

**A RESOLUTION OF THE SALINAS VALLEY SOLID WASTE AUTHORITY
RECOMMENDING THE AUTHORITY’S MEMBER AGENCIES APPROVE AND
EXECUTE AMENDMENT NO. 3 TO THE JOINT POWERS AGREEMENT BETWEEN
THE CITY OF SALINAS, THE CITY OF GONZALES, THE CITY OF SOLEDAD, THE
CITY OF GREENFIELD, THE CITY OF KING AND THE COUNTY OF MONTEREY
AMENDING SECTION 13 - ASSUMPTION OF PROGRAM RESPONSIBILITIES**

WHEREAS, the Authority Board of Directors on January 20, 2000, approved amendments to each member agency’s interagency agreement, excluding the County of Monterey, to have the Authority provide enhanced AB 939 services; and

WHEREAS, pursuant to Public Resources Code sections 40970-409756, it is the desire of the member agencies, excluding the County of Monterey, to form a Regional Agency for the purposes of consolidating annual AB 939 reporting and compliance evaluation as a Regional Agency rather than as individual cities; and

WHEREAS, the creation of a regional agency allows the Authority to report its members’ disposal and diversion tonnages together in a single report thus reducing the time and expense of creating multiple reports; and

WHEREAS, the California Department of Resources Recycling and Recovery (CalRecycle) favors the creation of regional agencies; and

BE IT RESOLVED, BY THE BOARD OF DIRECTORS OF THE SALINAS VALLEY SOLID WASTE AUTHORITY, that Board recommends that each of its member agencies approve and execute the attached Amendment No. 3 to the Salinas Valley Solid Waste Authority Joint Powers Agreement, as attached hereto and marked “Exhibit A.”

PASSED AND ADOPTED by the Board of Directors of the Salinas Valley Solid Waste Authority at its regular meeting duly held on the 18th day of October 2012, by the following vote:

AYES: BOARD MEMBERS: ARMENTA, CULLEN, DE LA ROSA, FUNK (ALT), PEREZ

NOES: BOARD MEMBERS: NONE

ABSENT: BOARD MEMBERS: CALCAGNO, DONOHUE, LUTES, SILVA, MORENO

ABSTAIN: BOARD MEMBERS: NONE


Fernando Armenta, President

ATTEST:

Elia Zavala, Clerk of the Board



EXHIBIT A

**AMENDMENT 3 TO THE
JOINT POWERS AGREEMENT BETWEEN THE CITY OF SALINAS, THE CITY OF
GONZALES, THE CITY OF SOLEDAD, THE CITY OF GREENFIELD, THE CITY OF
KING AND THE COUNTY OF MONTEREY**

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This amendment to the Joint Powers Agreement of the Salinas Valley Solid Waste Authority, a joint powers authority organized under California law (hereinafter "Authority"), is made and entered into by and between the following public entities, which are all of the member agencies of the Authority:

- a. CITY OF SALINAS ("Salinas"), a municipal corporation;
- b. CITY OF GONZALES ("Gonzales"), a municipal corporation;
- c. CITY OF GREENFIELD ("Greenfield"), a municipal corporation;
- d. CITY OF KING ("King"), a municipal corporation;
- e. CITY OF SOLEDAD ("Soledad"), a municipal corporation; and
- f. COUNTY OF MONTEREY ("County"), a political subdivision of the State of California.

Recitals

WHEREAS, the Authority Board of Directors on January 20, 2000, approved amendments to each member agency's interagency agreement, excluding the County of Monterey, to have the Authority provide enhanced AB 939 services, including: 1) completion of annual compliance reports, 2) commercial and industrial recycling program development and implementation, 3) public education campaign, 4) household hazardous waste collection, 5) diversion activities/facilities at the landfill and transfer stations, and 6) franchise collection and recycling agreement enforcement assistance; and

WHEREAS, it is the desire of the member agencies, excluding the County of Monterey, to form a Regional Agency for the purposes of consolidating annual AB 939 reporting and compliance evaluation as a Regional Agency rather than as individual cities;

NOW, THEREFORE, member public entities agree to amend Section 13 Assumption of Program Responsibilities, of the Salinas Valley Solid Waste Authority Joint Powers Agreement, January 1, 1997, as follows:

(New language in italics and deleted language in strike-out)

The following language is added and deleted from **Article 13** of the Agreement:

