Written materials relating to an item on this agenda that are distributed to the legislative bodies within 72 hours before the item is to be considered at its regularly scheduled meeting will be made available for public inspection at the City Clerk's Office, 300 West Third Street 4th Floor during customary business hours. Agenda reports are also on the City of Oxnard web site at www.oxnard.org.

CITY OF OXNARD CALIFORNIA

AGENDA
OXNARD CITY COUNCIL
PUBLIC WORKS AND TRANSPORTATION COMMITTEE
Council Chambers, 305 West Third Street
September 22, 2020
Regular Meeting - 11:00 AM to 12:15 PM

This meeting is held pursuant to the State Emergency Services Act, the Governor's Emergency Declaration, and Governor's Executive Order N-29-20 to allow members of the City Council or staff to participate via teleconference.

Pursuant to the Ventura County Public Health Official's order and Governor's Executive Order N-33-20, all city buildings are temporarily closed to the public. The public is encouraged to view the meeting from home on the City's website at Oxnard.org/city-meetings, Spectrum channel 10, Frontier channel 35, or YouTube at Youtube.com/oxnardnews. Video recordings are typically available online immediately following the meeting.

The public may provide comments to the City Council via email at cityclerk@oxnard.org no later than 8:00 a.m. on the day of the meeting. Please identify the committee name, meeting date, and agenda item in the email Subject line.

A telephone option for public comments is also available at this time due to the State of California "Stay At Home" order. Requests to speak must be submitted no later than 8:00 a.m. on the day of the meeting. Use the form on the city's website to submit your request: Oxnard.org/city-meetings, or call the City Clerk's Office at (805) 385-7803, or email your request to cityclerk@oxnard.org.

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

At this time, the legislative body will consider public comments for a maximum of fifteen minutes. A person may address the legislative body only on matters not appearing on the agenda and within the subject matter jurisdiction of the legislative body. Speaker requests shall be submitted as set forth on the first page of this agenda. Based on the number of speaker requests submitted, the presiding officer may impose time limits per speaker. Typically, speakers are limited to two minutes, but shorter time may be established as deemed necessary. The legislative body cannot enter into a detailed discussion or take action on any items presented during public comments at this time. Such items may only be referred to the City Manager for administrative action or scheduled on a subsequent agenda for discussion.

C. CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the Public Works and Transportation Committee approve the minutes of the September 8, 2020 regular meeting as presented.

Contact: Michelle Ascencion, (805) 385-7805

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

Agenda Item time estimates: (Staff Presentation / Committee Discussion / Public Comment)

D. REPORTS

1. Public Works Department

SUBJECT: Purchase Order with Velocity Truck Centers. (5/5/5)

RECOMMENDATION: That the Public Works and Transportation Committee recommend that the City Council approve and authorize the Mayor to execute a Purchase Order and sole source authorization with Velocity Truck Centers in the amount of $400,286.40 for three (3) new Autocar brand yard tractors for the Wastewater and Environmental Resources (ER) Divisions.

Contact: Rosemarie Gaglione, (805) 385-8055

2. Public Works Department

SUBJECT: Amendments to Ventura Regional Sanitation District and Waste Management, Inc. Agreements. (5/5/5)

RECOMMENDATION: That the Public Works and Transportation Committee recommend that the City Council approve and authorize:
1. The Mayor to execute a Second Amendment to Agreement No. A-5906 with Ventura Regional Sanitation District to extend the term for 90 days ending February 12, 2021 for solid waste disposal;
2. The Mayor to execute a First Amendment to the Amended and Restated Agreement to Agreement No. A-7618 with Waste Management, Inc. to extend the term for 90 days ending February 12, 2021 for solid waste disposal; and
3. The City Manager to extend the term dates for an additional ninety (90) days if necessary.

Contact: Rosemarie Gaglione, (805) 385-8055

3. Public Works Department

SUBJECT: Caltrans Landscape Maintenance Agreement and Wagon Wheel Reimbursement Agreement. (10/5/5)

RECOMMENDATION: That the Public Works and Transportation Committee recommend the City Council authorize the City Manager to execute:
1. Agreement Number A-8238 between the State of California Department of Transportation (Caltrans) and the City of Oxnard (City) for landscape maintenance within the right-of-way of State Highway 101 within the City; and
2. Agreement Number A-8239 between Wagon Wheel Master Property Owners Association (Master Association) and the Wagon Wheel Community Facilities District (CFD) No. 2018-01, an agency formed by the City for Landscape Maintenance funding.

Contact: Rosemarie Gaglione, (805) 385-8055

E. ITEMS FOR FUTURE AGENDAS

F. ADJOURNMENT

M I N U T E S
OXNARD CITY COUNCIL
PUBLIC WORKS AND TRANSPORTATION COMMITTEE
Regular Meeting
September 8, 2020

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

At 11:01 a.m., Chair Perello called to order the regular meeting of the Oxnard City Council Public Works and Transportation Committee in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Members Tim Flynn, Bryan A. MacDonald, and Chair Bert E. Perello were present via videoconference.

Staff members present were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; Tatiana Arnaout, City Engineer; Todd Vasquez-Housely, Environmental Resources Division Manager; and Michelle Ascencion, City Clerk.

B. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA (None received.)

C. CONSENT AGENDA

City Clerk Department

1. SUBJECT: Approval of Minutes.
   RECOMMENDATION: That the Public Works and Transportation Committee approve the minutes of the July 28, 2020 regular meeting as presented.

It was moved by Member Flynn, seconded by Member MacDonald, to approve the minutes as presented. VOTE: Flynn, MacDonald, and Perello voted in favor; the motion carried 3-0.

D. REPORTS

Public Works Department

1. SUBJECT: City of Oxnard Proposed Truck Route Modifications.
   RECOMMENDATION: That the Public Works and Transportation Committee recommend that the City Council adopt a resolution, pursuant to Oxnard City Code Section 8-3, amending the City of Oxnard Truck Route Map and removing the following road segments from the designated truck routes in the City: Oxnard Boulevard from the US 101 Freeway to Gonzales Road, and Vineyard Avenue from the US 101 Freeway to Oxnard Boulevard.

The City Engineer gave a report. Public comments were received from Pat Brown. Discussion ensued among the Committee and staff.

It was moved by Member MacDonald, seconded by Member Flynn, to approve the recommended action as presented. VOTE: Flynn, MacDonald, and Perello voted in favor; the motion carried 3-0.

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2. SUBJECT: Amendment to Agreement for Geotechnical Investigation and Seismic Analysis of Seawalls.
   RECOMMENDATION: That the Public Works and Transportation Committee recommend that the City Council approve and authorize the Mayor to execute a Second Amendment to Agreement 8554-19-PW with TetraTech, Inc. for geotechnical investigation and seismic analysis of seawalls in the amount of $121,319 for a new not to exceed contract amount of $296,801 and to extend the term from March 14, 2021 to March 14, 2022.

The City Engineer gave a report. Written comments were received from Debbie Mitchell. Discussion ensued among the Committee and staff.

It was moved by Member MacDonald, seconded by Chair Perello, to approve the recommended action as presented. VOTE: Flynn, MacDonald, and Perello voted in favor; the motion carried 3-0.

3. SUBJECT: Agreement for Citywide Street Sweeping Service.
   RECOMMENDATION: That the Public Works and Transportation Committee recommend that the City Council approve and authorize the Mayor to execute Agreement A-8230 with Venco Power Sweeping, Inc. in the amount not to exceed $1,800,000 for a three-year term ending September 30, 2023 for street sweeping services for citywide streets, alleyways, parking lots and City facilities.

The Environmental Resources Division Manager gave a report. Public comments were received from Shirley Godwin. Discussion ensued among the Committee and staff.

It was moved by Member MacDonald, seconded by Member Flynn, to approve the recommended action as presented. VOTE: Flynn, MacDonald, and Perello voted in favor; the motion carried 3-0.

4. SUBJECT: Letters of Support for Designation of United States Bicycle Route 95 and Clean Mobility Options Grant Application.
   RECOMMENDATION: That the Public Works and Transportation Committee recommend that the City Council approve and authorize the City Manager to:
   1. Submit a letter of support for bicycling and non-motorized use by designating United States Bicycle Route 95; and
   2. Submit a letter of support for Bike Ventura's Application from California Climate Investments, Clean Mobility Options, for a Community Transportation Needs Assessment, in the City of Oxnard.

The City Engineer gave a report. Public comments were received from Pat Brown. Discussion ensued among the Committee and staff.

It was moved by Chair Perello, seconded by Member MacDonald, to approve the recommended action as presented. VOTE: Flynn, MacDonald, and Perello voted in favor; the motion carried 3-0.

E. ITEMS FOR FUTURE AGENDAS

Chair Perello announced that at the next meeting the Committee would review and prioritize previous future agenda requests. Member MacDonald reiterated his previous request for an item on

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railroad quiet zones. Member Flynn reiterated his previous request for an item on a status update of the intelligent traffic system.

F. ADJOURNMENT

There being no further business on the agenda, and without objection, Chair Perello adjourned the meeting at 12:15 p.m.

MICHELLE ASCENCION, CMC City Clerk	BERT E. PERELLO Chair

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CITY OF OXNARD CALIFORNIA

PUBLIC WORKS AND TRANSPORTATION COMMITTEE
AGENDA REPORT

REPORTS
AGENDA ITEM NO. D.1

DATE: September 22, 2020

TO: Public Works and Transportation Committee

FROM: Rosemarie Gaglione, Public Works Director, (805) 385-8055, rosemarie.gaglione@oxnard.org

SUBJECT: Purchase Order with Velocity Truck Centers. (5/5/5)

RECOMMENDATION

That the Public Works and Transportation Committee recommend that the City Council approve and authorize the Mayor to execute a Purchase Order and sole source authorization with Velocity Truck Centers in the amount of $400,286.40 for three (3) new Autocar brand yard tractors for the Wastewater and Environmental Resources (ER) Divisions.

BACKGROUND

Wastewater

Oxnard's Wastewater Treatment Plant (OWTP), located at 6001 South Perkins Road, provides primary and secondary wastewater treatment. The OWTP is a full wastewater secondary treatment facility and currently treats approximately 20 million gallons of wastewater per day (mgd). As part of the wastewater treatment process, biosolids are generated from the primary and secondary treatment processes. Biosolids collected at the OWTP's primary clarifiers and secondary sedimentation tanks are processed at the digester facility in order to break down volatile organic materials. The OWTP generates an average of 88 wet tons of biosolids per day. The biosolids are then dewatered and disposed of in Kern County through Holloway Environmental Solutions LLC. (Holloway) who is the City's contracted vendor for biosolids hauling and disposal services.

Wastewater operators are responsible to move biosolids trailers from the processing facility to a designated area in the OWTP for Holloway to pick up. The wastewater operators currently utilize a 1989 model International Fifth Wheel tractor (vehicle #2616) to move biosolids trailers from the processing facility to the designated area. The existing tractor has become unreliable and is constantly in need of repair.

Environmental Resources

The Environmental Resources (ER) Division is responsible for the collection, processing, and transfer of residential, commercial, and industrial solid waste, recyclables, green waste, and food waste within the City boundaries. The ER Division also operates the Del Norte Regional Recycling and Transfer Station (Del Norte) which is a material recovery facility (MRF). The Del Norte facility is permitted to accept 2,779 total tons per day of solid waste, recyclables, green waste and food waste materials. Currently, the Del Norte facility receives processes and transfers an average of 1,100 tons per day of solid waste.

The ER Division utilizes 12 transfer trucks along with trailers to transport solid waste from the Del Norte facility to the Toland Road and Simi Valley landfills. However, two (2) yard tractors are needed to maneuver trailers from process areas to a designated transfer pickup area. A yard tractor can maneuver in relatively small footprint process areas more efficiently than a transfer truck.

DISCUSSION

The Fleet Division (Fleet) researched national purchasing agreements for yard tractors that offered economies of scale pricing and were competitively solicited. Fleet identified a Sourcewell Cooperative Contract (081716-ATC) for three (3) Autocar brand yard tractors for ER and Wastewater Divisions. Velocity Truck Centers is the authorized local Autocar distributor.

The total cost is $400,286.40 for all three (3) new yard tractors. The cost for the ER and Wastewater Divisions is $266,857.60 and $133,428.80, respectively.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the four strategic plans adopted by City Council on May 17, 2016.

FINANCIAL IMPACT

The total cost for all three (3) new yard tractors with Velocity Truck Centers is $400,286.40. The funding allocations are included in the Fiscal Year 2020-21 Budget as follows:

Division	Fund	Account	Cost
Environmental Resources	Operating	631-6313-891.86-06	$159,552.78
Environmental Resources	Fleet Vehicle Replacement	742-7943-826.86-06/Project #187417	$107,304.82
Wastewater	Operating	621-6202-891.86-06	$133,428.80
		Total	$400,286.40

Prepared by: Thien Ng, Assistant Public Works Director

ATTACHMENTS

1. PO 7812 Velocity Truck Center of VC
2. Sourcewell Contract and Pricing
3. NSS Form (Velocity Truck Centers_Autocar)
4. Yard Tractor PWT Presentation

CITY OF OXNARD CALIFORNIA

PURCHASE ORDER

CITY OF OXNARD
300 WEST 3RD STREET
OXNARD, CA 93030

PURCHASE ORDER NO. 007812

DATE: 9/3/2020

VENDOR PHONE: (562)447-1260
VENDOR FAX: ( ) -
VENDOR #: 19164
VENDOR ADDRESS: VELOCITY TRUCK CENTER OF VC
P.O. BOX 101284
PASADENA, CA 91189-1284

SHIP TO: VARIOUS LOCATIONS
VARIOUS LOCATIONS
SEE DESCRIPTION
OXNARD, CA 93030

Our P.O. # MUST Appear on ALL Invoices, Packages and Correspondence

DELIVER BY	REQUISITION #	REQUISITION DATE	CONFIRMED BY
06/30/2021	0000005022	07/13/2020	FORMELY BIG T'S
FOB	**ACCOUNT NUMBER**		**AUTHORIZED BY**
	Multiple Accounts		DANIEL WILLHITE

ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE	UNIT COST	EXTENDED COST
		CHANGE ORDER		
1	159,552.78 / DL	AUTOCAR INDURTRIAL YARD TRACTOR	1.0000	159,552.78
2	107,304.82 / DL	AUTOCAR INDURTRIAL YARD TRACTOR	1.0000	107,304.82
3	133,428.80 / DL	AUTOCAR INDURTRIAL YARD TRACTOR	1.0000	133,428.80

SOURCEWELL COOPERATIVE CONTRACT #081716-ATC
LINE 2 ACCT CHANGED TO 742-7943-826-8607 PER CS*DW

By acceptance of this purchase order, you agree to the attached terms and conditions of the City of Oxnard

PURCHASE ORDER

CITY OF OXNARD
300 WEST 3RD STREET
OXNARD, CA 93030

PURCHASE ORDER NO. 007812

DATE: 9/3/2020

VENDOR PHONE: (562)447-1260
VENDOR FAX: ( ) -
VENDOR #: 19164
VENDOR ADDRESS: VELOCITY TRUCK CENTER OF VC
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DELIVER BY	REQUISITION #	REQUISITION DATE	CONFIRMED BY
06/30/2021	0000005022	07/13/2020	FORMELY BIG T'S
FOB	**ACCOUNT NUMBER**		**AUTHORIZED BY**
	Multiple Accounts		DANIEL WILLHITE

ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE	UNIT COST	EXTENDED COST

21 00111218 EXP 7/31/20*AM
PRJ 187417 TO BE EXHAUSTED W/THIS PO & PO7443
PER DEPT CONFIRMATION;CLOSEOUT PRJ AFTER PURCHASES
TO PWTC & COUNCIL, PO TO BE SIGNED BY MAYOR*DAN
09/03/2020- ENCUMBERED LINE 1 AND DISENCUMBERED
LINE 2 FOR $10695.18 PER CIVIC CLERK/BURRIS EMAIL
REQUEST. JC.

TOTAL PURCHASE AMOUNT **$400,286.40**

In order to receive payment, email all invoices to:
invoices@oxnard.org

In the subject line, reference the Purchase Order number above.

AUTHORIZED SIGNATURE. _____

By acceptance of this purchase order, you agree to the attached terms and conditions of the City of Oxnard

PURCHASE ORDER

CITY OF OXNARD
300 WEST 3RD STREET
OXNARD, CA 93030

PURCHASE ORDER NO. 007812

DATE: 9/3/2020

VENDOR PHONE: (562)447-1260
VENDOR FAX: ( ) -
VENDOR #: 19164
VENDOR ADDRESS: VELOCITY TRUCK CENTER OF VC
P.O. BOX 101284
PASADENA, CA 91189-1284

SHIP TO: VARIOUS LOCATIONS
VARIOUS LOCATIONS
SEE DESCRIPTION
OXNARD, CA 93030

Our P.O. # MUST Appear on ALL Invoices, Packages and Correspondence

DELIVER BY	REQUISITION #	REQUISITION DATE	CONFIRMED BY
06/30/2021	0000005022	07/13/2020	FORMELY BIG T'S
FOB	**ACCOUNT NUMBER**		**AUTHORIZED BY**
	Multiple Accounts		DANIEL WILLHITE

ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE	UNIT COST	EXTENDED COST

Account	Project	Amount
63163138918606		159,552.78
74279438268607	187417	107,304.82
62162028918606		133,428.80

By acceptance of this purchase order, you agree to the attached terms and conditions of the City of Oxnard

PURCHASE ORDERS
TERMS AND CONDITIONS

The City Purchasing Officer and the Vendor agree as follows:

1. Vendor shall furnish to City the labor, materials, equipment, supplies and/or services described in the Purchase Order preceding this page.
2. City shall pay to Vendor the price, or prices, specified in the Purchase Order upon delivery of the labor, materials, equipment, supplies and/or services, and acceptance thereof by the City Purchasing Officer, or upon the completion of the services to be performed and acceptance thereof.
3. If the Purchase Order is continuing in nature, City shall pay to Vendor the amount due Vendor for labor, materials, equipment or supplies furnished, or services completed and accepted.
4. Vendor shall deliver the labor, materials, equipment or supplies, or cause the services to be performed, within the time and in the manner specified in the Purchase Order. Vendor shall be excused in performance for delays resulting from causes beyond the control of Vendor.
5. If services are performed or labor furnished to City under the Purchase Order, Vendor agrees to indemnify, hold harmless and defend City, its City Council, and each member thereof, and every officer, employee, representative or agent of City, from any and all liability claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration, that arise directly or indirectly from any acts or omissions related to this Agreement performed by Vendor or its agents, employees, subcontractors, consultants and other persons acting on Vendor's behalf. This agreement to indemnify, hold harmless and defend shall apply whether such acts or omissions are the product of active negligence, passive negligence, willfulness or acts for which Vendor or its agents, employees, subcontractors, consultants and other persons acting on Vendor's behalf would be held strictly liable. Vendor's obligation to defend shall arise when a claim, demand or action is made or filed, whether or not such claim, demand or action results in a determination of liability or damages as to which Vendor is obligated to indemnify and hold harmless.
6. Insurance
   a) Vendor shall obtain and maintain during the performance of any services under this Agreement the following insurance coverage issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverage.
      i. Commercial general liability insurance, including a contractual liability endorsement, in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability coverage (Occurrence Form CG0001ED, November 1988);
      ii. Business automobile liability insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Auto Liability Insurance Services Office coverage (Occurrence Form CA000TED, June 1992) covering Code No. 1, "any auto";
      iii. Workers' compensation insurance in compliance with the laws of the State of California, including employer's liability insurance in an amount not less than $1,000,000 per claimant.
7. Vendor, in the performance of any services or the furnishing of any labor under this Purchase Order, shall be considered an independent contractor, and Vendor and Vendor's agents and employees shall not be considered officers or employees of the City.
8. Vendor, without the written consent of the City Purchasing Officer, shall not:
   a) Assign the Purchase Order, or any interest therein, or any money due thereunder; or
   b) Make any changes, alterations or variations in the terms of the Purchase Order.
9. The cost of inspection on deliveries, or offers to make deliveries that do not meet specifications, will be paid by Vendor or deducted by City from amounts due Vendor.
10. Vendor shall indemnify and hold harmless City, its officers and employees, from liability, claims, loss or expense of any kind or nature on account of any copyrighted or uncopyrighted composition, patented or unpatented process or invention, article or appliance furnished or used under this Purchase Order.
11. Vendor shall comply with all applicable federal, state and local ordinance, laws and regulations and shall obtain and pay for all required licenses and permits, including a City of Oxnard business license.
12. Return or exchange of materials, equipment or supplies will not be permitted without written approval by the City Purchasing Officer.
13. All materials, supplies and equipment furnished under the Purchase Order shall, where applicable, be in full compliance with the Safety Orders and Regulations of the Division of Industrial Safety of the State of California and the Williams-Steiger Federal Occupational Health and Safety Act of 1970.
14. City may terminate this Purchase Order at any time by giving written notice of termination to Vendor. If termination is for cause, termination shall become effective on the date of the notice or at a later date, specified in the notice. If termination is without cause, termination shall become effective five days after the date of the notice or at a later date specified in the notice.
15. Vendor shall comply with all applicable equal employment opportunity requirements of the California Department of Fair Employment and Housing in performing or contracting for any services under this Purchase Order.
16. For public projects, Vendor shall pay prevailing wages in accordance with Labor Code Sections 1720 et seq.

ADDITIONAL REQUIREMENTS FOR GRANT-FUNDED PROJECTS

17. The following requirements apply to any Purchase Order funded in whole or in part by federal grant funds.
    a) Upon expiration of the time specified on the reverse side, this Purchase Order shall terminate unless City and Vendor have mutually agreed in writing to an extension of time.
    b) If legal action is brought by either party because the other has failed to comply with terms or conditions of this Purchase Order, the prevailing party shall be awarded its attorney's fees and costs in addition to its damages and/or equitable relief.
    c) Vendor shall comply with all applicable requirements of Executive Order 11246 as amended by Executive Order 11375 and the regulations adopted pursuant thereto (41 CFR Chapter 60), which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin.
    d) Vendor shall insure that the grantee (City), the Federal Grantor Agency, the Comptroller General of the United States, or any duly authorized representative, shall have access to any books, records, documents and papers, specifically relating to this Purchase Order, for the purpose of making audit, examination, excerpts and transcriptions for not less than three years after completion of the project and/or until the completion of the final project audit as required by the Federal Grants Agency.

Form C

EXCEPTIONS TO PROPOSAL, TERMS, CONDITIONS, AND SOLUTIONS REQUEST

Company Name: **Autocar, LLC/Autocar Industries, LLC**

Any exceptions to the terms, conditions, specifications, or proposal forms contained in this RFP must be noted in writing and included with the Proposer's response. The Proposer acknowledges that the exceptions listed may or may not be accepted by NJPA or included in the final contract. NJPA will make reasonable efforts to accommodate the listed exceptions and may clarify the exceptions in the appropriate section below.

Section/page	Term, Condition, or Specification	Exception	NJPA ACCEPTS

Proposer's Signature: _____ **Date:** Aug 26, 2016

NJPA's clarification on exceptions listed above:

LEGAL
Initials
11/14/16
Date

Contract Award
RFP #081716

FORM D

Formal Offering of Proposal
(To be completed only by the Proposer)

CLASS 6, 7, AND 8 CHASSIS WITH RELATED EQUIPMENT, ACCESSORIES, AND SERVICES

In compliance with the Request for Proposal (RFP) for CLASS 6, 7, AND 8 CHASSIS WITH RELATED EQUIPMENT, ACCESSORIES, AND SERVICES, the undersigned warrants that the Proposer has examined this RFP and, being familiar with all of the instructions, terms and conditions, general and technical specifications, sales and service expectations, and any special terms, agrees to furnish the defined products and related services in full compliance with all terms and conditions of this RFP, any applicable amendments of this RFP, and all Proposer's response documentation. The Proposer further understands that it accepts the full responsibility as the sole source of solutions proposed in this RFP response and that the Proposer accepts responsibility for any subcontractors used to fulfill this proposal.

Company Name: Autocar, LLC/Autocar Industries, LLC Date: Aug 26, 2016

Company Address: 551 S. Washington Street

City: Hagerstown State: IN Zip: 47346

Contact Person: Dan Vermeer Title: Senior Vice President, Market Development

Authorized Signature: DAN VERMEER
(Name printed or typed)

FORM E
CONTRACT ACCEPTANCE AND AWARD

(Top portion of this form will be completed by NJPA if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

NJPA Contract #: 081716-ATC

Proposer's full legal name: Autocar, LLC/Autocar Industries, LLC

Based on NJPA's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by NJPA.

The effective date of the Contract will be November 15, 2016 and will expire on November 15, 2020 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at NJPA's discretion.

NJPA Authorized Signatures:

NJPA DIRECTOR OF COOPERATIVE CONTRACTS AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz
(NAME PRINTED OR TYPED)

NJPA EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coauette
(NAME PRINTED OR TYPED)

Awarded on November 15, 2016

NJPA Contract # 081716-ATC

Vendor Authorized Signatures:

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name Autocar

Authorized Signatory's Title SVP

VENDOR AUTHORIZED SIGNATURE

DAN VEERMEER
(NAME PRINTED OR TYPED)

Executed on Nov 17, 2016

NJPA Contract # 081716-ATC

Form F

PROPOSER ASSURANCE OF COMPLIANCE

Proposal Affidavit Signature Page

PROPOSER'S AFFIDAVIT

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to NJPA members agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.

2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of NJPA, or any person, firm, or corporation under contract with NJPA, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.

3. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted in writing and have been included with the Proposer's RFP response.

4. The Proposer will, if awarded a Contract, provide to NJPA Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.

5. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to NJPA Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to NJPA Members under an awarded Contract.

6. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.

7. The Proposer understands that NJPA will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

8. The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify NJPA for reasonable measures that NJPA takes to uphold such a data designation.

[The rest of this page has been left intentionally blank. Signature page below]

By signing below, Proposer is acknowledging that he or she has read, understands, and agrees to comply with the terms and conditions specified above.

Company Name: AUTOCAR, LLC/AUTOCAR INDUSTRIES, LLC

Address: 551 S. Washington St.

City/State/Zip: Hagerstown, IN 47346

Telephone Number: (765) 489-5499

E-mail Address: dvermeer@autocartruck.com

Authorized Signature:

Authorized Name (printed): Don Vermeer

Title: SVP

Date: Aug 26, 2016

Notarized

Subscribed and sworn to before me this 26th day of August, 2016

Notary Public in and for the County of Randolph State of Indiana

My commission expires: 2-20-2019

Signature: David Brian Lowe

DAVID BRIAN LOWE
Notary Public in and for
The State of Indiana
My Commission Exp. 2-20-2019

Form P

PROPOSER QUESTIONNAIRE

Payment Terms, Warranty, Products and Services, Pricing and Delivery, and Industry-Specific Questions

Proposer Name: **Autocar, LLC/Autocar Industries, LLC**

Questionnaire completed by: **Dan Vermeer, Senior Vice President, Market Development**

Payment Terms and Financing Options

1) What are your payment terms (e.g., net 10, net 30)?

Regarding vehicles, Autocar invoices its distributors at the time of shipping and does not control the payment terms its distributors will accept from end users such as NJPA Members. Regarding parts, NJPA Members can pay by credit card via www.jitparts.com, or contact an authorized Autocar dealer, which may be willing to offer terms.

2) Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?

Autocar is currently in the process of exploring municipal leasing products to support government entity vehicle procurement.

3) Briefly describe your proposed order process. Please include enough detail to support your ability to report quarterly sales to NJPA. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the NJPA Members' purchase orders.

Autocar has developed and entered standard reference numbers in its truck sales configuration and ordering system to correspond to the vehicle configurations and prices listed in this RFP response. These numbers will be known as "Autocar NJPA Part Numbers" for purposes of the NJPA Member order process for this RFP #081716. The use of Autocar NJPA Part Numbers will allow NJPA Members to be confident in the pricing they will be entitled to, and will also allow for Autocar to accurately report its quarterly sales to NJPA.

Autocar proposes NJPA Members either e-mail an order with an attached Purchase Order to NJPAOrders@autocartruck.com OR contact their preferred Autocar dealer. E-mailed orders must include Shipping Address, Autocar NJPA Part Number, NJPA Unit Price, Extended Price and Required Delivery Date.

Where an NJPA order is placed with an Autocar dealer, the dealer will enter the order through the Autocar sales configuration and ordering system and will choose the appropriate standing Autocar NJPA Part Number to develop a orderable quote in the Autocar system. For an order delivered to Autocar, Autocar Sales Operations personnel will enter the order through an assigned dealer through the same mechanism. Per state motor vehicle laws, all vehicles requiring registration will be sold through a licensed motor vehicle dealer. Orders from either the dealer or directly from the customer will be entered into Autocar's sales configuration and order entry system, and will be processed through Autocar's Enterprise Resource Planning (ERP) system for billing to the dealer

upon shipment. Upon placing the chassis in service, NJPA Members will register their units in Autocar's Warranty System, either online or by completing a warranty card. Autocar's sales configuration/ordering and ERP systems track all orders to the shipping destination and our warranty system tracks all units by customer and VIN as they are placed in service. Additionally, Autocar's Customer Relationship Management (CRM) tracks all orders to the point of sale, referencing purchasing cooperative when applicable. Using the Autocar NJPA Part Number and these three systems, Autocar will be able to accurately report sales to NJPA, even in cases where sales pass through a dealer and are shipped to a third party for body installation.

4) Do you accept the P-card procurement and payment process? If so, is there any additional cost to NJPA Members for using this process?

Regarding vehicles, Autocar invoices its distributors at the time of shipping and does not control the payment terms its dealers will accept from end users such as NJPA Members. Regarding parts, NJPA Members can pay by credit card via www.jitparts.com, or contact an authorized Autocar dealer, which may be willing to offer terms.

Warranty

5) Describe in detail your manufacture warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may include in your response a copy of your warranties, but at a minimum please also answer the following questions.

Autocar's applicable Limited Warranty Certificates, delivered with every chassis, and answering most of these questions, are attached as Form P, Exhibit C.

- Do your warranties cover all products, parts, and labor?
  As specifically noted in Form P, Exhibit C, all Autocar products are covered by warranty, and most parts and labor are covered. Autocar will ship parts needed to complete warranty repairs for free, overnight. NJPA Members can obtain free warranty parts through Autocar Solutions® on www.autocartruck.com .
- Do your warranties impose usage restrictions or other limitations that adversely affect coverage?
  Autocar notes specific time and usage periods that limit its warranty coverage in the attached Limited Warranty Certificates (Form P, Exhibit C).
- Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?
  In extraordinary cases, Autocar will cover technician travel time and mileage for warranty repairs, if approved in advance and in writing.
- Are there any geographic regions of the United States for which you cannot provide a certified technician to perform warranty repairs? How will NJPA Members in these regions be provided service for warranty repair?
  See response to Form A, Question 16 for details on Autocar's dealer network, field service personnel, and ability to provide technical support to customers remotely with Autocar Solutions®. NJPA Members interested in performing their own warranty service may contact Autocar to become so authorized.
- Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?
  Major component suppliers/manufacturers provide their own warranty policies and service, each of which vary in scope and process, and all of which are passed through to the end suer by Autocar. Many component manufacturers permit Autocar's dealers to provide warranty service for their particular components. In its Warranty Policies and Procedures Manual,

Autocar provides its customers and dealers detailed instructions on how to contact and claim warranty reimbursement for major components assembled on Autocar chassis and tractors.

- What are your proposed exchange and return programs and policies?
  Given the sophisticated specifications and custom assembly inherent to Autocar's products, Autocar does not frequently experience requests for exchange or return, and therefore does not have a formal chassis return policy. Its parts affiliate offers a one-year warranty on aftermarket parts.

6) Describe any service contract options for the items included in your proposal.

NJPA Members can use authorized Autocar dealers, or their own technicians and facilities, to perform warranty service. Post-warranty, NJPA Members are free to seek their own contracted service providers, who may seek technical assistance from Autocar through Autocar Solutions® at www.autocartruck.com .

Pricing, Delivery, Audits, and Administrative Fee

7) Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the NJPA discounted price) on all of the items that you want NJPA to consider as part of your RFP response. Provide a SKU for each item in your proposal. (Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract. See the body of the RFP and the Price and Product Change Request Form for more detail.)

With this response, Autocar is providing line-item pricing for 14 different truck models including MSRP and net NJPA contract price, attached as Form P, Exhibit D. These 14 models cover a large range of Class 7 and Class 8 common refuse and other vocational truck applications. Autocar cannot, by law, dictate the selling price to a dealer or force it to accept an order, but Autocar is confident its dealer marketing and training plans with respect to NJPA will make this contract attractive to its dealers, and that NJPA Members will find all of Autocars dealers participating.

Product options and customizations not specifically quoted in Form P, Exhibit D will be negotiated consistently with this method of NJPA price calculation and tracked as an NJPA purchase, if so specified by the customer.

The prices noted in Form P, Exhibit D will remain firm for one year, but Autocar reserves the right to adjust prices in the event of large materials price dislocations, including for commodities such as precious and non-precious metals, rubber and plastics, or for significant model changes, including those arising from discontinuation and replacement of previous models, or significant model changes required by new regulations, such as Federal Greenhouse Gas emissions rules. Any proposed increases will be negotiated with NJPA according to its Vendor Price and Product Change Request process.

8) Please quantify the discount range presented in this response. For example, indicate that the pricing in your response represents is a 50% percent discount from the MSRP or your published list.

Autocar's NJPA pricing listed on Form P, Exhibit D reflects a range of discounts from MSRP from 24.5% to 27.9%%.

9) The pricing offered in this proposal is

_____a. the same as the Proposer typically offers to an individual municipality, university, or school district.

_____b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.

___XXX___c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.

_____d. other than what the Proposer typically offers (please describe).

10) Describe any quantity or volume discounts or rebate programs that you offer.

None. As a manufacturer of purpose-built custom chassis, Autocar does not experience model run quantities that typically result in economies of scale and justification for volume discounts.

11) Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.

As a custom chassis manufacturer we have a virtually endless array of options and customizations that we will offer NJPA customers on a quote basis consistent with the method utilized to calculate the prices offered herein. Additionally, design work is often required to adapt the chassis to a large number of different bodies and applications. For these reasons a set discount structure is not possible for Autocar.

12) Identify any total cost of acquisition costs that are **NOT** included in the pricing submitted with your response. This cost includes all additional charges that are not directly identified as freight or shipping charges. For example, list costs for items like installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.

All prices are FOB Continental United States (CONUS). Federal, state and local taxes are not included as most, if not all, NJPA Members are public entities or otherwise exempt from such taxes. Pre delivery inspections by an authorized dealer are included in the price prior to the delivery of the finished truck to the customer location. No other regularly occurring activities are expected to result in an additional charge.

13) If delivery or shipping is an additional cost to the NJPA Member, describe in detail the complete shipping and delivery program.

See response to Question 12 above.

14) Specifically describe those shipping and delivery programs for Alaska, Hawaii, Canada, or any offshore delivery.

FOB nearest CONUS seaport.

15) Describe any unique distribution and/or delivery methods or options offered in your proposal.

None.

16) Please specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with NJPA. This process includes ensuring that NJPA Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to NJPA.

At the end of each calendar quarter, Autocar will run a report detailing all units sold under the NJPA models listed in Form P, Exhibit D to an NJPA Member. Each sale will be validated as to the standing NJPA contract quotation having been used at time of order. Every invoiced order on the report will be validated as having created a payable in our ERP system and that we are current on all NJPA payables. Custom NJPA quoted and sold units will be included in the report and likewise validated.

17) Identify a proposed administrative fee that you will pay to NJPA for facilitating, managing, and promoting the NJPA Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See RFP Section 6.29 and following for details.)
Given the large cost of a finished truck compared to some of the goods sold pursuant to NJPA contracts, Autocar suggests a percentage of sales may be an ineffective way will pay $1,000 per unit sold.

Industry-Specific Questions

18) Describe any manufacturing processes or material specification-related attributes that contribute to *chassis* strength, durability, and reliability, and that differentiate your offering in the marketplace.

a. **Body/Chassis integration: chassis is custom-engineered in advance and built specially for the specific customer and their selected body, which eliminates the need for body companies to drill into or cut and weld the chassis after it leaves Autocar**
b. **The Autocar chassis is lighter, yet stronger than competition, due to special computer-designed geometry. This allows better durability plus more legal payload. Autocar uses high strength steels, huck bolts for assembly, heat-treated steel frame rails.**
c. **Integrated electrical harness pass-through: smooth body integration, fewer repairs, eliminates need for splicing, reduces electronic mishaps**
d. **Integrated CNG Fuel Management System: better performance, fewer repairs**
e. **Proper component & cross-member placement: safer, no relocation required by body companies which increase the risk of damage or induced maintenance issues.**
f. **Autocar's chassis paint, which is applied both before and during chassis assembly, has salt spray resistance. The applied topcoat when tested per ASTM B117-97, shall not exhibit any blistering, red rust or loss of adhesion after 1000 hours of exposure, with sore scribe creep not exceeding 0.236 inch.**

For example, the ACX frame rail has the following section properties:

- **Thickness: 9.525mm (3/8in)**
- **Flange Length: 83mm (3.258in)**
- **Material Yield: 827 MPa (120ksi)**

Frame Section	Section Height	1/4" Liner	RBM	
	mm [in]		Nm	lbf.in
Rear	273 [10.75]	No	2.44E+05	2.16E+06
Rear	273 [10.75]	Yes	3.62E+05	3.21E+06
Drop	369 [14.51]	No	3.75E+05	3.32E+06
Drop	369 [14.51]	Yes	4.31E+05	3.81E+06

19) Describe any manufacturing processes or material specification-related attributes that contribute to *cab* strength, durability, and driver safety/usability, and that differentiate your offering in the marketplace.

- **Best visibility: curved corner windows, nearly 360 degree visibility, wrap-around windshield, clear rear-window CNG**
- **Quieter: less fatigue, more attentiveness**
- **Uncluttered control panel**
- **Only all-steel cab**
- **More space: 4-5" deeper, up to 7" wider, reach and tilt adjustable steering wheel, head clearance, foot room**
- **Best HVAC: hands and feet, dual AC**
- **Easiest ingress/egress**
- **Best ergonomics**
- **Bluetooth radio for hands-free operation**
- **Best turning radius: reduces time spent in reverse and avoids accidents**
- **Hot weather cab insulation**
- **Galvanealed/E-coating after cab shell assembly for maximum corrosion protection**
- **Durability tested for 10 Years**
- **Use double wall firewall for added strength**
- **ACMD cab is shock-mounted cab for maximum comfort**
- **Low-mount wipers that clear upper windshield better.**

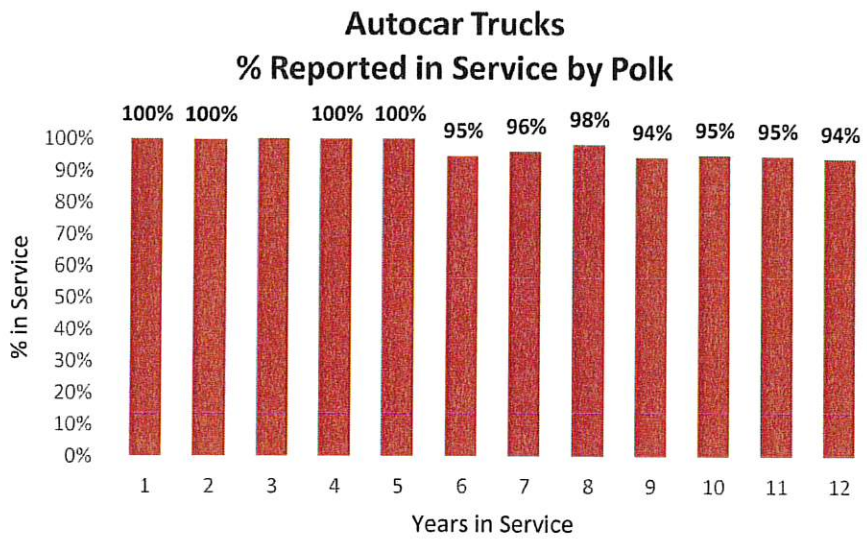
20) Describe any serviceability attributes (such as remote diagnostics) that your proposal contains. Please indicate which of these attributes are considered "industry-expected attributes" and which you believe are "vendor differentiators."

The below-listed items are unique to Autocar and are "Vendor Differentiators."

- **Advanced On-board Diagnostics: Far beyond other OEMs, human language and no need to plug in an external reader allows pre-trip inspection, solves issues faster, provides operational data, speeds diagnosis of issues**
- **Curb side fluid fill and check station**
- **Faster pre-trip inspections: OBD light cycle**
- **Autocar Solutions®: factory-direct 24/7 service command center – helps customers solve issues themselves instead of pushing trucks out for service to dealers, as do other truck OEMs**
- **Pre-engineering based on customer's application: fewer electrical problems, maintenance/repairs easier to perform (thoughtful component and harness placement)**
- **Quick-release grille**
- **A-pillar wiring access**
- **Fewest unique parts, allows wider parts availability at competitive prices**
- **Wrap-around bumper, lollipop turn signals, hidden hinges, etc. to minimize damage**
- **Spec'd for less stress on components**
- **Best integration to avoid chassis/body problems**
- **Best visibility by driver to avoid accidents and prevent damage**

21) Provide any market data supporting the longevity and reliability of your proposed solutions.

Autocar trucks are proven to provide hard-working service for an extended life. Polk reports trucks in operation via registrations with state departments of motor vehicles (please note, not every truck in service is reported). Matching Autocar's production records with Polk's reported registrations (and correcting for Polk's data coverage) reveals that 94% of all Autocar trucks remain in service 12 years after production.



22) As a percentage of your total units sold over the past three years, what portion are day cabs?

100%. Autocar does not refer to its cab-over-engine products as "day cabs," but Autocar does not produce any "sleeper cabs," and its cabs cannot be comfortably inhabited overnight, so for purposes of this question, Autocar considers its entire production to consist of "day cabs."

23) What is your parts order fill rate?

83%

24) What is your US market share? Canadian share (if any)?

Autocar share of Class 7 Cabover Refuse Trucks: 36%

Autocar share of Class 8 Cabover Refuse Trucks: 33%

(Polk registrations, 12 weeks ending May, 2016)

Signature: _____ Date: Aug 26, 2016

OXNARD

Purchasing Department
Purchasing Procedure

Negotiated Contract
Sole/Single (NSS Form)

Purchasing requires written justification from the requesting department within the department explaining why this is the only source for the requirement. Please check the applicable box.

Definition

- ☐ **Negotiated Contract:** When no bids or no responsive bids are received/obtained, the purchasing manager is authorized to negotiate for written proposals without a formal solicitation process for a city contract.
- ☐ **Formal/informal solicitation with one bid/proposal response received (Bid # and Close date):**
- ☐ **Confidential agreement** for City Attorney and/or Chief of Police (backup docs may be redacted)
- ☐ **Sole Source:** Unique materials, supplies, equipment or services, which can be obtained from only one known source, proprietary equipment/technology, copyright, singular characteristics or performance capabilities or which have exclusive compatibility components with existing City products.
- ☒ **Single Source:** A procurement decision whereby purchases are directed to one source because of standardization, warranty, or other factors, even though other competitive sources may be available.
- ☐ **Urgent:** Informal or formal solicitations for supplies, equipment or services (except Public Projects) shall not apply in a situation in which, at the City Manager's discretion, does not permit obtaining price quotations or bids and public interest and necessity demand the immediate expenditure of public money to avoid harm to or safeguard life, health or property or to mitigate severe economic expenses. Provide the supporting documentation with a completed NSS form to the Purchasing Division of the urgent products/services with the City Manager's signature.

