

Attachment A

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MEMORANDUM OF UNDERSTANDING

between

COUNTY OF MONTEREY

and

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, a political subdivision of the State of California ("COUNTY"), and the MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT ("MRWMD"), a public agency, 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, 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 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 Board of Directors of MRWMD at their meeting of June 22, 2018 voted unanimously to adopt Resolution 2018-14 approving a Final Budget for Fiscal Year 2018-19

and, in part, to appropriate \$75,000 to COUNTY for the sole purpose of funding litter and dumping abatement programs in COUNTY during the fiscal year 2018-19;

WHEREAS, the Board of Directors of MRWMD at their meeting of January 19, 2019 committed to appropriate \$100,000 to COUNTY for the sole purpose of funding COUNTY's Program during calendar year 2019;

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

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

WHEREAS, the Board of Directors of MRWMD have expressed interest in continued support of COUNTY's litter and illegal dumping abatement programs;

WHEREAS, the Board of Directors of SVSWA have decided to keep their original funding commitment of \$100,000;

WHEREAS, the Board of Directors of MRWMD at their meeting of May 22, 2020 committed to appropriate \$25,000 to COUNTY for the sole purpose of funding litter and illegal dumping abatement programs in COUNTY during calendar year 2020;

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.

2. Obligations of the Parties

- a. COUNTY shall contract for litter and illegal 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 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. 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 COUNTY for fifty percent (50%) of 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 2020-2021. MRWMD shall not reimburse COUNTY for services not yet performed.
- d. COUNTY is solely responsible for payments to all its vendors, suppliers and subcontractors used in the performance of the 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 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. Environmental Health Bureau of Monterey County (EHB) shall work with USA Waste of California, Inc. dba Carmel Marina Corporation (CMC to provide for more frequent community cleanup events COUNTY wide.
- h. EHB shall review existing Unified Franchise Agreement (UFA) as amended to reinstate a process where CMC shall respond to countywide community cleanup events instead of funding 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 canvas areas to promote and schedule bulky item pickups to head off 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) days written notice to MRWMD in advance of the termination and the reasons therefore. MRWMD shall be given 30 calendar days to correct the reason for the termination. If 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 MRWMD does not remedy the reasons for the termination to the satisfaction of COUNTY in COUNTY's sole discretion, COUNTY shall give MRWMD written notice thereof and the MOU shall terminate on a date provided by COUNTY in said notice. Upon termination, MRWMD shall pay to COUNTY all sums due and owing for services performed through the effective date of the termination.

By MRWMD

- a. 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, MRWMD 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 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 MRWMD 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 MRWMD, its officers, agents, or employees.
- b. To the maximum extent permitted by law, MRWMD 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 MRWMD 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

The 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 MRWMD a constituent part of COUNTY, or any officer, employee, consultant, or other agent of MRWMD an officer or employee of COUNTY. Neither MRWMD 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

MRWMD shall not disclose, without the express written consent of COUNTY, any information relating to COUNTY business which has been submitted by COUNTY to MRWMD pursuant to the terms of this MOU. In the event that this MOU is terminated, MRWMD 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 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 P. HOLM, RMA DIRECTOR 1441 SCHILLING PLACE SOUTH, 2ND FLOOR SALINAS, CALIFORNIA 93901-4527</p> <p>Copy to:</p> <p>OFFICE OF THE COUNTY COUNSEL ATTN: LESLIE J. GIRARD, COUNTY COUNSEL 168 W. ALISAL STREET, 3RD FLOOR SALINAS, CALIFORNIA 93901-2439</p>	<p>To MRWMD:</p> <p>MRWMD ATTN: TIM FLANAGAN GENERAL MANAGER 14201 DEL MONTE BLVD. MONTEREY, CALIFORNIA 93933-1670</p> <p>Copy to:</p> <p>MRWMD ATTN: ROB WELLINGTON, GENERAL COUNSEL 857 CASS STREET, SUITE D MONTEREY, CALIFORNIA 93940</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 MRWMD. 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

MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

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

By: _____
Chair
Board of Directors

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Office of the County Counsel

MRWMD General Counsel

By: _____
Mary Grace Perry
Deputy County Counsel

By: _____
Rob Wellington
MRWMD General Counsel

Date: _____

Date: _____

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