

The Court will file with the County Board of Supervisors annually for its review a report setting forth revenues received, to whom and in what amounts disbursements were made and a statistical summary of program activity as required by section 471.5 of the Business and Professions Code.

8. SOLE AGREEMENT AND MODIFICATION

This document contains the entire agreement of the parties relating to the services, rights, obligations and covenants contained herein and assumed by the parties respectively. No inducement, representation or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect. This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

APPROVED

MONTEREY COUNTY
BOARD OF SUPERVISORS
Chair

By: Dave Potter

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF MONTEREY
Court Executive Officer

By: Carrie Mangini

APPROVED AS TO FORM:

Office of the County Counsel

By: Charles R. McKee

**RESOLUTION OF THE MONTEREY COUNTY BOARD OF SUPERVISORS TO
DELEGATE ADMINISTRATION OF THE
DISPUTE RESOLUTION PROGRAM ACT (DRPA) TRUST FUND TO THE SUPERIOR
COURT OF CALIFORNIA,
COUNTY OF MONTEREY**

Resolution No. 12342

WHEREAS, the Dispute Resolution Programs Act (section 465 through section 471.5 inclusive of the California Business and Professions Code) was enacted in 1986 and provides for the designation of certain court civil filing fees to fund alternative dispute resolution programs; and

WHEREAS, as provided in the Dispute Resolution Programs Act, the County currently administers the funding for alternative dispute resolution programs in the County;

WHEREAS, the Court has the expertise and experience to administer the funding for the alternative dispute resolution programs (ADR); and

WHEREAS, the County and the Court desire to have the County delegate to Court each and all of the duties and responsibilities of the County set forth in section 465 through section 471.5 inclusive of the California Business and Professions Code and to concurrently assign to the Court the right to administer funds accumulated through civil filing fees;

NOW THEREFORE, BE IT RESOLVED, in accordance with the Dispute Resolution Programs Act, that the Monterey County Board of Supervisors approves delegating administration of the DRPA Trust Fund to the Superior Court and approves allocating up to 10% of the annual revenue of the DRPA Trust Fund to the Superior Court for such purposes.

PASSED AND ADOPTED upon motion of Supervisor Salinas, seconded by Supervisor Armenta, and carried this 6th day of November 2012, 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 76 for the meeting on November 6, 2012

Dated: November 9, 2012
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Gail T. Borkowski, Clerk of the Board of Supervisors
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