WRITTEN JUSTIFICATION

The below information is provided in support of my Department requesting approval for a negotiated or sole/single source (NSS form). (*Outside of a duly declared emergency, the time to develop a statement of work or specifications is not in itself justification for sole source.*)

1. Vendor Legal Business Name: VELOCITY TRUCK CENTERS (Dist. For AUTOCAR)
   REQ # 5022
2. Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide to include: (Please check one or more of the options below)

   ☒ **Unique: e.g. Feature(s) that make the item/service unique and why you need this uniqueness.**

   Autocar, LLC offers custom-engineered, American manufactured Class 7 and 8 cabover chassis with a wide array of options. The design and specifications are ideal for operations at the Del Norte Regional Recycling and Transfer Station and the Oxnard Wastewater Treatment Plant. Examples of benefits are: hauling ability of large amounts of materials, ability to fit on premises with small footprint, noted reliability for long-term use.

   ☐ Compatibility: e.g. Compatibility with or component of, an existing item; provide enough detail to demonstrate that compatibility is necessary.

   ☒ **Territory: Provide a letter from the Manufacturer that its' supplier/reseller holds a service contract and must supply parts to accomplish a contract.**

   In the Ventura area, the only representative and distributor of Autocar, LLC is Velocity Truck Centers. A letter is included in the requisition routing folder.

   ☐ Emergency order: No other supplier available at the time. (Must be declared by the City Manage/City Council).

   ☐ Urgent: City Manager approves waiving the formal competitive solicitation, over $200,000

   ☐ Proprietary purchase: No other supplier available. Provide verified evidence that the purchasing is truly proprietary. I.E. letter from manufacturer that their product is proprietary and that no other product on the open market exists.

OXNARD

Purchasing Department
Purchasing Procedure

Negotiated Contract
Sole/Single (NSS Form)

3. The basis upon which the price/cost was determined to be fair and reasonable. The price justification to include: (Please check one or more of the options below)
   - ☐ Comparison to product catalog.
   - ☐ Comparison to similar product/service.
   - ☐ Published price lists.
   - ☒ **Prices quoted are less than or equal to, that quoted to other governmental agencies.** Autocar is offering a ~22 % discount range off manufacturer suggested retail price (MSRP).
   - ☒ **Records of previously bid items that were similar.** Autocar was one of six (6) chassis manufacturers awarded Sourcewell Cooperative Contract #081716-ATC via a competitive Request for Proposal (RFP) #081716.

4. **Provide a brief written explanation for this product/services. (forms with this field missing will be returned. You may attach a separate sheet if you prefer)**

The yard tractor is a specialized Class 8 tractor, used primarily for short distance travel, typically within the property boundaries of the end user. The yard tractor is not intended to be used on highways for extended travel.

Environmental Resources (ER) Division will purchase two (2) Class 8 yard tractors. ER will use one (1) yard tractor at New Indy Containerboard in Oxnard to move transfer trailers in and out of the waste material loading area. The second yard tractor will be used at the Del Norte Regional Recycling and Transfer Station to move the transfer trailers around the facility. Autocar manufactures a yard tractor that meets the vehicle specifications and needs of ER. The cost to buy these two (2) yard tractors is $266,857.60.

Wastewater Division (WW) will purchase one (1) Class 8 yard tractor. The yard tractor will be replacing vehicle #2616, a 1989 International 5th wheel tractor that is used solely within the Wastewater Treatment Plant to move bio-solids trailers in and out of the solids processing building. The cost of the this one (1) yard tractor is $133,428.80.

5. Identify all costs for this requested purchase:

Product/Service Description:	Fiscal Year: **20-21**
One-Time Costs (Describe):	$400,286.40 (2 veh. for ER, 1 veh. for WW)
Ongoing Costs (Describe):	
Annual Total Costs: Add the total by year	$400,286.40

6. Period of Performance: **May be leased or cash purchase**

From:		To:		Or One-Time Purchase	

I HEREBY CERTIFY THAT:

1) I am an approved department representative, and am aware of the City's requirements for competitive bidding, as well as, the criteria for justification for negotiated contract/sole/single source purchase.

OXNARD

Purchasing Department
Purchasing Procedure

Negotiated Contract
Sole/Single (NSS Form)

2) There is justification for a negotiated contract/sole/single source purchase noted above as it meets the City's criteria.

Department: Requestor Name (Print Name): Todd Housley and Jan Hauser
Please print

Authorized Department Director or designee: for Rosemine 8/24/20
Please print/sign name Date:

Below to be processed by Purchasing: [X] **Approved or** [ ] **Denied**

Notes:

Purchasing Buyer: /
Under $25,000 Please Sign Date:

Purchasing Manager: Daniel Willhite / DocuSigned by: Daniel Willhite D934F95516344B8... 9/2/2020 | 5:45 PM PDT
Up to $100,000 Please Sign Date:

CityManager: Alexander Nguyen /
$100,001 to $200,000 Please Sign Date:

Mayor: Tim Flynn /
$200,001 + Please Sign Date:

Tracking number assigned by the Purchasing Department only.

Tracking#	20-40	Not to Exceed Amount:	$ 400,287	FY:	20-21

Purchase Order with Velocity for Three (3) New Yard Tractors

Public Works and Transportation Committee
September 22, 2020

Todd Vasquez-Housley
Environmental Resources Division Manager

CITY OF OXNARD CALIFORNIA

RECOMMENDATION

That the Public Works and Transportation Committee recommend that the City Council approve and authorize the Mayor to execute a Purchase Order and sole source authorization with Velocity Truck Centers in the amount of $400,286.40 for three (3) new Autocar brand yard tractors for the Wastewater and Environmental Resources Divisions.

BACKGROUND WASTEWATER

- The wastewater treatment plant generates an average of 88 wet tons of biosolids per day
- Wastewater staff utilizes a 1989 model International Fifth Wheel tractor to maneuver and stage biosolids trailers for pickup
- Current tractor has become unreliable and is constantly down for repair and maintenance

WASTEWATER INTERNATIONAL YARD TRACTOR

BACKGROUND ENVIRONMENTAL RESOURCES

- The ER Division utilizes 12 transfer trucks along with trailers to transport solid waste from the Del Norte facility to Toland Road and Simi Valley landfills
- ER seeks two (2) yard tractors to:
  - Maneuver solid waste trailers from process areas to a designated transfer pickup area
  - Maneuver in relatively small footprint process areas more efficiently than a transfer truck

AUTOCAR YARD TRACTOR

DISCUSSION

- Fleet Division researched national purchasing agreements for yard tractors that offered economies of scale pricing
- Identified a Sourcewell Cooperative Contract (081716-ATC) for three (3) Autocar brand yard tractors for ER and Wastewater
- Velocity Truck Centers is the authorized local Autocar distributor.

FINANCIAL IMPACT

The total cost for all three (3) new yard tractors with Velocity Truck Centers is $400,286.40. The funding allocations are budgeted in Fiscal Year 2020-21 as follows:

Environmental Resources	Operating	631-6313-891-86-06	$159,552.78
Environmental Resources	Fleet Vehicle Replacement	742-7943-826-86-06	$107,304.82
Wastewater Treatment	Operating	621-6202-891-86-06	$133,428.80
		TOTAL	$400,286.40

QUESTIONS?

CITY OF OXNARD CALIFORNIA

CITY OF OXNARD CALIFORNIA

PUBLIC WORKS AND TRANSPORTATION COMMITTEE
AGENDA REPORT

REPORTS
AGENDA ITEM NO. D.2

DATE: September 22, 2020

TO: Public Works and Transportation Committee

FROM: Rosemarie Gaglione, Public Works Director, (805) 385-8055, rosemarie.gaglione@oxnard.org

SUBJECT: Amendments to Ventura Regional Sanitation District and Waste Management, Inc. Agreements. (5/5/5)

RECOMMENDATION

That the Public Works and Transportation Committee recommend that the City Council approve and authorize:
1. The Mayor to execute a Second Amendment to Agreement No. A-5906 with Ventura Regional Sanitation District to extend the term for 90 days ending February 12, 2021 for solid waste disposal;
2. The Mayor to execute a First Amendment to the Amended and Restated Agreement to Agreement No. A-7618 with Waste Management, Inc. to extend the term for 90 days ending February 12, 2021 for solid waste disposal; and
3. The City Manager to extend the term dates for an additional ninety (90) days if necessary.

BACKGROUND

On October 1, 2013, the City Council approved Agreement No. A-5906 with the Ventura Regional Sanitation District (VRSD) for solid waste disposal at the Toland Road Landfill. Subsequently, on December 3, 2013, the City Council approved Agreement No. A-7618 with Waste Management, Inc. (WM) for solid waste disposal at the Simi Valley Landfill. Both agreements will expire on November 14, 2020.

On June 17, 2020, the City issued a request for proposal (RFP # ER 20-96) to solicit proposals from local landfills for solid waste disposal beginning November 15, 2020. The RFP was sent to WM, VRSD, and Waste Connections. The RFP was posted on the City's website and www.publicpurchase.com.

DISCUSSION

Prior to the RFP deadline of July 29, 2020, the City received two (2) qualified proposals from VRSD and WM. Both proposals presented multiple scenarios for landfill capacities and disposal costs. Additional time to meet with VRSD and WM to clarify and evaluate their proposals is needed and will ensure the most favorable solid waste disposal contracts.

Staff is requesting the City Council to extend the existing agreement term dates with VRSD (A-5906) and WM (A-7618) for 90 days and to authorize the City Manager to extend the term dates for an additional ninety (90) days if necessary.

All current solid waste disposal rates shall remain the same until new agreements are approved and executed. The current waste disposal rates are $32.89 per ton at Toland Road Landfill and $31.99 per ton at Simi Valley Landfill.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the four strategic plans adopted by City Council on May 17, 2016.

FINANCIAL IMPACT

There is no additional cost to approve the extended term date amendments. All current rates with VRSD and WM shall remain the same during this extension period and funds have been budgeted accordingly.

Prepared by: Thien Ng, Assistant Public Works Director

ATTACHMENTS

1. A-5906 Second Amendment - VRSD
2. VRSD Toland Landfill Agreement A-5906 (Original and First Amendment)
3. A-7618 First Amendment - WM
4. A-7618 Waste Management of CA Inc (Original to 3rd Amendment)
5. Time Extensions for Landfill Agreements Presentation

Oxnard Agreement No. A-5906
VRSD Contract No. 00-024-1

SECOND AMENDMENT TO AGREEMENT FOR WASTE DISPOSAL AT TOLAND LANDFILL

This Second Amendment ("Second Amendment") to the agreement for waste disposal at Toland Landfill ("Original Agreement") is made and entered into in the County of Ventura, State of California, this _____ day of _____, 2020, by and between the City of Oxnard, a municipal corporation ("City"), and Ventura Regional Sanitation District ("VRSD"). This Second Amendment amends the Agreement entered into on November 14, 2000, by City and VRSD. The Agreement previously has been amended on October 1, 2013, by a First Amendment, by City and VRSD.

City and VRSD agree as follows:

1. In "1. TERM.," on page 1 of the Original Agreement, the sentence is deleted and replaced with the following:

   "The term of this Agreement shall commence the date first stated above, and shall terminate on February 12, 2021, unless earlier terminated as provided herein."

2. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

Oxnard Agreement No. A-5906
VRSD Contract No. 00-024-1

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

CITY OF OXNARD

_____ _____
☐ Tim Flynn, Mayor[1] Date
☐ Alexander Nguyen, City Manager
☐ Daniel Willhite, Purchasing Manager
☐ _____, Buyer

ATTEST:

_____ _____
Michelle Ascencion, City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

_____ _____
Stephen M. Fischer, City Attorney (always required) Date

_____

VENTURA REGIONAL SANITATION DISTRICT

_____ _____
Bert Perrello, Chairman, Board of Directors[2] Date

[1] The City Council must authorize and the Mayor must sign the amendment if the original contract and all amendments collectively total over $200,000 annually. The City Manager may authorize and sign the amendment if the original contract and all amendments collectively total over $100,000 but up to $200,000 annually. The Purchasing Manager may authorize and sign the amendment if the original contract and all amendments collectively total up to $100,000 annually. A Buyer may authorize and sign the amendment if the original contract and all amendments collectively total up to $25,000 annually.

[2] The City requires the following for any contract:
- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

VRSD CONTRACT NO. 00-024

AGREEMENT FOR WASTE DISPOSAL AT TOLAND ROAD LANDFILL BETWEEN VENTURA REGIONAL SANITATION DISTRICT AND CITY OF OXNARD

THIS AGREEMENT FOR WASTE DISPOSAL AT TOLAND ROAD LANDFILL ("this Agreement") is made and entered into this 14 day of November, 2000, by and between VENTURA REGIONAL SANITATION DISTRICT, a California County Sanitation District (hereinafter referred to as "VRSD"), and CITY OF OXNARD, a municipal corporation of the State of California (hereinafter referred to as "City").

RECITALS

A. VRSD and City are parties to the Golf Course Lease and Landfill Postclosure Maintenance Agreement ("Lease Agreement") executed concurrently herewith. This Agreement is made in partial consideration of the Lease Agreement.

B. VRSD owns and operates the Toland Road Landfill located at the end of Toland Road in Ventura County ("Landfill").

C. City participates in the collection and processing of solid waste generated within its boundaries. City owns and operates or contracts for the operation of the Del Norte Regional Recycling and Transfer Station ("Station").

D. VRSD and City, as participants in the solid waste management system in Ventura County, desire to secure an environmentally sound, economical and reliable method of disposal of residual solid waste generated in the City and transported from the Station and other transfer/recycling facilities within the City and to secure a reliable supply of residual solid waste transported to the Landfill.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth, VRSD and City agree as follows:

1. TERM. The term of this Agreement shall commence the date first stated above, and shall terminate in twenty (20) years on November 14, 2020, unless earlier terminated as provided herein.

2. CITY SOLID WASTE DELIVERY COMMITMENT.

(a) Commitment of Solid Waste. City shall cause to be delivered to the Landfill solid waste ("waste") generated in the City and transported from the Station or other transfer/recycling facilities, subject to the tonnage commitments and limitations described below. City shall provide or contract for all labor, equipment and supervision to process, transport and unload the waste at the Landfill in accordance with this Agreement. City, at its discretion, may haul the waste delivered hereunder utilizing City employees and trucks or City may contract out for hauling services.

(b) Annual Minimum Tonnage Commitment. Commencing on the date first stated above, City shall cause to be delivered to the Landfill at least 40,000 tons of waste each twelve (12) month period for the first five (5) years of the term of this Agreement and at least 48,000 tons of waste each 12 month period for the last 15 years of the term of this Agreement.

(c) Maximum Tons Per Day. City shall not deliver more than 200 tons of waste per day to the Landfill, provided that by prior notice by VRSD to City, after request by City, VRSD may, after considering all service commitments, accept additional tonnage from City above 200 tons on any day. Tons accepted after such prior notice shall be counted towards the Annual Minimum Tonnage Commitment, described above at Section 2(b). Tons above 200 tons a day from City accepted by VRSD without such prior notice shall not count towards the Annual Minimum Tonnage Commitment. Tons of acceptable solid waste delivered by City during the established landfill operating hours in an amount of up to 200 tons per day, but not accepted by VRSD, shall count towards the Commitment.

(d) Title to Waste. City warrants that City has good and sufficient title to all waste delivered under this Agreement. Title to all waste delivered by City to the Landfill under this Agreement shall be conveyed to VRSD upon acceptance by VRSD; provided that all Unacceptable Waste and Hazardous Waste shall remain the property of City.

3. VRSD SERVICE COMMITMENT.

(a) Commitment to Accept Solid Waste. VRSD shall accept waste delivered by City hereunder; provided that the Landfill is open and provided that VRSD shall have the right to reject waste delivered by City which does not meet the criteria of waste permitted to be accepted at the Landfill under then-existing laws, regulations, permits, and/or this Agreement.

(b) VRSD Landfill Operation Responsibility. VRSD shall be solely responsible for the processing and disposal of waste delivered to the Landfill in compliance with this Agreement and for the administration and enforcement of all agreements and regulatory requirements for the operation of the Landfill.

4. UNACCEPTABLE AND HAZARDOUS WASTE DELIVERED TO LANDFILL.

(a) VRSD Refusal Rights. VRSD shall dispose of all waste delivered to the Landfill by City; provided, however, that VRSD may refuse delivery of (1) any waste delivered in excess of the tonnage limits set forth above, (2) any waste delivered at hours outside the Landfill's established operating hours, (3) any waste that contains Unacceptable Waste in abnormal quantities or Hazardous Waste in any quantities, and (4) any waste delivered when the Landfill has been closed to comply with conditions of its operating permits.

(b) Screening and Removal of Unacceptable Waste and/or Hazardous Waste. City shall not knowingly deliver, and shall use all legal means reasonably available in cooperation with VRSD to prevent the delivery of Unacceptable Waste and/or Hazardous Waste to the Landfill. VRSD may inspect all vehicles delivering waste to the Landfill and all waste delivered, before or after unloading, for the presence of Unacceptable Waste and/or Hazardous Waste. VRSD and City shall conduct approved waste load checking programs in compliance with all applicable laws.

(c) Disposal Responsibility and Costs. VRSD shall remove, and dispose of, or cause the removal and disposal of, all Unacceptable Waste and Hazardous Waste delivered to the Landfill. City shall pay VRSD, in addition to the Landfill Fee, all costs and expenses incurred by VRSD in connection with its obligations under this section.

5. PERMIT RESTRICTION. City shall not deliver and VRSD shall not accept any waste which is not consistent with the terms and conditions of the Landfill Permits.

6. LANDFILL FEES.

(a) Landfill Fees. In consideration for VRSD's obligations hereunder, VRSD shall charge City and City shall pay to VRSD Landfill fees. The Landfill fees shall be based on a fee per ton applied to the tonnage of waste City delivers to the Landfill, which fee shall be established by the VRSD Board of Directors, provided that as to the tonnages specified in the Annual Minimum Tonnage Commitment set forth in Section 2(b), the fee shall be the maximum fee set forth below. Notwithstanding any other provision of this Agreement, the per ton Landfill fee charged City shall be no greater than the lowest per ton Landfill fee charged for waste of a similar character disposed of at the Landfill.

(b) Maximum Fee. Notwithstanding any other provision of this Agreement, the Landfill fee per ton which City shall be obligated to pay hereunder for the tons delivered up to the amount of the Annual Minimum Tonnage commitment each year under Section 2(b) above, shall not exceed $19.06 per ton during the period from the date first written above through June 30, 2002. Effective July 1, 2002, and July 1 of each even numbered year thereafter, the amount of said maximum Landfill fee shall be adjusted by each of the following elements:

(1) Any increase or decrease, in the same percentage proportion, that the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for Urban Wage Earners and Clerical Workers, Los Angeles-Long Beach, California shall have increased or decreased from July 1, 2000; and

(2) Any additional cost per ton of responding to or complying with judicial actions or judgments, administrative action, statutory or regulatory requirements and/or modified or adjusted permit conditions imposed after the date of this Agreement, including, but not limited to, attorney and/or expert fees, costs for additional technical or environmental studies, costs of new mitigation and/or monitoring requirements, costs of new operational requirements, costs of new closure or postclosure requirements or financial assurance requirements, and/or costs of any new capital improvements requirements; and

(3) Any cost per ton of any new regulatory fee or tax or additional fees imposed by other governmental agencies after the date of this Agreement.

Pending receipt of the required Consumer Price Index and determination of the actual adjustment, City shall pay an estimated adjusted fee, as reasonably determined by VRSD by reference to the then available Consumer Price Index information. Upon notification of the actual adjustment after publication of the required Consumer Price Index, any overpayment by City shall be credited against the next monthly statement of fees, and any underpayment by City shall be immediately due and payable by City.

In the event the compilation and/or publication of the Consumer Price Index shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the Consumer Price Index shall be used to make such calculation.

In the event VRSD determines, at its sole discretion, to charge City a fee for tonnage delivered under the Annual Minimum Tonnage Commitment that is greater than the maximum fee as described here, then VRSD shall provide City written notice of such fee sixty (60) days before the fee becomes effective and, thereafter, City, at its sole discretion, may avoid imposition of this fee by terminating this Agreement upon thirty (30) days written notice to VRSD. Said termination of this Agreement shall be City's sole remedy in the event VRSD determines to adopt a tip fee for the tons committed at section 2(b) which is greater than the maximum fee described above. Notwithstanding any other provision herein, VRSD may adopt and charge City a higher tip fee for tons delivered in excess of the Annual Minimum Tonnage Commitment, provided the fee is no greater than the lowest per ton fee charged for waste of a similar character disposed of at the Landfill.

(c) <u>Fee For Unique/Hard to Handle Wastes</u>. Notwithstanding any other provision of this Agreement, City and VRSD may make separate agreements as to service and fees relating to unique and/or hard to handle waste or recyclable materials including, but not limited

to green waste, construction debris, agricultural plastic and alternative daily cover. VRSD's General Manager is authorized to execute such contracts on behalf of VRSD subject to established VRSD policy.

(d) Payment Irrespective of Waste Deliveries. The intent of this Agreement is that City shall deliver to the Landfill the specified Annual Minimum Tonnage Commitment of waste generated within the City limits. The further intent is that City shall pay VRSD the Landfill fee for all such specified tons of waste whether or not City delivers such waste to the Landfill except that City shall not be obligated to pay for tons for which City is entitled to receive credit under section 9(b) below. Therefore, City shall pay VRSD the then current Landfill fees as provided hereunder during the term of this Agreement, whether or not City delivers or causes to be delivered any waste to VRSD for disposal at the Landfill. The obligation of City to pay the Landfill fees shall be absolute and unconditional and shall not be subject to delay or diminution by reason of set-off, abatement, counterclaim, existence of a dispute or otherwise. City shall take all such action as may be necessary to provide for the timely payment of the Landfill fees due hereunder. City hereby acknowledges that the services to be provided by VRSD pursuant to this Agreement are of a valuable and unique nature to City and that the Landfill fees to be paid by City to VRSD constitute fair consideration therefor.

7. MEASUREMENT.

The tonnage used to calculate the Landfill fee shall be based on the weight of each loaded truck measured at the weight scales described below minus the certified tare weight for each truck. VRSD shall install, operate, and maintain a scale system at the Landfill. Until VRSD's scales are operational, trucks shall be weighed at the Station or such other certified weigh station as designated by City. Whether VRSD or City is operating or employing the scale, that party shall maintain and make available to the other party the following information: (1) Calendar date; (2) Time of day; (3) Vehicle identification; and (4) Total number of tons of waste delivered to the Landfill and accepted by VRSD. All scales and weighing equipment shall be kept in good and accurate condition operating at the standards of accuracy and reliability specified in the California Code of Regulations. City shall establish the tare weight of each truck. City shall allow VRSD to provide a number or device to be inserted in or on each truck that will identify the truck to the weigh master or an automated scanner or to provide such other device or means necessary to identify trucks using an unattended, automated system.

8. PAYMENT OF LANDFILL FEES.

(a) Monthly Statement. On or before the tenth (10th) day following the end of any month for which payments are required to be made under this Agreement, VRSD shall submit to City a bill setting forth the Landfill fees for such prior month based on the number of tons delivered and accepted by VRSD and the price per ton established pursuant to this Agreement. On or before the thirtieth (30th) day following the date of such bill, City shall pay to VRSD the full amount of such Landfill fees.

(b) Annual Statement. On or before the tenth (10th) day following the end of each year during the term of this Agreement, VRSD shall submit to City an Annual Report specifying the total number of tons delivered to the landfill by City during the prior year which are applicable to City's Annual Minimum Tonnage Commitment. In the event City fails to deliver the Annual Minimum Tonnage Commitment in any year, this Annual Statement shall be accompanied by an Annual Statement setting forth the Landfill fees for the prior year due pursuant to Section 6(d) above based on the number of tons calculated by subtracting the applicable tons delivered from the Annual Minimum Tonnage Commitment after taking into account any credit due City under section 9(b). The resulting tons shall be multiplied by the then current Landfill fee (Maximum Fee) to establish the total amount due VRSD. On or before the thirtieth (30th) day following the date of any Annual Statement, City shall pay to VRSD the full amount of such Landfill fees.

(c) Disputes. If City disputes any amount billed by VRSD, City shall provide VRSD with written objection within (twenty) 20 days of the receipt of such bill indicating the amount that is being disputed and providing all reasons then known to City for its objection to or disagreement with such amount. City shall timely pay any part of the billed amount that City does not dispute, and shall not pay the amount in dispute. If City and VRSD are not able to resolve such dispute within twenty (20) working days after City's objection, either party may pursue legal remedies.

9. OPERATING HOURS.

(a) The Landfill's operating days and hours for receiving waste will be established by VRSD Resolution and made available to City. The Landfill shall be open Monday through Friday except for established holidays and closures VRSD determines to be necessary to comply with Landfill Permits or other regulatory requirements.

(b) In the event Landfill is closed for any reason, VRSD shall notify City by telephone or other mutually agreeable means of said closure as soon as reasonably possible and City shall bear no obligation to deliver waste or pay Landfill Fees for the period of such closure and until the site is reopened and VRSD notifies City of the reopening. VRSD shall credit toward City's satisfaction of the Annual Minimum Tonnage Commitment an amount equal to the average tonnage delivered by City to the Landfill on days the Landfill is open, averaged over the preceding month, times the number of days in the month that the Landfill was closed.

10. LANDFILL RULES AND REGULATIONS. City shall provide all labor, equipment and supervision necessary to safely and efficiently dispose of waste from City's vehicles onto the designated disposal area at the Landfill. City recognizes that City will not be the only user of the Landfill and shall not interfere with other landfill disposal operations. City shall obey all instructions either verbal or written provided by VRSD. While at the Landfill, City shall perform its obligations under this Agreement in accordance with the following:

(a) All equipment, including all tractors and trailers shall be maintained and operated in conformance with all laws and regulations governing the use of such equipment on and off the Landfill;

(b) All drivers shall be property trained and licensed;

(c) All waste hauling vehicles shall be covered while on public roads;

(d) All vehicles shall observe all posted speed limit and traffic warning signs on and off the Landfill. Trucks shall drive at safe speeds, use caution driving down hills, and reduce speed to allow for road, weather, traffic and load.

(e) Trucks backing up to unload shall do so slowly and cautiously.

(f) Trucks while in operation shall keep all doors secured.

(g) Drivers and/or helpers shall remain in immediate vicinity of truck.

(h) Trucks shall unload only in areas designated by VRSD personnel.

(i) No salvaging shall be conducted at any time.

(j) Smoking shall be prohibited within the boundaries of the landfill, except within designated smoking areas approved by the Ventura County Fire Department.

(k) Injury or damage to persons or equipment shall be reported to VRSD personnel prior to leaving the site. Any damaged truck shall not be moved prior to reporting.

(l) Consumption of alcoholic beverages or controlled substances shall be prohibited.

11. RANDOM INSPECTION OF WASTE HAULING VEHICLES. VRSD staff, trained in Hazardous Waste identification, shall randomly inspect waste hauling vehicles entering the landfill. Hazardous Waste shall be removed and disposed of in accordance with State regulations. City agrees not to interfere with VRSD staff in the random inspection of waste hauling vehicles, and to provide requested information to assist VRSD staff in the identification of the potential source of Hazardous Waste materials found in waste hauling vehicles carrying City waste.

12. RIGHT OF SITE INSPECTION. VRSD and City covenant and agree to permit the duly authorized representatives of VRSD and City to enter the Landfill and Station, upon notice to the other party, during usual business hours, for the purpose of inspecting the same. All

records of transactions relating to waste delivered to the Landfill, including, but not limited to, documents regarding the source of the waste, calibration of scales, truck maintenance and driver training shall be made available upon request by VRSD or City.

13. PROTECTION OF PERSONS AND PROPERTY. City shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with its performance under this Agreement. City shall take all reasonable precautions for the safety of, and provide for reasonable protection to prevent damage, injury or loss to, all persons who may be affected by activity related to this Agreement and other property at the Landfill site or adjacent thereto, including roadways, structures and utilities. City shall promptly remedy all damage or loss to any property referred to above caused in whole or in part by City or its contractors or anyone directly or indirectly employed by any of them. City shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

14. COMPLIANCE WITH LAWS AND ORDINANCES. City shall keep abreast of all laws, ordinances, regulations, orders and permits which in any manner affect those engaged and employed in activities carried out pursuant to this Agreement or the materials used, or which in any way affect the conduct of operations on or off the Landfill site, including all permit conditions and other requirements relating to the Landfill operation. City at all times shall observe and comply with, and shall cause all of its agents, employees and contractors to observe and comply with, all such existing and future laws, ordinances, regulations, orders and permits, and shall hold harmless, indemnify and defend VRSD and its directors, officers and employees from liability arising from City's failure to comply with such requirements. City shall obtain all licenses and permits required to perform work under this Agreement.

15. RECORDS AND ACCOUNTS. VRSD and City shall each, respectively, keep proper books of record and account (separate from all other records and accounts), in which complete and correct entries shall be made of the transactions relating to the Landfill and Station, including records of the quantity, quality and other characteristics of solid waste delivered by City and accepted by VRSD. Such books shall at all reasonable times be subject to the inspection of the authorized representative of either VRSD or City.

16. INDEMNITY.

(a) VRSD. VRSD agrees to hold City harmless from and to indemnify and defend City against any and all liabilities, claims, actions, lawsuits, costs and expenses, including reasonable attorneys' fees, liens, judgments and demands, including but not limited to claims of damage to property, bodily injury or death, which may be suffered by City, its employees, agents, representatives and its independent contractors or third parties, due to or arising out of the VRSD's operations upon the Landfill by VRSD, its employees, agents, representatives and independent contractors, except to the extent such claim(s) result from the negligence or willful misconduct of City or its employees, agents, representatives or independent contractors.

(b) City. City agrees to hold VRSD harmless from and to indemnify and defend VRSD against any and all liabilities, claims, actions, lawsuits, costs and expenses, including reasonable attorneys' fees, liens, judgments and demands, including but not limited to claims of damage to property, bodily injury or death, which may be suffered by VRSD, its employees, agents, representatives and its independent contractors or third parties, due to or arising out of City's operations upon or in the vicinity of Station or Landfill or any haul route by City, its employees, agents, representatives and independent contractors, except to the extent such claim(s) result from the negligence or willful misconduct of VRSD or its employees, agents, representatives or independent contractors.

(c) Joint Negligence. Notwithstanding the preceding sections, when both VRSD and City or their respective employees, agents, representatives or independent contractors are negligent and such joint negligence causes liabilities, claims, actions, lawsuits, costs, expenses, liens, judgments and demands, including but not limited to claims of damage to property, bodily injury or death, VRSD or City shall be responsible and liable in proportion to the amount of fault attributable to VRSD or City and/or their employees, agents, representatives or independent contractors, and VRSD or City shall bear its own attorney fees.

17. INSURANCE.

(a) Minimum Coverage. City will not commence or continue to perform under this Agreement unless City has provided for insurance coverage or self insurance for any liability, loss, expense or claim which may arise out of or result from City's performance under this Agreement, whether such performance be by City or by any contractor of City or anyone directly or indirectly employed by City or such contractor, or by anyone for whose act City may be liable, with the following limits, which limits shall be adjusted every two years by the increase in the Consumer Price Index as described at Section 6.b.1. above:

(1) General liability insurance, including comprehensive form, premises operation and broad form property damage coverage, with a limit of not less than Two Million Dollars ($2,000,000) combined single limit coverage;

(2) Automobile liability insurance, including comprehensive form including loading and unloading, owned, hired and non-owned coverage, with a limit of not less than Five Million Dollars ($5,000,000) combined single limit coverage;

(3) Contractual personal injury liability and contractual property damage insurance covering liability assumed under this Agreement, with a limit of not less than Two Million Dollars ($2,000,000) combined single limit coverage; and

(4) Workers' compensation insurance as required by law.

(b) Certificates. Certificates of insurance or self insurance acceptable to VRSD shall be filed with VRSD prior to commencement of any operation or performance under this Agreement. If City provides certificates of insurance, the certificates shall state that VRSD is an insured for coverage in (1), (2) and (3) above, that the insurance afforded shall be primary insurance, and that coverage afforded under the policies will not be canceled until at least thirty (30) days' prior written notice has been given to VRSD.

18. SUCCESSORS/ASSIGNMENT.

(a) Binding on Successors. VRSD and City each binds itself and its successors, assigns and legal representatives to the other party and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Agreement.

(b) Assignment. This Agreement is made specifically between VRSD and City based on VRSD's unique relationship with City. Neither party shall assign its interest in this Agreement without the written consent of the other party, which other party may grant or arbitrarily deny in the other party's sole discretion.

(c) Remaining Obligation. If City transfers by any means its ownership and/or operation of the Station, City shall remain responsible for payment of the Landfill Fees hereunder and City shall, before any such transfer becomes effective, obtain a written acknowledgment by any transferee that transferee is obligated and bound by all the terms hereof as City's successor hereunder.

(d) Responsibility for Subcontractors. City shall be fully responsible for all acts and omissions of its subcontractors and of persons and organizations directly or indirectly employed by City and of persons and organizations for whose acts City may be liable to the same extent that City is responsible for the acts and omissions of persons directly employed by City.

19. RELATIONSHIP OF CITY TO VRSD. VRSD and City agree that no employee-employer relationship is intended by this Agreement, the relationship of City to VRSD being that of an independent contractor. VRSD shall not be required to make any payroll deductions or provide workers' compensation insurance coverage or health benefits to City employees or contractors. City is solely responsible for selecting the means, methods and procedures for performing hereunder, and for coordinating all portions of its performance so the results will be satisfactory to VRSD.

20. DEFAULT/REMEDIES.

(a) Default by City. City shall be deemed in default under this Agreement only if City shall fail, neglect or refuse to keep and perform any of the covenants, conditions, stipulations or agreements herein agreed to be performed by City, and such failure to perform is

not cured within sixty (60) days after written notice specifying the nature and extent of such failure has been given to City. Upon City's failure to cure such default, VRSD, at its option, may declare this Agreement terminated effective upon such date as VRSD shall designate.

(b) Default by VRSD. VRSD shall be deemed in default under this Agreement only if VRSD shall fail, neglect or refuse to keep and perform any of the covenants, conditions, stipulations or agreements herein agreed to be performed by VRSD, and such failure to perform is not cured within sixty (60) days after written notice specifying the nature and extent of any such failure has been given to VRSD. Upon VRSD's failure to cure such default, City, at its option, may declare this Agreement terminated effective upon such date as City shall designate.

(c) Termination by City. City may terminate this Agreement on one year's written notice to VRSD if City determines not to construct a golf course on the Premises, as defined in the Lease Agreement.

(d) Remedies and Waiver. Except as otherwise herein expressly provided, all rights and remedies of either VRSD or City shall be cumulative and none shall exclude any other right or remedy allowed by law; the exercise by either VRSD or City of any remedy provided for herein or by law shall not be to the exclusion of any other remedy. Either VRSD's or City's failure to take advantage of any default or breach of covenant on the part of the other party shall not be construed as a waiver thereof, nor shall any custom or practice which may grow up between VRSD and City in the course of administering this instrument be construed to waive or lessen the right of either VRSD or City to insist upon the performance by the other of any term, covenant or condition hereof, or to exercise any rights given it on account of any such default. A waiver of a particular breach or default shall not be deemed to be a waiver of the same right or any other subsequent breach or default.

21. ATTORNEYS FEES. In the event that either VRSD or City shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any term, covenant or condition of this Agreement, including the payment of Landfill fees, or to interpret any term, covenant or condition, the party prevailing in said action or proceeding shall be entitled to recover, in addition to its court costs, reasonable out-of-pocket expenses (including, but not limited to telephone calls, photocopying, expert witnesses, travel) and reasonable attorney fees to be fixed by the court, and such recovery shall include court costs and attorney fees on appeal, if any. The court will determine who is the "prevailing party" whether or not the suit proceeds to final judgment.

22. DEFINITIONS.

As used in this Agreement, the following terms have the meanings set forth below:

(a) Administrative Action. Petitions, objections, letters of opposition, requests for reconsideration, requests for modification, and other administrative appeals with the County

of Ventura, Regional Water Quality Control Board - Los Angeles Region, Local Enforcement Agency, California Integrated Waste Management Board, State Water Resources Control Board, and/or other public agencies having jurisdiction over the Landfill.

(b) Hazardous Waste. Any waste subject to Article 1, Chapter 11, Division 4.5 (section 66261.3 *et seq.*) of Title 22 of the California Code of Regulations.

(c) Landfill. Toland Road Landfill located at the end of Toland Road in the unincorporated area of Ventura County.

(d) Landfill Permits. Conditional Use Permit No. CUP 3141 Modification #3 approved by the County of Ventura, Waste Discharge Requirements, Order No. 96-053, approved by the Regional Water Quality Control Board - Los Angeles Region, Revised Solid Waste Facility Permit, SWFP #56-AA-0005, approved by the California Integrated Waste Management Board and the County of Ventura Environmental Health Division, acting as the Local Enforcement Agency for the California Integrated Waste Management Board, and all revisions or modifications to said documents and all other regulatory approvals necessary for the operation of the Landfill.

(e) Solid Waste ("Waste"). The solid waste delivered in trucks after processing and/or transfer of solid waste has taken place at the Station or other recycling facilities, including the separation, recovery, volume reduction, or conversion of solid waste and shall include hazardous waste load checking procedures as required by law and the Station's or other facilities' operating permits.

(f) Station. The Del Norte Regional Recycling and Transfer Station located at Del Norte Boulevard and Sturgis Avenue in Oxnard, California.

(g) Unacceptable Waste. Includes the following,

(1) Hazardous wastes and other wastes such as liquid, oils, waxes, tars, soaps, solvents, or readily water-soluble solids, such as salts, borax, lye, caustic, or acids.

(2) Waste containing less than fifty percent (50%) solids.

(3) Materials which are of a toxic nature, such as insecticides, poisons, or radioactive materials.

(4) Infectious materials or hospital or laboratory wastes, except those authorized for disposal to land by official agencies charged with control of plant, animal, and human disease.

(5) Pesticide containers, unless rendered nonhazardous by triple rinsing.

(6) Septic tank or chemical toilet wastes.

23. GENERAL PROVISIONS.

(a) Time. Time is of the essence of this Agreement. Any reference herein to days, unless otherwise defined, shall be interpreted as referring to calendar days.

(b) Notices. Any notice to be given under this Agreement shall be in writing and shall be deemed given two (2) days after being sent by first class mail, addressed to:

VRSD:
Ventura Regional Sanitation VRSD
1001 Partridge Drive, Suite 150
Ventura, California 93003-5562
Attention: General Manager

City:
City of Oxnard
300 West Third Street
Oxnard, California 93030
Attention: City Manager

or to such other address as either VRSD or City may designate hereinafter in writing delivered to the other party.

(c) Governing Law/Venue. This Agreement, and all matters relating to this Agreement, shall be governed by the laws of the State of California in force at the time any need for interpreting this Agreement or any decision or holding concerning this Agreement arises. Venue for any Municipal or Superior Court action relating to this Agreement shall be in Ventura County.

(d) Severability. If any clause, provision, paragraph, section or article of this Agreement shall be ruled invalid by any court of jurisdiction, either VRSD or City shall: (1) promptly meet and negotiate a substitute for such clause, provision, paragraph, section or article which shall, to the greatest extent legally permissible, effect the intent of VRSD and City; (2) if necessary or desirable to accomplish item (1) above, apply to the court having declared such invalidity for a judicial construction of the invalidated portion of this Agreement; and (3) negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with items (1) and (2) above to effect the intent of VRSD or City in the invalid provision. The invalidity of such clause, provision, paragraph, section or article shall not affect any of the remaining provisions hereof, and this Agreement shall be construed and enforced as if such invalid portion did not exist.

(e) **Prior Understandings and Usage.** This Agreement contains the entire agreement between VRSD and City and supersedes all previous written or oral negotiations, commitments, understandings, proposals and writings. That the terms of this Agreement shall not be modified by course of performance, course of dealing, usage or informal arrangements which may occur from time to time over the term of this Agreement or by evidence of additional terms not expressly contained in this Agreement.

(f) **Amendments.** No amendments to this Agreement may be made except by a writing signed by VRSD and City.

(g) **Execution.** VRSD and City have executed this Agreement as of the date first stated above. This Agreement may be executed in counterparts with the same force and effect as if one document were signed by VRSD and City.

VENTURA REGIONAL SANITATION DISTRICT

By: _____
John Zaragoza
Chairman, Board of Directors

ATTEST:

_____
Rhonda Catron
Clerk of the Board

APPROVED AS TO FORM

_____
Mark A. Zirbel
Arnold, Mathews, Wojkowski & Zirbel, LLP
General Counsel

CITY OF OXNARD

By: _____
Dr. Manuel M. Lopez, Mayor

APPROVED AS TO FORM

_____ 11-14-00
Gary L. Gillig
City Attorney

APPROVED AS TO INSURANCE

_____
Stan Kleinman
Risk Manager

Oxnard Agreement No. A-5906

VRSD Contract No. 00-024-1

FIRST AMENDMENT TO AGREEMENT FOR WASTE DISPOSAL AT TOLAND ROAD LANDFILL BETWEEN VENTURA REGIONAL SANITATION DISTRICT AND CITY OF OXNARD

THIS AMENDMENT is made and entered into this 1st day of October 2013, by and between VENTURA REGIONAL SANITATION DISTRICT, a California County Sanitation District ("VRSD"), and CITY OF OXNARD, a municipal corporation of the State of California ("City").

RECITALS

A. VRSD and City are parties to the Agreement for Waste Disposal at Toland Road Landfill dated November 14, 2000 ("Original Agreement"), attached as Exhibit B to this Amendment.

B. In order to secure an environmentally sound, economical and reliable method of disposal of residual solid waste transported from the Del Norte Regional Recycling and Transfer Station ("Station") and other transfer/recycling facilities within the City and to secure a reliable supply of residual solid waste transported to the Toland Road Landfill ("Landfill"), the parties now desire to amend the Original Agreement.

NOW THEREFORE, in consideration of the mutual covenants, promises, and conditions contained in this Amendment and for other good and valuable consideration, VRSD and City agree as follows:

1. Section 2 of the Original Agreement is deleted in its entirety and amended to state:

2. <u>CITY SOLID WASTE DELIVERY COMMITMENT.</u>

(a) **<u>Commitment of Solid Waste.</u>** Effective October 1, 2013, each day that the Landfill and the Station are operating, City shall cause to be delivered to the Landfill, forty-eight percent (48%) of all (up to a maximum of 500 tons per day and a maximum of 270,000 tons per year, unless

COUNCIL APPROVAL
DATE: 10-1-13 AGENDA # J-1

VRSD consents to increase either or both daily and annual maximums) residual solid waste transported from the Station, and other transfer/recycling facilities in the City, after processing, load checking and transfer operations for such waste are complete. Each quarter, City shall submit a statement to VRSD which reports the total number of tons (for each day and for the entire quarter) of residual solid waste delivered to all landfills the prior quarter and the total number of tons (for each day and for the entire quarter) delivered to Toland Road Landfill the prior quarter. The parties agree that the 48% commitment will be deemed to be satisfied if the daily and quarterly tons reported are within a fraction of the average truck load weight or are within whatever other standard the parties may mutually agree upon from time to time.

(b) **Trucking**. Deliveries of all residual solid waste shall be made by City or City's Contractor transfer trucks in accordance with the Landfill's Permits, the provisions of Section 10 of the Original Agreement and the additional special trucking provisions set forth in Exhibit A to this Amendment.

(c) **Title to Waste**. City warrants that City has good and sufficient title to all waste delivered under this Agreement. Title to all waste delivered by City to the Landfill under this Agreement shall be conveyed to VRSD upon acceptance by VRSD; provided that all Unacceptable Waste and Hazardous Waste shall remain the property of City.