13. ASSUMPTION OF PROGRAM RESPONSIBILITIES: The Authority agrees to acquire ownership of and assume exclusive responsibility for managing landfill assets and

convenience stations of the Parties, including the Crazy Horse Canyon Landfill, the Johnson Canyon Landfill, the Jolon Road Solid Waste Facility, the Lewis Road Landfill, the San Ardo County Convenience Station, and the Bradley County Convenience Station. The exclusive responsibility for managing landfill assets and convenience stations includes, but is not limited to, the establishment of rates, fees, charges, and surcharges for the use of such facilities, and ongoing and potential liability for site remediation for each landfill asset and convenience station. Each of the Parties owning such landfill assets and convenience facilities agrees to sell such assets and facilities to the Authority and to take such actions as may be necessary or convenient to ensure that the Authority Board has the authority to establish rates, fees, charges, surcharges pursuant to any agreement, license, permit, franchise, ordinance, or resolution as provided pursuant to this Agreement. Acquisition, sale, and purchase of such assets will be consistent with the terms generally described in Exhibit "A" to this agreement. It is anticipated that a portion or all of the costs of conveyance will be financed through the issuance of debt subject to the powers of this Authority as described in this Agreement. Upon execution of this Agreement, or as soon thereafter as practical, the Parties and the Authority Board shall open an escrow, consistent with the terms described in Exhibit "A", for the transfer of the described assets and facilities. The Parties and the Authority Board shall diligently pursue, perform, and complete all of the terms and conditions of escrow in order to ensure that escrow closes in a timely manner. Except for the failure of the Authority Board to arrange or otherwise acquire necessary financing to finance the acquisition of the assets and facilities, such assets and facilities shall be conveyed to the Authority. Upon conveyance of the above assets, the Authority will be solely responsible for the processing of all necessary or desirable permits, licenses, rulings, or any other entitlements, including, but not limited to appropriated environmental assessments, related to the operation of the conveyed landfill assets and convenience stations.

The Authority will not assume responsibility for the following programs *except for the establishment of a Regional Agency and its powers as provided below or unless as assigned* by a Party to this Agreement and agreed to by the Authority Board governing board: collection, preparation of annual reports or integrated waste management plans, liability for fines for a jurisdiction's failure to meet its diversion goals, regional diversion projects, public education, household hazardous waste programs, small quantity generator programs, or billing. In the event the Authority Board assumes such responsibility, the Authority shall only be responsible for obligations or liabilities that arise or occur after the Authority Board agrees to such assignment. The Authority will not assume liability for remediation of landfill sites closed or abandoned prior to the execution of this agreement. Upon the request of a Party to this Agreement, however, the Authority will provide a funding mechanism and project management for site remediation for closed or abandoned landfill sites which were closed or abandoned prior to the execution of this Agreement.

(Amended language in italics)

The following Sections are inserted at the end of **Article 13** of the Agreement:

- (a) *ESTABLISHMENT OF A REGIONAL AGENCY: Public Resources Code ("PRC") sections 40970 through 40976 allow cities and counties to form "regional agencies" to implement PRC Division 30, Part 2 Integrated Waste Management Plans, to reduce the cost of reporting and tracking of disposal and diversion programs by individual cities and counties and to increase the diversion of solid waste from disposal facilities.*

The Authority has sought regional agency designation by the California Department of Resources Recycling and Recovery ("CalRecycle") for the primary purpose of jointly reporting disposal and diversion for its participating members pursuant to PRC sections 40970 through 40976. CalRecycle or other agency, officer, entity or person designated by the State to perform the functions of CalRecycle pursuant to the Integrated Waste Management Act of 1989 ("AB 939") as codified within Division 30 of the PRC, is hereafter referred to as "CalRecycle."

Upon designation as a regional agency, the Authority may combine reporting of disposal quantities and diversion programs of the participating members to be used by CalRecycle for determining compliance with the waste diversion requirements under California law and regulations, including AB 939.

The participating members of this regional agency are the cities of Gonzales, Greenfield, King, Soledad, and Salinas, who hereafter may be referred to collectively as the "Participating Members" or individually as a "Participating Member." Future Authority members may elect to become Participating Members subject to the approval of the Authority Board and CalRecycle. Although the County is a Member Agency of the Authority, the County has elected not to become a Participating Member of this regional agency at this time."

The name of the regional agency shall be "The Salinas Valley Solid Waste Authority." For purposes of contacting the regional agency, please direct correspondence and notices to:

*The Salinas Valley Solid Waste Authority
PO Box 2159
Salinas, California 93902-2159*

*With a copy to:
The Salinas Valley Solid Waste Authority
128 Sun Street, Suite 101
Salinas, California 93901*

(b). IMPLEMENTATION OF SOURCE REDUCTION, RECYCLING AND COMPOSTING PROGRAMS BY THE AUTHORITY: As a regional agency, the Authority will be responsible for any amendments to Participating Members' existing Source Reduction and Recycling Elements (SRREs), Household Hazardous Waste Elements (HHWEs) and any other planning elements on behalf of the Participating Members. The Authority also has the primary responsibility for implementation of the diversion programs detailed in the Participating Members' SRREs and HHWEs, as prepared and submitted in April 1995, and as amended.

Those diversion programs include but are not limited to: Household hazardous waste collection/disposal facility(ies); completion of AB939 annual reports (as previously agreed in Interagency agreements in 2000, except for the County; coordination of city-wide collection events in each city; provision of recycling and diversion opportunities at transfer stations and Landfill; waste assessments for businesses, multifamily complexes, and schools on request and development of customized recycling plan based on assessment results; development of diversion programs for special wastes, i.e. sludge, tires, white goods, metal, wood waste, concrete/asphalt, shingles,; coordination with franchise haulers to enhance curbside recycling; outreach and education and administrative support to implement mandatory recycling ordinance.

