

OPERATING ENGINEERS, AFL-CIO

OPERATIONS UNIT

MEMORANDUM OF UNDERSTANDING

JULY 1, 20052008

This Memorandum of Understanding made and entered into effective this First day of July, 2005–2008 by and between the Negotiating Committee of the MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT, hereinafter referred to as “District” and Operating Engineers, AFL-CIO, hereinafter referred to as “Union” for and on behalf of the employees hereinafter identified. Upon adoption by the Board of Directors of the District and the District employees who are members of the Union, this Memorandum shall become binding between the District and the Union.

It is the mutual desire of the parties to conclude the meet and confer process as early as possible prior to the expiration of the Agreement. Therefore, it is agreed that the parties agree to commence negotiations sixty (60) days prior to June 30, 20082011, or as soon as practical.

WITNESSETH;

I. GENERAL PROVISIONS - DEFINITIONS

- A. Employer. The term “Employer” as used herein shall refer to the District.
- B. Union. The term “Union” as used herein shall refer to the Operating Engineers Local Union No. 3 of the International Union of Operating Engineers, AFL-CIO.
- C. Employee. The term “Employee” as used herein shall mean all salaried, full-time employees of the District excluding Management and and the Support Personnel Unit,- ~~Employees excluded include the titles of General Manager, Assistant General Manager, Senior Engineer, Administrative Services Manager, Finance/Information Systems Manager, Site Superintendent, Assistant Site Superintendent, Materials Recovery Facility Manager, Accounting Manager, Last Chance Mercantile/Hazardous Materials Manager, Public Education Coordinator, Safety Manager, Accounting Technician, Administrative Support Supervisor, Accounting Assistant, Administrative Support Specialist, Site Support Specialist, Public Education Assistant, and all hourly employees.~~

II. RECOGNITION

Union Recognition. The Employer hereby recognizes the Union as the only organization entitled to meet and confer on matters within the scope of representation for the Units, as provided in the Myers-Miliias-Brown Act.

III. HIRING PROVISIONS

- A. Non-Discrimination. No employee covered by the Agreement shall be discriminated against by the Employer, or by the Union, by reason of race, color, religion, sex, age or national origin.
- B. Employment. The Employer shall not discharge or otherwise discriminate against any Employee by reason of Union activities not interfering with the proper performance of his work.

IV. DISTRICT RIGHTS

- A. The rights of the District include, but are not limited to, the exclusive right to determine the method of accomplishing its mission of disposing of the region's solid waste; set standards of services; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classification; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

V. EMPLOYEE RIGHTS

- A. Pursuant to the Myers-Milias-Brown Act, employees of the District shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purposes of representation on all matters of employer-employee relations including but not limited to wages, hours and other terms and conditions of employment. Employees of the District also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the District. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the District or any employee organization because of his/her exercise of these rights.
- B. Business Representative of the Union shall have reasonable access to any Employee or Employees within the Units presenting a grievance and employees have the right to have the Union Business Representative represent him or her at all stages of disciplinary action. Such access shall be given upon approval by the General Manager.
- C. The Union may select two (2) employees as Union Stewards. The Union shall notify the District who the Union Stewards are.
- D. In addition to his regularly assigned work, the Union Stewards shall be permitted reasonable time during working hours to telephone the Business Representative on any violations of this Memorandum, such telephone charges to be at the Union's expense. One Union Steward shall be permitted time during working hours to attend District Board Meetings. Employees are allowed a reasonable amount of time to contact the Union Stewards during working hours to report a grievance or violation of this Memorandum in a manner that shall not materially disturb his regular assigned work.
- E. Only members of the bargaining unit who have been trained or Maintenance Workers in training under the guidelines of the District's Equipment Operating Procedures may operate backhoes, loaders, and other equipment on more than an occasional, emergency, or training basis. If a member of the bargaining unit is not readily available, other employees with documented training may operate forklifts on an occasional or emergency basis.