2. Section 6 of the Original Agreement is deleted in its entirety and amended to state:

6. LANDFILL FEE.

(a) **Landfill Fee.** For residual solid waste delivered to the Landfill and accepted by VRSD, City shall pay a Landfill Fee of twenty-eight dollars and fifty cents ($28.50) per ton, which shall include all fees and charges in effect as of the date of this Agreement except for the Countywide Integrated Waste Management Plan (CIWMP) disposal fee.

(b) **Landfill Fee Annual Adjustment.** Effective July 1, 2014 and on July 1 of each subsequent year during the term of this Agreement, the Landfill Fee shall be adjusted in the same percentage proportion that the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for Urban Wage Earners and Clerical Workers, Los Angeles-Long Beach, California ("CPI") shall have increased or decreased the preceding January to December.

(c) **New or Increased Taxes, Fees and Charges.** The Landfill Fee shall be adjusted from time to time to allow VRSD to recover City's pro rata share of any new or increased fees, assessments or taxes imposed directly on landfill solid waste disposal by any State, Local or Federal government after October 1, 2013 upon sixty day's advance written notice from VRSD and a detailed statement of the basis for and calculation of the proposed adjustment. VRSD shall hold a Board of Director's meeting during the sixty day notice period to consider City's comments regarding the proposed Landfill Fee adjustment and to take final action on the proposed adjustment. If any new or increased fee imposed specifically on the Landfill (and not generally on disposal facilities) results in a Landfill Fee increase greater than 10%, City shall be entitled to cancel this Agreement by providing written notice to VRSD not more than 30 days after VRSD's Board has taken final action to approve the adjustment. City may specify a date of termination not later than 60 days from the date of City's notice.

(d) **Change in Law.** The Landfill Fee shall be adjusted from time to time to allow VRSD to recover City's pro rata share of any increased costs of operation of the Landfill arising from a Change in Law, upon sixty day's advance written notice from VRSD and a detailed statement of the basis for and calculation of the proposed adjustment. VRSD shall hold a Board of Director's meeting during the sixty day notice period to consider City's comments regarding the proposed Landfill Fee adjustment and to take final action on the proposed adjustment. If a Change in Law imposed specifically on the Landfill (and not generally on disposal facilities) results in a Landfill Fee increase greater than 10%, City shall be entitled to cancel this Agreement by providing written notice to VRSD not more than thirty days after VRSD's Board has taken final action to approve the adjustment. City may specify a date of termination not later than 60 days from the date of City's notice.

As used herein, "Change in Law" means the occurrence of any change in law applicable to the performance of this Agreement as follows:

1. The adoption, promulgation, modification, or change in law, regulation, or judicial or administrative interpretation occurring after October 1, 2013 which adoption, promulgation, codification, or change affects the performance of this Agreement; or

2. Any action, resolution, order or judgment of any federal, state or local court, administrative agency or governmental body (other than VRSD) issued after October 1, 2013 if:

(a) such action, resolution, order or judgment is not also the result of the willful misconduct or negligent action or inaction of the party relying thereon or of any third party for whom the party relying thereon is directly responsible; and

(b) the party relying thereon, unless excused in writing from so doing by the other party, shall make or have made, or shall cause or have caused to be made reasonable efforts in good faith to contest such order or judgment (it being understood that the contesting in good faith of such an order or judgment shall not constitute or be construed as a willful misconduct or negligent action of such party); or

3. Any action, resolution, order or judgment made by a governmental authority or agency having authority over the Landfill after October 1, 2013 that imposes new or different material conditions in connection with the issuance, renewal, or modification of any permit or related agreement required for the development or operation of the Facility.

(e) **Option to Terminate Upon Greater Fee.** For commercially reasonable cause, and subject to the procedural provisions and statement of intent set forth herein, VRSD may adjust the Landfill Fee to charge City a Landfill Fee that is greater than the Landfill Fee specified above provided VRSD shall provide City written notice of such a fee adjustment ninety (90) days before the proposed fee becomes effective. Said notice shall provide a detailed statement of the basis for and the calculation of the proposed adjustment. It is the intent of the parties that this subsection (e) is not to be used as an open ended option to make fee adjustments. Instead, this subsection (e) is to be employed to allow commercially reasonable adjustments necessary to address significant declines in revenue such as might be caused by significant reductions in tonnage delivered to the Landfill or to offset significant increases in expenses such as might be caused by natural phenomenon or unexpected property casualty incidents or other unforeseen operation conditions. VRSD shall hold a Board of Director's meeting during the ninety (90) day notice period to consider City's comments regarding the proposed Landfill Fee adjustment and take final action on the proposed adjustment. City, at its sole discretion, may, within thirty (30) days after receipt of notice of the final approval of the adjustment by the Board of Directors of VRSD, avoid imposition of this fee by terminating this Agreement upon thirty (30) days written notice to VRSD.

(f) **Fees for other Wastes.** Notwithstanding any other provision of this Agreement, City and VRSD may make separate arrangements, agreements or mutually agreed-upon resolutions regarding services and fees

relating to unique materials including, but not limited to, construction debris, agricultural plastic, other hard-to-handle wastes and/or alternative daily cover materials.

3. Section 8(b) of the Original Agreement is deleted in its entirety and section 8(b) shall be left blank.

4. Section 9(b) of the Original Agreement is deleted in its entirety and amended to state:

(b) In the event Landfill is closed during established operating hours for any reason, VRSD shall notify City (including the City's designated dispatcher) by telephone or other mutually agreeable means of said closure as soon as reasonably possible and City shall bear no obligation to deliver waste for the period of such closure and until the site is reopened and VRSD notifies City of the reopening.

(1) In the event City has dispatched any truck(s) from the Station to the Landfill before VRSD notifies City of such closure, then VRSD shall, in the next monthly statement, provide to City a credit in the amount of $82.95 per rerouted truck to compensate City for the added cost of transporting a rerouted truck to another landfill. This amount shall be adjusted annually by any increase or decrease, in the same proportion, that the CPI shall have increased or decreased just as Landfill Fee adjustments are calculated in Section 6(b) above.

(2) City may deliver residual solid waste, which City would otherwise be obligated to deliver to the Landfill under the commitment made by City under Section 2(a) above, to another landfill between the time VRSD notifies City of a Landfill closure during established operating hours and the time that VRSD notifies City that the Landfill is again open. In that event, City shall present VRSD with documentation of the number of trucks and tons rerouted in a detailed invoice. Within thirty days after receipt of such an invoice, VRSD shall pay to City a Reroute Payment in an amount of $1.11 per ton of such rerouted waste.

5. Section 9(c) is hereby added to the Original Agreement to state:

(c) Subject to the conditions in its permits restricting operating hours, and other legal constraints, VRSD shall reasonably cooperate with City to receive deliveries at other times, and in particular when necessary because of natural disasters or other special circumstances. The additional cost of such operating hours shall be borne by City. Such additional cost shall be mutually agreed upon by both parties in advance.

6. Section 22(e) of the Original Agreement is deleted in its entirety and amended to state:

(e) **Residual Solid Waste ("residual solid waste", "Solid Waste" or "Waste")**. The solid waste delivered in transfer trucks after processing and/or transfer of solid waste has taken place at the Station, or other transfer/recycling facilities in the City. "Other transfer/recycling facilities" shall include manufacturing facilities such as the currently existing paper plant (located at 5936 Perkins Road), that City permits to transfer waste directly to landfills in a manner consistent with the Landfill Permits.

7. Section 23(h) is hereby added to the Original Agreement to state:

(h) **Force Majeure**.

(1) Neither VRSD nor City shall be in default of its obligations under this Agreement in the event, and for so long as, it is impossible or impracticable for it to perform its obligations due to an "act of God" (including, but not limited to, flood, earthquake or other similar catastrophic events), war, insurrection, riot, acts of any government (including judicial action), condemnation or other taking by a governmental entity, Change in Law, labor unrest (including but not limited to strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by VRSD's employees or directed at VRSD or third parties) or other similar causes which are not the fault of, and beyond the reasonable control of, the party claiming excuse from performance.

(2) Any interpretation or discontinuance of VRSD's ability to accept and dispose of residual solid waste caused by one or more of the events described in this section shall not constitute an event of default by VRSD under this Agreement and neither credits nor Reroute Payments will be due under Sections 9(b)(1) or (2) in the event of a Force Majeure.

(3) If either City's or VRSD's performance is affected by any such event, it shall give written notice to the other party as soon as it is reasonably practical and further, shall diligently attempt to resolve such condition.

8. Except as provided herein, all other definitions, terms and conditions of the Original Agreement shall remain in full force and effect.

IN WITNESS THEREOF, City and VRSD have executed this Agreement as of the date and year first above written.

CITY OF OXNARD

By: _____
Tim Flynn, Mayor

ATTEST:

By: _____
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

By: _____
Stephen M. Fischer
Acting City Attorney

APPROVED AS TO CONTENT:

By: _____
Rob Roshanian, Interim Public Works Director

APPROVED AS TO INSURANCE:

By: _____
James Cameron, Chief Financial Officer

VENTURA REGIONAL SANITATION DISTRICT

By: _____
Kevin Kildee, Chairman
Board of Directors

ATTEST:

By: _____
Josie Guzman, CMC
Clerk of the Board

APPROVED AS TO FORM:

ARNOLD, LAROCHELLE, MATHEWS VANCONAS & ZIRBEL, LLP

By: _____
Mark A. Zirbel
District General Counsel

APPROVED AS TO AMOUNT

_____
Karen R. Burnham,
Interim City Manager

7

VRSD/Oxnard\VRSD Contract No. 0024-1 (8-27-13) Exhibit A-VRSD Contract No. 0024

EXHIBIT A

SPECIAL TRUCKING PROVISIONS

In order to comply with Landfill permit conditions, all trucks delivering waste to the Landfill shall comply with the following requirements:

1. Trucks are restricted from making a left turn from eastbound Highway 126 onto Toland Road between 8:00 am to 8:30 am, and then 2:30 pm to 3:00 pm every day that the Santa Clara School is in session.

2. Trucks are restricted from making a left turn onto eastbound Highway 126 from Toland Road between 4:00 pm and 6:00 pm.

3. Trucks shall not use the Sespe Underpass.

4. Any driver that does not comply with the restrictions set forth in Section 10 of the Original Agreement or this Exhibit A may be banned from Landfill.

EXHIBIT B

VRSD CONTRACT NO. 00-024

AGREEMENT FOR WASTE DISPOSAL AT TOLAND ROAD LANDFILL BETWEEN VENTURA REGIONAL SANITATION DISTRICT AND CITY OF OXNARD

THIS AGREEMENT FOR WASTE DISPOSAL AT TOLAND ROAD LANDFILL ("this Agreement") is made and entered into this 14 day of November, 2000, by and between VENTURA REGIONAL SANITATION DISTRICT, a California County Sanitation District (hereinafter referred to as "VRSD"), and CITY OF OXNARD, a municipal corporation of the State of California (hereinafter referred to as "City").

RECITALS

A. VRSD and City are parties to the Golf Course Lease and Landfill Postclosure Maintenance Agreement ("Lease Agreement") executed concurrently herewith. This Agreement is made in partial consideration of the Lease Agreement.

B. VRSD owns and operates the Toland Road Landfill located at the end of Toland Road in Ventura County ("Landfill").

C. City participates in the collection and processing of solid waste generated within its boundaries. City owns and operates or contracts for the operation of the Del Norte Regional Recycling and Transfer Station ("Station").

D. VRSD and City, as participants in the solid waste management system in Ventura County, desire to secure an environmentally sound, economical and reliable method of disposal of residual solid waste generated in the City and transported from the Station and other transfer/recycling facilities within the City and to secure a reliable supply of residual solid waste transported to the Landfill.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth, VRSD and City agree as follows:

1. TERM. The term of this Agreement shall commence the date first stated above, and shall terminate in twenty (20) years on November 14, 2020, unless earlier terminated as provided herein.

2. CITY SOLID WASTE DELIVERY COMMITMENT.

(a) Commitment of Solid Waste. City shall cause to be delivered to the Landfill solid waste ("waste") generated in the City and transported from the Station or other transfer/recycling facilities, subject to the tonnage commitments and limitations described below. City shall provide or contract for all labor, equipment and supervision to process, transport and unload the waste at the Landfill in accordance with this Agreement. City, at its discretion, may haul the waste delivered hereunder utilizing City employees and trucks or City may contract out for hauling services.

(b) Annual Minimum Tonnage Commitment. Commencing on the date first stated above, City shall cause to be delivered to the Landfill at least 40,000 tons of waste each twelve (12) month period for the first five (5) years of the term of this Agreement and at least 48,000 tons of waste each 12 month period for the last 15 years of the term of this Agreement.

(c) Maximum Tons Per Day. City shall not deliver more than 200 tons of waste per day to the Landfill, provided that by prior notice by VRSD to City, after request by City, VRSD may, after considering all service commitments, accept additional tonnage from City above 200 tons on any day. Tons accepted after such prior notice shall be counted towards the Annual Minimum Tonnage Commitment, described above at Section 2(b). Tons above 200 tons a day from City accepted by VRSD without such prior notice shall not count towards the Annual Minimum Tonnage Commitment. Tons of acceptable solid waste delivered by City during the established landfill operating hours in an amount of up to 200 tons per day, but not accepted by VRSD, shall count towards the Commitment.

(d) Title to Waste. City warrants that City has good and sufficient title to all waste delivered under this Agreement. Title to all waste delivered by City to the Landfill under this Agreement shall be conveyed to VRSD upon acceptance by VRSD; provided that all Unacceptable Waste and Hazardous Waste shall remain the property of City.

3. VRSD SERVICE COMMITMENT.

(a) Commitment to Accept Solid Waste. VRSD shall accept waste delivered by City hereunder; provided that the Landfill is open and provided that VRSD shall have the right to reject waste delivered by City which does not meet the criteria of waste permitted to be accepted at the Landfill under then-existing laws, regulations, permits, and/or this Agreement.

(b) VRSD Landfill Operation Responsibility. VRSD shall be solely responsible for the processing and disposal of waste delivered to the Landfill in compliance with this Agreement and for the administration and enforcement of all agreements and regulatory requirements for the operation of the Landfill.

4. UNACCEPTABLE AND HAZARDOUS WASTE DELIVERED TO LANDFILL.

(a) VRSD Refusal Rights. VRSD shall dispose of all waste delivered to the Landfill by City; provided, however, that VRSD may refuse delivery of (1) any waste delivered in excess of the tonnage limits set forth above, (2) any waste delivered at hours outside the Landfill's established operating hours, (3) any waste that contains Unacceptable Waste in abnormal quantities or Hazardous Waste in any quantities, and (4) any waste delivered when the Landfill has been closed to comply with conditions of its operating permits.

(b) Screening and Removal of Unacceptable Waste and/or Hazardous Waste. City shall not knowingly deliver, and shall use all legal means reasonably available in cooperation with VRSD to prevent the delivery of Unacceptable Waste and/or Hazardous Waste to the Landfill. VRSD may inspect all vehicles delivering waste to the Landfill and all waste delivered, before or after unloading, for the presence of Unacceptable Waste and/or Hazardous Waste. VRSD and City shall conduct approved waste load checking programs in compliance with all applicable laws.

(c) Disposal Responsibility and Costs. VRSD shall remove, and dispose of, or cause the removal and disposal of, all Unacceptable Waste and Hazardous Waste delivered to the Landfill. City shall pay VRSD, in addition to the Landfill Fee, all costs and expenses incurred by VRSD in connection with its obligations under this section.

5. PERMIT RESTRICTION. City shall not deliver and VRSD shall not accept any waste which is not consistent with the terms and conditions of the Landfill Permits.

6. LANDFILL FEES.

(a) Landfill Fees. In consideration for VRSD's obligations hereunder, VRSD shall charge City and City shall pay to VRSD Landfill fees. The Landfill fees shall be based on a fee per ton applied to the tonnage of waste City delivers to the Landfill, which fee shall be established by the VRSD Board of Directors, provided that as to the tonnages specified in the Annual Minimum Tonnage Commitment set forth in Section 2(b), the fee shall be the maximum fee set forth below. Notwithstanding any other provision of this Agreement, the per ton Landfill fee charged City shall be no greater than the lowest per ton Landfill fee charged for waste of a similar character disposed of at the Landfill.

(b) Maximum Fee. Notwithstanding any other provision of this Agreement, the Landfill fee per ton which City shall be obligated to pay hereunder for the tons delivered up to the amount of the Annual Minimum Tonnage commitment each year under Section 2(b) above, shall not exceed $19.06 per ton during the period from the date first written above through June 30, 2002. Effective July 1, 2002, and July 1 of each even numbered year thereafter, the amount of said maximum Landfill fee shall be adjusted by each of the following elements:

(1) Any increase or decrease, in the same percentage proportion, that the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for Urban Wage Earners and Clerical Workers, Los Angeles-Long Beach, California shall have increased or decreased from July 1, 2000; and

(2) Any additional cost per ton of responding to or complying with judicial actions or judgments, administrative action, statutory or regulatory requirements and/or modified or adjusted permit conditions imposed after the date of this Agreement, including, but not limited to, attorney and/or expert fees, costs for additional technical or environmental studies, costs of new mitigation and/or monitoring requirements, costs of new operational requirements, costs of new closure or postclosure requirements or financial assurance requirements, and/or costs of any new capital improvements requirements; and

(3) Any cost per ton of any new regulatory fee or tax or additional fees imposed by other governmental agencies after the date of this Agreement.

Pending receipt of the required Consumer Price Index and determination of the actual adjustment, City shall pay an estimated adjusted fee, as reasonably determined by VRSD by reference to the then available Consumer Price Index information. Upon notification of the actual adjustment after publication of the required Consumer Price Index, any overpayment by City shall be credited against the next monthly statement of fees, and any underpayment by City shall be immediately due and payable by City.

In the event the compilation and/or publication of the Consumer Price Index shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the Consumer Price Index shall be used to make such calculation.

In the event VRSD determines, at its sole discretion, to charge City a fee for tonnage delivered under the Annual Minimum Tonnage Commitment that is greater than the maximum fee as described here, then VRSD shall provide City written notice of such fee sixty (60) days before the fee becomes effective and, thereafter, City, at its sole discretion, may avoid imposition of this fee by terminating this Agreement upon thirty (30) days written notice to VRSD. Said termination of this Agreement shall be City's sole remedy in the event VRSD determines to adopt a tip fee for the tons committed at section 2(b) which is greater than the maximum fee described above. Notwithstanding any other provision herein, VRSD may adopt and charge City a higher tip fee for tons delivered in excess of the Annual Minimum Tonnage Commitment, provided the fee is no greater than the lowest per ton fee charged for waste of a similar character disposed of at the Landfill.

(c) Fee For Unique/Hard to Handle Wastes. Notwithstanding any other provision of this Agreement, City and VRSD may make separate agreements as to service and fees relating to unique and/or hard to handle waste or recyclable materials including, but not limited

to green waste, construction debris, agricultural plastic and alternative daily cover. VRSD's General Manager is authorized to execute such contracts on behalf of VRSD subject to established VRSD policy.

(d) Payment Irrespective of Waste Deliveries. The intent of this Agreement is that City shall deliver to the Landfill the specified Annual Minimum Tonnage Commitment of waste generated within the City limits. The further intent is that City shall pay VRSD the Landfill fee for all such specified tons of waste whether or not City delivers such waste to the Landfill except that City shall not be obligated to pay for tons for which City is entitled to receive credit under section 9(b) below. Therefore, City shall pay VRSD the then current Landfill fees as provided hereunder during the term of this Agreement, whether or not City delivers or causes to be delivered any waste to VRSD for disposal at the Landfill. The obligation of City to pay the Landfill fees shall be absolute and unconditional and shall not be subject to delay or diminution by reason of set-off, abatement, counterclaim, existence of a dispute or otherwise. City shall take all such action as may be necessary to provide for the timely payment of the Landfill fees due hereunder. City hereby acknowledges that the services to be provided by VRSD pursuant to this Agreement are of a valuable and unique nature to City and that the Landfill fees to be paid by City to VRSD constitute fair consideration therefor.

7. MEASUREMENT.

The tonnage used to calculate the Landfill fee shall be based on the weight of each loaded truck measured at the weight scales described below minus the certified tare weight for each truck. VRSD shall install, operate, and maintain a scale system at the Landfill. Until VRSD's scales are operational, trucks shall be weighed at the Station or such other certified weigh station as designated by City. Whether VRSD or City is operating or employing the scale, that party shall maintain and make available to the other party the following information: (1) Calendar date; (2) Time of day; (3) Vehicle identification; and (4) Total number of tons of waste delivered to the Landfill and accepted by VRSD. All scales and weighing equipment shall be kept in good and accurate condition operating at the standards of accuracy and reliability specified in the California Code of Regulations. City shall establish the tare weight of each truck. City shall allow VRSD to provide a number or device to be inserted in or on each truck that will identify the truck to the weigh master or an automated scanner or to provide such other device or means necessary to identify trucks using an unattended, automated system.

8. PAYMENT OF LANDFILL FEES.

(a) Monthly Statement. On or before the tenth (10th) day following the end of any month for which payments are required to be made under this Agreement, VRSD shall submit to City a bill setting forth the Landfill fees for such prior month based on the number of tons delivered and accepted by VRSD and the price per ton established pursuant to this Agreement. On or before the thirtieth (30th) day following the date of such bill, City shall pay to VRSD the full amount of such Landfill fees.

(b) Annual Statement. On or before the tenth (10th) day following the end of each year during the term of this Agreement, VRSD shall submit to City an Annual Report specifying the total number of tons delivered to the landfill by City during the prior year which are applicable to City's Annual Minimum Tonnage Commitment. In the event City fails to deliver the Annual Minimum Tonnage Commitment in any year, this Annual Statement shall be accompanied by an Annual Statement setting forth the Landfill fees for the prior year due pursuant to Section 6(d) above based on the number of tons calculated by subtracting the applicable tons delivered from the Annual Minimum Tonnage Commitment after taking into account any credit due City under section 9(b). The resulting tons shall be multiplied by the then current Landfill fee (Maximum Fee) to establish the total amount due VRSD. On or before the thirtieth (30th) day following the date of any Annual Statement, City shall pay to VRSD the full amount of such Landfill fees.

(c) Disputes. If City disputes any amount billed by VRSD, City shall provide VRSD with written objection within (twenty) 20 days of the receipt of such bill indicating the amount that is being disputed and providing all reasons then known to City for its objection to or disagreement with such amount. City shall timely pay any part of the billed amount that City does not dispute, and shall not pay the amount in dispute. If City and VRSD are not able to resolve such dispute within twenty (20) working days after City's objection, either party may pursue legal remedies.

9. OPERATING HOURS.

(a) The Landfill's operating days and hours for receiving waste will be established by VRSD Resolution and made available to City. The Landfill shall be open Monday through Friday except for established holidays and closures VRSD determines to be necessary to comply with Landfill Permits or other regulatory requirements.

(b) In the event Landfill is closed for any reason, VRSD shall notify City by telephone or other mutually agreeable means of said closure as soon as reasonably possible and City shall bear no obligation to deliver waste or pay Landfill Fees for the period of such closure and until the site is reopened and VRSD notifies City of the reopening. VRSD shall credit toward City's satisfaction of the Annual Minimum Tonnage Commitment an amount equal to the average tonnage delivered by City to the Landfill on days the Landfill is open, averaged over the preceding month, times the number of days in the month that the Landfill was closed.

10. LANDFILL RULES AND REGULATIONS. City shall provide all labor, equipment and supervision necessary to safely and efficiently dispose of waste from City's vehicles onto the designated disposal area at the Landfill. City recognizes that City will not be the only user of the Landfill and shall not interfere with other landfill disposal operations. City shall obey all instructions either verbal or written provided by VRSD. While at the Landfill, City shall perform its obligations under this Agreement in accordance with the following:

(a) All equipment, including all tractors and trailers shall be maintained and operated in conformance with all laws and regulations governing the use of such equipment on and off the Landfill;

(b) All drivers shall be property trained and licensed;

(c) All waste hauling vehicles shall be covered while on public roads;

(d) All vehicles shall observe all posted speed limit and traffic warning signs on and off the Landfill. Trucks shall drive at safe speeds, use caution driving down hills, and reduce speed to allow for road, weather, traffic and load.

(e) Trucks backing up to unload shall do so slowly and cautiously.

(f) Trucks while in operation shall keep all doors secured.

(g) Drivers and/or helpers shall remain in immediate vicinity of truck.

(h) Trucks shall unload only in areas designated by VRSD personnel.

(i) No salvaging shall be conducted at any time.

(j) Smoking shall be prohibited within the boundaries of the landfill, except within designated smoking areas approved by the Ventura County Fire Department.

(k) Injury or damage to persons or equipment shall be reported to VRSD personnel prior to leaving the site. Any damaged truck shall not be moved prior to reporting.

(l) Consumption of alcoholic beverages or controlled substances shall be prohibited.

11. RANDOM INSPECTION OF WASTE HAULING VEHICLES. VRSD staff, trained in Hazardous Waste identification, shall randomly inspect waste hauling vehicles entering the landfill. Hazardous Waste shall be removed and disposed of in accordance with State regulations. City agrees not to interfere with VRSD staff in the random inspection of waste hauling vehicles, and to provide requested information to assist VRSD staff in the identification of the potential source of Hazardous Waste materials found in waste hauling vehicles carrying City waste.

12. RIGHT OF SITE INSPECTION. VRSD and City covenant and agree to permit the duly authorized representatives of VRSD and City to enter the Landfill and Station, upon notice to the other party, during usual business hours, for the purpose of inspecting the same. All

records of transactions relating to waste delivered to the Landfill, including, but not limited to, documents regarding the source of the waste, calibration of scales, truck maintenance and driver training shall be made available upon request by VRSD or City.

13. PROTECTION OF PERSONS AND PROPERTY. City shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with its performance under this Agreement. City shall take all reasonable precautions for the safety of, and provide for reasonable protection to prevent damage, injury or loss to, all persons who may be affected by activity related to this Agreement and other property at the Landfill site or adjacent thereto, including roadways, structures and utilities. City shall promptly remedy all damage or loss to any property referred to above caused in whole or in part by City or its contractors or anyone directly or indirectly employed by any of them. City shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

14. COMPLIANCE WITH LAWS AND ORDINANCES. City shall keep abreast of all laws, ordinances, regulations, orders and permits which in any manner affect those engaged and employed in activities carried out pursuant to this Agreement or the materials used, or which in any way affect the conduct of operations on or off the Landfill site, including all permit conditions and other requirements relating to the Landfill operation. City at all times shall observe and comply with, and shall cause all of its agents, employees and contractors to observe and comply with, all such existing and future laws, ordinances, regulations, orders and permits, and shall hold harmless, indemnify and defend VRSD and its directors, officers and employees from liability arising from City's failure to comply with such requirements. City shall obtain all licenses and permits required to perform work under this Agreement.

15. RECORDS AND ACCOUNTS. VRSD and City shall each, respectively, keep proper books of record and account (separate from all other records and accounts), in which complete and correct entries shall be made of the transactions relating to the Landfill and Station, including records of the quantity, quality and other characteristics of solid waste delivered by City and accepted by VRSD. Such books shall at all reasonable times be subject to the inspection of the authorized representative of either VRSD or City.

16. INDEMNITY.

(a) VRSD. VRSD agrees to hold City harmless from and to indemnify and defend City against any and all liabilities, claims, actions, lawsuits, costs and expenses, including reasonable attorneys' fees, liens, judgments and demands, including but not limited to claims of damage to property, bodily injury or death, which may be suffered by City, its employees, agents, representatives and its independent contractors or third parties, due to or arising out of the VRSD's operations upon the Landfill by VRSD, its employees, agents, representatives and independent contractors, except to the extent such claim(s) result from the negligence or willful misconduct of City or its employees, agents, representatives or independent contractors.

(b) City. City agrees to hold VRSD harmless from and to indemnify and defend VRSD against any and all liabilities, claims, actions, lawsuits, costs and expenses, including reasonable attorneys' fees, liens, judgments and demands, including but not limited to claims of damage to property, bodily injury or death, which may be suffered by VRSD, its employees, agents, representatives and its independent contractors or third parties, due to or arising out of City's operations upon or in the vicinity of Station or Landfill or any haul route by City, its employees, agents, representatives and independent contractors, except to the extent such claim(s) result from the negligence or willful misconduct of VRSD or its employees, agents, representatives or independent contractors.

(c) Joint Negligence. Notwithstanding the preceding sections, when both VRSD and City or their respective employees, agents, representatives or independent contractors are negligent and such joint negligence causes liabilities, claims, actions, lawsuits, costs, expenses, liens, judgments and demands, including but not limited to claims of damage to property, bodily injury or death, VRSD or City shall be responsible and liable in proportion to the amount of fault attributable to VRSD or City and/or their employees, agents, representatives or independent contractors, and VRSD or City shall bear its own attorney fees.

17. INSURANCE.

(a) Minimum Coverage. City will not commence or continue to perform under this Agreement unless City has provided for insurance coverage or self insurance for any liability, loss, expense or claim which may arise out of or result from City's performance under this Agreement, whether such performance be by City or by any contractor of City or anyone directly or indirectly employed by City or such contractor, or by anyone for whose act City may be liable, with the following limits, which limits shall be adjusted every two years by the increase in the Consumer Price Index as described at Section 6.b.1. above:

(1) General liability insurance, including comprehensive form, premises operation and broad form property damage coverage, with a limit of not less than Two Million Dollars ($2,000,000) combined single limit coverage;

(2) Automobile liability insurance, including comprehensive form including loading and unloading, owned, hired and non-owned coverage, with a limit of not less than Five Million Dollars ($5,000,000) combined single limit coverage;

(3) Contractual personal injury liability and contractual property damage insurance covering liability assumed under this Agreement, with a limit of not less than Two Million Dollars ($2,000,000) combined single limit coverage; and

(4) Workers' compensation insurance as required by law.

(b) Certificates. Certificates of insurance or self insurance acceptable to VRSD shall be filed with VRSD prior to commencement of any operation or performance under this Agreement. If City provides certificates of insurance, the certificates shall state that VRSD is an insured for coverage in (1), (2) and (3) above, that the insurance afforded shall be primary insurance, and that coverage afforded under the policies will not be canceled until at least thirty (30) days' prior written notice has been given to VRSD.

18. SUCCESSORS/ASSIGNMENT.

(a) Binding on Successors. VRSD and City each binds itself and its successors, assigns and legal representatives to the other party and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Agreement.

(b) Assignment. This Agreement is made specifically between VRSD and City based on VRSD's unique relationship with City. Neither party shall assign its interest in this Agreement without the written consent of the other party, which other party may grant or arbitrarily deny in the other party's sole discretion.

(c) Remaining Obligation. If City transfers by any means its ownership and/or operation of the Station, City shall remain responsible for payment of the Landfill Fees hereunder and City shall, before any such transfer becomes effective, obtain a written acknowledgment by any transferee that transferee is obligated and bound by all the terms hereof as City's successor hereunder.

(d) Responsibility for Subcontractors. City shall be fully responsible for all acts and omissions of its subcontractors and of persons and organizations directly or indirectly employed by City and of persons and organizations for whose acts City may be liable to the same extent that City is responsible for the acts and omissions of persons directly employed by City.

19. RELATIONSHIP OF CITY TO VRSD. VRSD and City agree that no employee-employer relationship is intended by this Agreement, the relationship of City to VRSD being that of an independent contractor. VRSD shall not be required to make any payroll deductions or provide workers' compensation insurance coverage or health benefits to City employees or contractors. City is solely responsible for selecting the means, methods and procedures for performing hereunder, and for coordinating all portions of its performance so the results will be satisfactory to VRSD.

20. DEFAULT/REMEDIES.

(a) Default by City. City shall be deemed in default under this Agreement only if City shall fail, neglect or refuse to keep and perform any of the covenants, conditions, stipulations or agreements herein agreed to be performed by City, and such failure to perform is

not cured within sixty (60) days after written notice specifying the nature and extent of such failure has been given to City. Upon City's failure to cure such default, VRSD, at its option, may declare this Agreement terminated effective upon such date as VRSD shall designate.

(b) Default by VRSD. VRSD shall be deemed in default under this Agreement only if VRSD shall fail, neglect or refuse to keep and perform any of the covenants, conditions, stipulations or agreements herein agreed to be performed by VRSD, and such failure to perform is not cured within sixty (60) days after written notice specifying the nature and extent of any such failure has been given to VRSD. Upon VRSD's failure to cure such default, City, at its option, may declare this Agreement terminated effective upon such date as City shall designate.

(c) Termination by City. City may terminate this Agreement on one year's written notice to VRSD if City determines not to construct a golf course on the Premises, as defined in the Lease Agreement.

(d) Remedies and Waiver. Except as otherwise herein expressly provided, all rights and remedies of either VRSD or City shall be cumulative and none shall exclude any other right or remedy allowed by law; the exercise by either VRSD or City of any remedy provided for herein or by law shall not be to the exclusion of any other remedy. Either VRSD's or City's failure to take advantage of any default or breach of covenant on the part of the other party shall not be construed as a waiver thereof, nor shall any custom or practice which may grow up between VRSD and City in the course of administering this instrument be construed to waive or lessen the right of either VRSD or City to insist upon the performance by the other of any term, covenant or condition hereof, or to exercise any rights given it on account of any such default. A waiver of a particular breach or default shall not be deemed to be a waiver of the same right or any other subsequent breach or default.

21. ATTORNEYS FEES. In the event that either VRSD or City shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any term, covenant or condition of this Agreement, including the payment of Landfill fees, or to interpret any term, covenant or condition, the party prevailing in said action or proceeding shall be entitled to recover, in addition to its court costs, reasonable out-of-pocket expenses (including, but not limited to telephone calls, photocopying, expert witnesses, travel) and reasonable attorney fees to be fixed by the court, and such recovery shall include court costs and attorney fees on appeal, if any. The court will determine who is the "prevailing party" whether or not the suit proceeds to final judgment.

22. DEFINITIONS.

As used in this Agreement, the following terms have the meanings set forth below:

(a) Administrative Action. Petitions, objections, letters of opposition, requests for reconsideration, requests for modification, and other administrative appeals with the County

of Ventura, Regional Water Quality Control Board - Los Angeles Region, Local Enforcement Agency, California Integrated Waste Management Board, State Water Resources Control Board, and/or other public agencies having jurisdiction over the Landfill.

(b) Hazardous Waste. Any waste subject to Article 1, Chapter 11, Division 4.5 (section 66261.3 *et seq.*) of Title 22 of the California Code of Regulations.

(c) Landfill. Toland Road Landfill located at the end of Toland Road in the unincorporated area of Ventura County.

(d) Landfill Permits. Conditional Use Permit No. CUP 3141 Modification #3 approved by the County of Ventura, Waste Discharge Requirements, Order No. 96-053, approved by the Regional Water Quality Control Board - Los Angeles Region, Revised Solid Waste Facility Permit, SWFP #56-AA-0005, approved by the California Integrated Waste Management Board and the County of Ventura Environmental Health Division, acting as the Local Enforcement Agency for the California Integrated Waste Management Board, and all revisions or modifications to said documents and all other regulatory approvals necessary for the operation of the Landfill.

(e) Solid Waste ("Waste"). The solid waste delivered in trucks after processing and/or transfer of solid waste has taken place at the Station or other recycling facilities, including the separation, recovery, volume reduction, or conversion of solid waste and shall include hazardous waste load checking procedures as required by law and the Station's or other facilities' operating permits.

(f) Station. The Del Norte Regional Recycling and Transfer Station located at Del Norte Boulevard and Sturgis Avenue in Oxnard, California.

(g) Unacceptable Waste. Includes the following,

(1) Hazardous wastes and other wastes such as liquid, oils, waxes, tars, soaps, solvents, or readily water-soluble solids, such as salts, borax, lye, caustic, or acids.

(2) Waste containing less than fifty percent (50%) solids.

(3) Materials which are of a toxic nature, such as insecticides, poisons, or radioactive materials.

(4) Infectious materials or hospital or laboratory wastes, except those authorized for disposal to land by official agencies charged with control of plant, animal, and human disease.

(5) Pesticide containers, unless rendered nonhazardous by triple rinsing.

(6) Septic tank or chemical toilet wastes.

23. GENERAL PROVISIONS.

(a) Time. Time is of the essence of this Agreement. Any reference herein to days, unless otherwise defined, shall be interpreted as referring to calendar days.

(b) Notices. Any notice to be given under this Agreement shall be in writing and shall be deemed given two (2) days after being sent by first class mail, addressed to:

VRSD:
Ventura Regional Sanitation VRSD
1001 Partridge Drive, Suite 150
Ventura, California 93003-5562
Attention: General Manager

City:
City of Oxnard
300 West Third Street
Oxnard, California 93030
Attention: City Manager

or to such other address as either VRSD or City may designate hereinafter in writing delivered to the other party.

(c) Governing Law/Venue. This Agreement, and all matters relating to this Agreement, shall be governed by the laws of the State of California in force at the time any need for interpreting this Agreement or any decision or holding concerning this Agreement arises. Venue for any Municipal or Superior Court action relating to this Agreement shall be in Ventura County.

(d) Severability. If any clause, provision, paragraph, section or article of this Agreement shall be ruled invalid by any court of jurisdiction, either VRSD or City shall: (1) promptly meet and negotiate a substitute for such clause, provision, paragraph, section or article which shall, to the greatest extent legally permissible, effect the intent of VRSD and City; (2) if necessary or desirable to accomplish item (1) above, apply to the court having declared such invalidity for a judicial construction of the invalidated portion of this Agreement; and (3) negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with items (1) and (2) above to effect the intent of VRSD or City in the invalid provision. The invalidity of such clause, provision, paragraph, section or article shall not affect any of the remaining provisions hereof, and this Agreement shall be construed and enforced as if such invalid portion did not exist.

(e) **Prior Understandings and Usage.** This Agreement contains the entire agreement between VRSD and City and supersedes all previous written or oral negotiations, commitments, understandings, proposals and writings. That the terms of this Agreement shall not be modified by course of performance, course of dealing, usage or informal arrangements which may occur from time to time over the term of this Agreement or by evidence of additional terms not expressly contained in this Agreement.

(f) **Amendments.** No amendments to this Agreement may be made except by a writing signed by VRSD and City.

(g) **Execution.** VRSD and City have executed this Agreement as of the date first stated above. This Agreement may be executed in counterparts with the same force and effect as if one document were signed by VRSD and City.

VENTURA REGIONAL SANITATION DISTRICT

By: _____
John Zaragoza
Chairman, Board of Directors

ATTEST:

_____
Rhonda Catron
Clerk of the Board

APPROVED AS TO FORM

_____
Mark A. Zirbel
Arnold, Mathews, Wojkowski & Zirbel, LLP
General Counsel

CITY OF OXNARD

By: _____
Dr. Manuel M. Lopez, Mayor

APPROVED AS TO FORM

_____ 11-17-00
Gary L. Gillig
City Attorney

APPROVED AS TO INSURANCE

_____
Stan Kleinman
Risk Manager

Agreement No. A-7618

FIRST AMENDMENT TO AMENDED AND RESTATED AGREEMENT FOR SOLID WASTE DISPOSAL SERVICES

(Formerly Agreement A-5997)

This First Amendment ("First Amendment") to the amended and restated agreement for solid waste disposal services ("Agreement") is made and entered into in the County of Ventura, State of California, this _____ day of _____, 2020, by and between the City of Oxnard, a municipal corporation ("City"), and Waste Management of California, Inc. ("Owner"). This First Amendment amends the Amended and Restated Agreement entered into on December 3, 2013 by City and Owner.

City and Owner agree as follows:

1. In Section 2.1 (Term), the date, "November 14, 2020," is deleted and replaced with the date, "February 12, 2021 (the "Successive Term")."

2. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

Agreement No. A-7618

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

CITY OF OXNARD

_____ _____
☐ Tim Flynn, Mayor[1] Date
☐ Alexander Nguyen, City Manager
☐ Daniel Willhite, Purchasing Manager
☐ _____, Buyer

ATTEST:

_____ _____
Michelle Ascencion, City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

_____ _____
Stephen M. Fischer, City Attorney (always required) Date

_____

WASTE MANAGEMENT OF CALIFORNIA, INC.

_____ _____
Larry Metter, President, Southern California Area[2] Date

_____ _____
Doug Corcoran, Vice President Date

[1] The City Council must authorize and the Mayor must sign the amendment if the original contract and all amendments collectively total over $200,000 annually. The City Manager may authorize and sign the amendment if the original contract and all amendments collectively total over $100,000 but up to $200,000 annually. The Purchasing Manager may authorize and sign the amendment if the original contract and all amendments collectively total up to $100,000 annually. A Buyer may authorize and sign the amendment if the original contract and all amendments collectively total up to $25,000 annually.

[2] The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

A-5997

AGREEMENT FOR SOLID WASTE DISPOSAL SERVICES BETWEEN THE CITY OF OXNARD AND WASTE MANAGEMENT OF CALIFORNIA, INC.

COUNCIL APPROVAL
DATE: 9-25-01 AGENDA # D-3

THIS AGREEMENT is made this 25th day of September, 2001 by and between the City of Oxnard, a California municipal corporation ("City") and Waste Management of California, Inc., a California corporation ("Owner").

RECITALS

WHEREAS, Owner is the owner and operator of the Simi Valley Recycling and Disposal Facility (the "Facility") and City desires to dispose of Residual Solid Waste at the Facility on the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, Owner agrees to grant such right to dispose of Residual Solid Waste at the Facility on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained in this Agreement and for other good and valuable consideration, the parties agree as follows.

1. DEFINITION OF TERMS

1.1. Agreement. "Agreement" means this Agreement between City and Owner for Disposal of Residual Solid Waste dated as of the Effective Date (as defined herein), including all exhibits and attachments, and any amendments hereto.

1.2. City. "City" means the City of Oxnard, a California municipal corporation.

1.3. Bulky Waste. "Bulky Waste" means stoves, refrigerators, water tanks, washing machines, other white goods, furniture, and other similar waste materials with weights or volumes greater than those allowed in waste collection bins or other containers such as roll-off boxes.

1.4. CPI. "CPI" means the Consumer Price Index, All Urban Consumers for the Los Angeles, Riverside, Orange County Metropolitan Area, 1982-1984 = 100, published by the U.S. Department of Labor, Bureau of Labor Statistics.

1.5. Change in Law. "Change in Law" means the occurrence of any change in law applicable to the performance of this Agreement as follows:

1.5.1. The adoption, promulgation, modification, or change in law, regulation, or judicial or administrative interpretation occurring after the Effective Date which adoption, promulgation, codification, or change affects the performance of this Agreement, other than laws with respect to taxes based on or measured solely by net income, or any unincorporated business, payroll, or employment taxes; or

1.5.2. Any action, resolution, order or judgment of any federal, state or local court, administrative agency or governmental body issued after the Effective Date if:

1. such action, resolution, order or judgment is not also the result of the willful misconduct or negligent action or inaction of the party relying thereon or of any third party for whom the party relying thereon is directly responsible; and

2. the party relying thereon, unless excused in writing from so doing by the other party, shall make or have made, or shall cause or have caused to be made reasonable efforts in good faith to contest such order or judgment (it being

understood that the contesting in good faith of such an order or judgment shall not constitute or be construed as a willful misconduct or negligent action of such party); or

1.5.3. Any action, resolution, order or judgment made by a governmental authority or agency having authority over the Facility that imposes new or different material conditions in connection with the issuance, renewal, or modification of any permit or related agreement required for the development or operation of the Facility, including but not limited to the Extension Approvals.

1.6. Construction Debris. "Construction Debris" means waste building materials resulting from construction, remodeling, repair or demolition operations.

1.7. Del Norte Facility. "Del Norte Facility" means the solid waste handling facility owned by City and operated by Republic Services, Inc., successor by merger to BLT Enterprises of Oxnard, Inc., that separates some portion of incoming commingled Municipal Solid Waste into marketable recyclables, or separates mixed recyclables.

