

RESOLUTION NO. 3383-17

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR
APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE
SONOMA COUNTY WASTE MANAGEMENT AGENCY FOR THE APPLICATION
AND ADMINISTRATION OF A USED OIL BLOCK GRANT FUNDING AND
AUTHORIZING THE TOWN MANAGER TO EXECUTE THE MOU**

WHEREAS, as part of a program to provide opportunities for the recycling of used oil, the California Department of Resources Recycling and Recovery (CalRecycle) issues annual block grants to help local governments establish or enhance permanent, sustainable used oil recycling programs; and

WHEREAS, the Sonoma County Waste Management Agency (SCWMA) is authorized to apply annually for this block grant, and manage a regional used oil collection program with the used oil block grant (“Grant”) funding; and

WHEREAS, the Town of Windsor maintains a used oil collection program and center at the Corporation Yard (the Center); and

WHEREAS, all costs associated with maintenance of the Center and disposal of clean used oil are reimbursed by the SCWMA, through the Grant funding; and

WHEREAS, the Town of Windsor and SCWMA desire to enter into a Memorandum of Understanding (MOU) to set forth terms and conditions of the Town’s use of the Grant funding.

NOW, THEREFORE BE IT RESOLVED, that the Town Council of the Town of Windsor hereby approves the Memorandum of Understanding between the Town of Windsor and the Sonoma County Waste Management Agency, in substantially the same form as attached to this resolution as Exhibit “A,” for the application for and administration of Used Oil Block Grant funding; and authorizes the Town Manager to execute the MOU on behalf of the Town of Windsor.

PASSED, APPROVED AND ADOPTED this 19th day of July 2017, by the following vote:

AYES: COUNCILMEMBERS MILLAN, OKREPKIE, SALMON,
VICE MAYOR FOPPOLI AND MAYOR FUDGE

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE



DEBORA FUDGE, MAYOR

ATTEST:



MARIA DE LA O, TOWN CLERK

Attachment:

1. Exhibit A - Memorandum of Understanding (MOU)

MEMORANDUM OF UNDERSTANDING
BETWEEN THE SONOMA COUNTY WASTE MANAGEMENT
AGENCY AND THE TOWN OF WINDSOR ("TOWN")

This Memorandum of Understanding ("MOU") is made and entered into this ____ day of _____, 2017 (the "Effective Date"), by and between the Sonoma County Waste Management Agency ("SCWMA") and the Town of Windsor ("Town"). SCWMA and Town are sometimes collectively referred to herein as the "parties" and singularly, as a "party."

R E C I T A L S

WHEREAS, the SCWMA receives annual Used Oil Payment Program ("Program") funds from the California Department of Resources Recycling and Recovery ("CalRecycle"); and

WHEREAS, the Town is a beneficiary of the Program funds for specific used oil activities; and

WHEREAS, the SCWMA Board of Directors has authorized the SCWMA to submit applications and manage Program funds for implementation of a regional used oil collection program in Sonoma County ("Regional Program"); and

WHEREAS, the member agencies of the SCWMA, including the Town, submit annual letters of designation allowing the SCWMA to submit grant applications to CalRecycle on their behalf; and

WHEREAS, the Town maintains a used oil and oil filter collection center at its corporation yard (the "Center"); and

WHEREAS, the SCWMA has traditionally received funds from CalRecycle that were allocated to the Town through the Program, and passed those funds through to the Town for operation of its Center; and

WHEREAS, the parties desire to enter into this MOU to memorialize this existing practice and to set forth the terms and conditions of the use by the Town of the CalRecycle grant funds.

NOW THEREFORE, in consideration for the promises, covenants and agreements of both parties as set forth below, the parties agree as follows:

A G R E E M E N T

1. Program Purpose and Responsibilities. The Town has rights, annually, to the portion of the Program funds that is designated by CalRecycle as the Town's allocation (the "Town's Allocation"). Pursuant to annual letters of designation from the Town, SCWMA staff shall submit Program grant applications to CalRecycle on behalf of the Town. During the term of this MOU, the Town shall provide such annual letters of designation in a timely manner in accordance with the requirements of the Program.