VI. COMPLIANCE WITH MEMORANDUM

In the event of any violation of the terms of this Memorandum, responsible and authorized representatives of the Union or the Employer, shall promptly take such affirmative action as is within its power to correct and terminate such violation for the purpose of bringing such unauthorized persons into compliance with the

terms of this Memorandum. Individuals acting or conducting themselves in violation of the terms of this Memorandum shall be subject to discipline, up to and including discharge.

VII. PERSONNEL POLICY

The District's personnel policy is attached and by reference hereto is a part of this document. Included in the policy are items relating to employment, promotion, discipline and grievance, overtime, vacation, holidays, sick leave, emergency leave, leave of absence, and District Policies on harassment, substance abuse, outside employment and work environment.

VIII. SCHEDULING

- A. The District shall endeavor to approve requests for vacation leave, work schedules, including Holidays, shift assignments and training assignments in accordance with seniority; however, selections shall be made on seniority only after employee performance and/or operational effectiveness are considered. The District shall endeavor to provide two consecutive days off when scheduling shift assignments.
- B. **Flexible work schedule: Management will consider alternate work schedules such as 4-10 hour shifts or 9 day-80 hours with employees on an individual and departmental basis. An employee working 9 or more hours per day may be required to take two formal breaks during the longer shifts.**

IX. POSTING OF POSITIONS

The District shall post all open positions before external recruitment begins.

X. PROMOTIONS

The District shall make every reasonable effort to qualify and hire internal candidates.

XI. SAFETY

The District shall provide a safe and healthy working environment in accordance with applicable state and federal laws and regulations. The Union agrees that where safety devices or protective equipment is required or furnished, its use shall be mandatory and that, in appropriate circumstances, a medical exam may be required to establish an employees physical ability to perform the duties of the job.

- A. Safety issues are grievable.
- B. The District shall inform the Union as soon as possible prior to commencing jobs that may affect the health or working conditions of employees.
- C. The District shall provide safety boots to members of the bargaining unit who work outside the office as needed, with supervisor's approval. If the employee wishes to pay more than the District allows, for more expensive shoes meeting our standards, he/she may do so at his/her own cost for the excess amount. All such employees, so designated, shall not be permitted to work without safety shoes.

XII. AGENCY SHOP

- A. Notice of Recognized Union. The District shall post in the employee break area a written notice that sets forth the classifications included within the representation unit along with the name and address of the recognized employee organization. The District shall also give a written notice to persons newly employed in the representation unit classifications. This notice shall contain the name and address of the employee organization and the fact that the Union is the exclusive bargaining representative for the employee's classification. The District shall also give the employee a copy of the current Memorandum

of Understanding. The Union agrees that it has a duty of fair representation and shall represent employees in a fashion that is not arbitrary, discriminatory or in bad faith.