1.8. Designated Waste. "Designated Waste" shall have the meaning set forth in Section 13173 of the California Water Code. California Water Code section 13173 provides:

> "Designated waste" means either of the following:(a) Hazardous waste that has been granted a variance from hazardous waste management requirements pursuant to Section 25143 of the Health and Safety Code or (b) Nonhazardous waste that consists of, or contains, pollutants that, under ambient environmental conditions at a waste management unit, could be released in concentrations exceeding applicable water quality objectives or that could reasonably be expected to affect beneficial uses of the waters of the state as contained in the appropriate state water quality control plan.

1.9. Disposal. "Disposal" means the final disposition of Residual Solid Waste hereunder at the Facility or other duly permitted disposal facility

1.10. Disposal Fee. "Disposal Fee" means the amount to be charged by Owner for disposal of Residual Solid Waste at the Facility, which shall include all federal, state and local fees imposed on the Facility as of the Effective Date, but shall exclude the County Integrated Waste Management Planning Disposal Fee.

1.11. Effective Date. "Effective Date" is September 25, 2001.

1.12. Environmental Laws. "Environmental Laws" means all federal and state statutes, county and City ordinances concerning public health, safety and the environment including, by way of example and not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Federal Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Emergency Planning and Community Right to Know Act, 42 U. S. C. Section 1101 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the California Hazardous Waste Control Act, California Health & Safety Code Section 25100 et seq.; the California Toxic Substances Account Act, California Health and Safety Code Section 25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code Section 13000 et seq.; the Safe. Drinking Water and Toxic Enforcement Act, California Health and Safety Code Section 25249.5 et seq.; and the California Clean Air Act, Health and Safety Code Sections 39000 et seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

1.13. Extension Approvals. "Extension Approvals" means those modifications or extensions to permits or related agreements (including but not limited to the Ventura County Operating Agreement) which would allow for the continuing operation of the Facility

beyond the current anticipated closure date of June 27, 2004, an increase in the disposal capacity of the Facility, and the removal of the "85 percent of the maximum permitted tons per operating day" limitation contained in the second amendment to the current Ventura County Operating Agreement.

1.14. Facility. "Facility" means the Simi Valley Recycling and Disposal Facility in Ventura County, California.

1.15. Garbage. "Garbage" means putrescible animal, fish, food, fowl, fruit or vegetable matter, or any product thereof, resulting from the preparation, storage, handling or consumption of such substances.

1.16. Generator(s). "Generator(s)" means any person(s) whose act or process initially produces Municipal Solid Waste, Designated Waste, Hazardous Waste, Medical Waste or any other waste product which becomes part of the waste stream.

1.17. Hazardous Waste. "Hazardous Waste" means:

1.17.1. All substances defined or characterized as hazardous waste by the Federal Solid Waste Disposal Act (42 U.S.C. Section 3251 et seq.), as amended, including the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) and all further amendments thereto or regulations promulgated thereunder; and

1.17.2. All substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by Health and Safety Code Sections 25110.02, 25115, and 25117, and future amendments to recodifications of such statutes or regulations promulgated thereunder, including 23 California Code of Regulations Sections 2521 and 2522; and,

1.17.3. Radioactive wastes.

If two or more governmental agencies having concurrent or overlapping jurisdiction over hazardous waste adopt conflicting definitions of "Hazardous Waste", for purposes of processing and disposal to land, the broader, more encompassing definitions shall be employed for purposes of this Agreement.

1.18. Medical Waste. "Medical Waste" means those materials defined in Health and Safety Code Section 117690 and does not include waste identified as not being medical wastes in Section 117700.

1.19. Municipal Solid Waste. "Municipal Solid Waste" means all putrescible and non-putrescible solid and semi-solid waste material, including but not limited to Garbage, Construction Debris and Rubbish, that is authorized for disposal at the Facility pursuant to the Environmental Laws, the permits or other approvals issued to the Facility, or any contracts between the Owner and any governmental entity having authority over the Facility relating to the operation of the Facility. Municipal Solid Waste does not include Bulky Waste, waste tires, Hazardous Waste, Designated Waste, liquid waste, asbestos, Medical Waste, sewage, sewage sludge, abandoned automobiles, or Yard Waste.

1.20. Non-Conforming Waste. "Non-Conforming Waste" means Bulky Waste, waste tires, Hazardous Waste, Designated Waste, liquid waste, asbestos, Medical Waste, sewage, sewage sludge, abandoned automobiles or Yard Waste; any waste materials not authorized for disposal at the Facility pursuant to (i) the Environmental Laws, (ii) the permits or other approvals issued to the Facility, or (iii) any contracts between the Owner and any governmental entity having authority over the Facility relating to the operation of the Facility; and any waste materials not constituting Municipal Solid Waste as defined herein.

1.21. Owner. "Owner" means Waste Management of California, Inc., which owns and operates the Facility.

1.22. Person. "Person" includes an individual, firm, association, organization, partnership, corporation, joint venture, the United States, the State of California, municipality, political subdivision, governmental agency, or any other entity whatsoever.

1.23. Recycling Facility. "Recycling Facility" means a facility located within the City that is a "Recycling Center" as set forth in Title 14, California Code of Regulations, Section 17402.5(d).

1.24. Residual Solid Waste. "Residual Solid Waste" means Municipal Solid Waste remaining for disposal after processing at the Del Norte Facility or at another Recycling Facility.

1.25. Rubbish. "Rubbish" means all waste wood, wood products, printed materials, paper, pasteboard, rags, straw, used and discarded clothing, packaging materials, ashes from residential burning, floor sweepings, and glass.

1.26. Term. "Term" means the Term of this Agreement, including both the Initial Term and any Successive Term.

1.27. Ton. "Ton" means a short ton of 2,000 pounds avoirdupois.

1.28. Yard Waste. "Yard Waste" means tree trimmings, grass cuttings. dead plants, leaves, branches and dead trees, and similar organic materials, scrap lumber, wood crating, pellets, wood chips, where such materials are ultimately intended, following processing, for recycling or reuse.

2. TERM OF AGREEMENT

2.1. Term. The initial Term of this Agreement shall begin as of the Effective Date and shall continue until five (5) years following the Effective Date (the "Initial Term"). Thereafter, this Agreement may be extended beyond the Initial Term for one or more additional terms of five (5) years each (the "Successive Term") upon mutual written agreement of the parties made not less than one hundred twenty (120) days prior to the end of the Initial Term or any Successive Term.

2.2. Owner's Obligation; Termination. Notwithstanding any provision herein to the contrary, Owner will be obligated to accept Residual Solid Waste at the Facility only until June 27, 2004 in accordance with the terms of this Agreement; provided, however, that upon receipt by Owner of the Extension Approvals, Owner shall be obligated to accept Residual Solid Waste at the Facility in accordance with the terms of this Agreement for the remainder of the Initial Term and any Successive Term. In the event the Extension Approvals are not received on or before June 27, 2004 (with the exception of the removal of the "85 percent of the maximum permitted tons per operating day" limitation) and Owner is unable to accept Residual Solid Waste at the Facility in accordance with the terms of this Agreement, City shall have the right to terminate this Agreement upon ten (10) days written notice to Owner. Owner shall provide, to the greatest extent reasonably practicable, and in no event later than two (2) days after Owner's actual knowledge thereof, written notice to City that it will not receive the Extension Approvals on or before June 27, 2004 and will be unable to accept Residual Solid Waste at the Facility subsequent to June 27, 2004 in accordance with the terms of this Agreement.

2.3. Regular Meetings. During the Term, Owner and Contractor shall upon request by either, meet to discuss issues of service at the Facility, as well as any other issues that may arise under this Agreement.

2.4. Extension Approvals. To the extent permitted by law, City shall provide reasonable assistance to Owner in its efforts to obtain the Extension Approvals at no out-of pocket cost to the City, and in addition shall not oppose Owner's efforts to obtain the Extension Approvals.

3. OBLIGATIONS OF CITY

3.1. City shall, throughout the term of this Agreement, deliver or cause to be delivered to the Facility Residual Solid Waste in an amount not less than 15,500 tons per month. This Agreement constitutes a "put or pay" Agreement, and any shortfall in the monthly disposal at the Facility shall be billed and paid by City, notwithstanding that the Residual Solid Waste is not delivered to the Facility; provided that, for delivery purposes only and not billing purposes, any shortfall in a calendar month up to 2,500 tons may be carried forward to the following three calendar months. In addition, Owner shall not be obligated to accept more than 22,000 tons of Residual Solid Waste per month delivered to the Facility except upon prior approval by Owner, which approval shall not be withheld unreasonably, based upon tonnages currently received at the Facility, the disposal requirements of Owner's affiliated waste collection operations, whether the receipt of such amounts is contrary to the terms of the Facility's permits or related agreements, or other prior contractual commitments of Owner.

3.2. City's minimum monthly tonnage delivery obligation shall increase by three percent (3%) on each anniversary of the Effective Date of this Agreement during the term hereof.

3.3. City's minimum monthly tonnage delivery obligation is calculated on the assumption that the Facility will be open Monday through Saturday each week and the third Sunday of each month. For any day or part of a day during which the Facility is closed due to an event of Force Majeure (including but not limited to high winds), other than a Sunday, or a holiday or one-half day holiday during which this Agreement does not require the

Facility to be open, City shall be relieved of a pro rata share of its minimum monthly tonnage delivery obligation. In addition, City shall be relieved of its minimum monthly tonnage delivery obligation to the extent the Facility is unable to accept the minimum daily tonnage requirement set forth in Section 4.1 on any operating day during the month because the permitted daily capacity of the Facility has been reached.

3.4. Deliveries by City will be made by means of (i) transfer trailers originating at the Del Norte Facility, or (ii), solely with respect to Residual Solid Waste generated within the corporate limits of City, roll-off containers, including double box roll-off containers originating at a location certified as a Recycling Center by the California Integrated Waste Management Board, unless the parties agree in writing to other types of transport vehicles or other points of origin.

3.5. Upon execution of this Agreement and from time to time thereafter, City shall provide Owner with an estimate of Residual Solid Waste to be delivered to the Facility on a daily basis, and, in addition, shall provide Owner with at least three (3) business days notice if it anticipates a substantial increase (i.e., fifty percent (50%) or more) in the amount of Residual Solid Waste to be delivered by City on a daily basis.

4. OBLIGATIONS OF OWNER

4.1. Receipt of Solid Waste. Owner shall, during the entire Term of this Agreement, receive a minimum of 715 tons of Residual Solid Waste for disposal delivered to the Facility by City on each operating day the Facility is open, subject to and in accordance with the terms of this Agreement. In addition, Owner is obligated to accept between 15,500 and 22,000 tons on Residual Solid Waste per month delivered to the Facility. Owner shall immediately advise City by telephone or facsimile of any situation, event or circumstance that results in a partial of complete inability to perform Owner's obligation to accept Residual Solid Waste delivered to the Facility in accordance with the terms of this

Agreement. Owner shall use its best efforts to resume normal operations at the Facility as soon as possible. In the event that Owner is unable to perform its obligation to accept Residual Solid Waste delivered to the Facility in accordance with the terms of this Agreement, except where occurring due to an event of Force Majeure, Owner (or upon the failure of Owner to do so, City) shall arrange for disposal of the Residual Solid Waste at an alternative disposal facility at no additional cost to City.

4.2. Owner's minimum daily and monthly tonnage acceptance obligation shall increase by three percent (3%) on each anniversary of the Effective Date of this Agreement during the term hereof.

4.3. Monthly Report. Owner shall provide City with a monthly report regarding the amount of Residual Solid Waste delivered to the Facility by City for each month during the immediately preceding twelve (12) period, and any shortfall in City's minimum tonnage delivery obligation.

4.4. Measurement. Owner shall maintain a scale system at the Facility. Owner shall make available to City the following information with respect to each delivery of Residual Solid Waste: (1) calendar date; (2) time of day; (3) vehicle identification; and (4) total number of tons of Residual Solid Waste delivered to the Facility and accepted by Owner. All scales and weighing equipment shall be kept in good and accurate condition operating at the standards of accuracy and reliability specified in the California Code of Regulations. Owner shall submit to City on the each anniversary of the Effective Date a copy of the Certificate of Registration of Owner's scales issued by the Ventura County Department of Weights and Measures. The tonnage used to calculate the Disposal Fee shall be based on the weight of each loaded truck measured at the weight scales described below minus the certified tare weight for each truck. City shall establish the tare weight of each truck, subject to verification by Owner using the Facility scale system. City shall allow Owner to provide a number or device to be inserted in or on each truck that will identify the truck

to the scale attendant, or an automated scanner, or to provide such other device or means necessary to identify trucks using an unattended, automated system.

4.5. Disposition of Non-Conforming Waste. City and Owner shall implement procedures to identify, prevent the delivery of, or reject Non-Conforming Waste delivered to the Facility. If Owner discovers Non-Conforming Waste delivered to the Facility, Owner shall immediately notify City. Notwithstanding the provisions of Section 9.5, such notice may be given either verbally or by facsimile to the office of City's Solid Waste Superintendent. Except as emergency conditions require, or except as required by the Facility's permits or the Environmental Laws, City shall have the first opportunity to immediately remove such refused or rejected materials. If said Non-Conforming Waste is not removed from the Facility within one business day from the date of Owner's initial notice to City (or, in the event removal within one business day is not possible despite diligent efforts by City, an additional reasonable period of time for City to diligently pursue such removal), Owner may arrange for transportation and disposal of the Non-Conforming Waste, with the reasonable costs thereof to be borne by City. In addition, Owner shall recover from City all other reasonable costs, fines and penalties incurred as the result of the delivery of Non-Conforming Waste to the Facility.

4.6. Title and Ownership. Title, ownership and responsibility for Residual Solid Waste shall pass from City to Owner at the time of unloading and acceptance of the material at the Facility; provided that title, ownership and responsibility for Non-Conforming Waste shall remain with City at all times.

4.7. Days and Hours of Operation. Subject to its permit and Ventura County contractual limits on daily tonnage, Owner shall operate the Facility for the receipt and disposal of Residual Solid Waste in accordance with the following schedule:

4.7.1. Monday through Friday, from 7:00 a.m. to 5:00 p.m., Saturday, from 7:00 a.m. to 4:30 p.m., third Sunday of each month, 10:00 a.m. to 4:00 p.m. Closed on the following holidays: New Year's Day, Thanksgiving Day, Christmas, Memorial Day, Fourth of July, Labor Day. Notwithstanding the above, the Facility will be opened for one-half day on Memorial Day, Fourth of July and Labor Day at no additional cost to City upon seven days' advance written notice from City, provided, however, that City delivers not less than 200 tons of Residual Solid Waste to the Facility. In the event City does not deliver 200 tons of Residual Solid Waste, City shall reimburse Owner the additional cost of such extended operating hours, as determined by Owner in its reasonable judgment.

4.7.2. Subject to conditions in its permits restricting operating hours, and other legal constraints, Owner shall reasonably cooperate with City to receive deliveries at other times, and in particular when necessary because of natural disasters or other special circumstances. The additional cost of such extended operating hours shall be borne by City. Such additional cost shall be mutually agreed upon by both parties in advance.

5. COMPENSATION TO OWNER

5.1. Disposal Fee. For Residual Solid Waste delivered to the Facility and accepted by Owner, City shall pay a Disposal Fee of seventeen dollars and seventy-one cents ($17.71) per ton, which shall include all fees and charges in effect as of the date of this Agreement except for the Countywide Integrated Waste Management Plan (CIWMP) disposal fee. City shall in addition pay Owner the applicable CIWMP disposal fee, to the extent such fee is or becomes imposed on or payable by the Facility.

5.1.1 Fee for Other Wastes. Notwithstanding any other provision of this Agreement, City and Owner may make separate agreements as to service and fees relating to

waste materials other than Residual Solid Waste, including, but not limited to, Construction Debris, agricultural plastic, Bulky Waste, Designated Waste, Yard Waste, and alternative daily cover.

5.2. New or Increased Taxes, Fees and Charges. The Disposal Fee shall be adjusted from time to time to allow Owner to recover City's pro rata share of any new or increased fees (including the CIWMP disposal fee, to the extent it becomes imposed on or payable by the Facility), assessments or taxes (not including income taxes and ad valorem property or possessory interest taxes, which are the responsibility of Owner) imposed directly on landfill solid waste disposal by any State, Local or Federal governments after the Effective Date (collectively, the "Additional Fees"), upon thirty day's advance written notice from Owner and a statement of basis for the adjustment; provided, however, that if any new or increased fees imposed specifically on the Facility (and not generally on disposal facilities) results in a Disposal Fee Increase greater than 10%, City shall be entitled to cancel this Agreement by providing written notice to Owner not more than 30 days after City is notified of such Disposal Fee Increase. City may specify a date of termination not later than 30 days from the date of City's notice. In the event, City elects to terminate this Agreement there shall be no Disposal Fee Increase due to any such increases.

5.3. Change in Law. The Disposal Fee shall be adjusted from time to time to allow Owner to recover City's pro rata share of any increased costs of operation of the Facility arising from a Change in Law, upon thirty day's advance written notice from Owner and a statement of basis for the adjustment; provided, however, that if a change in law imposed specifically on the Facility (and not generally on disposal facilities) results in a Disposal Fee Increase greater than 10%, City shall be entitled to cancel this Agreement by providing written notice to Owner not more than 30 days after City is notified of such Disposal Fee Increase. City may specify a date of termination not later than 30 days from the date of City's notice. In the event, City elects to terminate this Agreement there shall be no Disposal Fee Increase due to any such increases.

5.4. Annual Adjustment. The annual price adjustment for the Disposal Fee shall be based on the CPI and shall first be effective July 1, 2002 and on July 1 of each subsequent year during the term of this Agreement. The Disposal Fee shall be increased or decreased on July 1 by the percentage increase or decrease in the Annual Average CPI for the preceding January to December. These calculations are mathematically and hypothetically illustrated for the first CPI adjustment (July 2002) as follows:

Disposal Fee, June 30, 2002 (Disposal Fee) = $17.71

2001 Annual Average CPI (Jan-Dec) (CPI-2001) = 178.7 (a hypothetical value for example only)
2000 Annual Average CPI (Jan-Dec) (CPI-2000) = 171.6

July 2002 Disposal Fee CPI Adjustment = Disposal Fee x ((CPI-2001 – CPI-2000) ÷ CPI-2000)
= $17.71 x ((178.7 - 171.6) ÷ 171.6)
= $17.71 x 0.0414
= $0.73

July 2002 Disposal Fee = Disposal Fee + CPI Adjustment
= $17.71 + $0.73
= $18.44

5.5. Billing and Payment Procedure. On or before the 15th day of each month, Owner shall submit to City an invoice for Disposal Fees covering Residual Solid Waste delivered to the Facility during the prior month by City, and for any applicable additional charges as allowed by the terms of this Agreement. Payment shall be due thirty days from City's receipt of the invoice. Owner may charge City interest on past due accounts up to twelve percent (12%) per annum (one percent (1%) per month). If City disputes any amount billed by Owner, City shall provide written objection within twenty (20) days of receipt of the invoice containing the disputed amount. City shall pay any amount not in dispute.

The parties shall promptly attempt to resolve any dispute, but in the event the dispute is not resolved, either party may pursue legal action.

6. INDEMNITY AND INSURANCE

6.1. Indemnification of City. Owner shall indemnify defend and hold harmless City and its member agencies, officers, directors, employees, agents, representatives and the members of City's and City's member agencies and legislative bodies, from and against any and all liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses, including without limitation claims based in tort or for death or personal injury, or damage to property or for contribution or indemnity claimed by third parties against City or incurred by City, known or unknown, contingent or otherwise, directly or indirectly, arising from occasioned by, or related to Owner's performance of, or its failure to perform its obligations under this Agreement or under any federal, state or local law, statute, order or regulation, or related in any way to Owner's management of City's Residual Solid Waste at the Facility, including, without limitation, the design, construction, operation (including without limit, the delivery of waste to, or the acceptance and disposal of Municipal Solid Waste at the Facility) of the Facility, or related to the closure or post-closure maintenance of the Facility. "Liability, demands, claims, costs, losses, damages, recoveries, settlements and expenses", as set forth in this Section, include, without limitation, property damage, bodily injury or death, or any damage to natural resources or the environment (including damages from the release of hazardous substances) or cost of environmental clean-up including those that arise under any federal, state or local law, or regulation, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USCA Section 9601 et. seq.); the Resource Conservation and Recovery Act (42 USCA Section 6901 et. seq.); the Clean Water Act (33 USCA Section 1251 et seq.); the Clean Air Act (42 USCA Section 7401 et. seq.); the Hazardous Substances Account Act (California Health and Safety Code Section 25300 et. seq.); and the Porter-Cologne Water Quality Control Act (California Water Code

Section 13000 et seq). Owner shall defend City at Owner's sole cost and expense, including, but not limited to, reasonable attorneys fees, direct litigation costs and expert witness and consultant fees, in any legal or administrative action or proceeding based upon any such liability, demand, claim, cost, loss, damage, recovery, settlement or expense. Owner shall select legal counsel in any matters in which City is indemnified hereunder, subject to the reasonable approval of City. Such legal counsel may also be counsel for Owner. The obligations of Owner set forth in this Section are effective as to contamination, occurring as a "sudden and accidental" event or occurring over a more extended period of time.

Notwithstanding the above, the foregoing indemnity shall not apply to the extent any liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses directly or indirectly, arise from, are occasioned by, or relate to the negligent or intentional acts or omissions of City, or its officers, employees, subcontractors or agents, occurring in the course of City's performance of its obligations under this Agreement, acts or omissions in violation of the Environmental Laws, or the delivery of Non-Conforming Waste to the Facility.

6.2. Indemnification of Owner. City shall indemnify defend and hold harmless Owner and its officers, directors, employees, agents, and representatives from and against any and all liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses, including without limitation claims based in tort or for death or personal injury, or damage to property or for contribution or indemnity claimed by third parties against Owner or incurred by Owner, known or unknown, contingent or otherwise, directly or indirectly, arising from occasioned by, or related to the negligent or intentional acts or omissions of City, or its officers, employees, subcontractors or agents, occurring in the course of its performance of its obligations under this Agreement, including acts or omissions in violation of the Environmental Laws, or the delivery of Non-Conforming Waste to the Facility.

6.3. Insurance. City is self insured under provisions of California Law for amounts up to $1,000,000 for automobile and general liability purposes, and up to $300,000 for workers' compensation purposes. With respect to insurance above these amounts, City is a member of BICEP, an organization of California cities that pool risk. City will, upon written request, provide Contractor such documentation as appropriate to evidence and describe City's insurance arrangements. The City shall promptly inform Owner in the event it terminates its membership in BICEP. The City shall make arrangements for equivalent insurance coverage effective upon the termination of its membership in BICEP, and shall promptly notify Owner of such alternative arrangements in writing.

6.3.1. Owner agrees to maintain:

(a) Minimum Coverage. Insurance coverage for any liability, loss, expense or claim which may arise out of or result from Owner's performance under this Agreement, whether such performance be by Owner or by any contractor of Owner or anyone directly or indirectly employed by Owner or such contractor, or by anyone for whose act Owner may be liable, with the following limits, which limits shall be adjusted every three years by the increase in the Consumer Price Index, using the same formula described for price adjustments in Section 5.4:

(1) General liability insurance, including comprehensive form, premises operation and broad form property damage coverage, with a limit of not less than Two Million Dollars ($2,000,000) combined single limit coverage;

(2) Automobile liability insurance, including comprehensive form, including loading and unloading, owned, hired and non-owned coverage, with a limit of not less than Five Million Dollars ($5,000,000) combined single limit coverage;

(1) Contractual personal injury liability and contractual property damage insurance covering liability assumed under this Agreement, with a limit of not less than Two Million Dollars ($2,000,000) combined single limit coverage;

(2) Workers' compensation insurance as required by law; and

(3) Employer's Liability Insurance with a limit of not less that One Million Dollars ($1,000,000).

(b) Certificates. City is self insured, with excess coverage and pool participation as provided under California Law. City agrees to provide Owner with information concerning City's self insured provisions upon written request by Owner. Certificates of Owner's insurance acceptable to City shall be filed with City prior to commencement of any operation or performance under this Agreement. The certificates shall state that City, its City Council, officers, employees, agents and volunteers are additional insureds for coverage in (1), (2) and (3) above, that the insurance afforded shall be primary insurance, and that coverage afforded under the policies will not be canceled until at least thirty (30) days' prior written notice has been given to City.

6.3.2 Each subcontractor performing services pursuant to this Agreement shall be covered by the above policies, respectively, or by a separate policy or policies having the same limits, terms and conditions.

6.3.3 Owner shall provide the above coverages with an insurance carrier having an A.M. Best's rating of A VII or higher.

6.3.4. Maintenance of proper insurance coverages by Owner is a material element of this Agreement. Owner's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered as a material breach of this Agreement.

7. DEFAULT BY CITY

7.1. Right to Suspend or Terminate Upon Default. City shall be in default under this Agreement, and Owner shall have the right to suspend or terminate this Agreement, in the event City fails to perform its obligations under this Agreement and fails to cure such breach within thirty (30) days after receiving notice from Owner specifying the breach; provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, City shall not be in default so long as it promptly commences action required to cure the breach within ten (10) calendar days after receipt of such notice and continues such performance diligently until the cure is completed. Notice of default shall be in writing and delivered to the representative of City designated in Section 9.5.

7.2. Owner's Remedies Cumulative. Owner's rights to suspend or terminate this Agreement under Section 7.1 are not mutually exclusive, and Owner's exercise of one such right shall not constitute an election of remedies. Instead, they shall be in the alternative and in addition to any and all other legal and equitable rights and remedies that Owner may have.

8. DEFAULT BY OWNER.

8.1. Right to Suspend or Terminate Upon Default. Owner shall be in default under this Agreement and City shall have the right to suspend or terminate this Agreement in the event Owner fails to accept and dispose of Residual Solid Waste as required by Section 4 or otherwise fail to perform its obligations under this Agreement and fails to cure such breach within thirty (30) days after receiving notice from City specifying the breach,

provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, Owner shall not be in default so long as Owner commences action required to cure the breach within ten (10) calendar days after receipt of such notice and continues such performance diligently until the cure is completed. Notice of default shall be in writing and delivered to the representative of Owner designated in Section 9.5.

8.2. City's Remedies Cumulative. City's rights to suspend or terminate this Agreement under Section 8.1 are not mutually exclusive, and City's exercise of one such right shall not constitute an election of remedies. Instead, they shall be in the alternative and in addition to any and all other legal and equitable rights and remedies that City may have.

9. OTHER AGREEMENTS OF THE PARTIES

9.1. Relationship of Parties. The parties intend that Owner shall perform the services required by this Agreement as an independent contractor engaged by City and not as an officer or employee of City nor as a partner of or joint venturer with City. No employee or agent of Owner shall be or shall be deemed to be an employee or agent of City. Except as expressly provided herein, Owner shall have the exclusive control over the manner and means of conducting the Residual Solid Waste disposal services performed under this Agreement and all persons performing such services. Owner shall be solely responsible of acts and omissions of its officers, employees, subcontractors, and agents. Neither Owner, nor its officers employees, subcontractors or agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to City's employees by virtue of their employment with City.

9.2. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

9.3. Parties in Interest. Nothing in this Agreement, whether express or implied, is intended to confer any right on any Persons other than the parties to it and their representatives, successors and permitted assigns.

9.4. Waiver. The waiver by either party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach of violation of the same or any other provision. The subsequent acceptance by either party of any moneys that become due hereunder shall not be deemed to be a waiver of any pre-existing or concurrent breach or violation by the other party of any provision of this Agreement.

9.5. Notice. Except as provided otherwise herein, any notice required under this Agreement shall be made either by personal delivery or by registered or certified mail, return receipt requested, and shall be deemed given upon personal delivery or within three (3) days of mailing. Notices shall be given to the parties at the following addresses:

To Owner:

District Manager
Simi Valley Recycling and Disposal Facility
2801 N. Madera Road
Simi Valley, CA 93065-6208

With a Copy to:

Area General Counsel
Waste Management of California, Inc.
801 Second Avenue, Suite 614
Seattle, WA 98104

To City:

City of Oxnard
Solid Waste Superintendent
111 South Del Norte Blvd.
Oxnard, CA 93030

With a Copy To:

City of Oxnard
City Attorney
305 West Third Street
Oxnard, CA 93030

Either party may change the location of individuals for receipt of notices hereunder by providing written notice to the other party as aforesaid.

9.6. Approvals. Except as provided otherwise herein, whenever this Agreement calls for the consent, review, approval, action or permission of a party, such party shall act reasonably

under the circumstances, and such consent, review, approval, action or permission shall not be arbitrarily or unreasonably taken, given, withheld, exercised or delayed.

9.7. Force Majeure.

9.7.1. Neither Owner nor City shall be in default of its obligations under this Agreement in the event, and for so long as, it is impossible or impracticable for it to perform its obligations due to an "act of God" (including, but not limited to, flood, earthquake or other similar catastrophic events), war, insurrection, riot, acts of any government (including judicial action), condemnation or other taking by a governmental entity, Change in Law, labor unrest (including but not limited to strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by Owner's employees or directed at Owner or third parties) or other similar causes which are not the fault of, and beyond the reasonable control of, the party claiming excuse from performance.

9.7.2. Any interruption or discontinuance of Owner's ability to accept and dispose of Residual Solid Waste caused by one or more of the events described in this section shall not constitute an event of default by Owner under this Agreement.

9.7.3. If either City's or Owner's performance is affected by any such event, it shall give written notice to the other party as soon as it is reasonably practical and further, shall diligently attempt to resolve such condition.

9.8. Authority of City. City hereby represents it has the power and authority to execute this Agreement and to be bound by the terms and conditions contained herein. City further represents that it has the authority to direct the disposal of Residual Solid Waste to the Facility on behalf of City during the entire Term hereof.

9.9. Other Remedies. In addition to the other remedies expressly provided for elsewhere herein, the parties may exercise any and all rights and remedies provided by law or equity for any breach of this Agreement.

10. MISCELLANEOUS PROVISIONS

10.1. Entire Agreement. This Agreement represents the full and entire agreement between the parties with respect to the matters covered herein and supersedes all prior negotiations and agreements, either written or oral.

10.2. Section Headings. The article headings and section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement and not to alter or affect its provisions.

10.3. Interpretation. This Agreement shall be interpreted and construed reasonably and neither for nor against either party, regardless of the degree to which either party participated in its drafting.

10.4. Amendment. This Agreement may not be modified or amended in any respect except by a writing signed by the parties

10.5. Severability. If any non-material provision of this Agreement is for any reason deemed to be invalid, and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement, which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

10.6. Attorneys' Fees. Subject to the provisions of Section 9.3, the prevailing party in any arbitration or litigation brought to enforce the terms of this Agreement or arising out of

this Agreement may recover its reasonable costs and attorneys' fees expended in connection with such an action from the other party.

10.7. References to Laws. All references in this Agreement to laws and regulations shall be understood to include such laws and regulations as they may be subsequently amended or rectified, unless other specifically provided. In addition, references to specific governmental agencies shall be understood to include agencies that succeed to or assume the functions they are currently performing.

10.8. Definitions. Capitalized terms used in this Agreement without definitions have the meanings specified in the Definitions section, unless the context clearly requires otherwise.

10.9. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

10.10. Successors/Assignment. This Agreement shall bind the successors, assigns and legal representatives of the parties. This Agreement may not be assigned by either party without the advance written consent of the other, which consent shall not be withheld unreasonably nor required for an assignment to an affiliate of Owner. In determining whether to grant or withhold consent a party may consider the financial strength of the proposed assignee as compared to the financial strength of the party seeking assignment, the experience and reputation of the assignee in the industry, and such other factors as are commercially reasonable.

IN WITNESS WHEREOF, City and Owner have executed this Agreement as of the date and year first above written.

CITY OF OXNARD

By: _____
Manuel Lopez, Mayor

WASTE MANAGEMENT OF CALIFORNIA, INC.

By: _____
Lawrence O'Donnell,
Executive Vice President

APPROVED AS TO CONTENT:

By: _____
Ruben Mesa, Solid Waste Superintendent

ATTEST:

By: Jill A. Beaty for
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

By: _____
Gary Gillig, City Attorney

CERTIFICATE OF INSURANCE

Date: (MM/DD/YY) 12/23/2001

PRODUCER
Lockton Insurance Agency of Houston, Inc.
5847 San Felipe, Suite 320
Houston, TX 77057
866-260-3538 (Phone)
866-492-1055 (Fax)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

Insurer A:	Pacific Employers Insurance Company
Insurer B:	Continental Casualty Company
Insurer C:	ACE American Insurance Company
Insurer D:	Indemnity Insurance North America
Insurer E:	

INSURED: WASTE MANAGEMENT, INC. and
Simi Valley Landfill & Recycling Center
2801 Madera Road
Simi Valley, CA 93065

594

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY BE EXHAUSTED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS	
	GENERAL LIABILITY	HDO G19902559	1/1/2002	1/1/2003	EACH OCCURRENCE	$ 2,000,000
A	X COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (ANY ONE FIRE)	$ 1,000,000
	X OCCURRENCE				MED EXP (PER PERSON)	
	X XCU INCLUDED				PERSONAL & ADV INJURY	$ 2,000,000
	X ISO FORM CG 00 01 10 93				GENERAL AGGREGATE	$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS/COMP. OP. AGG	$ 4,000,000
	X PROJECT					
	X LOCATION					
	AUTOMOBILE LIABILITY	ISA H07686031	1/1/2002	1/1/2003	COMBINED SINGLE LIMIT (EACH ACCIDENT)	$ 5,000,000
A	X ANY AUTO					
	ALL OWNED AUTOS					
	SCHEDULED AUTOS					
	X HIRED AUTOS					
	X NON-OWNED AUTOS					
	X MCS-90					
B	EXCESS LIABILITY/UMBRELLA	CUP-249148673	1/1/2002	1/1/2003	EACH OCCURRENCE	$ 20,000,000
C	X OCCURRENCE	XCP 19902675			AGGREGATE	$ 20,000,000
	CLAIMS MADE					
	WORKERS' COMPENSATION	WLR C43126209	1/1/2002	1/1/2003	WORKERS' COMPENSATION	STATUTORY
D	and EMPLOYERS LIABILITY	SCF C43126167 (WI)			EL EACH ACCIDENT	$ 1,000,000
A					EL DISEASE-EA EMPLOYEE	$ 1,000,000
					EL DISEASE-POLICY LIMIT	$ 1,000,000
	OTHER					

REMARKS: DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT PROVISIONS:

CHECK BOX
☒ BLANKET WAIVER OF SUBROGATION IS GRANTED IN FAVOR OF CERTIFICATE HOLDER ON ALL POLICIES WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT.
☒ CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED (EXCEPT FOR WORKERS' COMP/EL) WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT.
Re: All operations

A-5997

CERTIFICATE HOLDER:

City of Oxnard
300 West 3rd Street
Oxnard, CA 93030
Attn: Rudy Muravez

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. *EXCEPT 10 DAYS NOTICE FOR NONPAYMENT.

AUTHORIZED REPRESENTATIVE: [signature]

CERTIFICATE OF INSURANCE

Date: (MM/DD/YY) 9/12/2001

PRODUCER
Lockton Insurance Agency of Houston, Inc.
5847 San Felipe, Suite 320
Houston, TX 77057
866-260-3538 (Phone)
866-492-1055 (Fax)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED: WASTE MANAGEMENT, INC. and
Simi Valley Landfill
Waste Management of California, Inc.
2801 Madera Road
Simi Valley, CA 93065

INSURERS AFFORDING COVERAGE	
Insurer A:	Pacific Employers Insurance Company
Insurer B:	Continental Casualty Company
Insurer C:	ACE American Insurance Company
Insurer D:	Indemnity Insurance North America
Insurer E:	National Union Fire Insurance Co. of PA

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY BE EXHAUSTED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS	
	GENERAL LIABILITY	HDO G19902559	1/1/2001	1/1/2002	EACH OCCURRENCE	$ 2,000,000
A	X COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (ANY ONE FIRE)	$ 1,000,000
	X OCCURRENCE				MED EXP (PER PERSON)	
	X XCU INCLUDED				PERSONAL & ADV INJURY	$ 2,000,000
	X ISO FORM CG 00 01 10 93				GENERAL AGGREGATE	$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS/COMP. OP. AGG	$ 4,000,000
	X PROJECT					
	X LOCATION					
	AUTOMOBILE LIABILITY	ISA H07686031	1/1/2001	1/1/2002	COMBINED SINGLE LIMIT (EACH ACCIDENT)	$ 5,000,000
A	X ANY AUTO					
	ALL OWNED AUTOS					
	SCHEDULED AUTOS					
	X HIRED AUTOS					
	X NON-OWNED AUTOS					
	X MCS-90					
B	EXCESS LIABILITY/UMBRELLA	CUP-247892731	1/1/2001	1/1/2002	EACH OCCURRENCE	$ 25,000,000
C	X OCCURRENCE	XOOG 19902675			AGGREGATE	$ 25,000,000
E	CLAIMS MADE	346 71 06				
	WORKERS' COMPENSATION	WLR C42982453	1/1/2001	1/1/2002	WORKERS' COMPENSATION	STATUTORY
D	and EMPLOYERS LIABILITY	SCF C42982532 (WI)			EL EACH ACCIDENT	$ 1,000,000
A					EL DISEASE-EA EMPLOYEE	$ 1,000,000
					EL DISEASE-POLICY LIMIT	$ 1,000,000
	OTHER					

REMARKS: DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT PROVISIONS:

CHECK BOX
☒ BLANKET WAIVER OF SUBROGATION IS GRANTED IN FAVOR OF CERTIFICATE HOLDER ON ALL POLICIES WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT.
☒ CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED (EXCEPT FOR WORKERS' COMP/EL) WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT.

Re: All Operations of the Named Insured
Additional Insured in favor of City of Oxnard (on all policies except Workers' Compensation/ EL) where and to the extent as required by written contract.
The insurance afforded to the Additional Insured as described in this Certificate of Insurance for work performed by the Named Insured is primary and non-contributory to any similar coverage maintained by the Additional Insured where and to the extent required by written contract.

CERTIFICATE HOLDER:

City of Oxnard
Solid Waste Program
111 Del Norte Boulevard
Oxnard, CA 93030

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL MAIL 30* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. *EXCEPT 10 DAYS NOTICE FOR NONPAYMENT.

AUTHORIZED REPRESENTATIVE:

A-5997

FIRST AMENDMENT TO
AGREEMENT FOR SOLID WASTE DISPOSAL SERVICES
BETWEEN
THE CITY OF OXNARD AND
WASTE MANAGEMENT OF CALIFORNIA, INC.

THIS AGREEMENT is made this 25th day of September, 2006 by and between the City of Oxnard, a California municipal corporation ("City") and Waste Management of California, Inc., a California corporation ("Owner"). This Agreement amends and restates in its entirety the "Agreement For Solid Waste Disposal Services Between the City of Oxnard and Waste Management of California, dated September 25, 2001 ("Prior Agreement").

RECITALS

WHEREAS, Owner is the owner and operator of the Simi Valley Recycling and Disposal Facility (the "Facility") and City desires to dispose of Residual Solid Waste at the Facility on the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, Owner agrees to grant such right to dispose of Residual Solid Waste at the Facility on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained in this Agreement and for other good and valuable consideration, the parties agree as follows.

1. DEFINITION OF TERMS

1.1. Agreement. "Agreement" means this "First Amendment to Agreement between City and Owner for Disposal of Residual Solid Waste Between the City of Oxnard and Waste

COUNCIL APPROVAL
DATE: 09/19/06 AGENDA # O-1

Management of California, Inc." dated as of the Effective Date (as defined herein), including all exhibits and attachments, and any amendments hereto.

1.2. ADC Fee. "ADC Fee" means the amount to be charged by Owner for acceptance of ADC Material at the Facility, which shall include all federal, state and local fees imposed on the Facility as of the Effective Date, but shall exclude the County Integrated Waste Management Planning Disposal Fee

1.3. Alternative Daily Cover Material. "Alternative Daily Cover Material" or "ADC Material" means processed Yard Waste or Construction Debris that is suitable for use as alternative daily cover at the Facility in accordance with the requirements of 27 CCR §20690. In order to qualify as ADC Material, processed Yard Waste must be delivered to the Facility within forty-eight (48) hours of its receipt by the City.

1.4. City. "City" means the City of Oxnard, a California municipal corporation.

1.5. Bulky Waste. "Bulky Waste" means stoves, refrigerators, water tanks, washing machines, other white goods, furniture, and other similar waste materials with weights or volumes greater than those allowed in waste collection bins or other containers such as roll-off boxes.

1.6. CPI. "CPI" means the Consumer Price Index, All Urban Consumers for the Los Angeles, Riverside, Orange County Metropolitan Area, 1982-1984 = 100, published by the U.S. Department of Labor, Bureau of Labor Statistics.

1.7. Change in Law. "Change in Law" means the occurrence of any change in law applicable to the performance of this Agreement as follows:

1.7.1. The adoption, promulgation, modification, or change in law, regulation, or judicial or administrative interpretation occurring after the Effective Date which adoption, promulgation, codification, or change affects the performance of this Agreement, other than laws with respect to taxes based on or measured solely by net income, or any unincorporated business, payroll, or employment taxes; or

1.7.2. Any action, resolution, order or judgment of any federal, state or local court, administrative agency or governmental body issued after the Effective Date if:

1. such action, resolution, order or judgment is not also the result of the willful misconduct or negligent action or inaction of the party relying thereon or of any third party for whom the party relying thereon is directly responsible; and

2. the party relying thereon, unless excused in writing from so doing by the other party, shall make or have made, or shall cause or have caused to be made reasonable efforts in good faith to contest such order or judgment (it being understood that the contesting in good faith of such an order or judgment shall not constitute or be construed as a willful misconduct or negligent action of such party); or

1.7.3. Any action, resolution, order or judgment made by a governmental authority or agency having authority over the Facility that imposes new or different material conditions in connection with the issuance, renewal, or modification of any permit or related agreement required for the development or operation of the Facility, including but not limited to the Extension Approvals.

1.8. Construction Debris. "Construction Debris" means waste building materials resulting from construction, remodeling, repair or demolition operations.

1.9. Del Norte Facility. "Del Norte Facility" means the solid waste handling facility owned by City and operated by Republic Services, Inc. that separates some portion of incoming commingled Municipal Solid Waste into marketable recyclables, or separates mixed recyclables.

1.10. Designated Waste. "Designated Waste" shall have the meaning set forth in Section 13173 of the California Water Code. California Water Code section 13173 provides:

> "Designated waste" means either of the following:(a) Hazardous waste that has been granted a variance from hazardous waste management requirements pursuant to Section 25143 of the Health and Safety Code or (b) Nonhazardous waste that consists of, or contains, pollutants that, under ambient environmental conditions at a waste management unit, could be released in concentrations exceeding applicable water quality objectives or that could reasonably be expected to affect beneficial uses of the waters of the state as contained in the appropriate state water quality control plan.

1.11. Disposal. "Disposal" means the final disposition of Residual Solid Waste hereunder at the Facility or other duly permitted disposal facility

1.12. Disposal Fee. "Disposal Fee" means the amount to be charged by Owner for disposal of Residual Solid Waste at the Facility, which shall include all federal, state and local fees imposed on the Facility as of the Effective Date, but shall exclude the County Integrated Waste Management Planning Disposal Fee.