The Town shall maintain an attended public Center, during normal business hours, at its corporation yard located at 8400 Windsor Road in Windsor (the "Site"), established as Monday through Thursday, 7:00 a.m. to 5:30 p.m. The Center consists of a used oil tank and a used filter receptacle. The SCWMA will reimburse Town, from the Town's Allocation, for the Town's collection costs for the used oil and used filters collected from the public at the Site. The Town agrees that the funds received as the Town's Allocation shall be used solely for such collection costs in accordance with the terms and conditions of the Program and the Grant Agreement entered into by and between SCWMA and CalRecycle ("Grant Agreement"), which is incorporated herein by this reference as if fully set forth herein.

The Center's equipment and supplies have been purchased by the SCWMA using the Town's Allocation. Used oil and filters are and shall be collected through agreements between the Town and contractors hired by the Town. The Town shall be responsible for maintaining the Site. Arranging pick-ups of the used oil and filters shall be the responsibility of the Town's employees at the Site.

Any requested reimbursement of costs associated with the maintenance or replacement of equipment and supplies for the Center must be pre-approved by the CalRecycle Used Oil Grant Manager. All required signage at the Center will be provided by the Town.

2. Payment Terms. The Town shall be reimbursed for allowable expenses as defined in the current CalRecycle Program grant guidelines and terms and conditions, as they may be amended from time to time. Additional payment terms are detailed in Exhibit A to this MOU.

3. Term. The Term of this MOU shall commence on the Effective Date and shall terminate on June 30, 2022, unless terminated sooner following at least 30 days' written notice by either party. The parties may extend the Term by mutual written agreement. In the event that the SCWMA no longer receives grant funds through the CalRecycle Program, this MOU shall terminate, following 30 days' written notice of such termination from the SCWMA to the Town and final used oil and filter pickup and reimbursement thereof.

4. Indemnification. SCWMA shall indemnify, defend and hold harmless the Town, the Windsor Water District, and their respective officials, officers, agents, employees and contractors, from and against all loss, damage to property, damages for bodily and personal

injury, including death, or liability, including without limitation claims for tortious acts or omissions of the SCWMA, its agents and employees arising out of or in connection with the performance of the SCWMA operations or services hereunder, except for liability arising from the gross negligence or willful misconduct of the Town.

The Town shall indemnify, defend and hold harmless the SCWMA, its officers, agents and employees from and against loss, damage to property, damages to bodily and personal injury, including death, or liability, including without limitation claims for tortious acts or omissions of the Town, its agents and employees arising out of or in connection with the performance of the Town operations or services hereunder, except for liability arising from the gross negligence or willful misconduct of the SCWMA. These indemnification obligations shall survive the expiration or earlier termination of this MOU.

5. Compliance with Law. The Town hereby warrants to the SCWMA, and the SCWMA hereby warrants to the Town, that each party will comply with the requirements of applicable federal, state, and local laws, rules, and regulations in the performance of its duties hereunder. The Town further represents and warrants that it has read and is familiar with the terms and conditions of the Grant Agreement entered into by and between CalRecycle and SCWMA for the Program and will comply with all current requirements of the Grant Agreement and of CalRecycle in administering the Grant Agreement. In the event that CalRecycle and SCWMA enter into a new Grant Agreement or amend the existing Grant Agreement during the terms of this MOU, SCWMA shall provide a copy of each such amendment or new Grant Agreement to Town, and, unless the Town serves a notice of termination in accordance with Sections 3 and 7 hereof, the Town represents and warrants that it shall read, become familiar with and comply with any changes to the terms as set forth in such amendment or new Grant Agreement.