- B. Except as provided otherwise in the subsection B2 below, employees in the representation unit shall, as a condition of continuing employment (subject to the disciplinary procedure of the District's Personnel Rules), become and remain members of the Union or shall pay to the Union a service fee in lieu thereof. Such service fee shall be subject to the following:
1. As a condition precedent to the employer's deduction of agency fees pursuant to this section, the Union shall demonstrate that it (a) has disseminated to the bargaining unit adequate information about its expenditures for the preceding fiscal year, including information regarding its "chargeable" and "nonchargeable" activities in the prior fiscal year, broken down in adequate and reasonable detail between the chargeable and nonchargeable activities; (b) has established a full, fair and prompt procedure whereby objecting nonmembers are able to challenge allegedly objectionable expenditures; and (c) has established a procedure for escrowing the amount reasonably in dispute in connection with any challenge by an objecting nonmember. The Union shall demonstrate its compliance with this section before implementation of agency shop deductions, and on an annual basis thereafter.
 2. Implementation. Upon the Union's compliance with section B1, any employee who the District hires subject to this Memorandum of Understanding shall be provided through the District with a notice that the District has entered into an Agency Shop agreement with the Union and that all employees subject to the Memorandum of Understanding must either join the Union, pay a service fee or execute a written declaration claiming a religious exemption from this requirement. This notice shall include a copy of this MOU section, a form for the employee's signature authorizing payroll deduction of Union dues, a service fee or a charitable contribution equal to the service fee. Said employees shall have five working days following the initial date of employment to execute fully the authorization form of his/her choice and return said form to the District Payroll Office.
 3. If the form is not completed properly and returned within five working days, the District shall commence and continue a payroll deduction of service fees from the regular semimonthly warrants of such employees. The effective date of Union dues, service fee deductions or charitable contributions for such employees shall be the beginning of the first full month of employment or the pay period when this subsection B becomes effective for current employees, whichever is later.
 4. When an employee is in a non-pay status for an entire pay period, no withholding shall be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status during only part of the pay period and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over union dues and services fees.
- C. Religious Exemption. Any employee of the District subject to this Memorandum of Understanding who is a member of a bonafide religion, body or sect that has historically held conscientious objections to joining or financially supporting a public employee organization shall, upon presentation of verification of active membership in such religion, body or sect be permitted to make a charitable contribution equal to the service fee in lieu of Union membership or service fee payment. Declarations of or applications for religious exemption and any supporting documentation shall be forwarded to the Union within fifteen days of receipt by the District. The Union shall have fifteen days after receipt of a request for religious exemption to challenge any exemption that the District grants. If challenged, the deduction to the charity of the employee's choice shall commence but shall be held in escrow pending resolution of the challenge. Charitable contributions shall be by regular payroll deduction only. For purposes of this Section, charitable deduction means a contribution to a non-religious, non-labor charitable organization exempt from taxation under Section 501 of the IRS Code.
- D. Exclusion of Employees. The Agency Shop provisions set forth in subsections B, B1, and B2 herein shall not apply to persons occupying positions designated as management, confidential or supervisory (Government Code §3504.5). The District may designate positions as management, confidential and supervisory in accordance with its established personnel rules and regulations. If any position

designated management, confidential or supervisory after the effective date of this Agency Shop provision is disputed by the Union then the matter shall be resolved by the employer in accordance with the provisions of its personnel rules or, if not addressed by such rules, by a procedure mutually agreed between the parties. Failing such resolution, the parties shall request the California State Mediation Service to convene a confidential proceeding and make confidential recommendation to the parties, which they shall both consider in good faith.

- E. Financial Reports. The Union shall comply with Government Code §3502.5(d), which provides: "Every recognized employee organization which has agreed to an agency shop provision shall keep an adequate itemized record of its financial transactions and shall make available annually, to the public agency with which the agency shop provision was negotiated, and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the Labor- Management Disclosure Act of 1959 covering employees governed by this chapter, or required to file financial reports under Section 3546.5, may satisfy the financial reporting requirement of this section by providing the public agency with a copy of such financial reports."

This requirement does not affect or reduce the union's obligation pursuant to section B1 of this MOU.

- F. Payroll Deductions and Payover. The District shall deduct Union dues or service fees in conformity with State regulations, this MOU, and state and federal law. The District shall promptly pay over to the Union all sums so deducted. The District shall also periodically provide a list of all persons making charitable deductions pursuant to the religious exemption granted herein.
- G. Hold Harmless. The Union shall hold the District and its officers harmless from any and all claims, demands, suits or any other action arising from the Agency Shop provisions herein, and shall reimburse the District for costs, damages and reasonable attorneys fees incurred by the District as a result of any challenge or claim against the District regarding to that subject. In no event shall the District be required to pay from its own funds Union dues, services, fees or charitable contributions that the employee was obligated to pay but failed to pay regardless of the reasons.
- H. Waiver of Election of Newly-Represented Employees. The addition of non-supervisory, non-management and non-confidential classifications and/or employees to the representation unit shall not require an election herein for the application of this Agency Shop provision to such classifications and/or employees.
- I. Vote to Rescind Agency Shop. This Article may be rescinded by a majority vote of all employees in the unit covered by this MOU provided that:
1. A request for such a vote is supported by a petition submitted to the District Manager containing the signatures of at least 30% of employees in the unit. An employee signature shall be conducted only if he/she is on paid status at the time the petition is submitted and the signature is dated within the ninety-day period prior to the submission of the petition.
 2. The vote is by secret ballot of employees in paid status on the last day of the pay period preceding the election.
 3. Such vote may be taken at any time during the term of this Memorandum of Understanding, but in no event shall there be more than one vote taken during such term.