1.13. Effective Date. "Effective Date" is September 25, 2006.

1.14. Environmental Laws. "Environmental Laws" means all federal and state statutes, county and City ordinances concerning public health, safety and the environment including, by way of example and not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Federal Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Emergency Planning and Community Right to Know Act, 42 U. S. C. Section 1101 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the California Hazardous Waste Control Act, California Health & Safety Code Section 25100 et seq.; the California Toxic Substances Account Act, California Health and Safety Code Section 25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code Section 13000 et seq.; the Safe. Drinking Water and Toxic Enforcement Act, California Health and Safety Code Section 25249.5 et seq.; and the California Clean Air Act, Health and Safety Code Sections 39000 et seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

1.15. Extension Approvals. "Extension Approvals" means those modifications or extensions to permits or related agreements (including but not limited to the Ventura County Operating Agreement) which would allow for the continuing operation of the Facility beyond the current anticipated closure date, an increase in the disposal capacity of the Facility, and addition of facilities to increase diversion activities.

1.16. Facility. "Facility" means the Simi Valley Recycling and Disposal Facility in Ventura County, California.

1.17. Garbage. "Garbage" means putrescible animal, fish, food, fowl, fruit or vegetable matter, or any product thereof, resulting from the preparation, storage, handling or consumption of such substances.

1.18. Generator(s). "Generator(s)" means any person(s) whose act or process initially produces Municipal Solid Waste, Designated Waste, Hazardous Waste, Medical Waste or any other waste product which becomes part of the waste stream.

1.19. Hazardous Waste. "Hazardous Waste" means:

1.19.1. All substances defined or characterized as hazardous waste by the Federal Solid Waste Disposal Act (42 U.S.C. Section 3251 et seq.), as amended, including the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) and all further amendments thereto or regulations promulgated thereunder; and

1.19.2. All substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by Health and Safety Code Sections 25110.02, 25115, and 25117, and future amendments to recodifications of such statutes or regulations promulgated thereunder, including 23 California Code of Regulations Sections 2521 and 2522; and,

1.19.3. Radioactive wastes.

If two or more governmental agencies having concurrent or overlapping jurisdiction over hazardous waste adopt conflicting definitions of "Hazardous Waste", for purposes of processing and disposal to land, the broader, more encompassing definitions shall be employed for purposes of this Agreement.

1.20. Medical Waste. "Medical Waste" means those materials defined in Health and Safety Code Section 117690 and does not include waste identified as not being medical wastes in Section 117700.

1.21. Municipal Solid Waste. "Municipal Solid Waste" means all putrescible and non-putrescible solid and semi-solid waste material, including but not limited to Garbage, Construction Debris and Rubbish, that is authorized for disposal at the Facility pursuant to the Environmental Laws, the permits or other approvals issued to the Facility, or any contracts between the Owner and any governmental entity having authority over the Facility relating to the operation of the Facility. Municipal Solid Waste does not include Bulky Waste, waste tires, Hazardous Waste, Designated Waste, liquid waste, asbestos, Medical Waste, sewage, sewage sludge, abandoned automobiles, or Yard Waste.

1.22. Non-Conforming Waste. "Non-Conforming Waste" means Bulky Waste, waste tires, Hazardous Waste, Designated Waste, liquid waste, asbestos, Medical Waste, sewage, sewage sludge, abandoned automobiles or Yard Waste; any waste materials not authorized for disposal at the Facility pursuant to (i) the Environmental Laws, (ii) the permits or other approvals issued to the Facility, or (iii) any contracts between the Owner and any governmental entity having authority over the Facility relating to the operation of the Facility; and any waste materials not constituting Municipal Solid Waste as defined herein.

1.23. Owner. "Owner" means Waste Management of California, Inc., which owns and operates the Facility.

1.24. Person. "Person" includes an individual, firm, association, organization, partnership, corporation, joint venture, the United States, the State of California, municipality, political subdivision, governmental agency, or any other entity whatsoever.

1.25. Recycling Facility. "Recycling Facility" means a facility located within the City that is a "Recycling Center" as set forth in Title 14, California Code of Regulations, Section 17402.5(d).

1.26. Residual Solid Waste. "Residual Solid Waste" means Municipal Solid Waste remaining for disposal after processing at the Del Norte Facility or at another Recycling Facility.

1.27. Rubbish. "Rubbish" means all waste wood, wood products, printed materials, paper, pasteboard, rags, straw, used and discarded clothing, packaging materials, ashes from residential burning, floor sweepings, and glass.

1.28. Term. "Term" means the Term of this Agreement, including both the Initial Term and any Successive Term.

1.29. Ton. "Ton" means a short ton of 2,000 pounds avoirdupois.

1.30. Yard Waste. "Yard Waste" means tree trimmings, grass cuttings. dead plants, leaves, branches and dead trees, and similar organic materials, scrap lumber, wood crating, pellets, wood chips, and similar materials.

2. TERM OF AGREEMENT

2.1. Term. The initial Term of this Agreement shall begin as of the Effective Date and shall continue until five (5) years following the Effective Date (the "Initial Term"). Thereafter, this Agreement may be extended beyond the Initial Term for one or more additional terms of five (5) years each (the "Successive Term") upon mutual written agreement of the parties made not less than one hundred twenty (120) days prior to the end of the Initial Term or any Successive Term.

2.2. Termination for Convenience. Notwithstanding any provision to the contrary, both the City and Owner may terminate this Agreement for convenience, without cause or penalty, upon sixty (60) days written notice to the other. Owner is obligated to carry out all obligations under this Agreement up to and including the date of termination for convenience and the City is obligated to pay Owner for amounts due and owing under this Agreement up to and including the date of termination for convenience. Nothing herein is intended to and nothing herein shall be construed to restrict the parties' rights in the event of a default. In the event of a default, the parties' rights shall be determined by applicable law, applied to the terms and provisions of this Agreement.

2.3. Regular Meetings. During the Term, Owner and Contractor shall upon request by either, meet to discuss issues of service at the Facility, as well as any other issues that may arise under this Agreement.

2.4. Extension Approvals. To the extent permitted by law, City shall provide reasonable assistance to Owner in its efforts to obtain the Extension Approvals at no out-of pocket cost to the City, and in addition shall not oppose Owner's efforts to obtain the Extension Approvals.

3. RIGHTS AND OBLIGATIONS OF CITY

3.1. Residual Solid Waste.

3.1.1. City shall, throughout the term of this Agreement, deliver or cause to be delivered to the Facility Residual Solid Waste in an amount not less than 17,968 tons per month. This Agreement constitutes a "put or pay" Agreement, and any shortfall in the monthly disposal at the Facility shall be billed and paid

by City, notwithstanding that the Residual Solid Waste is not delivered to the Facility; provided that, for delivery purposes only and not billing purposes, any shortfall in a calendar month up to 2,500 tons may be carried forward to the following three calendar months. In addition, Owner shall not be obligated to accept more than 25,504 tons of Residual Solid Waste per month delivered to the Facility except upon prior approval by Owner, which approval shall not be withheld unreasonably, based upon tonnages currently received at the Facility, the disposal requirements of Owner's affiliated waste collection operations, whether the receipt of such amounts is contrary to the terms of the Facility's permits or related agreements, or other prior contractual commitments of Owner.

3.1.2. City's minimum monthly tonnage delivery obligation shall increase by 1.5% on each anniversary of the Effective Date of this Agreement during the term hereof.

3.1.3. City's minimum monthly tonnage delivery obligation is calculated on the assumption that the Facility will be open Monday through Saturday each week and the third Sunday of each month. For any day or part of a day during which the Facility is closed due to an event of Force Majeure (including but not limited to high winds), other than a Sunday, or a holiday or one-half day holiday during which this Agreement does not require the Facility to be open, City shall be relieved of a pro rata share of its minimum monthly tonnage delivery obligation. In addition, City shall be relieved of its minimum monthly tonnage delivery obligation to the extent the Facility is unable to accept the minimum daily tonnage requirement set forth in Section 4.1 on any operating day during the month because the permitted daily capacity of the Facility has been reached.

3.1.4. Owner encourages and supports the City's efforts to divert volume from landfill for the benefit of recycling, and renewable and conversion technologies. Notwithstanding any provision herein to the contrary, the City shall not be liable for any shortfall payments as described in Section 3.1.1 to the extent that the City does not meet the minimum monthly tonnage delivery obligation due to these diversion practices; provided that all Residual Solid Waste within the City's control, directly or indirectly, is delivered to the Facility, less the amount of Residual Solid Waste that the City is obligated to deliver to VRSD's Toland Road Landfill as of the effective date of this Agreement. Upon owner's request, the City shall provide Owner with documentation sufficient to demonstrate the extent that any shortfall in deliveries resulted from these diversion practices.

3.1.5. Deliveries by City will be made by means of (i) transfer trailers originating at the Del Norte Facility, or (ii), solely with respect to Residual Solid Waste generated within the corporate limits of City, roll-off containers, including double box roll-off containers originating at a location certified as a Recycling Center by the California Integrated Waste Management Board, unless the parties agree in writing to other types of transport vehicles or other points of origin.

3.1.6. Upon execution of this Agreement and from time to time thereafter, City shall provide Owner with an estimate of Residual Solid Waste to be delivered to the Facility on a daily basis, and, in addition, shall provide Owner with at least three (3) business days notice if it anticipates a substantial increase (i.e., fifty percent (50%) or more) in the amount of Residual Solid Waste to be delivered by City on a daily basis.

3.2. Alternative Daily Cover Material.

3.2.1. City's Right to Deliver ADC Material. The City has the right, but not the obligation, to deliver ADC Material to the Facility. Any material delivered that does not meet the criteria to be considered ADC Material, including Yard Waste that produces odors strong enough to create a nuisance as determined by Owner in its reasonable judgment, will be treated as Residual Solid Waste.

3.2.2. Upon execution of this Agreement and from time to time thereafter, City shall provide Owner with an estimate of ADC Material to be delivered to the Facility on a daily basis, and, in addition, shall provide Owner with at least three (3) business days notice if it anticipates a substantial increase (i.e., fifty percent (50%) or more) in the amount of ADC Material to be delivered by City on a daily basis.

4. OBLIGATIONS OF OWNER

4.1. Residual Solid Waste.

4.1.1. Receipt of Residual Solid Waste. Owner is obligated , during the entire Term of this Agreement, receive a minimum of 829 tons of Residual Solid Waste for disposal delivered to the Facility by City on each operating day the Facility is open, subject to and in accordance with the terms of this Agreement. In addition, Owner is obligated to accept between 17,968 and 25,504 tons of Residual Solid Waste per month delivered to the Facility. Owner shall immediately advise City by telephone or facsimile of any situation, event or circumstance that results in a partial of complete inability to

perform Owner's obligation to accept Residual Solid Waste delivered to the Facility in accordance with the terms of this Agreement. Owner shall use its best efforts to resume normal operations at the Facility as soon as possible. In the event that Owner is unable to perform its obligation to accept Residual Solid Waste delivered to the Facility in accordance with the terms of this Agreement, except where occurring due to an event of Force Majeure, Owner shall arrange for disposal of the Residual Solid Waste at an alternative disposal facility at no additional cost to City. If Owner fails to do so upon demand by City, City may arrange for disposal at an alternate facility and owner shall be responsible for any additional cost to City once the costs are set.

4.1.2. Owner's minimum daily and monthly tonnage acceptance obligation shall increase by 1.5 % on each anniversary of the Effective Date of this Agreement during the term hereof.

4.2 Receipt of Alternative Daily Cover Material. Owner shall use reasonable efforts to accept all ADC Material delivered by the City for use as alternative daily cover, consistent with its operational needs for such material. ADC Material delivered by City will be given priority over other ADC Material when determining which material of this type is accepted at the Facility. Owner shall obtain and maintain all regulatory approvals required to accept ADC Material from the City. Except as provided in Section 3.2.1, Owner shall use best efforts to assure that all ADC Material accepted is diverted from landfill disposal, and that the City receives diversion credit to the maximum extent allowable under applicable law.

4.3 Monthly Report. Owner shall provide City with a monthly report regarding the amount of Residual Solid Waste and ADC Material delivered to the Facility by City

for each month during the immediately preceding twelve (12) period, any shortfall in City's Residual Solid Waste minimum tonnage delivery obligation, and the extent that any shortfall resulted from the City's diversion practices.

4.4 Measurement. Owner shall maintain a scale system at the Facility. Owner shall make available to City the following information with respect to each delivery of Residual Solid Waste and ADC Material: (1) calendar date; (2) time of day; (3) vehicle identification; and (4) total number of tons of Residual Solid Waste or ADC Material delivered to the Facility and accepted by Owner. All scales and weighing equipment shall be kept in good and accurate condition operating at the standards of accuracy and reliability specified in the California Code of Regulations. Owner shall submit to City on the each anniversary of the Effective Date a copy of the Certificate of Registration of Owner's scales issued by the Ventura County Department of Weights and Measures. The tonnage used to calculate the Disposal Fee and ADC Fee shall be based on the weight of each loaded truck measured at the weight scales described below minus the certified tare weight for each truck. City shall establish the tare weight of each truck, subject to verification by Owner using the Facility scale system. City shall allow Owner to provide a number or device to be inserted in or on each truck that will identify the truck to the scale attendant, or an automated scanner, or to provide such other device or means necessary to identify trucks using an unattended, automated system.

4.5 Disposition of Non-Conforming Waste. City and Owner shall implement procedures to identify, prevent the delivery of, or reject Non-Conforming Waste delivered to the Facility. If Owner discovers Non-Conforming Waste delivered to the Facility, Owner shall immediately notify City. Notwithstanding the provisions of Section 9.5, such notice may be given either verbally or by facsimile to the office of City's Solid Waste Superintendent. Except as emergency conditions require, or

except as required by the Facility's permits or the Environmental Laws, City shall have the first opportunity to immediately remove such refused or rejected materials. If said Non-Conforming Waste is not removed from the Facility within one business day from the date of Owner's initial notice to City (or, in the event removal within one business day is not possible despite diligent efforts by City, an additional reasonable period of time for City to diligently pursue such removal), Owner may arrange for transportation and disposal of the Non-Conforming Waste, with the reasonable costs thereof to be borne by City. In addition, Owner shall recover from City all other reasonable costs, fines and penalties incurred as the result of the delivery of Non-Conforming Waste to the Facility.

4.6 Title and Ownership. Title, ownership and responsibility for Residual Solid Waste and ADC Material shall pass from City to Owner at the time of unloading and acceptance of the material at the Facility; provided that title, ownership and responsibility for Non-Conforming Waste shall remain with City at all times.

4.7 Days and Hours of Operation. Subject to its permit and Ventura County contractual limits on daily tonnage, Owner shall operate the Facility for the receipt and disposal of Residual Solid Waste in accordance with the following schedule:

4.7.1 Monday through Friday, from 7:00 a.m. to 5:00 p.m., Saturday, from 7:00 a.m. to 4:30 p.m., third Sunday of each month, 10:00 a.m. to 4:00 p.m. Closed on the following holidays: New Year's Day, Thanksgiving Day, Christmas, Memorial Day, Fourth of July, Labor Day. Notwithstanding the above, the Facility will be opened for one-half day on Memorial Day, Fourth of July and Labor Day at no additional cost to City upon seven days' advance written notice from City, provided, however, that City delivers not less than 200 tons of Residual Solid Waste to the Facility. In the event City does not deliver 200

tons of Residual Solid Waste, City shall reimburse Owner the additional cost of such extended operating hours, as determined by Owner in its reasonable judgment.

4.7.2 Subject to conditions in its permits restricting operating hours, and other legal constraints, Owner shall reasonably cooperate with City to receive deliveries at other times, and in particular when necessary because of natural disasters or other special circumstances. The additional cost of such extended operating hours shall be borne by City. Such additional cost shall be mutually agreed upon by both parties in advance.

5 COMPENSATION TO OWNER

5.1 Disposal Fee. For Residual Solid Waste delivered to the Facility and accepted by Owner, City shall pay a Disposal Fee of twenty-two dollars and seventy –five cents ($22.75) per ton, which shall include all fees and charges in effect as of the date of this Agreement except for the Countywide Integrated Waste Management Plan (CIWMP) disposal fee. City shall in addition pay Owner the applicable CIWMP disposal fee, to the extent such fee is or becomes imposed on or payable by the Facility.

5.2 ADC Fee. For ADC Material delivered to the Facility and accepted by Owner, City shall pay an ADC Fee of seventeen dollars ($17.00) per ton, which shall include all fees and charges in effect as of the date of this Agreement except for the Countywide Integrated Waste Management Plan (CIWMP) disposal fee. City shall in addition pay Owner the applicable CIWMP disposal fee, to the extent such fee is or becomes imposed on or payable by the Facility.

5.3 Fee for Other Wastes. Notwithstanding any other provision of this Agreement, City and Owner may make separate agreements as to service and fees relating to waste materials other than Residual Solid Waste or ADC Material, including, but not limited to, Construction Debris, Bulky Waste, Designated Waste, or Yard Waste.

5.4 New or Increased Taxes, Fees and Charges. The Disposal Fee or ADC Fee shall be adjusted from time to time to allow Owner to recover City's pro rata share of any new or increased fees (including the CIWMP disposal fee, to the extent it becomes imposed on or payable by the Facility), assessments or taxes (not including income taxes and ad valorem property or possessory interest taxes, which are the responsibility of Owner) imposed directly on landfill solid waste disposal or use of alternative daily cover by any State, Local or Federal governments after the Effective Date (collectively, the "Additional Fees"), upon thirty day's advance written notice from Owner and a statement of basis for the adjustment; provided, however, that if any new or increased fees imposed specifically on the Facility (and not generally on disposal facilities) results in a Disposal Fee or ADC Fee increase greater than 10%, City shall be entitled to cancel this Agreement by providing written notice to Owner not more than 30 days after City is notified of such increase. City may specify a date of termination not later than 30 days from the date of City's notice. In the event, City elects to terminate this Agreement there shall be no Disposal Fee or ADC Fee increase for the then-remaining term of the Agreement.

5.5 Change in Law. The Disposal Fee or ADC Fee shall be adjusted from time to time to allow Owner to recover City's pro rata share of any increased costs of operation of the Facility arising from a Change in Law, upon thirty day's advance written notice from Owner and a statement of basis for the adjustment; provided, however, that if a change in law imposed specifically on the Facility (and not generally on disposal facilities) results in a Disposal Fee or ADC Fee increase greater than 10%, City shall be entitled to cancel this Agreement by providing written notice to Owner not more than 30 days after City is notified of such

Disposal Fee or ADC Fee increase. City may specify a date of termination not later than 30 days from the date of City's notice. In the event, City elects to terminate this Agreement there shall be no Disposal Fee or ADC Fee increase for the then-remaining term of the Agreement.

5.6 Disposal Fee Annual Adjustment. The annual price adjustment for the Disposal Fee shall be based on the CPI and shall first be effective July 1, 2007 and on July 1 of each subsequent year during the term of this Agreement. The Disposal Fee shall be increased or decreased on July 1 by 90 % of the percentage increase or decrease in the Annual Average CPI for the preceding January to December. These calculations are mathematically and hypothetically illustrated for the first CPI adjustment (July 2007) as follows:

Disposal Fee, June 30, 2006 (Disposal Fee) = $22.75

2006 Annual Average CPI (Jan-Dec) (CPI-2006) = 207.8 (a hypothetical value for example only)
2005 Annual Average CPI (Jan-Dec) (CPI-2005) = 201.8

July 2007 Disposal Fee CPI Adjustment = Disposal Fee x ((CPI-2006 – CPI-2005) ÷ CPI-2005)
= $22.75 x ((207.8 - 201.8) ÷ 201.8)
= $22.75 x 0.029732
= $0.67

July 2007Disposal Fee = Disposal Fee + CPI Adjustment
= $22.75 + $0.67
= $23.42

5.7 ADC Fee Annual Adjustment. The annual price adjustment for the ADC Fee shall be based on the CPI and shall first be effective July 1, 2007 and on July 1 of each subsequent year during the term of this Agreement. The ADC Fee shall be increased or decreased on July 1 by up to 200 % of the percentage increase or decrease in the Annual Average CPI for the preceding January to December. Owner shall determine the exact amount of the adjustment in

its reasonable judgment, considering, among other things, its costs of operations, market factors, its pricing structure for all materials received at the Facility, and the characteristics of the ADC Material delivered by the City.

5.8 Billing and Payment Procedure. On or before the 15th day of each month, Owner shall submit to City an invoice for Disposal Fees covering Residual Solid Waste and ADC Fees covering ADC Material delivered to the Facility during the prior month by City, and for any applicable additional charges as allowed by the terms of this Agreement. Payment shall be due thirty days from City's receipt of the invoice. Owner may charge City interest on past due accounts up to twelve percent (12%) per annum (one percent (1%) per month). If City disputes any amount billed by Owner, City shall provide written objection within twenty (20) days of receipt of the invoice containing the disputed amount. City shall pay any amount not in dispute. The parties shall promptly attempt to resolve any dispute, but in the event the dispute is not resolved, either party may pursue legal action.

6 INDEMNITY AND INSURANCE

6.1 Indemnification of City. Owner shall indemnify defend and hold harmless City and its member agencies, officers, directors, employees, agents, representatives and the members of City's and City's member agencies and legislative bodies, from and against any and all liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses, including without limitation claims based in tort or for death or personal injury, or damage to property or for contribution or indemnity claimed by third parties against City or incurred by City, known or unknown, contingent or otherwise, directly or indirectly, arising from occasioned by, or related to Owner's performance of, or its failure to perform its obligations under this Agreement or under any federal, state or local law, statute, order or regulation, or related in any way to Owner's management of City's Residual Solid Waste at the Facility, including, without limitation, the design, construction, operation (including without limit, the

delivery of waste to, or the acceptance and disposal of Municipal Solid Waste at the Facility) of the Facility, or related to the closure or post-closure maintenance of the Facility. "Liability, demands, claims, costs, losses, damages, recoveries, settlements and expenses", as set forth in this Section, include, without limitation, property damage, bodily injury or death, or any damage to natural resources or the environment (including damages from the release of hazardous substances) or cost of environmental clean-up including those that arise under any federal, state or local law, or regulation, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USCA Section 9601 et. seq.); the Resource Conservation and Recovery Act (42 USCA Section 6901 et. seq.); the Clean Water Act (33 USCA Section 1251 et seq.); the Clean Air Act (42 USCA Section 7401 et. seq.); the Hazardous Substances Account Act (California Health and Safety Code Section 25300 et. seq.); and the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq). Owner shall defend City at Owner's sole cost and expense, including, but not limited to, reasonable attorneys fees, direct litigation costs and expert witness and consultant fees, in any legal or administrative action or proceeding based upon any such liability, demand, claim, cost, loss, damage, recovery, settlement or expense. Owner shall select legal counsel in any matters in which City is indemnified hereunder, subject to the reasonable approval of City. Such legal counsel may also be counsel for Owner. The obligations of Owner set forth in this Section are effective as to contamination, occurring as a "sudden and accidental" event or occurring over a more extended period of time.

Notwithstanding the above, the foregoing indemnity shall not apply to the extent any liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses directly or indirectly, arise from, are occasioned by, or relate to the negligent or intentional acts or omissions of City, or its officers, employees, subcontractors or agents, occurring in the course of City's performance of its obligations under this Agreement, acts or omissions in violation of the Environmental Laws, or the delivery of Non-Conforming Waste to the Facility.

6.2 Indemnification of Owner. City shall indemnify defend and hold harmless Owner and its officers, directors, employees, agents, and representatives from and against any and all liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses, including without limitation claims based in tort or for death or personal injury, or damage to property or for contribution or indemnity claimed by third parties against Owner or incurred by Owner, known or unknown, contingent or otherwise, directly or indirectly, arising from occasioned by, or related to the negligent or intentional acts or omissions of City, or its officers, employees, subcontractors or agents, occurring in the course of its performance of its obligations under this Agreement, including acts or omissions in violation of the Environmental Laws, or the delivery of Non-Conforming Waste to the Facility.

6.3 Insurance. City is self insured under provisions of California Law for amounts up to $1,000,000 for automobile and general liability purposes, and up to $300,000 for workers' compensation purposes. With respect to insurance above these amounts, City is a member of BICEP, an organization of California cities that pool risk. City will, upon written request, provide Contractor such documentation as appropriate to evidence and describe City's insurance arrangements. The City shall promptly inform Owner in the event it terminates its membership in BICEP. The City shall make arrangements for equivalent insurance coverage effective upon the termination of its membership in BICEP, and shall promptly notify Owner of such alternative arrangements in writing.

6.3.1 Owner agrees to maintain:

(a) Minimum Coverage. Insurance coverage for any liability, loss, expense or claim which may arise out of or result from Owner's performance under this Agreement, whether such performance be by Owner or by any contractor of Owner or anyone directly or indirectly employed by Owner or such contractor, or by anyone for whose act Owner may be liable, with the following limits, which limits shall be adjusted every three years by the increase in the Consumer Price Index, using the same formula described for price adjustments in Section 5.4:

(1) General liability insurance, including comprehensive form, premises operation and broad form property damage coverage, with a limit of not less than Two Million Dollars ($2,000,000) combined single limit coverage;

(2) Automobile liability insurance, including comprehensive form, including loading and unloading, owned, hired and non-owned coverage, with a limit of not less than Five Million Dollars ($5,000,000) combined single limit coverage;

(3) Contractual personal injury liability and contractual property damage insurance covering liability assumed under this Agreement, with a limit of not less than Two Million Dollars ($2,000,000) combined single limit coverage;

(4) Workers' compensation insurance as required by law; and

(5) Employer's Liability Insurance with a limit of not less that One Million Dollars ($1,000,000).

(b) Certificates. City is self insured, with excess coverage and pool participation as provided under California Law. City agrees to provide Owner with information concerning City's self insured provisions upon written request by Owner. Certificates of Owner's insurance acceptable to City shall be filed with City prior to commencement of any operation or performance under this Agreement. The certificates shall state that City, its City Council, officers, employees, agents and volunteers are additional insureds for coverage in (1), (2) and (3) above, that the insurance afforded shall be primary insurance, and that coverage afforded under the policies will not be canceled until at least thirty (30) days' prior written notice has been given to City.

6.3.2 Each subcontractor performing services pursuant to this Agreement shall be covered by the above policies, respectively, or by a separate policy or policies having the same limits, terms and conditions.

6.3.3 Owner shall provide the above coverages with an insurance carrier having an A.M. Best's rating of A VII or higher.

6.3.4 Maintenance of proper insurance coverages by Owner is a material element of this Agreement. Owner's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered as a material breach of this Agreement.

7 DEFAULT BY CITY

7.1 Right to Suspend or Terminate Upon Default. City shall be in default under this Agreement, and Owner shall have the right to suspend or terminate this Agreement, in the event City fails to perform its obligations under this Agreement and fails to cure such breach within thirty (30) days after receiving notice from Owner specifying the breach; provided that if the nature of

the breach is such that it will reasonably require more than thirty (30) days to cure, City shall not be in default so long as it promptly commences action required to cure the breach within ten (10) calendar days after receipt of such notice and continues such performance diligently until the cure is completed. Notice of default shall be in writing and delivered to the representative of City designated in Section 9.5.

7.2 Owner's Remedies Cumulative. Owner's rights to suspend or terminate this Agreement under Section 7.1 are not mutually exclusive, and Owner's exercise of one such right shall not constitute an election of remedies. Instead, they shall be in the alternative and in addition to any and all other legal and equitable rights and remedies that Owner may have.

8 DEFAULT BY OWNER.

8.1 Right to Suspend or Terminate Upon Default. Owner shall be in default under this Agreement and City shall have the right to suspend or terminate this Agreement in the event Owner fails to accept and dispose of Residual Solid Waste or ADC Material as required by Section 4 or otherwise fail to perform its obligations under this Agreement and fails to cure such breach within thirty (30) days after receiving notice from City specifying the breach, provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, Owner shall not be in default so long as Owner commences action required to cure the breach within ten (10) calendar days after receipt of such notice and continues such performance diligently until the cure is completed. Notice of default shall be in writing and delivered to the representative of Owner designated in Section 9.5.

8.2 City's Remedies Cumulative. City's rights to suspend or terminate this Agreement under Section 8.1 are not mutually exclusive, and City's exercise of one such right shall not constitute an election of remedies. Instead, they shall be in the alternative and in addition to any and all other legal and equitable rights and remedies that City may have.

9 OTHER AGREEMENTS OF THE PARTIES

9.1 Relationship of Parties. The parties intend that Owner shall perform the services required by this Agreement as an independent contractor engaged by City and not as an officer or employee of City nor as a partner of or joint venturer with City. No employee or agent of Owner shall be or shall be deemed to be an employee or agent of City. Except as expressly provided herein, Owner shall have the exclusive control over the manner and means of conducting the Residual Solid Waste disposal services performed under this Agreement and all persons performing such services. Owner shall be solely responsible of acts and omissions of its officers, employees, subcontractors, and agents. Neither Owner, nor its officers employees, subcontractors or agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to City's employees by virtue of their employment with City.

9.2 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

9.3 Parties in Interest. Nothing in this Agreement, whether express or implied, is intended to confer any right on any Persons other than the parties to it and their representatives, successors and permitted assigns.

9.4 Waiver. The waiver by either party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach of violation of the same or any other provision. The subsequent acceptance by either party of any moneys that become due hereunder shall not be deemed to be a waiver of any pre-existing or concurrent breach or violation by the other party of any provision of this Agreement.

9.5 Notice. Except as provided otherwise herein, any notice required under this Agreement shall be made either by personal delivery or by registered or certified mail, return receipt requested, and shall be deemed given upon personal delivery or within three (3) days of mailing. Notices shall be given to the parties at the following addresses:

To Owner:

District Manager
Simi Valley Recycling and Disposal Facility
2801 N. Madera Road
Simi Valley, CA 93065-6208

With a Copy to:

Western Group General Counsel
Waste Management of California, Inc.
7025 N. Scottsdale Road
Suite 200
Scottsdale, AZ 85253

To City:

City of Oxnard
Environmental Resources Manager
111 South Del Norte Blvd.
Oxnard, CA 93030

With a Copy To:

City of Oxnard
City Attorney
305 West Third Street
Oxnard, CA 93030

Either party may change the location of individuals for receipt of notices hereunder by providing written notice to the other party as aforesaid.

9.6 Approvals. Except as provided otherwise herein, whenever this Agreement calls for the consent, review, approval, action or permission of a party, such party shall act reasonably under the circumstances, and such consent, review, approval, action or permission shall not be arbitrarily or unreasonably taken, given, withheld, exercised or delayed.

9.7 Force Majeure.

9.7.1 Neither Owner nor City shall be in default of its obligations under this Agreement in the event, and for so long as, it is impossible or impracticable for it to perform its obligations due to an "act of God" (including, but not limited to, flood, earthquake or other similar catastrophic events), war, insurrection, riot, acts of any government (including judicial action), condemnation or other taking by a governmental entity, Change in Law, labor unrest (including but not limited to strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by Owner's employees or directed at Owner or third parties) or other similar causes which are not the fault of, and beyond the reasonable control of, the party claiming excuse from performance.

9.7.2 Any interruption or discontinuance of Owner's ability to accept and dispose of Residual Solid Waste caused by one or more of the events described in this section shall not constitute an event of default by Owner under this Agreement.

9.7.3 If either City's or Owner's performance is affected by any such event, it shall give written notice to the other party as soon as it is reasonably practical and further, shall diligently attempt to resolve such condition.

9.8 Authority of City. City hereby represents it has the power and authority to execute this Agreement and to be bound by the terms and conditions contained herein. City further represents that it has the authority to direct the disposal of Residual Solid Waste to the Facility on behalf of City during the entire Term hereof.

9.9 Other Remedies. In addition to the other remedies expressly provided for elsewhere herein, the parties may exercise any and all rights and remedies provided by law or equity for any breach of this Agreement.

10 MISCELLANEOUS PROVISIONS

10.1 Entire Agreement. This Agreement represents the full and entire agreement between the parties with respect to the matters covered herein and supersedes all prior negotiations and agreements, either written or oral.

10.2 Section Headings. The article headings and section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement and not to alter or affect its provisions.

10.3 Interpretation. This Agreement shall be interpreted and construed reasonably and neither for nor against either party, regardless of the degree to which either party participated in its drafting.

10.4 Amendment. This Agreement may not be modified or amended in any respect except by a writing signed by the parties

10.5 Severability. If any non-material provision of this Agreement is for any reason deemed to be invalid, and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement, which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

10.6 Attorneys' Fees. Subject to the provisions of Section 9.3, the prevailing party in any arbitration or litigation brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with such an action from the other party.

10.7 References to Laws. All references in this Agreement to laws and regulations shall be understood to include such laws and regulations as they may be subsequently amended or rectified, unless other specifically provided. In addition, references to specific governmental agencies shall be understood to include agencies that succeed to or assume the functions they are currently performing.

10.8 Definitions. Capitalized terms used in this Agreement without definitions have the meanings specified in the Definitions section, unless the context clearly requires otherwise.

10.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

10.10 Successors/Assignment. This Agreement shall bind the successors, assigns and legal representatives of the parties. This Agreement may not be assigned by either party without the advance written consent of the other, which consent shall not be withheld unreasonably nor required for an assignment to an affiliate of Owner. In determining whether to grant or withhold consent a party may consider the financial strength of the proposed assignee as compared to the financial strength of the party seeking assignment, the experience and reputation of the assignee in the industry, and such other factors as are commercially reasonable.

IN WITNESS WHEREOF, City and Owner have executed this Agreement as of the date and year first above written.

CITY OF OXNARD

By: _____
Dr. Thomas E. Holden, Mayor

WASTE MANAGEMENT OF CALIFORNIA, INC.

By: _____

Name: MIKE SMITH
Mike Smith
Vice President, Market Area
General Manager

APPROVED AS TO CONTENT:

By: _____
Don A. Smith, Environmental Resource Manager

ATTEST:

By: _____
Daniel Martinez, City Clerk

APPROVED AS TO INSURANCE:

By: _____
Marcie Medina, Risk Manager

APPROVED AS TO FORM:

By: _____
Gary Gillig, City Attorney

APPROVED AS TO CONTENT:

By: _____ for
Ken Ortega, Public Works Director

Agreement No. A-5997

SECOND AMENDMENT TO AGREEMENT FOR SOLID WASTE DISPOSAL SERVICES BETWEEN THE CITY OF OXNARD AND WASTE MANAGEMENT OF CALIFORNIA, INC.

THIS AGREEMENT is made this 20th day of September, 2011 by and between the City of Oxnard, a California municipal corporation ("City") and Waste Management of California, Inc., a California corporation ("Owner"). This Agreement amends the "First Amendment to Agreement For Solid Waste Disposal Services Between the City of Oxnard and Waste Management of California, dated September 25, 2006 ("First Amendment").

RECITALS

WHEREAS, Owner is the owner and operator of the Simi Valley Recycling and Disposal Facility (the "Facility") and City desires to dispose of Residual Solid Waste at the Facility on the terms and subject to the conditions set forth in the First Amendment; and

WHEREAS, Owner agrees to grant such right to dispose of Residual Solid Waste at the Facility on the terms and subject to the conditions set forth in the First Amendment.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained in this Agreement and for other good and valuable consideration, the parties agree as follows.

1. Section 2.1 of the First Agreement is deleted in its entirety and amended to state:

   2.1 Term. The initial Term of this Agreement shall begin as of the Effective Date and shall continue until five (5) years and six (6) months following the Effective Date (the "Initial Term"). Thereafter, this Agreement may be extended beyond the Initial Term

COUNCIL APPROVAL
DATE 9/20/11 AGENDA # I-7

for one or more additional terms (the "Successive Term"), for a time period to be determined by the parties, upon mutual written agreement of the parties made not less than sixty (60) days prior to the end of the Initial Term or any Successive Term.

2. Except as provided herein, all other terms and conditions of the First Amendment remain in full force and effect.

IN WITNESS WHEREOF, City and Owner have executed this Agreement as of the date and year first above written.

CITY OF OXNARD

By: _____ Mayor Pro Tem for
Dr. Thomas E. Holden, Mayor

WASTE MANAGEMENT OF CALIFORNIA, INC.

By: _____

Name: _____
Michael E Smith
Director of Operations

APPROVED AS TO CONTENT:

By: _____
Rob Roshanian, Interim Public Works Director

APPROVED AS TO INSURANCE

_____
James Cameron, Risk Manager

ATTEST:

By: _____
Daniel Martinez, City Clerk

APPROVED AS TO AMOUNT:

_____
Edmund F. Sotelo, City Manager

APPROVED AS TO FORM:

By: _____
Alan Holmberg, City Attorney

Agreement No. A-5997

THIRD AMENDMENT TO AGREEMENT FOR SOLID WASTE DISPOSAL SERVICES BETWEEN THE CITY OF OXNARD AND WASTE MANAGEMENT OF CALIFORNIA, INC.

THIS AGREEMENT is made this 7th day of February, 2012 by and between the City of Oxnard, a California municipal corporation ("City") and Waste Management of California, Inc., a California corporation ("Owner"). This Agreement amends the "First Amendment to Agreement For Solid Waste Disposal Services Between the City of Oxnard and Waste Management of California," dated September 25, 2006 ("First Amendment") and the "Second Amendment to Agreement For Solid Waste Disposal Services Between the City of Oxnard and Waste Management of California," dated September 20, 2011 ("Second Amendment").

RECITALS

WHEREAS, Owner is the owner and operator of the Simi Valley Recycling and Disposal Facility (the "Facility") and City desires to dispose of Residual Solid Waste at the Facility on the terms and subject to the conditions set forth in the First Amendment and Second Amendment, as modified herein; and

WHEREAS, Owner agrees to grant such right to dispose of Residual Solid Waste at the Facility on the terms and subject to the conditions set forth in the First Amendment and Second Amendment, as modified herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained in this Agreement and for other good and valuable consideration, the parties agree as follows.

COUNCIL APPROVAL
DATE: 2/7/12 AGENDA # I-7

1. Section 2.1 of the First Agreement, as modified by the Second Agreement, is deleted in its entirety and amended to state:

   2.1 Term. The initial Term of this Agreement shall begin as of the Effective Date and shall continue until the close of business on January 31, 2013 (the "Initial Term"). Thereafter, this Agreement may be extended beyond the Initial Term for one or more additional terms (the "Successive Term"), for a time period to be determined by the parties, upon mutual written agreement of the parties made not less than sixty (60) days prior to the end of the Initial Term or any Successive Term.

2. Section 5.1 of the First Agreement is deleted in its entirety and amended to state:

   5.1 Disposal Fee.

   5.1.1 Residual Solid Waste Originating in Ventura County or Outside the State of California. For Residual Solid Waste delivered to the Facility and accepted by Owner originating within Ventura County or from outside the State of California, City shall pay a Disposal Fee of twenty-six dollars and twenty-six cents ($26.26) per ton, which shall include all fees and charges in effect as of the date of this Agreement except for the Countywide Integrated Waste Management Plan (CIWMP) disposal fee. City shall in addition pay Owner the applicable CIWMP disposal fee, to the extent such fee is or becomes imposed on or payable by the Facility.

   5.1.2 Residual Solid Waste Originating Outside Ventura County but Within the State of California. For Residual Solid Waste delivered to the Facility and accepted by Owner originating

from outside Ventura County but within the State of California, in addition to the amounts set forth in Section 5.1.1, City shall pay the amount of the Sustainability Fee as set forth in that certain agreement between Owner and County entitled "Addendum Agreement for a Sustainability Fee at the Simi Valley Landfill and Recycling Center," dated July 19, 2011. Currently, the Sustainability Fee is four dollars ($4.00) per ton.

5.1.3 The Sustainability Fee will be charged based on the disposal reporting information submitted by City to Owner and County, which is due no later than 75 days following the end of the previous quarter, as required by 14 CCR sections 18809.1-11. Owner will invoice City for any Sustainability Fee amounts within 15 days from receipt of report, with payment in accordance with Section 5.8.

3. Except as provided herein, all other terms and conditions of the First Amendment and Second remain in full force and effect.

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IN WITNESS WHEREOF, City and Owner have executed this Agreement as of the date and year first above written.

CITY OF OXNARD

Dr. Thomas E. Holden, Mayor

WASTE MANAGEMENT OF CALIFORNIA, INC.

By: Mike Smith

Name: Mike Smith
Vice President, Market Area
General Manager

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO INSURANCE:

James Cameron, Chief Financial Officer

APPROVED AS TO FORM:

Alan Holmberg, City Attorney

APPROVED AS TO AMOUNT:

Karen R Burnham (for)
Edmund F. Sotelo, City Manager

APPROVED AS TO CONTENT:

Rob Roshanian, Interim Public Works Director

Grant Dunne, Project Manager

ACORD™ CERTIFICATE OF LIABILITY INSURANCE 1/1/2013

DATE (MM/DD/YYYY) 12/5/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
LOCKTON COMPANIES, LLC
5847 SAN FELIPE, SUITE 320
HOUSTON TX 77057
866-260-3538

CONTACT NAME:
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: ACE American Insurance Company	22667
INSURER B: Indemnity Insurance Co of North America	43575
INSURER C: ACE Property & Casualty Insurance Co	20699
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
1300299
WASTE MANAGEMENT HOLDINGS, INC. & ALL AFFILIATED, RELATED & SUBSIDIARY COMPANIES INCLUDING:
SIMI VALLEY LANDFILL & RECYCLING CENTER
2801 MADERA ROAD
SIMI VALLEY CA 93065

COVERAGES AJ CERTIFICATE NUMBER: 3501320 REVISION NUMBER: XXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY	Y	Y	HDO G26436886	1/1/2012	1/1/2013	EACH OCCURRENCE	$ 5,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 5,000,000
	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	$ XXXXXXX
	X XCU INCLUDED						PERSONAL & ADV INJURY	$ 5,000,000
	X ISO FORM CG 00011207						GENERAL AGGREGATE	$ 6,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	$ 6,000,000
	POLICY X PRO-JECT X LOC							$
A	AUTOMOBILE LIABILITY	Y	Y	MMT H08692853	1/1/2012	1/1/2013	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$ XXXXXXX
	X ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$ XXXXXXX
	X HIRED AUTOS / X NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$ XXXXXXX
	X MCS-90							$ XXXXXXX
C	X UMBRELLA LIAB / X OCCUR	Y	Y	XOO G25834501	1/1/2012	1/1/2013	EACH OCCURRENCE	$ 15,000,000
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$ 15,000,000
	DED / RETENTION $							$ XXXXXXX
B A A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		Y	WLR C46774735 (AOS)	1/1/2012	1/1/2013	X WC STATU-TORY LIMITS / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N	N/A		WLR C46774747 (CA & MA)	1/1/2012	1/1/2013	E.L. EACH ACCIDENT	$ 3,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below			SCF C4677579A (WI)	1/1/2012	1/1/2013	E.L. DISEASE - EA EMPLOYEE	$ 3,000,000
							E.L. DISEASE - POLICY LIMIT	$ 3,000,000
A	EXCESS AUTO LIABILITY	Y	Y	XTR H08692865	1/1/2012	1/1/2013	COMBINED SINGLE LIMIT $9,000,000 (EACH ACCIDENT)	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES /(Attach ACORD 101, Additional Remarks Schedule, if more space is required)
BLANKET WAIVER OF SUBROGATION IS GRANTED IN FAVOR OF CERTIFICATE HOLDER ON ALL POLICIES WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT WHERE PERMISSIBLE BY LAW. CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED (EXCEPT FOR WORKERS' COMP/EL) WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT. RE: ALL OPERATIONS OF THE NAMED INSURED. ADDITIONAL INSURED IN FAVOR OF CITY OF OXNARD (ON ALL POLICIES EXCEPT WORKERS' COMPENSATION/ EL) WHERE AND TO THE EXTENT AS REQUIRED BY WRITTEN CONTRACT. THE INSURANCE AFFORDED TO THE ADDITIONAL INSURED AS DESCRIBED IN THIS CERTIFICATE OF INSURANCE FOR WORK PERFORMED BY THE NAMED INSURED IS PRIMARY AND NON-CONTRIBUTORY TO ANY SIMILAR COVERAGE MAINTAINED BY THE ADDITIONAL INSURED WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER

3501320

CITY OF OXNARD
SOLID WASTE PROGRAM
111 DEL NORTE BOULEVARD
OXNARD CA 93030

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ADDENDUM AGREEMENT FOR A SUSTAINABILITY FEE AT THE SIMI VALLEY LANDFILL AND RECYCLING CENTER

This Addendum Agreement is made and entered into this 19th day of July, 2011, by and between the COUNTY OF VENTURA ("County") and WASTE MANAGEMENT OF CALIFORNIA, INC. ("Waste Management"), a California corporation.

