

22) **Memorandum of Understanding with the Riverside County Department of Environmental Health for Review of Onsite Wastewater Treatment Systems**

Approve and authorize the City Manager to execute a Memorandum of Understanding with the County of Riverside Environmental Health for review of Onsite Wastewater Treatment Systems in substantially the form attached and in such final form as approved by the City Attorney.



## REPORT TO CITY COUNCIL

**To:** Honorable Mayor or Members of the City Council

**From:** Jason Simpson, City Manager

**Prepared by:** Remon Habib, City Engineer

**Date:** January 10, 2023

**Subject:** **Memorandum of Understanding Between County of Riverside, Department of Environmental Health and the City of Lake Elsinore**

### **Recommendation**

Approve and authorize the City Manager to execute a Memorandum of Understanding with the County of Riverside Environmental Health

### **Background**

County of Riverside's Local Agency Management Program (LAMP) was approved by the Region Water Quality Control Board on December 13, 2022. As the City does not have an approved LAMP, the City of Lake Elsinore requires professional services from the County of Riverside for review of Onsite Wastewater Treatment Systems. These services include Environmental Planning Review, Plan Review, Inspection/Review of Annual Evaluation for Advanced Treatment Units in accordance with the Riverside County LAMP.

### **Discussion**

Memorandum of Understanding was entered into by and between the City of Lake Elsinore and County of Riverside Department of Environmental Health on February 1, 2018. The current MOU is set to expire on February 1, 2023. The City and County agree to renew and enter into this Memorandum of Understanding for a period of five (5) years.

### **Fiscal Impact**

There is no fiscal impact to the City. Project proponent is responsible for paying fees associated with the Services provided by the Riverside County Department of Environmental Health.

**Attachments**

Attachment 1- LAMP MOU



**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
RIVERSIDE COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH  
AND  
THE CITY OF LAKE ELSINORE**

This Memorandum of Understanding (MOU) is made and entered into by and between the CITY OF LAKE ELSINORE, hereinafter referred to as "CITY" and the COUNTY OF RIVERSIDE, DEPARTMENT OF ENVIRONMENTAL HEALTH, hereinafter referred to as "COUNTY", to be effective on the date approved by both parties.

**I. RECITALS**

**WHEREAS**, CITY desires Environmental Planning review, Technical Assistance, and Plan Review for Onsite Wastewater Treatment Systems (OWTS) in accordance with the Riverside County Local Agency Management Program (LAMP) and;

**WHEREAS**, CITY does not have an approved LAMP and;

**WHEREAS**, COUNTY's LAMP was approved by the Regional Water Quality Control Board on December 13, 2022 and;

**WHEREAS**, CITY desires to abide by the Riverside County LAMP and;

**WHEREAS**, CITY agrees to rescind any and all existing OWTS ordinances, rules and regulations, if applicable, prior to COUNTY'S review to avoid conflicting and duplicative rules and regulations and;

**WHEREAS**, CITY agrees to allow for billing of permit fees by COUNTY for services to be rendered, according to County of Riverside Ordinance No. 640 and;

**WHEREAS**, COUNTY has personnel with sufficient training and expertise to provide such services in accordance with the LAMP and;

**WHEREAS**, COUNTY is prepared to provide such services under the terms and conditions set forth in this Memorandum of Understanding; and

**WHEREAS**, CITY and COUNTY agree to now enter into this Memorandum of Understanding for a period of five (5) years;

**NOW THEREFORE**, in consideration of the mutual promises, covenants and conditions contained herein, the parties mutually agree as follows:

## **II. TERMS AND CONDITIONS**

### **A. SUMMARY**

The CITY requires professional services as described herein from the COUNTY for review of Onsite Wastewater Treatment Systems (OWTS).

### **B. TERM**

The term of this MOU shall be effective on the date it is signed by both parties. The MOU shall continue in effect for up to 5 five years, or until terminated as outlined in Section IV below.