The State Mediation & Conciliation Service shall conduct the election.

VIII. WAGES

- A. Effective July 1, 20052008, a COLA adjustment shall be applied to the ranges as determined by the SF/BAY CPI-U for the twelve-month period ending April 30, 20052008. Such an adjustment shall equal ~~2-~~2.9% and the monthly regular salary ranges shall be as follows:

Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
Power Systems Supervisor	5,452	5,724	6,011	6,311	6,627	6,958
Assistant Power Systems Supervisor	4,945	5,191	5,452	5,724	6,011	6,311
Industrial Electrician	4,485	4,709	4,945	5,191	5,452	5,724
Heavy Equipment Supervisor	4,376	4,594	4,824	5,066	5,319	5,584
Heavy Equipment Mechanic	4,272	4,485	4,709	4,945	5,191	5,452
Heavy Equipment Operator	3,969	4,167	4,376	4,594	4,824	5,066
Maintenance Supervisor	3,969	4,167	4,376	4,594	4,824	5,066
MRF Supervisor	3,969	4,167	4,376	4,594	4,824	5,066
Scale Supervisor	3,874	4,068	4,272	4,485	4,709	4,945
Power Systems Maintenance Tech	3,690	3,874	4,068	4,272	4,485	4,709
Senior HHW Technician	3,599	3,780	3,969	4,167	4,376	4,594
Senior Maintenance Worker	3,599	3,780	3,969	4,167	4,376	4,594
Senior MRF Operator	3,599	3,780	3,969	4,167	4,376	4,594
Assistant Mechanic II	3,513	3,690	3,874	4,068	4,272	4,485
Last Chance Assistant Manager	3,513	3,690	3,874	4,068	4,272	4,485
Hazardous Material Technician	3,428	3,599	3,780	3,969	4,167	4,376
Assistant Mechanic I	3,347	3,513	3,690	3,874	4,068	4,272
Weighmaster	3,347	3,513	3,690	3,874	4,068	4,272
Last Chance Mercantile Supervisor	3,264	3,428	3,599	3,780	3,969	4,167
Maintenance Worker II	3,264	3,428	3,599	3,780	3,969	4,167
MRF Operator II	3,264	3,428	3,599	3,780	3,969	4,167
Maintenance Worker I	3,110	3,264	3,428	3,599	3,780	3,969
MRF Operator I	3,110	3,264	3,428	3,599	3,780	3,969

- B. Effective July 1, ~~2006–2009~~ and ~~2007~~**2010**, a COLA adjustment shall be applied to the ranges as determined by the SF/BAY CPI-U for the twelve-month period ending April 30, ~~2006–2009~~ and ~~2007~~**2010**. Such adjustments shall not be less than one and a-half (1.5) percent nor greater than four and a half (4.5) percent.
- C. Call Back Pay: Any employee who is called back to work after he has worked his scheduled shift and has departed from his place of employment shall be compensated for a minimum of 2 hours pay at 1 1/2 times his regular rate.
- D. Bilingual Pay: An employee designated by the General Manager to provide bilingual services, shall receive up to five (5) percent of his/her monthly salary as a premium.
- E. Out of Class Pay: An employee temporarily assigned the duties of a vacant position in a higher classification for one pay period or longer shall be paid at Step 1 of the higher class or at 5% more than his/her present rate, whichever is higher, while working in the higher class. To receive out-of-class-pay, the employee must be able to satisfactorily perform the essential duties of the higher class. Training in a different classification does not qualify for such pay; however, an employee performing an essential task such as operating a bulldozer is not required to operate other heavy equipment to receive out-of-class pay. Shift differential pay and bilingual pay shall not be used to calculate the pay increase unless they are applicable in the higher class.