RECITALS

WHEREAS, the County previously issued Conditional Use Permit No. 3142 ("CUP No. 3142") to Waste Management authorizing the operation of a solid waste facility on real property located at, or about, 2801 Madera Road in the unincorporated area of the County, which CUP currently authorizes Waste Management to maintain a disposal area up to approximately 186 acres, a disposal elevation of approximately 1,118 feet, and a daily tonnage limit for municipal Solid Waste of 3,000 tons and for Recovered Materials of 6,250 tons; and

WHEREAS, Public Resources Code section 40059 and County Ordinance Code sections 4760 through 4760-2 together provide that no person shall operate a solid waste facility in the unincorporated area of the County without first entering into a franchise or contract with the County; and

WHEREAS, Waste Management and the County have entered into an *Agreement for the Operation and Closure of the Simi Valley Landfill and Recycling Center* governing the current operation of a solid waste facility under CUP No. 3142, the current effective version of which was entered into on November 26, 2002, and amended in 2004 and 2005 ("Operating and Closure Agreement"); and

WHEREAS, Waste Management is currently operating a solid waste facility referred to as the Simi Valley Landfill and Recycling Center ("Landfill") at the Madera Road site under the authority of CUP No. 3142 and the Operating and Closure Agreement; and

WHEREAS, the Operating and Closure Agreement provides that it is subject to review and renegotiation when Waste Management applies for a major modification of CUP No. 3142, and Waste Management has, in fact, applied for a major modification which if approved would increase the disposal area from approximately 186 acres to approximately 371 acres, the disposal elevation from approximately 1,118 to 1,270 feet, and the daily tonnage limit for municipal Solid Waste from 3,000 to 6,000 tons and for Recovered Materials from 6,250 tons to 3,250 tons ("Waste Management Expansion Plan"); and

WHEREAS, Waste Management has agreed to this Addendum Agreement as the result of arm's-length negotiations under the authority of Public Resources Code section 40059 and County Ordinance Code sections 4760 through 4760-2, to supplement contractual arrangements to promote waste diversion and energy conservation, and preserve disposal capacity for Ventura County.

NOW, THEREFORE, the County and Waste Management, for, and in consideration of, the covenants and agreements as hereafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, do mutually agree as follows:

ARTICLE 1. INCORPORATION OF TERMS OF OPERATING AND CLOSURE AGREEMENT

Section 1.1 Except to the extent amended herein, the provisions of the Operating and Closure Agreement, as it may be amended from time to time, are incorporated herein as if set forth in full, including, but not limited to, all capitalized terms defined therein, which shall have the same meaning herein.

Section 1.2 To the extent any part of this Addendum Agreement is in conflict with the provisions of the Operating and Closure Agreement, this Addendum Agreement shall prevail. No action required of either party by this Addendum Agreement shall constitute a breach or violation of the Operating and Closure Agreement.

Section 1.3 The above Recitals are hereby incorporated by reference into this Addendum Agreement.

ARTICLE 2. TERM OF ADDENDUM AGREEMENT

Section 2.1 TERM. The term of this Addendum Agreement shall commence with the effective date of CUP No. 3142, Major Modification No. 8 authorizing the Waste Management Expansion Plan, and shall expire at time of Site Closure for the entire Landfill. Notwithstanding the foregoing, should Waste Management, by January 1, 2014, fail to obtain a Solid Waste Facility Permit and Waste Discharge Requirements, Sections 3.1, 3.2, 4.1 and 4.2 of this Addendum Agreement shall be temporarily suspended until the above permits are received, at which time these provisions will be automatically reinstated with no further action required by the parties. Failure to obtain any other permits related to the Waste Management Expansion Plan, including those for the materials recovery facility, office building, co-generation facility or any other use or structure, shall not suspend any obligation of Waste Management under this Addendum Agreement.

Section 2.2 IMPLEMENTATION OF ARTICLES 3 and 4. Implementation of Articles 3 and 4 below shall commence on January 1, 2012.

ARTICLE 3. SUSTAINABILITY FEE

Section 3.1 SUSTAINABILITY FEE.

A. Solid Waste. For Solid Waste received by the Landfill originating from any point outside the geographic boundaries of Ventura County, California, Waste Management shall pay the County a Sustainability Fee as follows:

(1) $4.00 per ton from January 1, 2012, until the date Toland Landfill closes, or December 31, 2029, whichever is sooner; and

(2) $5.00 per ton from January 1, 2030, or the day after Toland Landfill closes, whichever is sooner, and automatically increasing by 2% per year thereafter beginning on January 1 of each subsequent year for the duration of the term.

The Sustainability Fee on Solid Waste shall be paid independent of, and in addition to, any Mandated Fees or other fee or surcharge payable to the County, including but not limited to the general County Surcharge.

B. Recovered Materials. For Recovered Materials received by the Landfill that originate from any point outside the geographic boundaries of Ventura County, California, Waste Management shall pay the County a Sustainability Fee as follows:

(1) 8% of the actual per ton cost charged by Waste Management from January 1, 2012, until the date Toland Landfill closes, or December 31, 2029, whichever is sooner; and

(2) 10% of the actual per ton cost charged by Waste Management from January 1, 2030, or the day after Toland Landfill closes, whichever is sooner, and automatically increasing by 2% per year thereafter beginning on January 1 of each subsequent year for the duration of the term (e.g. in the first subsequent year, the percentage would be 10.2%).

The Sustainability Fee on Recovered Materials shall be paid independent of, and in addition to, any Mandated Fees or other fee payable to the County. Notwithstanding the foregoing, no general County Surcharge shall be payable for Recovered Materials subject to the Sustainability Fee.

As part of the Summary Report required in Section 3.4 below, Waste Management shall provide County documentation to verify all of Waste Management's actual charges for Recovered Materials received at Landfill. To the extent Waste Management cannot provide such documentation for any out-of-County Recovered Materials, all such affected tonnage of Recovered Materials shall be subject to the Sustainability Fee rates payable for Solid Waste stated in section 3.1(A) above.

C. Notwithstanding any provision to the contrary herein, the Sustainability Fee shall not apply to Solid Waste or Recovered Materials originating from outside the State of California.

Section 3.2 MATERIALS EXEMPT FROM SUSTAINABILITY FEE. Notwithstanding section 3.1, the Sustainability Fee shall not apply to:

A. Any Solid Waste or Recovered Materials originating either from within the geographic boundaries of the County or from outside the geographic boundaries of the State of California;

B. In any given quarter, 75,600 tons of Solid Waste originating from outside the geographic boundaries of the County;

C. In any given quarter, 33,338 tons of Recovered Materials originating from outside the geographic boundaries of the County not sorted or processed, and subsequently transported outside the Landfill's boundaries within 90 days of receipt for recycling purposes;

D. Any Solid Waste or Recovered Materials received by the Landfill at no cost as authorized under the Operating and Closure Agreement; or

E. Beginning January 1, 2015, any Recovered Materials received by the Landfill, sorted or processed, and subsequently transported outside the Landfill's boundaries within 90 days of receipt for recycling purposes.

In the event that deliveries of material to the Landfill are less than the exempted amounts set forth in (B) and (C) above in any calendar quarter, the number of tons below the exempted amount may be carried over and applied to subsequent calendar quarters for purposes of calculating the exempted amounts and the Sustainability Fee payment, provided that there will be no carry over to subsequent Calendar Year (January 1- December 31).

Section 3.3 VERIFICATION OF ORIGIN. Prior to operating under the terms of CUP No. 3142, Major Modification No. 8, Waste Management shall establish a tonnage origin verification process to accurately determine the applicability of the Sustainability Fee on all

materials received by the Landfill. The verification reporting process, at a minimum, shall comply with Condition 55(b) of Major Modification No. 8 to CUP No. 3142, and shall include:

A. With respect to non-Ventura County materials recovery facilities ("MRF")/transfer stations: 1) Name of facility 2) Volume of material by origin.

B. With respect to non-Ventura County commercial/account customers, 1) customer/account name 2) volume of material by origin.

C. With respect to Ventura County non-account customers, 1) Name and driver's license number, 2) Vehicle license number, 3) Building and Safety permit number if applicable and 4) Origin of material. Waste Management shall obtain this information on a form provided by the County, to be signed by the customer. The completed forms shall be provided to the County with the quarterly report in accordance with Section 3.4.

Current Disposal Reporting System provides detailed reports from in-County MRF's/transfer stations and Ventura County commercial/account customers and will continue.

Customers in non-compliance with the Landfill's tonnage origin verification process (i.e., providing false or inaccurate information) will be given a notice and written warning for the first offense, and may be denied use of the Landfill after a subsequent offense. Copies of all notices will be provided to the County. County staff may physically audit the Landfill's tonnage origin verification process by providing Waste Management at least three (3) days advance written notification to verify the accuracy of tonnage origin verification methods and data. The County reserves the right to implement reasonable modifications to the Landfill tonnage origin verification process as necessary and Waste Management shall exercise reasonable cooperation in implementing all such modifications.

Section 3.4 QUARTERLY REPORTING. Waste Management shall submit to the *County of Ventura Public Works Agency, Water and Sanitation Department, Integrated Waste Management Division, Attn: Contracts Administration - Simi Valley Landfill* a Sustainability Fee Summary Report ("Summary Report"), as described below, on a quarterly basis no later than 75 days after the close of the preceding quarter, or as soon as the data is received from material recovery facilities ("MRFs") per state reporting timelines. The Summary Report shall contain the information obtained in accordance with Section 3.3, the tonnage of non-Ventura County Solid Waste received, the amounts charged for receipt of non-Ventura County Recovered Materials, and the tonnage of Recovered Materials transported off site. The County reserves the right to implement reasonable modifications to the quarterly reports as necessary and Waste Management shall exercise reasonable cooperation in implementing all such modifications.

Section 3.5 PAYMENT TO COUNTY. Following submittal of the quarterly reports indicated in section 3.4, County shall invoice Waste Management for the Sustainability Fee for

that quarter, and Waste Management shall remit to the County the Sustainability Fee payment within 30 days of receipt of invoice.

Section 3.6 RIGHT TO AUDIT. The County has the right to audit the books and records of Waste Management related to this Addendum Agreement for four (4) immediate past years to verify reporting and payment accuracy.

Section 3.7 EFFECT OF ANNEXATION . Notwithstanding Section 2.1, if the real property on which the Landfill is situated is annexed to any city, Article 3 of this Addendum Agreement shall survive, and Waste Management shall continue to pay the County the full Sustainability Fee provided for in this Addendum Agreement until Site Closure.

In the event an annexation process is initiated, the County agrees that it will enter into good faith negotiations with all parties with the intent to reach agreement on revenue sharing issues which will, at a minimum, keep the County revenue from the Sustainability Fee at the then current level. Thereafter, in the event the parties are unable to reach agreement they then agree to participate in mediation to resolve the revenue sharing issues.

Waste Management does not, by virtue of this Addendum Agreement, waive any rights to request a reconsideration hearing, participate in protest proceedings, or challenge any future boundary change that may be proposed as provided for under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Although Waste Management and the County expressly acknowledge the inability of this Addendum Amendment to conflict with state law, including the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Waste Management and the County nevertheless acknowledge their mutual intent that in the event of annexation or incorporation, and subject to final LAFCO determination, each of their respective obligations to one another under this Addendum Agreement will remain unchanged or substantially similar such that each party remains whole through the life of this Addendum Agreement.

Section 3.8 AUTHORIZATION TO OPERATE. County authorizes Waste Management to operate the Landfill to the full extent allowed under the terms of CUP No. 3142, Major Modification No. 8, subject to any required federal or state approval.

Section 3.9 SEVERANCE. Should any court of competent jurisdiction, or arbitrator with the authority to issue a final and binding award, determine that any provision of this Addendum Agreement is invalid, void, or unenforceable, the remainder of this Addendum Agreement shall not be affected, shall continue in full force and effect, and shall be enforced to the fullest extent permitted by law. In addition, the parties agree to negotiate in good faith to revise this Addendum Agreement to place the parties in the same legal and economic position they would otherwise have occupied in the absence of such determination, to the extent feasible, and in particular to place the County in the same financial position it would have occupied as of the date of any such determination based on its receipt of the County Surcharge, Solid Waste

Control Fee, and Sustainability Fee under the terms and conditions set forth herein. The parties further agree to use best efforts to conclude negotiations and execute an Addendum Agreement within ninety (90) days of the effective date of any final determination.

If the parties do not execute an amended Addendum Agreement within ninety (90) days of the effective date of any final determination that the Sustainability Fee is unenforceable, either party may demand, as of right, that the issue be submitted to a neutral arbitrator, who shall have the authority to make a final and binding amendment to the Addendum Agreement that accomplishes the goals of the parties described above. Time is of the essence. The parties agree to cooperate in an expedited arbitration resulting in a final decision within 30 days of a demand for arbitration.

ARTICLE 4. MISCELLANEOUS FEE ADJUSTMENTS AND SPECIAL PROVISIONS

Section 4.1 REDUCED GENERAL COUNTY SURCHARGE FOR RECOVERED MATERIALS. Notwithstanding anything to the contrary in the Operating and Closure Agreement, beginning on January 1, 2015, the general County Surcharge as applied to Recovered Materials shall: (a) be calculated at 5% of the amount charged by Waste Management; and (b) not apply to Recovered Materials received by the Landfill, sorted, or processed, and subsequently transported outside the Landfill's boundaries within 90 days of receipt for recycling purposes.

Section 4.2 CAP ON GROWTH OF SOLID WASTE CONTROL FEE.

A. Pursuant to County Ordinance Code sections 4703 through 4703-4, solid waste facility operators, haulers, and others must pay a solid waste control fee which collectively is used to pay for the program costs (i.e., operating budget) of the Environmental Health Division of the County's Resource Management Agency. The County establishes the amount of the solid waste control fee annually by resolution. The County agrees that in consideration of Waste Management's promise to pay the charges described elsewhere in this Addendum Agreement, the program costs considered in calculating the solid waste control fee payable by Waste Management in its capacity as operator of the Landfill during the term of this Addendum Agreement will be capped at the amount of program costs used to determine the fiscal year 2010-2011 fee, (i.e., $850,000.00) plus 3% per year thereafter, compounded annually.

B. RELIEF FROM CAP. Should any federal or state law or regulation that is enacted after the effective date of this Addendum Agreement or any legal expenses substantially increase the program costs used to calculate the amount of the County's solid waste control fee, the County may use those additional program costs to adjust the Solid Waste Control Fee notwithstanding anything in this Addendum Agreement to the contrary.

Section 4.3 WASTE MANAGEMENT'S REPRESENTATIONS AND ACKNOWLEDGMENTS.

A. No Negative Fiscal Impact On City Of Simi Valley. Waste Management represents, based on its review of this Addendum and upon execution of this Addendum by both parties, that no reduction in the fees and value of services accruing to the City of Simi Valley under the Memorandum of Understanding (MOU) entered into between Waste Management and the City is required. Waste Management has notified the City of Simi Valley in writing that a reduction is not required. A copy of that letter is attached as Exhibit 1.

B. California Constitution Waste Management has reviewed Articles XIIIC and XIIID of the California Constitution, and in particular those portions of the above Articles added or amended by Proposition 218 and Proposition 26, and acknowledges to the best of its reasonable knowledge and judgment that nothing in the above constitutional provisions affects the applicability or enforceability of the Sustainability Fee as set forth in Sections 3.1 and 3.2 of this Addendum.

Section 4.4 WASTE FLOW. Notwithstanding any provision to the contrary in the Operating and Closure Agreement, the County agrees to include a provision in any future franchise, license, permit, ordinance, or contract authorizing the collection of residential Solid Waste for the Lake Sherwood, Lynn Ranch, Unincorporated Moorpark, Oak Park West, Regency Hills, Santa Susana Knolls, Unincorporated Simi Valley and Yerba Buena service areas requiring that all Solid Waste collected from within these areas be delivered to the Simi Valley Landfill for disposal. With respect to Oak Park West only, in the event that a franchise, license, permit, ordinance, or contract for collection from that service area is issued to a person or entity other than Waste Management, Waste Management agrees to accept Solid Waste from such entity delivered to the Simi Valley Landfill at a rate not to exceed the volume discount rate for greater than 2100 tons per month plus 75% of the difference between the posted gate rate for municipal Solid Waste and the volume discount rate stated above. Waste Management agrees to defend, indemnify and hold the County harmless from and against all claims, damages, costs, and fees or other charges arising from the County's inclusion of this requirement in any such franchise, license, permit, ordinance, or contract.

ARTICLE 5. GENERAL PROVISIONS

Section 5.1 GUARANTY BY WASTE MANAGEMENT, INC. Prior to the effective date, and for all conditions and obligations of this Addendum Agreement, Waste Management shall provide to the Director proof of guaranty by Waste Management, Inc., meaning that company currently traded on the New York Stock Exchange, and its successors in interest, of the performance by Waste Management of each provision of this Addendum Agreement to be performed by Waste Management. Proof of guaranty shall be in the form set forth in Exhibit 2 and a copy of the guaranty must be transmitted to the *County of Ventura Public Works Agency, Water and Sanitation Department, Integrated Waste Management Division, Attn: Contracts Administration - Simi Valley Landfill.*

Section 5.2 COMPLETE AGREEMENT. This Addendum Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. No verbal agreement with any officer, agent, or employee of the County nor any agreement either before or during the execution of this Addendum Agreement shall affect or modify any of the rights granted or obligations assumed herein.

Section 5.3 AMENDMENTS. This Addendum Agreement may not be amended except by a written agreement, signed by both parties, specifically providing that same is an amendment to this Addendum Agreement.

Section 5.4 NO THIRD-PARTY BENEFICIARY ENFORCEMENT. While this Addendum Agreement benefits the public interest throughout Ventura County, it is a contract between only the County and Waste Management and, accordingly, only the County and Waste Management may enforce the contract. No claims, demands, or causes of action by any entity, party, or person claiming to be a third-party beneficiary hereunder are enforceable.

Section 5.5 ARBITRATION. Any controversy or claim arising out of or relating to this Addendum Agreement, or the breach thereof, may be settled by arbitration in accordance with the rules of JAMS or the American Arbitration Association, as modified herein, as the parties may agree. California judicial rules of evidence shall apply to the arbitration proceedings. The arbitration decision shall be decided under and in accordance with California law, supported by a preponderance of the evidence, and in writing in the form of a Statement of Decision pursuant to Code of Civil Procedure section 632. This section 5.5 does not constitute a remedy for or procedure for remedying any disputes between the parties arising out of the issuance or terms and conditions of CUP No. 3142, or any extensions or modifications thereof; for determinations made by a third party, such as the California Department of Resources, Recycling and Recovery (aka CalRecycle); or for any disputes arising out of a condemnation proceeding.

Section 5.6 GOVERNING LAW. This Addendum Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 5.7 SEPARATE AGREEMENT. This Addendum Agreement is separate from, and independent of, any other agreement between the County and Waste Management in effect prior to the effective date of this Addendum Agreement.

Section 5.8 NOTICES. All notices or other communications ("Notice") to be given pursuant to this Addendum Agreement shall be in writing and will be deemed given when mailed by registered or certified United States mail, addressed to the parties as follows:

To County:	County of Ventura Attention: Director, Water and Sanitation Department, Public Works Agency 800 South Victoria Avenue Ventura, California 93009-1600
To Waste Management:	Waste Management of California, Inc. c/o Simi Valley Landfill and Recycling Center Attention: General Manager 2801 Madera Road Simi Valley, California 93062

A change of address or a change in the person or title to which Notice is to be given will be effectuated by Notice to the other party.

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IN WITNESS WHEREOF, the parties voluntarily enter into this Addendum Agreement effective on the date first provided on page one hereof.

WASTE MANAGEMENT OF CALIFORNIA, INC.
A California Corporation

By _____
Larry Metter, Vice President

By _____
Lawrence Galek, Vice President and
Assistant Treasurer

COUNTY OF VENTURA

By _____
LINDA PARKS, Chair
Board of Supervisors

ATTEST: MICHAEL POWERS
Clerk of the Board of Supervisors,
County of Ventura, State of California

By: _____
Deputy Clerk of the Board

Agreement No. A-7618

AMENDED AND RESTATED AGREEMENT FOR SOLID WASTE DISPOSAL SERVICES BETWEEN THE CITY OF OXNARD AND WASTE MANAGEMENT OF CALIFORNIA, INC.

THIS AGREEMENT is made this __ day of November, 2013 by and between the City of Oxnard, a California municipal corporation ("City") and Waste Management of California, Inc., a California corporation ("Owner"). This Agreement amends and restates in its entirety the "Agreement For Solid Waste Disposal Services Between the City of Oxnard and Waste Management of California, dated September 25, 2001 ("Prior Agreement"), the "First Amendment to Agreement For Solid Waste Disposal Services Between the City of Oxnard and Waste Management of California," dated September 25, 2006 ("First Amendment"), the "Second Amendment to Agreement For Solid Waste Disposal Services Between the City of Oxnard and Waste Management of California," dated September 20, 2011 ("Second Amendment"), and the "Third Amendment to Agreement For Solid Waste Disposal Services Between the City of Oxnard and Waste Management of California," dated February 7, 2012 ("Third Amendment").

RECITALS

WHEREAS, Owner is the owner and operator of the Simi Valley Landfill and Recycling Center (the "Facility") and City desires to dispose of Residual Solid Waste and Municipal Solid Waste at the Facility on the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, City may desire to deliver ADC Material and Biosolids to the Facility; and

COUNCIL APPROVAL
DATE: 12-3-13 AGENDA # K-1

WHEREAS, Owner agrees to grant such right to dispose of Residual Solid Waste, Municipal Solid Waste, ADC Material or Biosolids at the Facility on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained in this Agreement and for other good and valuable consideration, the parties agree as follows.

1. DEFINITION OF TERMS

1.1. Agreement. "Agreement" means this "Amended and Restated Agreement between City and Owner for Solid Waste Disposal Services Between the City of Oxnard and Waste Management of California, Inc." dated as of the Effective Date (as defined herein), including all exhibits and attachments, and any amendments hereto.

1.2. ADC Fee. "ADC Fee" means the amount to be charged by Owner for acceptance of ADC Material at the Facility, which shall include all federal, state and local fees imposed on the Facility as of the Effective Date, but shall exclude the County Integrated Waste Management Planning Disposal Fee.

1.3. Alternative Daily Cover Material. "Alternative Daily Cover Material" or "ADC Material" means processed Yard Waste or Construction Debris that is suitable for use as alternative daily cover at the Facility in accordance with the requirements of 27 CCR §20690. In order to qualify as ADC Material, processed Yard Waste must be delivered to the Facility within forty-eight (48) hours of its receipt by the City.

1.4. Biosolids. "Biosolids" means residual solids and semi solids from the treatment of water or wastewater, from which free liquid has been evaporated or otherwise removed, or organic and inorganic non-hazardous grit and screenings captured by mechanical or hydraulic methods, from City's publicly-owned wastewater and water treatment plants,

and which is acceptable for disposal at the Facility.

1.5. City. "City" means the City of Oxnard, a California municipal corporation.

1.6. Bulky Waste. "Bulky Waste" means large appliances, furniture, pipes, poles, large concrete sections, tree stumps and other similar waste materials with weights or volumes that would require additional handling at the landfill.

1.7. CalRecycle. "CalRecycle" means the California Department of Resources, Recycling and Recovery, or any successor state agency.

1.8. CPI. "CPI" means the Consumer Price Index, All Urban Consumers for the Los Angeles, Riverside, Orange County Metropolitan Area, 1982-1984 = 100, published by the U.S. Department of Labor, Bureau of Labor Statistics.

1.9. Change in Law. "Change in Law" means the occurrence of any change in law applicable to the performance of this Agreement as follows:

1.9.1.1. The adoption, promulgation, modification, or change in law, regulation, or judicial or administrative interpretation occurring after the Effective Date which adoption, promulgation, codification, or change affects the performance of this Agreement, other than laws with respect to taxes based on or measured solely by net income, or any unincorporated business, payroll, or employment taxes; or

1.9.1.2. Any action, resolution, order or judgment of any federal, state or local court, administrative agency or governmental body issued after the Effective Date if:

1.9.1.2.1. such action, resolution, order or judgment is not also the result of the willful misconduct or negligent action or inaction of the party relying thereon

or of any third party for whom the party relying thereon is directly responsible; and

1.9.1.2.2. the party relying thereon, unless excused in writing from so doing by the other party, shall make or have made, or shall cause or have caused to be made reasonable efforts in good faith to contest such order or judgment (it being understood that the contesting in good faith of such an order or judgment shall not constitute or be construed as a willful misconduct or negligent action of such party); or

1.9.1.3. Any action, resolution, order or judgment made by a governmental authority or agency having authority over the Facility that imposes new or different material conditions in connection with the issuance, renewal, or modification of any permit or related agreement required for the development or operation of the Facility.

1.10. Construction Debris. "Construction Debris" means waste building materials resulting from construction, remodeling, repair or demolition operations.

1.11. Del Norte Facility. "Del Norte Facility" means the solid waste handling facility owned by City that separates some portion of incoming commingled Municipal Solid Waste into marketable recyclables, or separates mixed recyclables.

1.12. Designated Waste. "Designated Waste" shall have the meaning set forth in Section 13173 of the California Water Code. California Water Code section 13173 provides:

"Designated waste" means either of the following:(a) Hazardous waste that has been granted a variance from hazardous waste management requirements pursuant to Section 25143 of the Health and Safety Code or (b) Nonhazardous waste that consists of, or contains, pollutants that, under ambient environmental conditions at a waste

management unit, could be released in concentrations exceeding applicable water quality objectives or that could reasonably be expected to affect beneficial uses of the waters of the state as contained in the appropriate state water quality control plan.

1.13. Disposal. "Disposal" means the final disposition of Residual Solid Waste hereunder at the Facility or other duly permitted disposal facility

1.14. Disposal Fee. "Disposal Fee" means the amount to be charged by Owner for disposal of Residual Solid Waste, Municipal Solid Waste or Biosolids at the Facility, which shall include all federal, state and local fees imposed on the Facility as of the Effective Date, but shall exclude the County Integrated Waste Management Planning Disposal Fee.

1.15. Effective Date. "Effective Date" is November ___, 2013.

1.16. Environmental Laws. "Environmental Laws" means all federal and state statutes, county and City ordinances concerning public health, safety and the environment including, by way of example and not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Federal Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Emergency Planning and Community Right to Know Act, 42 U. S. C. Section 1101 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the California Hazardous Waste Control Act, California Health & Safety Code Section 25100 et seq.; the California Toxic Substances Account Act, California Health and Safety Code Section 25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code Section 13000 et seq.; the Safe. Drinking Water and Toxic Enforcement Act, California Health and Safety Code Section 25249.5 et seq.; and the California Clean Air Act, Health and Safety Code Sections 39000 et seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

1.17. Facility. "Facility" means the Simi Valley Landfill and Recycling Center in Ventura County, California.

1.18. Garbage. "Garbage" means putrescible animal, fish, food, fowl, fruit or vegetable matter, or any product thereof, resulting from the preparation, storage, handling or consumption of such substances.

1.19. Generator(s). "Generator(s)" means any person(s) whose act or process initially produces Municipal Solid Waste, Designated Waste, Hazardous Waste, Medical Waste or any other waste product which becomes part of the waste stream.

1.20. Hazardous Waste. "Hazardous Waste" means:

1.20.1.1. All substances defined or characterized as hazardous waste by the Federal Solid Waste Disposal Act (42 U.S.C. Section 3251 et seq.), as amended, including the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) and all further amendments thereto or regulations promulgated thereunder; and

1.20.1.2. All substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by Health and Safety Code Sections 25110.02, 25115, and 25117, and future amendments to recodifications of such statutes or regulations promulgated thereunder, including 23 California Code of Regulations Section 2521; and,

1.20.1.3. Radioactive wastes.

If two or more governmental agencies having concurrent or overlapping jurisdiction over hazardous waste adopt conflicting definitions of "Hazardous Waste", for purposes of

processing and disposal to land, the broader, more encompassing definitions shall be employed for purposes of this Agreement.

1.21. Medical Waste. "Medical Waste" means those materials defined in Health and Safety Code Section 117690 and does not include waste identified as not being medical wastes in Section 117700.

1.22. Municipal Solid Waste. "Municipal Solid Waste" means all putrescible and non-putrescible solid and semi-solid waste material, including but not limited to Garbage, Construction Debris and Rubbish, that is authorized for disposal at the Facility pursuant to the Environmental Laws, the permits or other approvals issued to the Facility, or any contracts between the Owner and any governmental entity having authority over the Facility relating to the operation of the Facility. Municipal Solid Waste does not include Bulky Waste, waste tires, Hazardous Waste, Designated Waste, liquid waste, asbestos, Medical Waste, sewage, sewage sludge, abandoned automobiles, or Yard Waste.

1.23. Non-Conforming Waste. "Non-Conforming Waste" means Bulky Waste, waste tires, Hazardous Waste, Designated Waste, liquid waste, asbestos, Medical Waste, sewage, sewage sludge, abandoned automobiles or Yard Waste; any waste materials not authorized for disposal at the Facility pursuant to (i) the Environmental Laws, (ii) the permits or other approvals issued to the Facility, or (iii) any contracts between the Owner and any governmental entity having authority over the Facility relating to the operation of the Facility; and any waste materials not constituting Municipal Solid Waste as defined herein.

1.24. Owner. "Owner" means Waste Management of California, Inc., which owns and operates the Facility.

1.25. Person. "Person" includes an individual, firm, association, organization, partnership, corporation, joint venture, the United States, the State of California, municipality, political subdivision, governmental agency, or any other entity whatsoever.

1.26. Recycling Facility. "Recycling Facility" means a facility owned or operated by the City located within the City that is a "Recycling Center" as set forth in Title 14, California Code of Regulations, Section 17402.5(d).

1.27. Residual Solid Waste. "Residual Solid Waste" means Municipal Solid Waste remaining for disposal after processing at the Del Norte Facility or at another Recycling Facility.

1.28. Rubbish. "Rubbish" means all waste wood, wood products, printed materials, paper, pasteboard, rags, straw, used and discarded clothing, packaging materials, ashes from residential burning, floor sweepings, and glass.

1.29. Sustainability Fee. "Sustainability Fee" means the fee imposed on the Facility under Article 3 of that certain agreement entitled "Addendum Agreement for a Sustainability Fee at the Simi Valley Landfill and Recycling Center" between Owner and the County of Ventura, dated July 19, 2011, assessed on materials received at the Facility originating from any point outside the geographic boundaries of Ventura County but within the State of California.

1.30. Term. "Term" means the Term of this Agreement, including both the Initial Term and any Successive Term.

1.31. Ton. "Ton" means a short ton of 2,000 pounds avoirdupois.

1.32. Yard Waste. "Yard Waste" means tree trimmings, grass cuttings, dead plants, leaves, branches and dead trees, and similar organic materials, scrap lumber, wood crating, pellets, wood chips, and similar materials.

2. TERM OF AGREEMENT

2.1. Term. The initial Term of this Agreement shall begin as of the Effective Date and shall continue until the close of business on November 14, 2020 (the "Initial Term"). Thereafter, this Agreement may be extended beyond the Initial Term for one or more additional terms (the "Successive Term"), for a time period to be determined by the parties, upon mutual written agreement of the parties made not less than sixty (60) days prior to the end of the Initial Term or any Successive Term.

2.2. Effect of Prior Agreement and Amendments. Commencing on the Effective Date, the parties shall have no further rights or obligations under the Prior Agreement or the First Amendment, Second Amendment, or Third Amendment, except that any indemnity obligations based on claims arising during the effective period of the Prior Agreement and First Amendment, Second Amendment or Third Amendment shall survive their expiration.

2.3. Termination for Convenience. Notwithstanding any provision to the contrary, both the City and Owner may terminate this Agreement for convenience, without cause or penalty, upon sixty (60) days written notice to the other. Owner is obligated to carry out all obligations under this Agreement up to and including the date of termination for convenience and the City is obligated to pay Owner for amounts due and owing under this Agreement up to and including the date of termination for convenience. Nothing herein is intended to and nothing herein shall be construed to restrict the parties' rights in the event of a default. In the event of a default, the parties' rights shall be determined by applicable law, applied to the terms and provisions of this Agreement.

2.4. Regular Meetings. During the Term, Owner and City shall upon request by either, meet to discuss issues of service at the Facility, as well as any other issues that may arise under this Agreement.

3. RIGHTS AND OBLIGATIONS OF CITY

3.1. Residual Solid Waste; Municipal Solid Waste.

3.1.1. City has the right, but not the obligation, to deliver or cause to be delivered to the Facility Residual Solid Waste from the Del Norte Facility or another Recycling Facility, up to and including the entire amount of Residual Solid Waste Generated at such facilities. City may also deliver other Municipal Solid Waste generated within the City and collected by the City and transported directly to the Facility for Disposal.

3.1.2. As of the date of this Agreement, City estimates the amount of Resiual Solid Waste and Municipal Solid Waste to be delivered to the Facility is approximately 350 tons per calendar day and 10,600 tons per calendar month. This is a non-binding estimate used solely for the purpose of assisting Owner's operation of the Facility. City will use commercially reasonable efforts to deliver Residual Solid Waste and Municipal Solid Waste on a reasonably uniform basis, and further agrees to provide Owner with reasonable notice if it anticipates an increase or decrease of fifty percent (50%) or more by weight in the amount of Residual Solid Waste or Municipal Solid Waste to be delivered on a daily basis.

3.1.3. Deliveries by City will be made by means of (i) transfer trailers originating at the Del Norte Facility, or (ii), solely with respect to Municipal Solid Waste generated within the corporate limits of City, roll-off containers, including double box roll-off containers originating at a location certified as a Recycling Center by CalRecycle, unless the parties agree in writing to other types of transport vehicles or other points of origin.

3.2. Limitation of City's Use of Disposal Facilities. Owner's commitment to accept Residual Solid Waste and Municipal Solid Waste without any delivery commitment, and at the rates set forth in Section 5.1, is expressly predicated and conditioned upon the City's commitment to not utilize any other site for the disposal of these materials other than the Facility or the Toland Road Landfill, owned and operate by the Ventura Regional Sanitation District. This commitment from City is considered as an essential part of the consideration for Owner entering into this Agreement under the terms and conditions set forth herein. During the Initial Term or any Successive Term, City shall not, except as provided in this Section 3.2, directly or indirectly, dispose or cause the disposal of any Residual Solid Waste or Municipal Solid Waste at a disposal site other than the Facility or the Toland Road Landfill. In the event that either of these sites is closed or otherwise become unavailable to City, City shall direct Residual Solid Waste and Municipal Solid waste to the remaining disposal site, to the extent that capacity is available at the remaining disposal site. City may utilize another disposal site in the event that the Facility and Toland Road Landfill, collectively, are unavailable to receive Residual Solid Waste or Municipal Solid Waste generated by the City.

3.3. Alterntive Daily Cover Material. City may deliver and Owner may accept deliveries of ADC Material. Prior to initiating deliveries, City shall notify Owner in writing or by telephone of its desire to deliver ADC Material, and the estimated daily and monthly amounts to be delivered on a daily and monthly basis. Thereafter, the parties agree to undertake good faith negotiation as to the amount of ADC Material that can be delivered and accepted, and the ADC Fee.

3.4. Biosolids.

3.4.1. City's Right to Deliver Biosolids. The City has the right, but not the obligation, to deliver Biosolids to the Facility. Owner's acceptance of Biosolids is subject to City completing and abiding by the terms of a waste profile for the material, demonstrating that the material may be accepted for disposal at the Facility in accordance with

applicable law.

3.4.2. The City shall provide Owner with an estimate of Biosolids to be delivered to the Facility on a daily and monthly basis, and, in addition, shall provide Owner with at least three (3) business days notice if it anticipates a substantial increase (i.e., fifty percent (50%) or more) in the amount of Biosolids to be delivered by City on a daily or monthly basis.

4. OBLIGATIONS OF OWNER

4.1. Residual Solid Waste, Municipal Solid Waste and Biosolids. Owner is obligated to receive the Residual Solid Waste, Municipal Solid Waste and Biosolids delivered to the Facility by City for disposal on each operating day the Facility is open, subject to and in accordance with the terms of this Agreement. Owner shall immediately advise City by telephone or facsimile of any situation, event or circumstance that results in a partial of complete inability to perform Owner's obligation to accept Residual Solid Waste, Municipal Solid Waste or Biosolids delivered to the Facility in accordance with the terms of this Agreement. Owner shall use its best efforts to resume normal operations at the Facility as soon as possible.

4.2. Alternative Daily Cover Material. Owner shall use reasonable efforts to ensure that all ADC Material delivered by the City is utilized as alternative daily cover, and that the City receives diversion credit, consistent with its operational needs for such material.

4.3. Monthly Report. Owner shall provide City with a monthly report regarding the amount of Residual Solid Waste, Municipal Solid Waste, ADC Material and Biosolids delivered to the Facility by City for each month.

4.4. Measurement. Owner shall maintain a scale system at the Facility. Owner shall make available to City the following information with respect to each delivery of Residual Solid Waste, Municipal Solid Waste, ADC Material and Biosolids: (1) calendar date; (2) time of day; (3) vehicle identification; and (4) total number of tons of Residual Solid Waste, Municipal Solid Waste, ADC Material and Biosolids delivered to the Facility and accepted by Owner. All scales and weighing equipment shall be kept in good and accurate condition operating at the standards of accuracy and reliability specified in the California Code of Regulations. The tonnage used to calculate the Disposal Fee and ADC Fee shall be based on the weight of each loaded truck measured at the weight scales described below minus the certified tare weight for each truck. City shall establish the tare weight of each truck, subject to verification by Owner using the Facility scale system. City shall allow Owner to provide a number or device to be inserted in or on each truck that will identify the truck to the scale attendant, or an automated scanner, or to provide such other device or means necessary to identify trucks using an unattended, automated system.

4.5. Disposition of Non-Conforming Waste. City and Owner shall implement procedures to identify, prevent the delivery of, or reject Non-Conforming Waste delivered to the Facility. If Owner discovers Non-Conforming Waste delivered to the Facility, Owner shall immediately notify City. Notwithstanding the provisions of Section 9.5, such notice may be given either verbally or by facsimile to the office of City's Solid Waste Superintendent. Except as emergency conditions require, or except as required by the Facility's permits or the Environmental Laws, City shall have the first opportunity to immediately remove such refused or rejected materials. If said Non-Conforming Waste is not removed from the Facility within one business day from the date of Owner's initial notice to City (or, in the event removal within one business day is not possible despite diligent efforts by City, an additional reasonable period of time for City to diligently pursue such removal), Owner may arrange for transportation and disposal of the Non-Conforming Waste, with the reasonable costs thereof to be borne by City. In addition, Owner shall recover from City all other

reasonable costs, fines and penalties incurred as the result of the delivery of Non-Conforming Waste to the Facility.

4.6. Title and Ownership. Title, ownership and responsibility for Residual Solid Waste and ADC Material shall pass from City to Owner at the time of unloading and acceptance of the material at the Facility; provided that title, ownership and responsibility for Non-Conforming Waste shall remain with City at all times.

4.7. Days and Hours of Operation. Subject to its permit and Ventura County contractual limits on daily tonnage, Owner shall operate the Facility for the receipt and disposal of Residual Solid Waste in accordance with the following schedule:

4.7.1. Monday through Saturday, from 7:00 a.m. to 4:00 p.m., and Sundays as mutually agreed upon. Closed on the following holidays: New Year's Day, Thanksgiving Day, Christmas, Memorial Day, Fourth of July, Labor Day. Notwithstanding the above, the Facility will be opened for one-half day on Memorial Day, Fourth of July and Labor Day at no additional cost to City upon seven days' advance written notice from City, provided, however, that City delivers not less than 400 tons of Residual Solid Waste to the Facility. In the event City does not deliver 400 tons of Residual Solid Waste, City shall reimburse Owner the additional cost of such extended operating hours, as determined by Owner in its reasonable judgment.

4.7.2. Subject to conditions in its permits restricting operating hours, and other legal constraints, Owner shall reasonably cooperate with City to receive deliveries at other times, and in particular when necessary because of natural disasters or other special circumstances. The additional cost of such extended operating hours shall be borne by City. Such additional cost shall be mutually agreed upon by both parties in advance.

5. COMPENSATION TO OWNER

5.1. Disposal Fee.

5.1.1. Residual Solid Waste and Municipal Solid Waste. For Residual Solid Waste and Municipal Solid Waste delivered to the Facility and accepted by Owner, City shall pay a Disposal Fee of $27.07 per ton.

On or before the 10th of each month, City will provide Owner with a report identifying the amount of Residual Solid Waste delivered to the Facility, and the combined amount of Residual Solid Waste directly or indirectly transported for disposal from the Del Norte Facility during the prior calendar month.

The Disposal Fee includes all fees and charges in effect as of the Effective Date, except for the Countywide Integrated Waste Management Plan disposal fee ("CIWMP Fee"). City shall in addition to the amounts set forth above, as adjusted, pay Owner the applicable CIWMP Fee, to the extent such fee is or becomes imposed on or payable by the Facility.

5.1.2. Biosolids. For Biosolids delivered to the Facility and accepted by Owner, City shall pay the Disposal Fee set forth in Section 5.1.1, as adjusted, plus a surcharge of $20.32 per ton for special handling, as adjusted. The Disposal Fee includes all fees and charges in effect as of the Effective Date, except for the CIWMP Fee. City shall in addition to the amounts set forth above, as adjusted, pay Owner the applicable CIWMP Fee, to the extent such fee is applicable or becomes imposed on or payable by the Facility.

5.1.3. Residual Solid Waste, Municipal Solid Waste and Biosolids Originating Outside Ventura County but Within the State of California. For Residual Solid Waste,

Municipal Solid Waste and Biosolids delivered to the Facility and accepted by Owner originating from outside Ventura County but within the State of California, City shall pay the Disposal Fee set forth in Sections 5.1.1 or 5.1.2 (as adjusted), as the case may be, any CIWMP Fee, and in addition the Sustainability Fee. Currently, the Sustainability Fee is four dollars ($4.00) per ton. The Sustainability Fee will be charged based on the disposal reporting information submitted by City to Owner and Ventura County, which is due no later than 75 days following the end of the previous quarter, as required by 14 CCR sections 18809.1-11. Owner will invoice City for any Sustainability Fee amounts within 15 days from receipt of report, with payment in accordance with Section 5.7.

5.2. ADC Fee.

5.2.1. For ADC Material delivered to the Facility and accepted by Owner, City shall pay an ADC Fee in the amount agreed to by the parties in accordance with Section 3.3.

5.2.2. The ADC Fee includes all fees and charges in effect as of the Effective Date, except for the CIWMP Fee. City shall in addition to the amounts set forth above, as adjusted, pay Owner the applicable CIWMP Fee, to the extent such fee is or becomes imposed on or payable by the Facility.

5.2.3. For ADC Material delivered to the Facility and accepted by Owner originating from outside Ventura County but within the State of California, City shall pay the ADC Fee, any CIWMP Fee, and in addition the Sustainability Fee, to the extent applicable. Currently, the Sustainability Fee is eight percent (8%) of the ADC Fee. The Sustainability Fee will be charged based on the disposal reporting information submitted by City to Owner and Ventura County, which is due no later than 75 days following the end of the previous quarter, as required by 14 CCR sections 18809.1-11. Owner will

invoice City for any Sustainability Fee amounts within 15 days from receipt of report, with payment in accordance with Section 5.7.