### **C. SERVICES TO BE RENDERED**

Plan Review Services: COUNTY will provide plan review of OWTS for commercial and residential applications within the CITY. This review will include inspections of the property and technical review of the soil percolation study to ensure compliance with the

Riverside County LAMP. Requests for an OWTS shall be accompanied by a City application or building permit and shall be presented in person by the project proponent to a County Environmental Health office for their review. The project proponent shall be responsible for the payment of any applicable fees, as established in County Ordinance 640 and codified in Riverside County Code, Ch. 4.52 for the type of review requested at the time of submission of the request, to cover the cost of services provided. All such review shall be provided within fifteen (15) working days of submittal of a completed application.

Planning Review: COUNTY will provide environmental planning review to the City for all residential and commercial projects proposing OWTS, to ensure compliance with Riverside County LAMP. The project proponent shall be responsible for the payment of any applicable fees, at the current hourly rate established in County Ordinance 640 as codified in Riverside County Code, Ch. 4.52, to cover the cost of services provided. All such reviews shall be provided within (20) twenty working days of request for such services.

Inspection/Review of Annual Evaluation for Advanced Treatment Units (ATU): COUNTY will provide inspection and/or review of the annual evaluation report for ATUs as required in the LAMP. The project proponent and/or homeowner shall be responsible for the payment of any applicable fees, as established in County Ordinance 640 and codified in Riverside County Code, Ch. 4.52, to cover the cost of services provided.

Services to be rendered specifically exclude COUNTY response to and enforcement of any complaints regarding malfunction or failure of an OWTS. CITY agrees to enact any ordinances or regulations necessary to enforce the correction of any failure of any OWTS, and to enforce in a manner consistent with the LAMP.

CITY shall enact any necessary ordinances to allow for COUNTY to directly bill any applicant.

CITY shall rescind, or suspend for the duration of this MOU and any subsequent renewals, any and all ordinances, regulations or other mandatory laws regarding OWTS systems within the CITY to avoid duplication of laws or conflicting laws. CITY shall also enact necessary implementation ordinances, regulations or other laws that would allow the provisions of the LAMP to control within the CITY's border and also that would allow COUNTY to provide services under the LAMP.

**D. PERSONNEL**

The services provided by the COUNTY shall be performed by COUNTY personnel under the control and direction of COUNTY. To the extent that CITY personnel may also participate in any of the activities herein provided for, CITY agrees to conduct those activities in accordance with the COUNTY LAMP, and any expenses by the CITY in this process shall be borne by CITY.

**E. MUTUAL HOLD HARMLESS/INDEMNIFICATION**

- 1) CITY agrees to defend, indemnify, and hold harmless COUNTY, its directors, officers, agents, Board of Supervisors, elected and appointed officials, employees, and representatives from and against any liability, damages, costs, losses, claims and expenses, based or asserted upon any services of COUNTY, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this MOU, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever and resulting from any reason whatsoever arising from the performance of COUNTY under this MOU, its officers, agents, employees, subcontractors, agents or representatives.
- 2) In the event there is conflict between this foregoing clause and California Civil

Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve CITY from indemnifying the COUNTY to the fullest extent allowed by law.

- 3) With respect to any action or claim subject to indemnification herein by CITY, CITY shall, at their sole cost, have the right to use counsel of their own choice, subject to approval of COUNTY, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CITY'S indemnification to COUNTY as set forth herein. CITY'S obligation to defend, indemnify and hold harmless COUNTY shall be subject to COUNTY having given CITY written notice within a reasonable period of time of the claim or of the commencement of the related action as the case may be, and information and reasonable assistance, at COUNTY'S expense, for the defense or settlement thereof. CITY'S obligation hereunder shall be satisfied when CITY has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.
- 4) COUNTY agrees to defend, indemnify, and hold harmless CITY, its directors, officers, agents, City Council, elected and appointed officials, employees, and representatives from and against any liability, damages, costs, losses, claims and expenses, based or asserted upon any services of CITY, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this MOU, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever and resulting from any reason whatsoever arising from the performance of CITY under this MOU, its officers, agents, employees, subcontractors, agents or representatives.