Beginning July 1, 2008 and ending June 30, 2009, employees working out-of-class in the Heavy Equipment Operator Classification, will be eligible for out-of-class pay after ten (10) full shifts during the year in which he/she performs the duties of a Heavy Equipment Operator. Each shift, will be counted toward the required ten days and do not need to be consecutive. At the end of the year, the General Manager will consider if this eligibility standard will be continued.

- F. Shift Differential Pay: Employees working an 8-hour shift for one pay period or longer, that begins on or after 2 p.m. shall receive 5% of regular salary as a shift differential and employees working an 8-

hour shift that begins between 11 a.m. and 2 p.m. shall receive a shift differential equal to 2.5% of regular pay.

- G. **Beginning July 1, 2008, a longevity adjustment of 2.5% shall be provided to employees who are performing their duties satisfactory with more than ten (10) years of continuous employment with the District and a longevity adjustment of 2.5% shall be provided to employees who are performing their duties satisfactory with more than fifteen (15) years of continuous employment with the District.** ~~Longevity Pay: Effective July 2007, a longevity step of 2.5% shall be provided to employees with at least fifteen (15) years of employment with the District who are performing their duties satisfactorily.~~
- H. An employee on On-Call status as directed by his/her supervisor shall receive credit in the form of comp. time at the rate of one (1) hour of comp time for each day of On-Call status during the work week Monday through Friday and at the rate of one and one-half (1.5) hours of comp. time for each day over the weekend, Saturday and Sunday.

XIV. HEALTH AND WELFARE

- A. The District shall increase its contribution for Health Insurance Premiums (medical, prescription, dental, and vision) up to 10% in each of the three years of the agreement (05/096, 096/1007, and 1007/1108). If the premium increases more than 15%, the District shall split (50/50) the additional cost with the employees. This shall be based on the current family premium rate of \$14631,204 per month. If the increase in any year(s) is less than the maximum provided, the unused dollar amount shall be "carried-over" to subsequent years within the contract to increase the District's maximum contribution.
- B. The District shall continue to provide all employees with long term disability coverage at the rate of 66.7% of the employees' regular salary following a 60-day waiting period.
- C. The District shall provide all employees life insurance coverage equal to twice their annual regular salary.

XV. HOLIDAYS

- A. The following holidays shall be paid days off or, if worked, shall be paid at two and one-half (2.5) times a regular day's pay.

New Year's Day	Labor Day
Martin Luther King's Birthday	Columbus Day
President's Day	Veteran's Day
Cesar Chavez Day	Thanksgiving Day
Memorial Day	Day After Thanksgiving
Independence Day	Christmas Day

- B. Each contract year employees shall have two floating holidays off subject to scheduling approval of General Manager. Employees shall be credited with eight hours to their accrued paid time off balance on July 1 and December 15 of each year. New employees are eligible for this credit after six months of employment.
- ~~C. The day after Thanksgiving shall be a paid day off or, if worked, the employee shall be credited with eight hours to his/her accrued paid time off balance.~~
- C. Any holidays specified herein for which full-time employees are entitled to holiday leave, which fall on a Sunday shall be observed the following Monday. Such holidays which fall on a Saturday, shall be observed on the preceding Friday.

Holiday pay at one and one-half (1.5) times the regular rate of pay (cash or comp. time) shall only be paid on the day the holiday is observed.

- D. Employees must have worked during the pay period in which the holiday falls or be on paid leave status on the holiday to receive holiday compensation.
- E. The District shall establish a 30-day preliminary notice to employees who are scheduled to work on an observed holiday and shall provide a final notice, subject to change due to unforeseen events, 14 days prior to the holiday. Employees shall endeavor to provide advanced notice for scheduling days off to minimize changes and understand that late requests for time off may be denied if it alters the holiday schedule.