The Authority's Board is authorized to amend the Participating Members SRREs and HHWEs and any other planning elements as required.

Neither the regional agency nor any member jurisdiction of the regional agency shall be eligible for a reduction of the diversion requirements of Section 41780

(c). CIVIL PENALTIES: Any and all civil or criminal penalties, fines, forfeitures or expenditures of any nature imposed on or incurred by the Authority or any Authority Member that arise from or are related to the alleged noncompliance by the Authority (in its capacity as a regional agency) or any Participating Member (in its capacity as a Participating Member of the regional agency) will be apportioned as specified herein. If a Participating Member fails to meet the requirements imposed by AB 939, or subsequent legislation pertaining to landfill diversion or recycling mandates, and such failure results in the imposition of civil or criminal penalties, fines, forfeitures or expenditures of any nature by CalRecycle, and CalRecycle determines the degree to which one or more specific members are at fault, then the members determined to be at fault shall pay their designated proportional share of the civil or criminal penalty, fine, forfeiture, or expenditure at issue. If CalRecycle determines that one or more specific Participating Members are at fault, but does not specify the members' proportional responsibility, each Participating Member determined to be at fault shall be apportioned a share of such civil or criminal penalty, fine, forfeiture, or expenditure, in proportion to each Participating Members' tons of material it has contributed to the Authority's solid waste system in accordance with Section 19.(a) of this agreement. If the CalRecycle determines that the Authority as a whole is at fault, or does not determine which of the Participating Members are at fault, as to Regional Agency Activities each Participating Member shall be apportioned a share of such civil or criminal penalty, fine, forfeiture, or expenditure of any kind in proportion to each Participating Members' tons of material it has contributed to the Authority's solid waste system in accordance with Section 19.(a) of this agreement. In

no event will the County or County ratepayers be apportioned any share of any civil or criminal penalties, fines, forfeitures or expenditures of any kind that may be imposed by the CalRecycle against the Authority in its capacity as a regional agency or any of its Participating Members.

(d). WITHDRAWAL OR ABOLITION OF REGIONAL AGENCY: Any Participating Member may withdraw from participation in regional agency activities by filing a written notice with the Authority. Written notice of withdrawal must be tendered by July 1 of any calendar year, and will become effective January 1 of the following calendar year. A Participating Member who has withdrawn from participation in regional agency activities shall have responsibility for implementing its SRRE and HHWE, and shall agree to cooperate fully with the Authority in implementation of then existing programs. Withdrawal as a Participating Member does not cause withdrawal from the Authority. Participating Members who have withdrawn will continue to be responsible for payment of their respective shares of (1) any Regional Agency Costs incurred prior to the effective date of withdrawal and (2) any Regional Agency Costs incurred after the effective date of withdrawal arising from or related to alleged non-compliance by the Authority (in its capacity as a regional agency) or any of its Participating Members with the requirements of AB 939 prior to the effective date of withdrawal.

Should the Regional Agency be abolished, then the Participating Members as of the date of abolition of the Regional Agency will be responsible for payment of their respective shares of (1) any Regional Agency Costs incurred prior to the effective date of abolition of the agency and (2) any Regional Agency Costs incurred after the effective date of abolition of the agency arising from or related to alleged non-compliance by the Authority (in its capacity as a regional agency) or any of its Participating Members with the requirements of AB 939 prior to the effective date of abolition of the Regional Agency.

IN WITNESS THEREOF, the parties hereto have made and executed this Amendment No. 3 to the Salinas Valley Solid Waste Authority, Joint Powers Agreement dated January 1, 1997.

EFFECTIVE DATE: This Agreement shall be deemed effective and in full force and effect on June 21, 2012.

IN WITNESS THEREOF, the Parties hereto have executed this Agreement on the date evidenced below:

ATTEST: [Signature]
CITY CLERK

APPROVED AS TO FORM:

[Signature]
ASSF. CITY ATTORNEY

CITY OF SALINAS

BY: [Signature]
MAYOR

DATE: 6.11.2013

ATTEST: [Signature]
CITY CLERK

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

CITY OF GONZALES

BY: [Signature]
MAYOR

DATE: 1-7-2013

ATTEST: [Signature]
CITY CLERK

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

CITY OF GREENFIELD

BY: [Signature] . 5-7-2013
MAYOR

DATE: 5/6/13

ATTEST: [Signature]
CITY CLERK

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

CITY OF KING

BY: [Signature]
MAYOR

DATE: 1/8/13

ATTEST: *Robert Smith*
CITY CLERK

CITY OF SOLEDAD

APPROVED AS TO FORM:

BY: *[Signature]*
MAYOR

[Signature]
CITY ATTORNEY

DATE: 1-16-2013

ATTEST: *Denise Hancock for*
CLERK OF THE BOARD OF SUPERVISORS

COUNTY OF MONTEREY

APPROVED AS TO FORM:

BY: *Louis R. Calogian*
VICE CHAIR OF THE BOARD
OF SUPERVISORS

[Signature]
COUNTY COUNSEL, DEPUTY
3/13/13

DATE: 3/12/13