5.3. Fee for Other Wastes. Notwithstanding any other provision of this Agreement, City and Owner may make separate agreements as to service and fees relating to waste materials other than Residual Solid Waste, Municipal Solid Waste, Biosolids or ADC Material, including, but not limited to, Construction Debris, Bulky Waste, Designated Waste, or Yard Waste.

5.4. New or Increased Taxes, Fees and Charges. The Disposal Fee or ADC Fee shall be adjusted from time to time to allow Owner to recover City's pro rata share of any new or increased fees (to the extent they become imposed on or payable by the Facility), assessments or taxes (not including income taxes and ad valorem property or possessory interest taxes, which are the responsibility of Owner), imposed directly on landfill solid waste disposal or use of alternative daily cover by any State, Local or Federal governments after the Effective Date (collectively, the "Additional Fees"), upon thirty day's advance written notice from Owner and a statement of basis for the adjustment. Notwithstanding the above, if any new or increased fees results in a Disposal Fee increase greater than 10%, City shall have the right within thirty (30) days of receipt of Owner's written notice to request that Owner negotiate in good faith regarding changes in services, or other terms and conditions, to mitigate the impact of the proposed increase. If negotiations are not successfully concluded within sixty (60) days following Owner's receipt of the City's written request, City shall have the right to give a one hundred and eighty (180) day notice of termination and terminate this Agreement. In the event City elects to terminate this Agreement there shall be no Disposal Fee increase for the then-remaining term of the Agreement.

5.5. Change in Law. The Disposal Fee or ADC Fee shall be adjusted from time to time to allow Owner to recover City's pro rata share of any increased costs of operation of the Facility arising from a Change in Law, upon thirty (30) day's advance written notice from

Owner and a statement of basis for the adjustment. Notwithstanding the above, if a change in law results in a Disposal Fee increase greater than 10%, City shall have the right within thirty (30) days of receipt of Owner's written notice to request that Owner negotiate in good faith regarding changes in services, or other terms and conditions, to mitigate the impact of the proposed increase. If negotiations are not successfully concluded within sixty (60) days following Owner's receipt of the City's written request, City shall have the right to give a one hundred and eighty (180) day notice of termination and terminate this Agreement. In the event City elects to terminate this Agreement there shall be no Disposal Fee or ADC Fee increase for the then-remaining term of the Agreement.

5.6. Annual Adjustment. The annual price adjustment for the Disposal Fee shall be based on the CPI and shall first be effective July 1, 2014 and on July 1 of each subsequent year during the term of this Agreement. The Disposal Fee shall be increased on July 1 by the percentage increase in the annual average CPI for the preceding January to December. These calculations are mathematically and hypothetically illustrated for the first CPI adjustment (July 2014) as follows in Exhibit A.

5.7. Billing and Payment Procedure. On or before the 20th day of each month, Owner shall submit to City an invoice for Disposal Fees and ADC Fees, and for any applicable additional charges as allowed by the terms of this Agreement for the prior calendar month, except for the Sustainability Fee. The Sustainability Fee will be invoiced separately in accordance with Sections 5.1.3 and 5.2.3. Payment shall be due thirty (30) days from City's receipt of the invoice. Owner may charge City interest on past due accounts up to twelve percent (12%) per annum (one percent (1%) per month). If City disputes any amount billed by Owner, City shall provide written objection within twenty (20) days of receipt of the invoice containing the disputed amount. City shall pay any amount not in dispute. The parties shall promptly attempt to resolve any dispute, but in the event the dispute is not resolved, either party may pursue legal action.

Invoices related to Residual Solid Waste, Municipal Solid Waste, ADC Material and other materials will be submitted to:

City of Oxnard
Solid Waste Superintendent
111 S. Del Norte Blvd.
Oxnard, CA 93030

Invoices related to Biosolids will be submitted to:

City of Oxnard
Wastewater Superintendent
6001 Perkins Road
Oxnard, CA 93033

6. INDEMNITY AND INSURANCE

6.1. Indemnification of City. Owner shall indemnify defend and hold harmless City and its member agencies, officers, directors, employees, agents, representatives and the members of City's and City's member agencies and legislative bodies, from and against any and all liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses, including without limitation claims based in tort or for death or personal injury, or damage to property or for contribution or indemnity claimed by third parties against City or incurred by City, known or unknown, contingent or otherwise, directly or indirectly, arising from occasioned by, or related to Owner's performance of, or its failure to perform its obligations under this Agreement or under any federal, state or local law, statute, order or regulation, or related in any way to Owner's management of City's Residual Solid Waste at the Facility, including, without limitation, the design, construction, operation (including without limit, the delivery of waste to, or the acceptance and disposal of Municipal Solid Waste at the Facility)

of the Facility, or related to the closure or post-closure maintenance of the Facility. "Liability, demands, claims, costs, losses, damages, recoveries, settlements and expenses", as set forth in this Section, include, without limitation, property damage, bodily injury or death, or any damage to natural resources or the environment (including damages from the release of hazardous substances) or cost of environmental clean-up including those that arise under any federal, state or local law, or regulation, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USCA Section 9601 et. seq.); the Resource Conservation and Recovery Act (42 USCA Section 6901 et. seq.); the Clean Water Act (33 USCA Section 1251 et seq.); the Clean Air Act (42 USCA Section 7401 et. seq.); the Hazardous Substances Account Act (California Health and Safety Code Section 25300 et. seq.); and the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq). Owner shall defend City at Owner's sole cost and expense, including, but not limited to, reasonable attorneys fees, direct litigation costs and expert witness and consultant fees, in any legal or administrative action or proceeding based upon any such liability, demand, claim, cost, loss, damage, recovery, settlement or expense. Owner shall select legal counsel in any matters in which City is indemnified hereunder, subject to the reasonable approval of City. Such legal counsel may also be counsel for Owner. The obligations of Owner set forth in this Section are effective as to contamination, occurring as a "sudden and accidental" event or occurring over a more extended period of time.

Notwithstanding the above, the foregoing indemnity shall not apply to the extent any liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses directly or indirectly, arise from, are occasioned by, or relate to the negligent or intentional acts or omissions of City, or its officers, employees, subcontractors or agents, occurring in the course of City's performance of its obligations under this Agreement, acts or omissions in violation of the Environmental Laws, or the delivery of Non-Conforming Waste to the Facility.

6.2. Indemnification of Owner. City shall indemnify defend and hold harmless Owner and its officers, directors, employees, agents, and representatives from and against any and all liability, demands, claims, costs, losses, damages, recoveries, settlements, and expenses, including without limitation claims based in tort or for death or personal injury, or damage to property or for contribution or indemnity claimed by third parties against Owner or incurred by Owner, known or unknown, contingent or otherwise, directly or indirectly, arising from occasioned by, or related to the negligent or intentional acts or omissions of City, or its officers, employees, subcontractors or agents, occurring in the course of its performance of its obligations under this Agreement, including acts or omissions in violation of the Environmental Laws, or the delivery of Non-Conforming Waste to the Facility.

6.3. Insurance.

6.3.1. City is self insured under provisions of California Law for amounts up to $1,000,000 for automobile and general liability purposes, and up to $300,000 for workers' compensation purposes. With respect to insurance above these amounts, City is a member of BICEP, an organization of California cities that pool risk. City will, upon written request, provide Owner such documentation as appropriate to evidence and describe City's insurance arrangements. The City shall promptly inform Owner in the event it terminates its membership in BICEP. The City shall make arrangements for equivalent insurance coverage effective upon the termination of its membership in BICEP, and shall promptly notify Owner of such alternative arrangements in writing.

6.3.2. Owner's Minimum Coverage. Owner agrees to maintain Insurance coverage for any liability, loss, expense or claim which may arise out of or result from Owner's performance under this Agreement, whether such performance be by Owner or by any contractor of Owner or anyone directly or indirectly employed by Owner or such contractor, or by anyone for whose act Owner may be liable, with the following limits,

which limits shall be adjusted every three years by the increase in the CPI, using the same formula described for price adjustments in Section 5.6:

6.3.2.1. General liability insurance, including comprehensive form, premises operation and broad form property damage coverage, with a limit of not less than Two Million Dollars ($2,000,000) combined single limit coverage;

6.3.2.2. Automobile liability insurance, including comprehensive form, including loading and unloading, owned, hired and non-owned coverage, with a limit of not less than Five Million Dollars ($5,000,000) combined single limit coverage;

6.3.2.3. Contractual personal injury liability and contractual property damage insurance covering liability assumed under this Agreement, with a limit of not less than Two Million Dollars ($2,000,000) combined single limit coverage;

6.3.2.4. Workers' compensation insurance as required by law; and

6.3.2.5. Employer's Liability Insurance with a limit of not less that One Million Dollars ($1,000,000).

6.3.3. Certificates. City is self insured, with excess coverage and pool participation as provided under California Law. City agrees to provide Owner with information concerning City's self insured provisions upon written request by Owner. Certificates of Owner's insurance acceptable to City shall be filed with City prior to commencement of any operation or performance under this Agreement. The certificates shall state that City, its City Council, officers, employees, agents and volunteers are additional insureds for coverage in 6.3.2.1-3 above, that the insurance afforded shall be primary insurance, and that coverage afforded under the policies will not be canceled until at least thirty (30) days' prior written notice (ten (10) days in the event of cancellation for non-

payment) has been given to City.

6.3.4. Each subcontractor performing services pursuant to this Agreement shall be covered by the above policies, respectively, or by a separate policy or policies having the same limits, terms and conditions.

6.3.5. Owner shall provide the above coverages with an insurance carrier having an A.M. Best's rating of A VII or higher.

6.3.6. Maintenance of proper insurance coverages by Owner is a material element of this Agreement. Owner's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered as a material breach of this Agreement.

7. DEFAULT BY CITY

7.1. Right to Suspend or Terminate Upon Default. City shall be in default under this Agreement, and Owner shall have the right to suspend or terminate this Agreement, in the event City fails to perform its obligations under this Agreement and fails to cure such breach within thirty (30) days after receiving notice from Owner specifying the breach; provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, City shall not be in default so long as it promptly commences action required to cure the breach within ten (10) calendar days after receipt of such notice and continues such performance diligently until the cure is completed. Notice of default shall be in writing and delivered to the representative of City designated in Section 9.5.

7.2. Owner's Remedies Cumulative. Owner's rights to suspend or terminate this Agreement under Section 7.1 are not mutually exclusive, and Owner's exercise of one such right shall not constitute an election of remedies. Instead, they shall be in the alternative and in addition to any and all other legal and equitable rights and remedies that Owner may have.

8. DEFAULT BY OWNER.

8.1. Right to Suspend or Terminate Upon Default. Owner shall be in default under this Agreement and City shall have the right to suspend or terminate this Agreement in the event Owner fails to accept and dispose of Residual Solid Waste or ADC Material as required by Section 4 or otherwise fail to perform its obligations under this Agreement and fails to cure such breach within thirty (30) days after receiving notice from City specifying the breach, provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, Owner shall not be in default so long as Owner commences action required to cure the breach within ten (10) calendar days after receipt of such notice and continues such performance diligently until the cure is completed. Notice of default shall be in writing and delivered to the representative of Owner designated in Section 9.5.

8.2. City's Remedies Cumulative. City's rights to suspend or terminate this Agreement under Section 8.1 are not mutually exclusive, and City's exercise of one such right shall not constitute an election of remedies. Instead, they shall be in the alternative and in addition to any and all other legal and equitable rights and remedies that City may have.

9. OTHER AGREEMENTS OF THE PARTIES

9.1. Relationship of Parties. The parties intend that Owner shall perform the services required by this Agreement as an independent contractor engaged by City and not as an officer or employee of City nor as a partner of or joint venturer with City. No employee or agent of Owner shall be or shall be deemed to be an employee or agent of City. Except as expressly provided herein, Owner shall have the exclusive control over the manner and means of conducting the Residual Solid Waste disposal services performed under this Agreement and all persons performing such services. Owner shall be solely responsible of acts and omissions of its officers, employees, subcontractors, and agents. Neither Owner, nor its officers employees, subcontractors or agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to City's employees by virtue of their employment with City.

9.2. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

9.3. Parties in Interest. Nothing in this Agreement, whether express or implied, is intended to confer any right on any Persons other than the parties to it and their representatives, successors and permitted assigns.

9.4. Waiver. The waiver by either party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach of violation of the same or any other provision. The subsequent acceptance by either party of any moneys that become due hereunder shall not be deemed to be a waiver of any pre-existing or concurrent breach or violation by the other party of any provision of this Agreement.

9.5. Notice. Except as provided otherwise herein, any notice required under this Agreement shall be made either by personal delivery or by registered or certified mail, return

receipt requested, and shall be deemed given upon personal delivery or within three (3) days of mailing. Notices shall be given to the parties at the following addresses:

To Owner:
District Manager
Simi Valley Recycling and Disposal Facility
2801 N. Madera Road
Simi Valley, CA 93065-6208

With a Copy to:
Waste Management—Southern California Market Area
9081 Tujunga Avenue
Sun Valley, CA 91352
Attn: Legal Counsel

To City:

City of Oxnard
Solid Waste Superintendent
111 South Del Norte Blvd.
Oxnard, CA 93030

With a Copy To:

City of Oxnard
City Attorney
300 West Third Street
Oxnard, CA 93030

Either party may change the location of individuals for receipt of notices hereunder by providing written notice to the other party as aforesaid.

9.6. Approvals. Except as provided otherwise herein, whenever this Agreement calls for the consent, review, approval, action or permission of a party, such party shall act reasonably under the circumstances, and such consent, review, approval, action or permission shall not be arbitrarily or unreasonably taken, given, withheld, exercised or delayed.

9.7. Force Majeure.

9.7.1. Neither Owner nor City shall be in default of its obligations under this Agreement in the event, and for so long as, it is impossible or impracticable for it to perform its obligations due to an "act of God" (including, but not limited to, flood, earthquake or other similar catastrophic events), war, insurrection, riot, acts of any government (including judicial action), condemnation or other taking by a governmental entity, Change in Law, labor unrest (including but not limited to strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by Owner's employees or directed at Owner or third parties) or other similar causes which are not the fault of, and beyond the reasonable control of, the party claiming excuse from performance.

9.7.2. Any interruption or discontinuance of Owner's ability to accept and dispose of Residual Solid Waste caused by one or more of the events described in this section shall not constitute an event of default by Owner under this Agreement.

9.7.3. If either City's or Owner's performance is affected by any such event, it shall give written notice to the other party as soon as it is reasonably practical and further, shall diligently attempt to resolve such condition.

9.8. Authority of City. City hereby represents it has the power and authority to execute this Agreement and to be bound by the terms and conditions contained herein. City further represents that it has the authority to direct the disposal of Residual Solid Waste to the Facility on behalf of City during the entire Term hereof.

9.9. Other Remedies. In addition to the other remedies expressly provided for elsewhere herein, the parties may exercise any and all rights and remedies provided by law or equity for any breach of this Agreement.

10. MISCELLANEOUS PROVISIONS

10.1. Entire Agreement. This Agreement represents the full and entire agreement between the parties with respect to the matters covered herein and supersedes all prior negotiations and agreements, either written or oral.

10.2. Section Headings. The article headings and section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement and not to alter or affect its provisions.

10.3. Interpretation. This Agreement shall be interpreted and construed reasonably and neither for nor against either party, regardless of the degree to which either party participated in its drafting.

10.4. Amendment. This Agreement may not be modified or amended in any respect except by a writing signed by the parties

10.5. Severability. If any non-material provision of this Agreement is for any reason deemed to be invalid, and unenforceable, the invalidity or unenforceability of such provision

shall not affect any of the remaining provisions of this Agreement, which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

10.6. Attorneys' Fees. Subject to the provisions of Section 9.3, the prevailing party in any arbitration or litigation brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with such an action from the other party.

10.7. References to Laws. All references in this Agreement to laws and regulations shall be understood to include such laws and regulations as they may be subsequently amended or rectified, unless other specifically provided. In addition, references to specific governmental agencies shall be understood to include agencies that succeed to or assume the functions they are currently performing.

10.8. Definitions. Capitalized terms used in this Agreement without definitions have the meanings specified in the Definitions section, unless the context clearly requires otherwise.

10.9. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

10.10. Successors/Assignment. This Agreement shall bind the successors, assigns and legal representatives of the parties. This Agreement may not be assigned by either party without the advance written consent of the other, which consent shall not be withheld unreasonably nor required for an assignment to an affiliate of Owner. In determining whether to grant or withhold consent a party may consider the financial strength of the proposed assignee as compared to the financial strength of the party seeking assignment, the experience and reputation of the assignee in the industry, and such other factors as are commercially reasonable.

IN WITNESS WHEREOF, City and Owner have executed this Agreement as of the date and year first above written.

CITY OF OXNARD

By: _____
Tim Flynn, Mayor

ATTEST:

By: _____
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

By: _____ For
Stephen M. Fischer, Interim City Attorney

APPROVED AS TO CONTENT:

By: _____
Rob Roshanian, Interim Public Works Director

WASTE MANAGEMENT OF CALIFORNIA, INC.

By: _____
Michael E. Smith, Director of Operations

APPROVED AS TO INSURANCE:

By: _____
James Cameron, Chief Financial Officer

APPROVED AS TO AMOUNT:

By: _____
Karen R. Burnham, Interim City Manager

EXHIBIT A

EXAMPLE RATE ADJUSTMENT METHODOLOGY

C PI Adjustment = A x (B-C) / C

A = Disposal Fee, Effective Date (Disposal Fee) = $27.07 (for example, calculation would be made for each rate in the rate matrix)

B= 2013 Annual Average CPI (Consumer Price Index All Urban Consumers Los Angeles-Riverside-Orange County 1982-1984=100) = 242.564(a hypothetical value for example only)

C= 2012 Annual Average CPI (Consumer Price Index All Urban Consumers Los Angeles-Riverside-Orange County 1982-1984=100) = 236.648

July 2014 Disposal Fee CPI Adjustment =

= $27.07 ((242.564 – 236.648) + 236.648)
= $27.07 x 0.025
= $0.68

July 2014 Disposal Fee = Disposal Fee + CPI Adjustment
= $27.07 + $0.68
= $27.75

Amendments to Ventura Regional Sanitation District and Waste Management, Inc. Agreements

Public Works and Transportation Committee
September 22, 2020

Todd Vasquez-Housley
Environmental Resources Division Manager

CITY OF OXNARD CALIFORNIA

RECOMMENDATION

That the Public Works and Transportation Committee recommend that the City Council approve and authorize:

1. The Mayor to execute a Second Amendment to Agreement No. A-5906 with Ventura Regional Sanitation District to extend the term for 90 days ending February 12, 2021 for solid waste disposal;

2. The Mayor to execute a First Amendment to the Amended and Restated Agreement to Agreement No. A-7618 with Waste Management, Inc. to extend the term for 90 days ending February 12, 2021 for solid waste disposal; and

3. The City Manager to extend the terms for an additional 90 days if necessary.

BACKGROUND

- October 1, 2013: Council approved the Ventura Regional Sanitation District (VRSD) Agreement A-5906 for solid waste disposal at the Toland Road Landfill
- December 3, 2013: Council approved the Waste Management (WM) Agreement A-7618 for solid waste disposal at the Simi Valley Landfill
- Both agreements for landfill disposal service expire on November 14, 2020

BACKGROUND

- June 17, 2020: City issued a request for proposal (RFP) to solicit solid waste disposal services
- RFP was sent to:
  - Waste Management, Inc. of the Simi Valley Landfill
  - Ventura Regional Sanitation District of the Toland Road Landfill
  - Waste Connections, Inc. of the Chiquita Canyon Landfill
- RFP was posted on the City's website and www.publicpurchase.com

DISCUSSION

- Prior to July 29, 2020, City received two (2) proposals:
  - Waste Management, Inc.
  - Ventura Regional Sanitation District
- Both proposals presented multiple scenarios of landfill capacities and disposal costs
- Additional time to meet VRSD and WM is needed to clarify and evaluate their proposals
- Ensures the most favorable solid waste disposal contracts

FINANCIAL IMPACT

There is no additional cost to approve the extended term date amendments

All current rates with VRSD and WM shall remain the same

QUESTIONS?

CITY OF OXNARD CALIFORNIA

CITY OF OXNARD CALIFORNIA

PUBLIC WORKS AND TRANSPORTATION COMMITTEE
AGENDA REPORT

REPORTS
AGENDA ITEM NO. D.3

DATE: September 22, 2020

TO: Public Works and Transportation Committee

FROM: Rosemarie Gaglione, Public Works Director, (805) 385-8055, rosemarie.gaglione@oxnard.org

SUBJECT: Caltrans Landscape Maintenance Agreement and Wagon Wheel Reimbursement Agreement. (10/5/5)

RECOMMENDATION

That the Public Works and Transportation Committee recommend the City Council authorize the City Manager to execute:
1. Agreement Number A-8238 between the State of California Department of Transportation (Caltrans) and the City of Oxnard (City) for landscape maintenance within the right-of-way of State Highway 101 within the City; and
2. Agreement Number A-8239 between Wagon Wheel Master Property Owners Association (Master Association) and the Wagon Wheel Community Facilities District (CFD) No. 2018-01, an agency formed by the City for Landscape Maintenance funding.

BACKGROUND

In January 2009, the City Council approved the Village Specific Plan and associated discretionary approvals for the development of the 62-acre former Wagon Wheel property, including Development Agreement (DA) A-7122. The Village Specific Plan provides infrastructure plans, guidelines, standards, and regulations for up to 1,500 dwelling units, 50,300 square feet of commercial development, three (3) public parks, a Multi-Use Path (MUP), open space, infrastructure, roads, a transit center and associated parking. U.S. Highway 101 (U.S. 101) bounds the site to the North, Ventura Road to the West, Oxnard Boulevard to the East, and the Union Pacific Railroad to the South.

On July 28, 2015, the City Council approved a Tentative Subdivision Map for Tract No. 5745-1 and the First Amendment to the DA. The DA was amended to memorialize financial obligations for infrastructure, including the need for the participation of Oakwood Communities, Inc. (the Developer) in stormwater and flood protection, and payment terms and improvements necessary to support the continued redevelopment of the Wagon Wheel project site. The stormwater and flood protection, along with other public infrastructure, would be constructed and maintained through the formation of a Financing District. The following is an excerpt from Paragraph 7(g) in the First Amendment to DA A-7122:

"*Financing Districts*. At City's request, Developer agrees to the formation of one or more Financing Districts to be formed over all or part of the Property in accordance with this Agreement and applicable conditions of approval for Tract No. 5745. If formed, such Financing District or Financing Districts shall include the

Property or a portion thereof within its boundaries for the purpose of funding the planning, design, construction and/or maintenance of public improvements required to be constructed, including, but not limited to: public parks; public landscaping; the Multi-Use Path (MUP), including exercise equipment in the MUP area; the MUP bridge over Oxnard Boulevard; street lights; retaining walls, including the retaining wall on Oxnard Boulevard and Ventura Road; street trees; medians and sidewalks in the and adjacent to the Project; floodwalls, flood improvements, and flood protection facilities; stormwater quality best management practices devices (such as stormwater filters and grassy swales, etc.); Caltrans landscape area(s); school facilities and/or mitigation payments; as well as any other public improvement mutually agreed upon in writing by the City and Developer."

On December 6, 2016, the City Council adopted Resolution No. 14,980, authorizing the California Statewide Communities Development Authority to form the CFD within the City. The purpose of the CFD is to finance public infrastructure facilities, flood protection systems, development of impact fees, and ongoing maintenance costs for public infrastructure, including parks, trails, parkways & medians, Caltrans freeway right-of-way (ROW), lighting, storm drains, floodwalls and flood gates, and internal roadways. The 120 affordable housing units constructed on Lot 11 are exempted from the CFD special tax and are not a part of the CFD. See the boundary map in Attachment 3.

As part of the entitlement approvals, Tract Condition of Approval No. 11 requires the Developer to install landscape and irrigation within the Caltrans freeway ROW. However, Caltrans will only enter into an agreement for the maintenance of landscaping on Caltrans property with a governmental entity. Therefore, the Developer is unable to obtain an agreement for the maintenance of the landscaped area.

In September 2018, the City approved a Development Design Review Permit (DDR; Planning and Zoning Permit No. 16-200-14) for the Wagon Wheel Town Square project, which includes 448 dwelling units, 33,473 square feet of ground-level commercial space in two 6-story residential and mixed-use buildings on Lots 12, 13, and 14. The project design anticipated Caltrans approval for the development of a portion of the MUP on the Caltrans ROW north of Lot 12, which would, in turn, allow a minor modification for the building on Lot 12 to encroach in the rear setback within a foot of the property line. Since the Developer, acting as the applicant with Caltrans, did not have Caltrans approval at the time, a condition was included in the DDR resolution requiring the applicant to redesign the building on Lot 12 to be setback 10 feet from the MUP if Caltrans denied the encroachment. The applicant worked with Caltrans on the MUP design. On July 2, 2020, the applicant received correspondence from Caltrans that the MUP encroachment would be approved contingent on the execution of a Landscape Maintenance Agreement between the City and Caltrans. At this time, construction on Lot 12 cannot move forward in the applicant's approved design until the Landscape Maintenance Agreement is approved.

The Village Specific Plan is currently under development, with several buildings complete and residential units occupied. To date, 1,097 dwelling units and 50,300 square feet of commercial space have been approved for development through the DDR process. Two (2) parks have been completed and are currently open to the public.

DISCUSSION

The recommendation involves two (2) agreements that would allow the Master Association to maintain the Caltrans State Highway ROW of U.S. 101 at Oxnard Boulevard (Caltrans Slope) and other public improvement using CFD funds.

Landscape Maintenance Agreement

Caltrans policy does not allow maintenance agreements with private entities, and Caltrans will not take maintenance responsibility for the MUP and the Caltrans Slope landscaping. Therefore, Caltrans requires that a Landscape Maintenance Agreement be established between Caltrans and a public entity (the City) to ensure maintenance and upkeep of the MUP and landscaping in the Caltrans ROW (Attachment 1). This agreement obligates the City to maintain the landscape area. To offset any cost to the City, through CFD No. 2018-01, the City would enter into a separate reimbursement agreement with the Master Association for the Master Association to maintain the Caltrans ROW and other public improvements with CFD funds. Therefore these two (2) agreements are proposed concurrently.

Under the proposed Landscape Maintenance Agreement, through CFD No. 2018-01, the City would be responsible for the maintenance and upkeep of the installed improvements within the Caltrans ROW. These improvements include landscaping and irrigation, a portion of the MUP, an exercise station, lighting, security cameras, a Caltrans maintenance parking stall, and tube steel fence and gates placed within the Caltrans ROW on southbound U.S. 101, as shown on Exhibit A of the Landscape Maintenance Agreement (Attachment 1). The annual total cost to maintain the areas covered by the Landscape Maintenance Agreement is $23,819, with $4,842 of that amount held in CFD No. 2018-01 reserve for landscape replacement and tree trimming:

DESCRIPTION	**ANNUAL COSTS**
Water	$8,477
Electricity	$360
Landscape	$8,450
Landscape Supplies	$1,690
Reserves:	
Landscape-Irrigation Replacement	$2,817
Tree Trimming	$2,025
TOTAL:	**$23,819**

As discussed above, the improvements within the Caltrans ROW will be maintained by the Master Association through a reimbursement agreement with CFD No. 2018-01.

Reimbursement Agreement between Master Association and CFD

The reimbursement agreement between the Master Association and CFD (Reimbursement Agreement) would allow the CFD to provide funds to the Master Association to perform maintenance work on the Caltrans ROW and maintain other public improvements including the Parks on Lots A, B, and C; landscaping and irrigation on parkways, medians, and traffic circles within the specific plan and fronting Wagon Wheel Road and Oxnard Boulevard; the MUP and associated landscaping, exercise equipment, lighting, and security cameras as specified in Exhibit A of the Reimbursement Agreement (Attachment 2). As specified in Exhibit B of the Reimbursement Agreement (Attachment 2), the total annual maintenance cost associated with the Reimbursement Agreement between the CFD and the Master Association is $382,107. The CFD will also reimburse the City $203,835 for City maintenance of the MUP pedestrian bridge, MUP retaining walls, storm drain units, and flood protection.

The design of the MUP and associated improvements have been approved under DDR PZ Permit No. 17-200-

10. The design of the landscaping improvements on the Caltrans ROW is subject to approval by Caltrans and the Public Works Director or designee.

The Caltrans Landscape Maintenance and Reimbursement Agreements are attached to this report. The proposed agreements have been prepared in consultation with the City Attorney's Office and in coordination with Caltrans and the Developer. Approval of the recommended action authorizes the City Manager to execute the proposed agreements.

The maintenance of the Caltrans property and maintenance of public improvements is consistent with Final Environmental Impact Report No. 2006-03 that was certified in 2008 for the Specific Plan, and the Supplemental Environmental Impact Report No. 2014-01 that was certified in July 2015 in association with Tentative Tract Map 5745, and is not subject to further environmental review.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. This item supports the following goals and objectives:

Goal 3. Strengthen neighborhood development, and connect City, community and culture.

Objective 3a. Create a renewed focus on establishing a positive outlook and orientation of our City, neighborhoods and overall community.

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to establish, preserve and improve our infrastructure and natural resources through effective planning, prioritization, and efficient use of available funding. This item supports the following goals and objectives:

Goal 1. Ensure Master plans for all City infrastructure are current, synchronized and consistent with the General Plan.

Goal 3. Ensure Funding is adequate to meet the goals of the master plans.

Objective 3a. Maximize funding sources.

Objective 3b. Set rates and fees to fully recover cost.

Goal 4. Ensure proper construction and maintenance of infrastructure to provide maximum benefit with lowest life cycle cost following CIP plans.

FINANCIAL IMPACT

There is no cost to the City's General Fund related to approval of the attached agreements. The Developer is responsible for all costs associated with installing the MUP and landscaping improvements in the Caltrans ROW and Village Specific Plan. The CFD will assume all costs for on-going maintenance of the subject Caltrans ROW area, the maintenance of public improvements, and related staff time and overhead, within the boundaries of the CFD identified in Attachment 3.

Prepared by: Adam Smith, Project Manager, Heather Davis, Contract Planner

ATTACHMENTS

1. Agreement No. A-8238 - Landscape Maintenance Agreement
2. Agreement No. A-8239 - Master HOA Reimbursement Agreement
3. Boundary Map - Wagon Wheel CFD
4. Wagon Wheel Maintenance Area
5. Special Districts Map and Legend
6. Presentation - Wagon Wheel CFD Agreements

Agreement No. 8238

LANDSCAPE MAINTENANCE AGREEMENT WITHIN STATE HIGHWAY RIGHT OF WAY ON ROUTE 101 WITHIN THE CITY OF OXNARD

THIS AGREEMENT is made effective this_____day of_____, 20___,__ by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE" and the City of Oxnard; hereinafter referred to as "CITY" and collectively referred to as "PARTIES".

SECTION I

RECITALS

1. PARTIES desire to work together to allocate their respective obligations relative to newly constructed or revised improvements within STATE's right of way by Permit Number 07-20-NMC-0562.

2. This Agreement addresses CITY responsibility for the permitted improvements installed, planting and irrigation, grading, multi-use pathway, exercise stations, multi-use path lighting, security cameras, Caltrans maintenance parking stall, tube steel fence and gates (collectively the "LANDSCAPING"), placed within State Highway right of way on State Route 101, as shown on Exhibit A, attached to and made a part of this Agreement.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

SECTION II

AGREEMENT

1. In consideration of the mutual covenants and promises herein contained, CITY and STATE agree as follows:

   1.1. PARTIES have agreed to an allocation of maintenance responsibilities that includes, but is not limited to, inspection, providing emergency repair, replacement, and maintenance, (collectively hereinafter "MAINTAIN/MAINTENANCE") of LANDSCAPING as shown on said Exhibit "A."

   1.2. When a planned future improvement is constructed and/or a minor revision has been effected with STATE's consent or initiation within the limits of the STATE's right of way herein described which affects PARTIES' division of maintenance responsibility as described herein, PARTIES will agree upon and execute a new dated and revised Exhibit "A" which will be made a part hereof and will thereafter supersede the attached original Exhibit "A" to thereafter become a part of this Agreement. The new exhibit can be executed only upon written consent of the PARTIES hereto acting by and through their authorized representatives. No formal amendment to this Agreement will be required.

2. CITY agrees, at CITY expense, to do the following:

   2.1. CITY may install, or contract, authorizing a licensed contractor with appropriate class of license in the State of California, to install and thereafter will MAINTAIN LANDSCAPING conforming to those plans and specifications (PS&E) pre-approved by STATE.

   2.2. The degree or extent of maintenance work to be performed, and the standards therefore, shall be in accordance with the provisions of Section 27 of the Streets and Highways Code and the then current edition of the State Maintenance Manual.

   2.3. CITY will submit the final form of the PS&E, prepared, stamped and signed by a licensed landscape architect, for LANDSCAPING to STATE's District Permit Engineer for review and approval and will obtain and have in place a valid necessary encroachment permit prior to the start of any work within STATE'S right of way. All proposed LANDSCAPING must meet STATE's applicable standards.

   2.4. CITY shall ensure that LANDSCAPED areas designated on Exhibit "A" are provided with adequate scheduled routine MAINTENANCE necessary to MAINTAIN a neat and attractive appearance.

   2.5. An Encroachment Permit rider may be required for any changes to the scope of work allowed by this Agreement prior to the start of any work within STATE's right of way.

   2.6. CITY contractors will be required to obtain an Encroachment Permit prior to the start of any work within STATE's right of way.

   2.7. To furnish electricity for irrigation system controls, water, and fertilizer necessary to sustain healthy plant growth during the entire life of this Agreement.

   2.8. To replace unhealthy or dead plantings when observed or within 30 days when notified in writing by STATE that plant replacement is required.

   2.9. To prune shrubs, tree plantings, and trees to control extraneous growth and ensure STATE standard lines of sight to signs and corner sight distances are always maintained for the safety of the public.

   2.10. To MAINTAIN, repair and operate the irrigation systems in a manner that prevents water from flooding or spraying onto STATE highway, spraying parked and moving automobiles, spraying pedestrians on public sidewalks/bike lanes, or leaving surface water that becomes a hazard to vehicular or pedestrian/bicyclist travel.

   2.11. To control weeds at a level acceptable to the STATE. Any weed control performed by chemical weed sprays (herbicides) shall comply with all laws, rules, and regulations established by the California Department of Food and Agriculture. All chemical spray operations shall be reported quarterly (Form LA17) to the STATE to: District Maintenance at 100 S Main St Los Angeles, CA 90012.

2.12. To remove LANDSCAPING and appurtenances and restore STATE owned areas to a safe and attractive condition acceptable to STATE in the event this Agreement is terminated as set forth herein.

2.13. To furnish electricity and MAINTAIN lighting system and controls for all street lighting systems (multi-use path lighting and security cameras) installed by and for CITY.

2.14. To inspect LANDSCAPING on a regular monthly or weekly basis to ensure thesafe operation and condition of the LANDSCAPING.

2.15. To expeditiously MAINTAIN, replace, repair or remove from service any LANDSCAPING component that has become unsafe or unsightly.

2.16. To MAINTAIN all sidewalks/bike paths (multi-use pathway, exercise station areas, and new non-access control fencing) within the Agreement limits of the STATE highway right of way, as shown on Exhibit A, at CITY expense. MAINTENANCE includes, but is not limited to, concrete repair, replacement and to grind or patch vertical variations in elevation of sidewalks/bike paths for an acceptable walking and riding surface, and the removal of dirt, debris, graffiti, weeds, and any deleterious item or material on or about sidewalks/bike paths or about the LANDSCAPING in an expeditious manner.

2.17. To MAINTAIN all parking or use restrictions signs encompassed within the area of the LANDSCAPING.

2.18. To allow random inspection of LANDSCAPING, street lighting systems, sidewalks/bike paths and signs by a STATE representative.

2.19. To keep the entire landscaped area policed and free of litter and deleterious material.

2.20. All work by or on behalf of CITY will be done at no cost to STATE.

3. STATE agrees to do the following:

3.1. May provide CITY with timely written notice of unsatisfactory conditions that require correction by the CITY. However, the non-receipt of notice does not excuse CITY from maintenance responsibilities assumed under this Agreement.

3.2. Issue encroachment permits to CITY and CITY contractors at no cost to them.

4. LEGAL RELATIONS AND RESPONSIBILITIES:

4.1. Nothing within the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not party to this Agreement, or affect the legal liability of either PARTY to this Agreement by imposing any standard of care respecting the design, construction and maintenance of these STATE highway improvements or CITY facilities different from the standard of care imposed by law.

4.2. If during the term of this Agreement, CITY should cease to MAINTAIN the LANDSCAPING to the satisfaction of STATE as provided by this Agreement,

STATE may either undertake to perform that MAINTENANCE on behalf of CITY at CITY's expense or direct CITY to remove or itself remove LANDSCAPING at CITY's sole expense and restore STATE's right of way to its prior or a safe operable condition. CITY hereby agrees to pay said STATE expenses, within thirty (30) days of receipt of billing by STATE. However, prior to STATE performing any MAINTENANCE or removing LANDSCAPING, STATE will provide written notice to CITY to cure the default and CIT will have thirty (30) days within which to affect that cure.

4.3 Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE under or in connection with any work, authority or jurisdiction arising under this Agreement. It is understood and agreed that STATE shall fully defend, indemnify and save harmless CITY and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement with the exception of those actions of STATE necessary to cure a noticed default on the part of CITY.

4.4 Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction arising under this Agreement. It is understood and agreed that CITY shall fully defend, indemnify and save harmless STATE and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY under this Agreement.

5. PREVAILING WAGES:

5.1. Labor Code Compliance- If the work performed on this Project is done under contract and falls within the Labor Code section 1720(a)(1) definition of a "public work" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code section 1771. CITY must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7. CITY agrees to include prevailing wage requirements in its contracts for public work. Work performed by CITY'S own forces is exempt from the Labor Code's Prevailing Wage requirements.

5.2. Requirements in Subcontracts - CITY shall require its contractors to include prevailing wage requirements in all subcontracts funded by this Agreement when the work to be performed by the subcontractor is a "public work" as defined in Labor Code Section 1720(a)(1) and Labor Code Section 1771. Subcontracts shall include all prevailing wage requirements set forth in CITY contracts

6. INSURANCE - CITY and its contractors shall maintain in force, during the term of this agreement, a policy of general liability insurance, including coverage of bodily injury liability and property damage liability, naming the STATE, its officers, agents and employees as the additional insured in an amount of $1 million per occurrence and $2 million in aggregate and $5 million in excess. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement.

    6.1. SELF-INSURED - CITY is self-insured. CITY agrees to deliver evidence of self-insured coverage providing general liability insurance, coverage of bodily injury liability and property damage liability, naming the STATE, its officers, agents and employees as the additional insured in an amount of $1 million per occurrence and $2 million in aggregate and $5 million in excess. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement in a form satisfactory to STATE, along with a signed copy of the Agreement.

    6.2. SELF-INSURED using Contractor - If the work performed on this Project is done under contract CITY shall require its contractors to maintain in force, during the term of this agreement, a policy of general liability insurance, including coverage of bodily injury liability and property damage liability, naming the STATE, its officers, agents and employees as the additional insured in an amount of $1 million per occurrence and $2 million in aggregate and $5 million in excess. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement.

7. TERMINATION - This Agreement may be terminated by timely mutual written consent by PARTIES, and CITY's failure to comply with the provisions of this Agreement may be grounds for a Notice of Termination by STATE.

8. TERM OF AGREEMENT -This Agreement shall become effective on the date first shown on its face sheet and shall remain in full force and effect until amended or terminated at any time upon mutual consent of the PARTIES or until terminated by STATE for cause.

PARTIES are empowered by Streets and Highways Code Section 114 & 130 to enter into this Agreement and have delegated to the undersigned the authority to execute this Agreement on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this Agreement.

IN WITNESS WHEREOF, the PARTIES hereto have set their hands and seals the day and year first above written.

THE CITY OF OXNARD

By: _____
TIM B. FLYNN
Mayor

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
TOKS OMISHAKEN
Director of Transportation

Initiated and Approved

By: _____
ALEXANDER NGUYEN
City Manager

By: _____
BARBARA MARQUEZ
Deputy District Director (Interim)
Division of Maintenance

ATTEST:

By: _____
MICHELLE ASCENSION
City Clerk

APPROVED AS TO FORM:

By: _____
STEPHEN FISCHER
City Attorney

Full Agreement (including Exhibits):

https://drive.google.com/file/d/1cMDWaGYI7gaIBVxGC01Scdh8kQg6DeoB/view?usp=sharing

Agreement No. 8239

AGREEMENT FOR USE OF WAGON WHEEL COMMUNITY FACILITIES DISTRICT FUNDS FOR REIMBURSEMENT OF WAGON WHEEL MASTER PROPERTY OWNERS' ASSOCIATION

THIS AGREEMENT is entered into, effective _____, 2020, pursuant to Resolution 14,980, adopted by the City Council of the City of Oxnard at its meeting held on December 6, 2016. This Agreement is between Wagon Wheel Master Association, a California nonprofit mutual benefit corporation organized under the laws of the State of California ("Master Association"), and the Wagon Wheel Community Facilities District No. 18-01 ("District"), a California public agency formed by the City of Oxnard, a municipal corporation of the State of California ("City"). City, District and Master Association are collectively referred to herein as "Parties."

WHEREAS, Master Association has been formed for the purpose of governing the real property which is included within the Tentative Map 5745 area and which is commonly known as "Wagon Wheel" pursuant to the terms of that certain Master Declaration of Covenants, Conditions and Restrictions and establishment of Easements for Wagon Wheel ("Master Declaration"), which powers and obligations include, without limitation, the power to enforce certain mutual obligations of the property owners in a common interest development in the District; and

WHEREAS, the District was established in accordance with California State law for the purpose of, among other things, collecting assessments to fund public improvements benefiting both the members of the Master Association and the surrounding areas; and

WHEREAS, the District and Master Association overlap in their respective geographic areas and in their responsibilities; and

WHEREAS, the Parties agree that the Master Association will be able to more efficiently and economically provide maintenance to certain public improvements within the Master Association.

NOW, THEREFORE, the Parties hereto agree as follows:

1. The Work. The Parties have agreed that Master Association will perform those activities specified in Exhibit A attached hereto and entitled "Maintenance Program" (the "Work"). The Parties have also agreed to a "Budget for Maintenance Program", Exhibit B, attached hereto ("Budget"). Exhibits A, B and the Specimen Maintenance Contract, Exhibit C, are hereby incorporated as though set forth in full. Exhibits A, B and C may be modified by mutual agreement of the designated representative of the District ("District Representative") and the designated representative of the Master Association so long as such modifications do not impact the District's overall financial obligations as set forth in the Budget.

2. Funding. The Master Association will perform the Work during the term of this Agreement in accordance with a schedule specified by the District Representative as reflected in Exhibit D. The District will provide funds to perform all of the Work in a timely manner in accordance with a written funding schedule provided by the Master Association and approved by the City. The Master Association will have no obligation to advance any funds including (but not limited to) funds for insurance, overhead, staging and claims resolution. The full advance receipt of all such funds is a condition precedent to Master Association's obligation to perform the Work. Annually, the Master Association will be required to submit a proposed budget to the City of Oxnard District Representative no later than May 1 of each year or such other date as the parties may agree upon. Notwithstanding any language in this Agreement to the contrary, Oakwood Communities, Inc. agrees to timely advance to District the necessary funds to pay the Master Association for the Work that the Master Association will perform for the first 24 months. No later than 24 months after Oakwood Communities Inc. has advanced such funds to the District, the District shall fully repay the Oakwood Communities Inc. the full amount without interest.