XVI. RETIREMENT

- A. The District shall pay the employees contribution to the Public Employees Retirement System. This amount shall not exceed 7% of Regular Gross Salary.
- B. The District shall provide employees with a PERS contract that includes the following: One year Final Compensation (Section 20042); Credit for Unused Sick Leave (Section 20985); Improved Non-Industrial Disability Allowance (Section 21427); Third Level of 1959 Survivor Benefits (Section 21573); 2% @ 55 Full and Modified Formula (Section 21354); Military Service Credit as Public Service (Section 21024).
- C. ~~Beginning July 1, 2005 and ending December 31, 2005, the District shall contribute 1.5% of regular salary to a 457 deferred compensation plan. Up to 3% of regular salary shall be provided to match an employee's payroll contribution above 1.5%. Effective January 1, 2006, the District shall match up to 4% of an employee's payroll deduction to the District's deferred compensation plan. If the PERS combined rate is between 10% and below 12%, the District shall match employee contributions up to 5%. If the PERS combined rate is less than 10%, the District shall match employee contributions up to 6%.~~
- D. ~~For employees who elect health insurance without dependent coverage, the District shall provide additional deferred compensation contributions. For FY 05-06 the monthly contribution shall be \$436; for FY 06-07 the monthly contribution shall be \$300; and for FY 07-08 the monthly contribution shall be \$150. Thereafter, the District shall not provide this benefit. Employees hired after 2005 shall not be eligible for this benefit.~~
- D. The District shall contribute toward health insurance premiums for employees retired from the District at the age of 55 or older with at least five (5) years of continuous employment with the District. Retirees shall be reimbursed at the rate of \$20 for each year of District service. Payments shall be made until the retiree reaches the age of 65. Beginning in 2006, the monthly rate shall increase by 2% each calendar year.

XVII. RE-OPENER

- A. Either the District or the Union may re-open the agreement on non-monetary issues and/or the issue of employee training; **however, if a different across-the-board adjustment is applied to the Service Employees International Union bargaining unit during this contract; both parties agree to reopen the contract to discuss additional salary range adjustments to classifications in this unit.**

XVIII. EDUCATIONAL BENEFITS

- A. The District with prior supervisor recommendation and General Manager approval shall reimburse an employee for books and tuition for a job-related course of study, or to earn a GED or high school diploma. The employee shall receive reimbursement upon successful completion of the course with a pass or grade of C or better.
- B. **Educational Reimbursement: Each employee of this unit may apply for up to \$2,000/year reimbursement for job-related courses taken at an accredited college by submitting a request to the Administrative Services Manager. If approved by the General Manager before the course begins, the**

District will reimburse the employee for registration, tuition, and textbooks upon proof of successful completion of the course(s) with a passing grade of C or better. Within 90 days after the course has been satisfactorily completed, the employee must provide a copy of official grade report, certificate, or letter of satisfactory completion with copies of all receipts associated with the coursework to receive reimbursement.

Job-related courses include coursework related to the employee's position; coursework intended to prepare the employee to transition to another District position; or coursework intended to prepare the employee for advancement or promotion to a higher classification within the District. The District retains discretion to determine which educational courses are job-related.

XIX. MISCELLANEOUS

- A. Tool Replacement Allowance. The District shall provide a \$40 per month tool replacement allowance to the mechanics designated and required to provide their own tools for performance of District duties.
- ~~B. The District shall establish a group of interested employees from the different units to evaluate and recommend changes to the Safety Incentive Program.~~
- ~~C. A committee shall be formed composed of interested employees to evaluate and recommend health plan options that would reduce premium cost and maintain plan quality including the provider network.~~

XX. RATIFICATION

Nothing contained in this Memorandum shall be deemed binding on either the Employer or the Union following signing of this Memorandum by the respective parties until it has been ratified by the union's membership and adopted by the District's Board of Directors.

XXI. TERM OF AGREEMENT

- A. This Memorandum shall be effective July 1, 2008~~5~~ and remain in effect until June 30, 2011~~08~~.

DATE: _____

**OPERATING ENGINEERS
LOCAL UNION NO. 3**

**MONTEREY REGIONAL WASTE
MANAGEMENT DISTRICT**

Business Representative

General Manager

Business Manager

President

Recording-Corresponding Secretary

Director, Public Employees