

**MEMORANDUM OF UNDERSTANDING**  
**between**  
**THE COUNTY OF MONTEREY**  
**and**  
**THE MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY**

This Memorandum of Understanding ("MOU") is made by and between Monterey Regional Water Pollution Control Agency ("PCA") a joint powers agency organized and operating under sections 6500 and following of the California Government Code and County of Monterey ("County"), a political subdivision of the State of California, hereafter collectively referred to as "Parties" and in the singular as a "Party," on \_\_\_\_\_, 2017.

**WITNESSETH:**

**WHEREAS**, PCA is experiencing lower wastewater flows into its regional treatment plant due to area wide conservation measures; and

**WHEREAS**, PCA has available capacity to treat additional wastewater flows that are not being beneficially reused; and

**WHEREAS**, County has had numerous inquiries by customers of other small wastewater systems to consider the feasibility of more economical treatment options; and

**WHEREAS**, On December 13, 2016, the Monterey County Board of Supervisors directed staff to develop a Memorandum of Understanding with the CPA for the preparation of a Focused Wastewater Service Area Study that will provide a current assessment of regional opportunities for sewer service area consolidation, including a Basis of Design for Infrastructure to serve the Toro area as well as other small sewer systems in the study area; and

**WHEREAS**, PCA is undertaking the development and revision of a Small Wastewater System Update to evaluate the opportunities to provide regional service to several small systems; and

**WHEREAS**, County is interested in divesting from the operation and ownership of wastewater collection and treatment where determined to be appropriate and feasible; and

**WHEREAS**, County has determined that achieving the purposes described herein will facilitate necessary and beneficial public services and increase overall public health and safety; and

**WHEREAS**, PCA initiated a Request for Proposal for the Focused Wastewater Service Area Study and selected V.W. Housen & Associates to prepare the Study for the amount of \$100,425.00; and

**WHEREAS**, PCA is working cooperatively with numerous agencies and cities in Monterey County to advance the use of effective and cost efficient methods for using water resources wisely including the use of alternative water supplies within Monterey County;

and,

**WHEREAS**, PCA desires to maximize the use of its existing wastewater treatment and conveyance facilities; and

**NOW, THEREFORE**, in consideration of the foregoing, the Parties hereby agree as follows:

1. The above recitals are hereby incorporated into this MOU.
2. This MOU is authorized by Government Code section 6500 et seq.
3. County will reimburse PCA's actual cost up to a Not-to-Exceed amount of \$100,425.00; however the Director of the Resource Management Agency may, in his sole discretion, approve 1 future amendment to this MOU to increase that amount by a maximum of 10% (\$10,043.) for a Cumulative Not-to-Exceed amount of \$110,468.00, for expenses incurred in developing the Focused Wastewater Service Area Study. County will reimburse PCA within 30 days of its receipt of a statement of accounting for costs reasonably incurred by PCA.
4. Additional funds may be requested by PCA from the County if the completion of contractual arrangements for completing the Small Wastewater System Update warrants additional data or research which can enhance the viability of the conversions of certain small wastewater systems. Additional funds will be authorized by an amendment to this MOU subsequent to both County and PCA's Board action.
5. This MOU shall terminate upon the occurrence of either of the following:
  - a. The Small Wastewater System Update is not completed by January 31, 2018;
  - b. County in its sole discretion may terminate this agreement within 30 days after providing written notice of intent to terminate. This right may be exercised by the Monterey County Resource Management Director or his designee.
6. Miscellaneous:
  - a. In entering into this MOU PCA and County represent that each has read all of the terms of this MOU and the terms of this MOU are fully understood and voluntarily accepted by each.
  - b. The Parties acknowledge that each Party has reviewed this MOU and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this MOU.
  - c. The Effective Date of this Agreement shall be \_\_\_\_\_, 2017 ("Effective Date") and the term shall terminate on January 31, 2018. The term may be extended at any time prior to the termination date by the mutual written agreement



of PCA and the County. Either party may also terminate this MOU by providing written notice to the other 30 calendar days prior to the effective date of such notice. In the event this MOU is terminated neither Party shall have any further right or obligation except payment by County to Agency for the actual and reasonable services rendered and expenses incurred by the Agency pursuant to this MOU.

- d. Nothing herein shall require County to perform any action under this MOU if County has insufficient available funds to perform such action.
- e. This MOU sets forth the understanding of the Parties in connection with the subject matter herein. Neither Party has made any statement; inducement for the other to enter into this MOU, except as is expressly set forth in this Agreement. It is expressly understood and agreed that this Agreement may not be altered, amended, modified or otherwise changed in any respect whatsoever except by writing duly executed by authorized representatives of the Parties hereto. The Parties agree that they will make no claim at any time or place that this MOU has been orally altered or modified or otherwise changed by oral communication of any kind or character.
- f. This MOU shall be governed by the laws of the State of California. Venue shall be in Monterey County.
- g. In the event any portion of this MOU is deemed to be unenforceable, or is in conflict with applicable law, the remainder of this MOU shall be enforced and shall remain in full force and effect, unless the portion enforceable is a material consideration to a party of this MOU.
- h. The Parties agree to cooperate fully and to execute any and all documents, and to take all additional actions that may be necessary or reasonably appropriate to give full force and effect to the basic terms and intent of this MOU, and which are not inconsistent with its terms.
- i. The individuals whose signatures appear herein below represent, warrant and guarantee that they have the authority to execute this Agreement on behalf of those entities on whose behalf they purport to execute this document. Monterey Regional Water Pollution Control Agency Board of Directors and Monterey County Board of Supervisors Resolution are Attachments "A" and "B" to this Agreement, respectively.
- j. Notice: Any notice to be given hereunder may be delivered in person or by electronic mail ("Email" to the addresses identified below, or may be delivered by Federal Express, other private commercial delivery or courier service for next business day delivery, or may be deposited in the United States mail, duly certified or registered, return receipt requested, with postage prepaid, and addressed to the Party for whom intended, as follows:

Monterey County: Carl Holm, AICP  
Director, Monterey County  
Resource Management Agency  
168 W Alisal St, Salinas, CA 93901

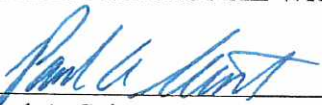
Monterey Regional Water  
Pollution Control Agency: Paul A. Sciuto  
General Manager  
5 Harris Court, Bldg. D  
Monterey, CA 93940

Notice shall be deemed effective two days after mailing.

1. This MOU may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument, it being understood that all Parties need not sign the same counterparts. This Agreement may also be executed by signatures to facsimile or electronic transmittal documents in lieu of an original.

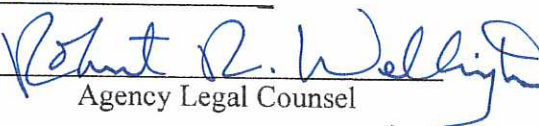
**IN WITNESS WHEREOF**, The Monterey Regional Water Pollution Control Agency and the County of Monterey have executed this MOU on the date written below as follows.

**MONTEREY REGIONAL WATER POLLUTION CONTROL AGENCY**

By:   
Paul A. Sciuto

Its: General Manager, Monterey Regional Water Pollution Control Agency

Date: March 2, 2017

Approval as to form:   
Agency Legal Counsel

**COUNTY OF MONTEREY**

By: \_\_\_\_\_  
Carl Holm, AICP

Its: \_\_\_\_\_  
Director of the Monterey County Resource Management Agency

Approval as to form: \_\_\_\_\_  
Brian Briggs, Deputy County Counsel