- 5) In the event there is conflict between this foregoing clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve COUNTY from indemnifying the CITY to the fullest extent allowed by law.
- 6) With respect to any action or claim subject to indemnification herein by COUNTY, COUNTY shall, at their sole cost, have the right to use counsel of their own choice, subject to approval of CITY, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of CITY provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes COUNTY'S indemnification to CITY as set forth herein. COUNTY'S obligation to defend, indemnify and hold harmless CITY shall be subject to CITY having given COUNTY written notice within a reasonable period of time of the claim or of the commencement of the related action as the case may be, and information and reasonable assistance, at CITY'S expense, for the defense or settlement thereof. COUNTY'S obligation hereunder shall be satisfied when COUNTY has provided to CITY the appropriate form of dismissal relieving CITY from any liability for the action or claim involved.

### **III. AMENDMENTS**

Any amendment, modification, or variation from the terms of this MOU shall be in writing and shall be effective only upon mutual approval by the authorized parties.

### **IV. TERMINATION**

Either CITY or COUNTY may terminate this MOU at any time by giving (30) day written notice with or without cause to the designated contacts. Upon receipt of any notice of

termination on the agreed upon effective date of termination services shall cease thereafter. Upon termination of this MOU, any OWTS under permit and subject to annual inspection shall revert to the CITY for inspection and permitting. Any fees paid to the COUNTY for an annual permit prior to notification of termination, shall not be refunded by the COUNTY.

#### **V. COMPLETE MEMORANDUM OF UNDERSTANDING**

This written MOU, including all writings specifically incorporated hereby in reference, shall constitute the complete MOU between the parties hereto. No oral MOU, agreement or representation not reduced to writing and specifically incorporated herein shall be of any force or effect, nor shall any such oral MOU, agreement or representation be binding upon the parties hereto. Any previous agreements between the CITY and COUNTY, whether oral or written, with regards to the activities outlined in Section II.C of this MOU, shall be supplanted by this MOU. Other agreements or contracts between the CITY and COUNTY, not involving OWTS, shall be unaffected by this MOU.

#### **VI. JURISDICTION/VENUE**

This MOU shall be governed by, and construed in accordance with, the laws of the State of California. CITY agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this MOU and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Riverside.

**VII. NOTICE**

All written notices to the parties hereto shall be sent by United States mail, postage prepaid by registered or certified mail addressed as follows:

**CITY:**

**City of Lake Elsinore  
130 South Main Street  
Lake Elsinore, CA 92530**

**COUNTY:**

**County of Riverside  
Department of Environmental Health  
4065 County Circle Drive  
Riverside, CA 92503**

**VIII. AUTHORITY TO EXECUTE MEMORANDUM OF UNDERSTANDING**

Both CITY and COUNTY do covenant to each individual executing this MOU on behalf of each party is a person duly authorized.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed

**CITY OF LAKE ELSINORE**

\_\_\_\_\_  
Jason Simpson, City Manager

Dated: \_\_\_\_\_

**COUNTY OF RIVERSIDE**

\_\_\_\_\_  
Jeff Johnson, Director of Environmental  
Health

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

Minh C. Tran  
County Counsel

\_\_\_\_\_  
Caroline K. Monroy, Deputy County Counsel

Dated: \_\_\_\_\_

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Both CITY and COUNTY do covenant to each individual executing this MOU on behalf of each party is a person duly authorized.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed

**CITY OF LAKE ELSINORE**

\_\_\_\_\_  
Jason Simpson, City Manager

Dated: \_\_\_\_\_

**COUNTY OF RIVERSIDE**

\_\_\_\_\_  
Jeff Johnson, Director of Environmental  
Health

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

Minh C. Tran  
County Counsel

\_\_\_\_\_  
Caroline K. Monroy, Deputy County Counsel

Dated: \_\_\_\_\_