6. Miscellaneous Provisions.

6.1 No Continuing Waiver. The waiver by either party of any breach of any of the provisions of this MOU shall not constitute a continuing waiver of any subsequent breach of the same, or of any other provision of this MOU.

6.2 Time of Essence. Time is and shall be of the essence of this MOU and of each and every provision contained in this MOU.

6.3 Entire Agreement; Amendments. This MOU, together with any exhibits, contains the entire agreement of the parties and supersedes all prior agreements and understandings, whether oral or written, pertaining to the subject matter hereof. This MOU may be modified in writing only, signed by the parties in interest at the time of the modification.

6.4 Construction of MOU. To the extent allowed by law, the provisions in this MOU shall be construed and given effect in a manner that avoids any violation of statute, regulation or law. The Town and the SCWMA agree that in the event any provision in this MOU is held to be invalid or void by any court of competent jurisdiction, the invalidity of any

such provision shall in no way affect any other provision in this MOU.

6.5 Captions. The captions in this MOU are for convenience only and are not a part of this MOU. The captions do not in any way limit or amplify the provisions hereof and shall have no effect upon the construction or interpretation of any party hereof.

7. Notices. All notices provided for under this MOU shall be in writing and delivered in person, by Facsimile, by electronic mail attachment, or by deposit in the United States mail, postage prepaid and addressed as follows:

To the SCWMA: Sonoma County Waste Management Agency
 2300 County Center Drive, Suite B-100
 Santa Rosa, CA 95403
 Attention: Courtney Scott
 courtney.scott@sonoma-county.org

To the Town: Town of Windsor
 9291 Old Redwood Highway
 P.O. Box 100
 Windsor, CA 95492-0100
 Attention: Public Works Director/Town Engineer
 Fax number: (707) 838-3137

Such written notices may be sent to the parties at such other addresses as a party may from time to time designate in writing as provided for in this Section. Notice shall be effective on the date of personal delivery or electronic mail or, in the case of mailing, on the date of delivery or attempted delivery.

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the day and year first written above.

SCWMA: SONOMA COUNTY WASTE
 MANAGEMENT AGENCY

By: _____
 John Sawyer, Chair

TOWN: TOWN OF WINDSOR

By: _____
 Linda Kelly, Town Manager

EXHIBIT A

PAYMENT TERMS

1. Payment requests must include copies of documents supporting the claimed expenses (bids, receipts, canceled checks, sole source justifications, etc.). Supporting documents must contain sufficient information to establish that purchases made or costs incurred are eligible for payment based on CalRecycle current grant guidelines and terms and conditions. At a minimum, the documentation should include the name, amount, description, and date of the expense.
2. Payment requests are to be mailed to:

Courtney Scott
Sonoma County Waste Management Agency
2300 County Center Drive, Suite B 100
Santa Rosa, CA 95403
3. The SCWMA staff will review and approve all payment requests for completeness before including them in the SCWMA's payment request to CalRecycle.
4. The Town hereby understands and acknowledges that the funds for this MOU are to come from CalRecycle pursuant to the current Grant Agreement. Therefore, the Town hereby releases the SCWMA from any claims for reimbursement that are not funded by CalRecycle. Notwithstanding such release, the SCWMA promises to take all reasonable measures to secure reimbursement to the Town of all allowable funds from CalRecycle. The Town will be reimbursed after the SCWMA has received reimbursement from CalRecycle for the subject expenditure(s). In the event that CalRecycle fails to approve any expenditure, the SCWMA shall not be liable to the Town for such unallowable expense.
5. The Town may submit payment requests to the SCWMA at any time. Payment requests shall be processed and submitted by the SCWMA to CalRecycle. The Town may claim reimbursement for any expenses covered by this MOU that are incurred starting July 1, 2009 and ending June 30, 2022. The Town must provide an estimate of expenditures to the SCWMA annually by July 15 and an invoice by August 15 for all expenditures for the previous fiscal year.

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