3. Assessment Report. Master Association shall submit an Assessment Report to the District annually on a date and in a format specified by the District Representative which shall be substantially similar to the form attached as Exhibit E to this Agreement.

4. Financial Report. Master Association will prepare a Financial Report with City showing the expenditures made by Master Association which shall be substantially similar to the form attached as Exhibit F to this Agreement. Such Financial Report shall include all information required by the City Auditor or District Representative or his/her appointed representative. The Financial Report will be filed with the City Auditor and District Representative or his/her designee during each year this Agreement is in force. The Financial Report shall be on a schedule specified by the District Representative, but no more frequently than quarterly.

5. Records. The Master Association's financial records relating to the performance of this Agreement shall be kept and maintained in accordance with the generally accepted accounting principles and in the manner and method prescribed by the City Auditor. These records shall be current, complete and available for inspection as deemed necessary by the City Auditor. The Master Association shall provide all reports, documents or information requested or required by the District relating solely to the performance of the obligations under this Agreement within (10) days of a written request from the District Representative or his/her appointed representative to the designated representative of the Master Association unless a longer period of time is reasonably needed for the Master Association to adequately respond.

6. Surplus Funds. The Master Association may accrue a surplus of funds paid by the District to Master Association, but not expended by Master Association, provided that Master

Association identifies such surplus in the Assessment Report and shows the use of the surplus along with other assessment funds that may be used for the Work.

7. Adjustment in Expenditure Categories. Master Association is authorized to adjust expenditures in any expenditure category, provided that:

a. The budgeted total for the relevant period is not exceeded; and
b. prior written approval is obtained from the District Representative; and
c. the change does not exceed 15% of a category total.

8. Total Expenditures. The Master Association may not alter any category such that the total expenditures exceed the total budget or the total assessment revenue available, whichever is greater except for emergency expenditures.

9. Term. The term of this Agreement will commence upon its effective date and will terminate on July 1, 2040. Thereafter, the term will be automatically extended on a year-to-year basis upon annual approval of the Assessment Report and related levy of assessments by the District. During the period in which the Agreement is automatically extended, any Party may terminate this Agreement and any executory rights, duties and liabilities accruing in this Agreement by giving written notice of the election to terminate to the other Parties at least thirty (30) days prior to the end of the City's fiscal year. If this agreement is terminated or not renewed, the obligation for all the Work shall immediately be transferred to the District without further notice or action by Master Association or the City.

10. Payments to Master Association. Subject to the provisions of Section 1, the District will advance to Master Association the total amount needed to fund the Work for the next six months as shown in the Budget. Payments will be made quarterly. If deficiencies are found during the City's monthly site inspections, the Master Association will be notified in writing and invoiced for the deficiency charges, as documented in the City's citation form attached to Exhibit C. Provided that such obligation is provided for in the agreement(s) entered into between the Master Association and its contractors, inspection and compliance costs shall be borne by the Master Association's contractors.

11. No Political Activity. Master Association will not use any of the funds it receives pursuant to this Agreement for any expenses, including administration and overhead, in support of any political activity.

12. Reimbursement to District. If the District forces perform any part of the Work due to a failure of performance by the Master Association, Master Association will reimburse District for all costs incurred by District in providing services specifically requested and approved in writing by the Master Association related to this Agreement. Such costs will be determined and certified by the District Representative or his/her designee and forwarded to the Master Association's designated representative. The City will then invoice the Master Association for the cost of the service, which invoice shall be due within 30 days of receipt.

13. Meeting Notice. Master Association agrees to notify the District Representative of the meeting dates of each meeting of the Board of Directors of Master Association and the District Representative will have the right to attend all meetings of the Board of Directors where the matters to be discussed relate to the performance by the Master Association of the obligations set forth in this Agreement except that in no event shall ether the District or the City be entitled to participate in any executive or closed board meetings of the Board.

14. Master Association Independent. Neither the District nor City nor any of its officers or employees will have any control over the conduct of Master Association or any of its employees, except as provided above, and Master Association expressly warrants not in any manner or at any time to represent that its officers, agents, or employees are in any manner the officers, agents, or employees of the District or City, it being distinctly understood that Master Association is and at all times will remain as to the District and City, an independent contractor, and the obligations of Master Association to the District and the City are solely as prescribed by this Agreement.

15. Assignment. Master Association may enter into contracts for the sole purpose of carrying out the Work. This Agreement contemplates that Master Association will be solely responsible for performing the Work, and it is recognized by the Parties that an inducement to District and City for entering into this Agreement was, and is, the ability of Master Association to render these services. Neither this Agreement nor any interest in this Agreement may be assigned by Master Association, the District or City.

16. Comply with Law. As a part of the consideration hereof, Master Association, for itself, personal representatives, successors-in-interest, assignees, and subcontractors, if any, does hereby covenant and agree that, subject to the application of all relevant laws, rules, policies and regulations, including, but not limited to, those relating to discrimination relating to any services or activities furnished pursuant to this Agreement or any subcontract awarded by Master Association, on the basis of race, color, religion, national origin, sex, sexual orientation, AIDS or AIDS related condition, age, disability or handicap, or Vietnam Era veteran status. Master Association shall, as respects the Work, comply with the City's Living Wage Ordinance and, to the extent applicable, to State law requiring the payment of prevailing wage. Additionally, the Master Association will bid out all work, including the maintenance contract, as done for public projects in accordance with State law. All contractors working on public property must have the required state contractor licenses for the particular trade (i.e. C-27 contractor's license required for a landscape maintenance contract). The Master Association defends and indemnifies the City of Oxnard for any claims based on a failure to do so or an error in the process.

17. Notice. Each notice and other communication required or permitted to be given under this Agreement (a "Notice") must be in writing. Notice is duly given to a Party upon (i) its hand delivery to the Party, (ii) its delivery to the Party by facsimile or e-mail when sent to the facsimile number or e-mail address set forth below, as evidenced by a transmission report, (iii)

three (3) business days after the Notice has been deposited with the United States Postal Service as first class certified mail, return receipt requested, postage prepaid, and addressed to the Party as set forth below, or (iv) the next business day after the Notice has been deposited with a reputable overnight delivery service, postage prepaid, addressed to the Party as set forth below with next-business-day delivery guaranteed. The contact information of the proper person to receive any Notices is listed below and may be changed by any party at any time by providing written notice as specified in this Section:

If to the District or City, to:

Special Districts Manager
City of Oxnard
305 West Third Street
Oxnard, California 93030
(805) 385-7430
SpecialDistricts@oxnard.org

With Copies to:

Stephen M. Fischer
City Attorney
City of Oxnard
305 West Third Street
Oxnard, California 93030
(805) 385-7483
Stephen.Fischer@ci.oxnard.ca.us

If to Master Association, to:

Carl Renezeder
OXNARD CRFL PARTNERS, LLC
c/o Oakwood Communities, Inc.
64 Maxwell
Irvine, CA 92618
949-719-9040 ext. 303
949-861-8696 (fax)
Carlr@oakwoodcomm.com

With Copies to:

Mark C. Allen, III
The Claremont Land Group Attorneys
5861 Pine Avenue, Suite A-1

Chino Hills, CA 91709-6540
Tel: (909) 398-4404;
Fax: (909) 398-1883
(909) 333-5254 - Direct
Mark@mcallen3.com

18. Choice of Law. Any disputes arising under this Agreement shall be resolved under the laws of the State of California.

19. Indemnity by Master Association. Master Association shall indemnify, defend and hold District and City including its Council, officers, employees and agents harmless from and against all Claims arising out of or resulting from any gross negligence or willful misconduct on the part of Manager, its employees or agents.

20. Survival of Indemnity. The provisions of Section 19 shall survive termination or non-renewal of this Agreement.

21. Insurance. District may require Master Association to carry liability insurance naming the City and District as additional insureds in such amount and under such terms as the City in its sole and absolute discretion may require. Such insurance shall be at District's sole cost and shall be included as an expense for the Work. Master Association shall not enter into any contract nor perform any of the Work without such insurance being in place and the funds for such insurance are available to Master Association.

22. Default. The failure of any Party to timely perform its obligations under this Agreement, or applicable laws as and when due, shall constitute an "Event of Default" if the defaulting party does not cure such default within 15 days following delivery to the defaulting Party of notice of such default. If the default in question is a non-monetary default that cannot reasonably be cured within that 15-day period, then there shall be no Event of Default so long as the defaulting party commences to cure the default in question within that 30-day period and thereafter diligently and in good faith continues that cure to completion.

23. Remedies. Following an Event of Default, the non-defaulting party shall have the right to exercise all rights and remedies available under this Agreement, the Documents, at law and in equity. If an Event of Default occurs, in addition to all other remedies, the non-defaulting Party shall have the right upon five (5) business days' written notice to terminate this Agreement.

24. Interest. If any amount payable under this Agreement is not paid when due, then that amount and all previously accrued interest, shall bear interest at a rate of 12% percent per annum, compounded daily, until paid in full.

25. Choice of Law. Any disputes arising under this agreement shall be resolved under the laws of the State of California.

26. Severability. In the event that any provision of this Agreement should be held to be void, voidable, or unenforceable, the validity, binding effect and enforceability of the remaining provisions shall remain in full force and effect.

27. Waiver. No obligation in this Agreement may be waived at any time except in a writing signed by the Party granting the waiver, and any such waiver shall be limited to its terms and only be effective on a single occasion.

28. Interpretation. Each party equally participated in the preparation of this Agreement, and in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if it was jointly drafted and no presumption or burden of proof shall arise favoring or disfavoring either one of them by virtue of the individual(s) who drafted any of the provisions in this Agreement.

29. Entire Agreement. This Agreement and the attached exhibits constitute the entire agreement of the Parties and supersede all prior and contemporaneous agreements, representations, and understandings of the Parties (whether they are verbal or written) that pertain to thereto.

30. Acts of God. Except as specifically provided in Section 9, above, no Party shall be in default under this Agreement or liable for any nonperformance that is caused by fire, flood, explosion, war, strike, embargo, or any act, order or requirement of a regulatory body, court or legislature, civil or military authority, Act of God, act or omission of any third Party, or other cause beyond such Party's reasonable control during the period and to the extent that such extraordinary condition delays, impairs or prevents such Party's performance.

31. Counterparts. This Agreement may be signed in counterparts with the same effect as if the signature on each such counterpart were on the same instrument. Facsimiles of signatures shall be deemed to be originals.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed with all the formalities required by law on the respective dates set forth opposite their signature.

[SIGNATURES CONTINUED ON PAGE 8]

Wagon Wheel Master Association, a California nonprofit mutual benefit corporation

_____, 2020

_____
It's President

Wagon Wheel Community Facilities District No. 2018-01, California public agency

_____, 2020

_____-
District Signatory

[SIGNATURES CONTINUED ON PAGE 9]

The City of Oxnard, a Municipal Corporation of the State of California

_____, 2020

_____
Alexander Nguyen, City Manager

The foregoing Agreement is hereby approved as to form this _____ day of

_____, 2020

_____
Stephen Fischer, City Attorney

EXHIBIT A
MAINTENANCE PROGRAM

Maintenance Work, Repair and Replacement to be performed by the City of Oxnard and funded by the CFD

1. Storm water catch basins and filter units, See Exhibit B
2. Flood protection concrete walls and footings
3. Flood protection gate , "Flood Gate", and all appurtenances and equipment
4. Flood protection annual inspection and FEMA certifications
5. Wagon Wheel Road, Spur Drive, Winchester Drive, and Saddle Road street lighting and fixtures, and SCE electric service costs
6. Multi-use Path pedestrian bridge
7. Multi-use Path Retaining Wall adjacent to Oxnard Blvd

Maintenance Work to be performed by the Master Association and funded by the CFD

1. Lot A Park landscape and amenities
2. Lot B Park landscape and amenities
3. Lot C Park landscape and amenities
4. Wagon Wheel Road, Ventura Road, Oxnard Blvd, Winchester Drive, Saddle, and Spur Road landscape irrigation and vegetation parkways, medians, and traffic circles
5. Multi-use Path paving, landscape irrigation and vegetation, amenities, lighting & CCTV.
6. Wagon Wheel Road and Oxnard Blvd Entry landscape and irrigation, lighting, signage, and walls
7. Ventura Road Entry landscape and irrigation, lighting, signage, and walls
8. Caltrans edge landscape and irrigation
9. Cultural preservation elements within CFD areas.

Replacement Costs to be funded by the CFD

1. Lot A Park landscape and amenities
2. Lot B Park landscape and amenities
3. Lot C Park landscape and amenities
4. Wagon Wheel Road landscape parkways, medians, and traffic circle vegetation and irrigation
5. Multi-use Path paving, landscape irrigation and vegetation, amenities and lighting
6. Wagon Wheel Road and Oxnard Blvd Entry landscape and irrigation, signage, lighting, and walls
7. Wagon Wheel and Ventura Road Entry landscape and irrigation, signage, lighting, and walls
8. Caltrans edge landscape and irrigation
9. Cultural preservation elements within CFD areas.

EXHIBIT B
BUDGET FOR MAINTENANCE PROGRAM

EXHIBIT C
SPECIMEN MAINTENANCE CONTRACT

EXHIBIT D
SCHEDULE SPECIFIED BY THE DISTRICT REPRESENTATIVE

EXHIBIT E
FORM OF ASSESSMENT REPORT.

EXHIBIT F
FORM OF FINANCIAL REPORT

EXHIBIT B

Wagon Wheel CFD Annual Budget For Maintenance Program

3-Jun-20

Item	CFD Obligation and Maintenance	Master HOA Maintenance with CFD Funds (Note 1)	City Maintenance with CFD Funds
LANDSCAPE			
Roadway Parkway & Medians	incl	incl	
Oxnard Blvd Parkway & WW Entrance	incl	incl	
Ventura Road Parkway& WW Entrance	incl	incl	
Lot A Park	incl	incl	
Lot B Park	incl	incl	
Lot C Park	incl	incl	
MUP and Exercise Equipment	incl	incl	
Caltrans Edge	incl	incl	
Reserve (not incl MUP underx)	incl	incl	
Landscape Total (Note 2)	$ 382,107.00	$ 382,107.00	
Structures			
Lot 16 and 17 MUP Retaining Walls	$ 1,000.00		$ 1,000.00
MUP Ped Bridge Maintenance/Repairs	$ 9,200.00		$ 9,200.00
STORM DRAIN UNITS			
Labor Crew & Equipment	$ 16,650.00		$ 16,650.00
Disposal	$ 5,500.00		$ 5,500.00
units and filter replacments	$ 18,885.00		$ 18,885.00
FLOOD PROTECTION			
Annual Flood Wall Maintenance/ Inspection	$ 2,750.00		$ 2,750.00
Annual Material Replacement / Labor	$ 14,000.00		$ 14,000.00
Five Year Certification & FEMA Report	$ 4,750.00		$ 4,750.00
Walls and Gate Reserve	$ 91,100.00		$ 91,100.00
Special Districts Admin Costs			
Administrative	$ 10,000.00		$ 10,000.00
Monthly Site Inspections	$ 25,000.00		$ 25,000.00
Budget Administration	$ 5,000.00		$ 5,000.00
Total Annual Budget	**$ 585,942.00**	**$ 382,107.00**	**$ 203,835.00**
# of Units	**1,380**		
Total Assessments/Unit	**$ 424.60**	**$ 276.89**	**$ 147.71**

Note: 1) MHOA for items to be funded by CFD and paid to Master HOA for maintenances purposes
2) Includes budget of $382,107 for maintenance and reserve

	# of units	Assigned Special Tax	Total Budget
Residential Property	559	712	398,008
Apartment Property	821	238	195,398
	1,380	950	593,406

Exhibit C

_____CONTRACT FOR MAINTENANCE OF COMMUNITY FACILITIES DISTRICTS

THIS CONTRACT ("Contract") is made and entered this ___ day of _____, 201_ ("Effective Date"), by and between the _____, a California municipal corporation ("City") and _____ ("Contractor").

In consideration of the covenants set forth herein, the parties hereto agree as follows:

1. Incorporation. The Contract consists of all Contract Documents, which shall include THE General Provisions, Special Provisions, Maps, Standard Plans, Greenbook Standards, Reference Specifications, Bid (including documentation accompanying the Bid and post-Bid documentation submitted before the notice of award), INS-D and all insurance documentation, the City of Oxnard business license, permits from regulatory agencies, and Addenda. These documents are incorporated herein by reference.

2. Scope of Services. Contractor shall perform the Work in a good and workmanlike manner for the Maintenance of the Wagon Wheel Community Facilities District ("Project"), as described in this Contract and in the incorporated Contract Documents. _____ shall remain responsible for any water-conservation goals, requirements, mandates, directives, legislation or rulings (collectively "Regulations"), as may be or become in force at the property serviced by this Agreement. Nothing contained in this Agreement shall serve to shift the burden of compliance with such Regulations on Contractor, or to imply or require that Contractor will be responsible for any or all costs or damages associated with revising the irrigation schedule to accommodate the Regulations (whether such revision has the net effect of less or more irrigation). Contractor is not an agent of the _____; _____ alone shall be responsible for any failure to comply with the Regulations or any of them, any damage caused by or allegedly caused by efforts to comply with or incorporate the Regulations, any and all claims, damages, actions, enforcement proceedings, penalties, assessments, tenders of defense or indemnity asserted by any party.

3. Extra Work. As needed, _____ may contact Contractor to perform work in a good and workmanlike manner for the maintenance of other landscape maintenance districts, some community facilities districts, and/or a waterways assessment district. If Contractor accepts that work either in writing or by beginning any part of the requested work, it shall be paid in accordance with the prices as submitted in its Bid. There is no guarantee of this extra work.

4. Compensation. In consideration of the services rendered hereunder, _____ shall pay Contractor a not to exceed amount of _____ dollars ($_____) in accordance with the prices as submitted in the Bid.

5. Wages. Contractor shall compensate all of its employees in accordance with both the City of Oxnard's Living Wage Policy and State-required prevailing wages. Contractor understands that in the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail.

a. Contractor shall compensate any employee of Contractor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as **Exhibit A**. While this Agreement is in effect, Contractor shall pay such employee no less than $15.51 per hour for each hour that such employee provides services

under this Agreement. This hourly rate shall be adjusted on July 1, 2018, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles, Riverside, Orange County area relating to all urban consumers (CPI-U), index base 1967 + 100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Contractor shall provide to such employee no less than 96 hours of paid leave per calendar year.

b. Contractor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

c. If Contractor fails to compensate such employee pursuant to the Living Wage Policy, _____ shall terminate this Agreement on written notice to Contractor, effective immediately.

d. In addition, if Contractor fails to comply with the Living Wage Policy in any manner, Contractor shall pay to _____ a fine of $500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Contractor shall pay such fine and penalty within 15 days after the _____ provides written notice to Contractor of the amount owed.

e. In accordance with Labor Code Section 1770 et seq., the Project is a "public work." The Contractor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations ("DIR") regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director, and are available to any interested party upon request. The Contractor shall post a copy of the DIR's determination of the prevailing rate of per diem wages at the job site. The Contractor shall comply with all provisions of the Prevailing Wage Requirements, which is attached hereto as **Exhibit B** and incorporated herein by this reference.

6. Workers' Compensation. Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of Labor Code Section 1861, by signing this Contract, the Contractor certifies as follows: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Contract."

7. Titles. The titles used in this Contract are for convenience only and shall in no way define, limit or describe the scope or intent of this Contract or any part of it.

8. Authority. Any person executing this Contract on behalf of Contractor warrants and represents that he or she has the authority to execute this Contract on behalf of Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

9. Entire Agreement. This Contract, including any incorporated documents, constitutes the entire agreement between the parties hereto with respect to the Project, and supersedes all previous agreements, promises, proposals, representations, understandings and negotiations, whether written or oral, between the parties regarding the subject matter.

10. Amendment. No Contract modification, amendment or supplement will be binding unless written and signed by the parties' duly authorized representatives.

11. Counterparts. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A signed copy of this Contract transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Contract for all purposes

IN WITNESS WHEREOF, the parties hereto have executed the Contract on the Effective Date.

Contractor _____ Dated: _____

By: _____ By: _____

Title: _____ Title: _____

Master HOA _____

By: _____

_____ requires the following for any contract: for a corporation or s-corporation, two signatures: (1) the Board President, CEO or Vice President, and (2) the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer; for an LLC, two signatures, both of whom must be managers of the LLC; and for a partnership or limited partnership, the signatures of all partners.

Exhibit INS-B

INSURANCE REQUIREMENTS FOR CONSULTANTS (WITHOUT ERRORS AND OMISSIONS REQUIREMENT)

1 Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

2.1 Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

2.2 Business automobile liability insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto";

2.3 Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than $1,000,000 per claimant.

2 Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements affecting coverage required by this Exhibit INS-B. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

City of Oxnard
Insurance Compliance
Reference No. _____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

3 Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4 Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-B or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available. CG 2010 with an edition date prior to 01/04 <u>and</u> CG 2037).**

5 The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance coverages **(this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6 Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7 All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the isk Manager.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notes of cancellation.**

Endorsement Forms

Original endorsements are required for general liability and automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-B.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [x] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $1,000,000 PRODUCTS COMP/OP AGG. $1,000,000 PERSONAL & ADV. INJURY $1,000,000 EACH OCCURRENCE $1,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION** AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER**				

SAMPLE

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD
Attn: Insurance Compliance
Reference No._____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE

GENERAL LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ coverage. ☐ Per Occurrence

APPLICABILITY This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
☐ COMMERCIAL GENERAL LIABILITY
☐ COMPREHENSIVE GENERAL LIABILITY
☐ OWNERS & CONTRACTORS PROTECTIVE

☐ Claims Made
Retroactive Date _____
☐ Occurrence

OTHER PROVISIONS

COVERAGES

	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
☐ GENERAL		
☐ PRODUCTS/COMPLETED OPERATIONS		
☐ PERSONAL & ADVERTISING INJURY		
☐ FIRE DAMAGE		
☐ _____		
☐ _____		

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:
Name: _____
Address: _____
_____
Telephone: (____)_____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED**. The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.

2. **CONTRIBUTION NOT REQUIRED**. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.

3. **SEVERABILITY OF INTEREST**. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

4. **CANCELLATION NOTICE**. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.

5. **PROVISIONS REGARDING THE INSURED'S DUTIES**. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.

6. **SCOPE OF COVERAGE**. This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Insurance Compliance
Reference No._____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits
☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ☐ Per Occurrence ☐ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

☐ COMMERCIAL AUTO POLICY
☐ BUSINESS AUTO POLICY
☐ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
_____
Telephone: ()____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED**. The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED**. As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST**. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE**. With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES**. Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE**. This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Insurance Compliance
Reference No._____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

EXHIBIT A

LIVING WAGE POLICY

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, a service contractor shall pay those employees who provide services to the City under contract:

   (a) Effective October 1, 2002, at least $9.00 an hour for the time during which the employee is providing services to the City;

   (b) Effective July 1, 2003, at least $9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;

   (c) Effective July 1, 2004, at least $10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and

   (d) Effective July 1, 2005, at least $12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.

2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles, Anaheim, Riverside area relating to all urban consumers.

3. A service contractor executing a service contract with the City for which the City will pay the contractor $25,000 or more during the contract term shall be subject to the Living Wage Policy.

4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is $25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.

5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.

6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.

7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.

8. If a service contractor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.

9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.

10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.

11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.

12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit A. While this Agreement is in effect, Vendor shall pay such employee no less than $15.51 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of $500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2017

a. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **$15.51 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2018, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles, Riverside, Orange County area relating to all urban consumers (CPI-U), index base 1967 + 100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

b. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

c. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

d. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of $500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

e. The foregoing requirements are restated on pages 1 and 2 of the Agreement for Trade Services.

EXHIBIT B: PREVAILING WAGE REQUIREMENTS

1. Contractor acknowledges that the Project defined in the Agreement between Contractor and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Contractor shall perform the Project as a public work. Contractor shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.

2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.

3. Contractor is required to post job site notices, as prescribed by regulation. See Labor Code section 1771.4(a)(2).

4. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Contractor shall, as a penalty to City, forfeit not more than $200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Contractor or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.

5. Contractor shall comply with Labor Code Section 1776, which requires Contractor and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.

6. Contractor shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Before commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. Contractor shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or 1777.7. If Contractor becomes debarred or suspended throughout the duration of the Agreement, Contractor shall immediately notify City.

8. Contractor shall not be qualified to work on the Project unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Contractor shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement.

9. Contractor acknowledges that 8 hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810.

10. Contractor shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Contractor shall, as a penalty to City, forfeit $25 for each worker employed in the performance of this Agreement by Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Contractor's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. Contractor shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Contractor shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Contractor shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent permitted by law, Contractor shall hold harmless, defend (at Contractor's expense with counsel approved by the City Attorney) and indemnify City, its officials, officers, employees, agents and volunteers from and against any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses. All duties of Contractor under this Section shall survive termination of the Agreement.

GENERAL PROVISIONS

SECTION 0. GREENBOOK

0-1 INCORPORATION.

The 2015 edition of, and the 2016 Supplement to, the Standard Specifications for Public Works Construction (collectively the "Greenbook" or "SSPWC") other than Parts 2 through 7, are incorporated herein by this reference with the exception of those Sections listed within these General Provisions as not incorporated. Unless otherwise stated herein, the language of these General Provisions shall supplement the language in the Greenbook.

ANSI A300 Pruning Standard – American National Standard for Tree Care Operations – Tree, Shrub, and Other Woody Plant Management – Standard Practices (Pruning) ("ANSI A300 Pruning Standard") is incorporated herein by this reference.

0-2 NUMBERING OF GENERAL PROVISIONS.

The numbering in these General Provisions is compatible with the numbering in the Greenbook. Additional standard provisions are in Section 10.

SECTION 1. TERMS, DEFINITIONS, ABBREVIATIONS, UNITS OF MEASURE, AND SYMBOLS

1-1 GENERAL [see Greenbook].

1-2 TERMS AND DEFINITIONS.

Whenever in the Greenbook or in the Contract Documents the following terms are used, they shall be understood to mean the following. These terms are in addition to the terms already listed in the Greenbook.

Calendar Days – See "Days" in Greenbook.

Community Facilities District (CFD) – a type of assessment district.

Contract Term – The time period of the Contract, as listed in Section 10-16 of these General Specifications.

Contract Unit – A single unit of an item of Work.

County – The County of Ventura, California.

Landscape Maintenance District (LMD) – a type of assessment district.

Project – See "Work" in Greenbook.

Project Manager – the project manager assigned by the City to a particular LMD, CFD or Waterways.

Submittal – Any drawing, calculation, specification, data, samples, manuals, requests for substitutes, spare parts, photographs, survey data, traffic control plans, record drawings or

similar items required to be submitted to the City under the terms of the Contract.

Waterways – a type of assessment district.

Whenever in the Greenbook or in the Contract Documents the following terms are used, they shall be understood to mean the following. These terms are already listed in the Greenbook, and the definitions below amend the definitions in the Greenbook.

Agency – _____

Change Order – There shall be no classic "change orders" in this Project in the way that this term is used on public works projects. Any reference to change orders shall actually refer to supplemental agreements, if there are any.

Contract Documents – As defined in Greenbook Section 1-2, but also including the General Provisions, insurance documentation and Contractor's City business license.

Working Day – Any day within the Contract Term that Contractor may work, while conforming to all applicable City ordinances.

1-3 ABBREVIATIONS.

1-3.1 General *[see Greenbook].*

1-3.2 Common Usage *[see Greenbook].*

1-3.3 Institutions.

The institutions listed in Greenbook Section 1-3.3 shall be supplemented by the list below:

Abbreviation	Word or Words
AAN	American Association of Nurserymen
ACI	American Concrete Institute
AGCA	Associated General Contractors of America
AGCC	Associated General Contractors of California
APWA	American Public Works Association
CRSI	Concrete Reinforcing Steel Institute
CSI	Construction Specifications Institute
IEEE	Institute of Electric & Electronic Engineers
NEC	National Electric Code
NFPA	National Fire Protection Association
SSS	State of California Standard Specifications, latest edition, Department of Transportation
SSP	State of California Standard Plans, latest edition, Department of Transportation

1-4 UNITS OF MEASURE [see Greenbook].

1-4.1 General *[see Greenbook].*

1-4.2 Units of Measure and Their Abbreviations *[see Greenbook].*

1-5 SYMBOLS [see Greenbook].

SECTION 2. SCOPE AND CONTROL OF THE WORK

2-1 AWARD AND EXECUTION OF CONTRACT [see Greenbook].

2-2 ASSIGNMENT.

Greenbook Section 2-2 is not incorporated and is replaced with the following:

"No Contract or portion thereof or Notice to Proceed or portion thereof may be assigned without consent of the City Council, except that the Contractor may assign money due or which will accrue to it under the Contract. If given written notice, such assignment will be recognized by the City Council to the extent permitted by law. Any assignment of money shall be subject to all proper withholdings in favor of the City and to all deductions provided for in the Contract. All money withheld, whether assigned or not, shall be subject to being used by the City for completion of the Work, should the Contractor be in default.

Any purported assignment without written consent of the City shall be null, void, and of no effect, and the Contractor shall hold harmless, defend and indemnify the City and its officers, officials, employees, agents and representatives with respect to any claim, demand or action arising from or relating to any unauthorized assignment.

If the City opts to consent to assignment, the City's consent shall be contingent upon: (1) the assignee supplying all of the required insurance in the amounts required in the Contract Documents; (2) a copy of the assignee's City business license; and (3) the license number(s) of the license(s) issued by the California Contractors State License Board, which license(s) is/are required for this Work. Until the assignee supplies all required documentation, an assignment otherwise consented to in writing by the City shall not be effective. Even if the City consents to assignment, no assignment shall relieve the Contractor of liability under the Contract."

2-3 SUBCONTRACTORS [see Greenbook].

2-3.1 General.

Greenbook Section 2-3.1 is not incorporated.

2-3.2 Self Performance

The first sentence of Greenbook Section 2-3.2 shall be completely replaced with the following:

"The Contractor shall perform, with its own organization, Contract Work amounting to one hundred percent (100%) of the Contract Price. No subcontractors may be used in this Work."

2-3.3 Status of Subcontractors.

Greenbook Section 2-3.3 is not incorporated.

2-4 CONTRACT BONDS.

Greenbook Section 2-4 is not incorporated and is replaced with the following:

"No Bonds are required."

2-5 PLANS AND SPECIFICATIONS.

2-5.1 General *[see Greenbook].*

2-5.2 Precedence of the Contract Documents.

Greenbook Section 2-5.2 is not incorporated and is replaced with the following:

"The order of precedence of the documents shall be as follows (with number 1 governing over number 2, etc.):

1. Permits issued by regulatory agencies with jurisdiction.
2. Supplemental Agreements.
3. Contract.
4. Addenda.
5. Notice Inviting Bids.
6. Instructions to Bidders.
7. Bid/ Proposal.
8. General Provisions.
9. Special Provisions.
10. Plans.
11. City Standard Plans.
12. ANSI A300 Pruning Standard.
13. SSP.
14. Greenbook.
15. Reference Specifications.

2-5.3 Submittals *[see Greenbook].*

2-5.3.1 General [see Greenbook].

2-5.3.2 Working Drawings [see Greenbook].

2-5.3.3 Shop Drawings [see Greenbook].

2-5.3.4 Supporting Information [see Greenbook].

2-5.3.5 Installation Instructions [see Greenbook].

2-5.3.6 Manufacturer's Operation, Maintenance, and Warranty Instructions [see Greenbook].

2-6 WORK TO BE DONE.

Greenbook Section 2-6 is not incorporated and is completely replaced with the following:

"Unless otherwise specified, the Contractor shall furnish all materials, equipment, tools, labor, and incidentals necessary to complete the Work in accordance with the Contract Documents."

2-7 SUBSURFACE DATA.

If the City or its consultants have made investigations of subsurface conditions in areas where the Work is to be performed, such investigations shall be deemed made only for the purpose of study and design. It is the Contractor's sole responsibility to determine whether such investigations exist, and the City makes no affirmative or negative representation concerning the existence of such investigations.

The Contractor represents that it has studied the Plans, Specifications and other Contract Documents, and all surveys and investigation reports of subsurface and latent physical conditions, has made such additional surveys and investigations as necessary for the performance of the Work at the Contract Price in accordance with the requirements of the Contract Documents, and has correlated the results of all such data with the requirements of the Contract Documents. No claim of any kind shall be made or allowed for any error, omission or claimed error or omission, in whole or in part, of any geotechnical exploration or any other report or data furnished or not furnished by the City.

2-8 RIGHT-OF-WAY [see Greenbook].

2-9 SURVEYING.

Construction stakes shall be set and stationed by Contractor at its expense. Unless otherwise indicated in the Special Provisions, surveying costs shall be included in the price of items bid. No separate payment will be made. Re-staking and replacement of construction survey markers damaged as a result of the Work, vandalism, or accident shall be at the Contractor's expense.

2-9.1 Permanent Survey Markers.

Greenbook Section 2-9.1 is not incorporated and is completely replaced with the following:

"Pursuant to Division 3, Chapter 15 of the Business and Professions Code, the Contractor shall not disturb survey monuments that 'control the location of subdivisions, tracts, boundaries, roads, streets, or highways, or provide horizontal or vertical survey control' until they have been tied out by a registered land surveyor or registered civil engineer authorized to practice land surveying within the State of California.

The Contractor must preserve and perpetuate existing monuments that control subdivisions, tracts, boundaries, Streets, other rights-of-way, and easements, and those existing monuments that provide survey control, which will be disturbed or removed due to Contractor's Work. Contractor shall provide a minimum of ten (10) Working Days' notice to the Project Manager and either the City Engineer or the Surveyor before disturbance or removal of existing monuments. The City Engineer or the Surveyor shall reset monuments or provide permanent witness monuments and file the required documentation with the County Surveyor pursuant to Business and Professions Code Section 8771."

2-9.2 Survey Service.

Greenbook Section 2-9.2 is not incorporated.

2-9.3 Private Engineers *[see Greenbook].*

2-9.4 Line and Grade *[see Greenbook].*

2-10 AUTHORITY OF THE CITY COUNCIL AND THE PROJECT MANAGER [AMENDED FROM CITY ENGINEER].

The Project Manager shall decide any and all questions that may arise as to the quality and acceptability of materials furnished and Work performed as to the manner of performance and rate of progress of the Work, and any and all questions which may arise as to the interpretation of the Plans and Specifications. The Project Manager shall likewise decide any and all questions as to the acceptable fulfillment of the Contract on the part of the Contractor, and all questions as to claims and compensations.

The Contractor may appeal any such decision made by the Project Manager by emailing the Special Districts Administrator/ Division Manager, copying on that same email the Project Manager, requesting reconsideration of the Project Manager's decision. The appeal must contain: a clear explanation of the decision and how it impacts the Work; a clear explanation of the Contractor's concern regarding this decision; and all relevant facts and references related to this appeal. The appeal must be complete at the time of submission; the appeal may not be supplemented after submission. The Special Districts Administrator/ Division Manager must receive the appeal no later than 5:00 p.m. of the second Calendar Day following the date of the Project Manager's latest notice to the Contractor regarding the decision that Contractor wishes to appeal. The Special Districts Administrator/ Division Manager or his or her representative shall review the email and all other information provided by the Contractor. The Special Districts Administrator/ Division Manager or his or her representative shall email the Contractor the Special Districts Administrator/ Division Manager's decision, which shall be final. The procedures and time limits set forth in this Section are mandatory and are the Contractor's sole and exclusive remedy in event of a decision by the Project Manager with which the Contractor disagrees. The Contractor's failure to fully comply with these procedures constitutes a waiver of any right to further pursue the disagreement regarding the Project Manager's decision, including filing a California Government Code claim or initiating any other legal proceedings.

For the purposes of routine and normal Supervision and coordination of Work, the Project Manager is the City's authorized representative for all Work within the scope of this Contract.

2-11 INSPECTION.

Greenbook Section 2-11 is not incorporated and is replaced with the following:

2-11.1 Weekly Inspections *[additional to the Greenbook].*

Contractor must inspect the entire property weekly and perform all tasks required and referred to in these Specifications.

2-11.2 Monthly Landscape Maintenance Inspections *[additional to the Greenbook].*

City will perform a bi-monthly site inspection with the Contractor. At that time, the City will compile a list utilizing Cappsure, the City's Maintenance Service Report System. These reports will detail landscape-related items that should be performed before the next site inspection. City will schedule the monthly inspections. Contractor must notify Project Manager or his or her representative no less than seven (7) Calendar Days if there is a need to reschedule. All scheduled inspections will proceed with or without the attendance of the Contractor.

SECTION 3. CHANGES IN WORK

3-1 CHANGES REQUESTED BY THE CONTRACTOR – 3-4 CHANGED CONDITIONS.

Greenbook Sections 3-1 through 3-4 are not incorporated.

3-5 DISPUTED WORK [see Greenbook].

SECTION 4. CONTROL OF MATERIALS

4-1 MATERIALS AND WORKMANSHIP [see Greenbook].

4-1.1 General *[see Greenbook].*

4-1.2 Protection of Work and Materials.

The Contractor shall continuously maintain adequate protection of all Contractor's Work from damage. The City will not be held responsible for the care or protection of any material, equipment or parts of Work, except as stated in the Special Provisions.

4-1.3 Inspection Requirements -- 4-1.8 Calibration of Testing Equipment.

Greenbook Sections 4-1.3 through 4-1.8 are not incorporated.

SECTION 5 UTILITIES

5-1 LOCATION.

5-1.1 General *[see Greenbook].*

5-1.2 Payment *[see Greenbook].*

5-1.3 Entry by Utility Owners *[additional to the Greenbook].*

The right is reserved to the owners of public Utilities or franchises to enter the Project site for the purpose of making repairs or changes in their property that may be necessary as a result of the Work as well as any other reason authorized by the City. When the Contract Documents provide for the Utility owners to alter, relocate or reconstruct a Utility, or when the Contract Documents are silent in this regard and the Project Manager determines that the Utility owners must alter, relocate or reconstruct a Utility, the Contractor shall schedule and allow adequate time for those alterations, relocations or reconstructions by the respective Utility owners. City employees and agents shall likewise have the right to enter upon the Project site at any time and for any reason or no reason at all.

5-2 PROTECTION.

If Contractor damages or breaks the Utilities, it will be the Contractor's responsibility to repair the Utility at no cost to the Utility or to the City.

5-3 REMOVAL.

Greenbook Section 5-3 shall not be incorporated and shall be replaced as follows:

"Contractor shall immediately notify the Project Manager in writing of any facilities not identified in the Plans and Specifications that Contractor finds during the prosecution of the Work. After obtaining that written notice, Project Manager will instruct the Contractor as to what should be done with such facilities. Contractor shall not stop Work while waiting for the Project Manager's response; instead, Contractor shall move a reasonable distance from the obstruction to continue Work until Contractor obtains further instruction from the Project Manager. The remaining portion of the existing Utility which is left in place shall be accurately recorded, in elevation and plan, on the control set of Contract Drawings."

5-4 RELOCATION.

The Contractor shall cooperate fully with all Utility forces of the City or forces of other public or private agencies engaged in the relocation, altering, or otherwise rearranging of any facilities that interfere with the progress of the Work. The Contractor shall schedule the Work so as to minimize interference with the relocation, altering, or other rearranging of facilities.

5-5 DELAYS [see Greenbook].

5-6 COOPERATION.

Work may be conducted at or adjacent to the Work site by other contractors during the performance of the Work under this Contract. The Contractor shall conduct its operations so as to cause a minimum of interference with the work of such other contractors, and shall cooperate fully with such contractors to provide continued safe access to their respective portions of the site, as required to perform work under their respective contracts. Compensation for compliance shall be included in the various items of the Work, and no additional compensation shall be allowed therefor.

SECTION 6. PROSECUTION, PROGRESS, AND ACCEPTANCE OF THE WORK

6-1 BASELINE CONSTRUCTION SCHEDULE AND COMMENCEMENT OF THE WORK.

Greenbook Section 6-1 is not incorporated.

6-1.1 Baseline Construction Schedule.

Greenbook Section 6-1.1 is not incorporated.

6-1.2 Commencement of the Work.

Greenbook Section 6-1.2 is not incorporated.

6-2 PROSECUTION OF THE WORK.

Greenbook Section 6-2 is not incorporated and is replaced with the following:

"To minimize public inconvenience and possible hazard and to restore work areas to their original condition and state of usefulness as soon as practicable, the Contractor shall diligently prosecute the Work to completion. If the Project Manager determines that the Contractor is failing to prosecute the Work to the proper extent, the Project Manager may take any or all of the following three (3) steps:

1. Deduct from Contractor's next payment a citation amount in accordance with an Assessment District Maintenance Citation Form that is the same or similar to the one on the next page.

2. If the Work is four (4) or more Calendar days late, deduct an amount of $250 for that week as a result of damages being sustained by the City that are, and will continue to be, impracticable and extremely difficult to determine. The City may assess these liquidated damages in accordance with Greenbook Section 6-9 and the relating Section in these General Provisions.

3. Send the City's own forces or another contractor to complete the incomplete Work.

These options are available in addition to all other options in the Greenbook or as otherwise legally available."

CITY OF OXNARD CALIFORNIA

COMMUNITY FACILITIES DISTRICT MAINTENANCE CITATION FORM

District Name: **Deficiency Date(s):**

Maintenance Item	Deficiency	1st Occurrence Warning Only	2nd Occurrence		3rd Occurrence		4th Occurrence	
Turf								
Mowing, Edging & Trimming			$300.00		$600.00		$1,200.00	
Aeration			$200.00		$400.00		$800.00	
Dethatching			$100.00		$200.00		$400.00	
Overseeding			$100.00		$200.00		$400.00	
Removal of grass clippings and debris			$300.00		$600.00		$1,200.00	
Fertilization								
Turf			$200.00		$400.00		$800.00	
Shrubs, Groundcover, Vines			$200.00		$400.00		$800.00	
Trash and Debris Removal			$300.00		$600.00		$1,200.00	
Weed Control			$300.00		$600.00		$1,200.00	
Pest Control			$200.00		$400.00		$800.00	
Pruning and Trimming								
Shrubs, Groundcover, Vines			$200.00		$400.00		$800.00	
Trees			$300.00		$600.00		$1,200.00	
Removal of plant clippings and debris			$300.00		$600.00		$1,200.00	
Graffiti			$200.00		$400.00		$800.00	
Irrigation			$200.00		$400.00		$800.00	

Please note, citation is not based upon specific location, it is based upon occurrence each month as a result of monthly inspections and the property is viewed in it's totali

Comments:

6-3 SUSPENSION OF THE WORK [see Greenbook].

6-3.1 General *[see Greenbook].*

6-3.2 Archeological and Paleontological Discoveries *[see Greenbook].*

6-4 TERMINATION OF THE CONTRACT FOR DEFAULT.

Greenbook Section 6-4 is not incorporated.

6-4.1 General.

Greenbook Section 6-4.1 is not incorporated.

6-4.2 Notice to Cure.

Greenbook Section 6-4.2 is not incorporated.

6-4.3 Notice of Termination for Default.

Greenbook Section 6-4.3 is not incorporated.

6-4.4 Responsibilities of the Surety.

Greenbook Section 6-4.4 is not incorporated.

6-4.5 Payment.

Greenbook Section 6-4.5 is not incorporated.

6-5 TERMINATION OF THE CONTRACT FOR CONVENIENCE.

Greenbook Section 6-5 is not incorporated.

6-6 DELAYS AND EXTENSIONS OF TIME.

6-6.1 General.

Greenbook Section 6-6.1 shall not be incorporated and shall be replaced as follows:

"If delays are caused by unforeseen events beyond the control of the Contractor and these events are approved by the Project Manager, such delays may entitle the Contractor to an extension of the Contract time as provided herein, but the Contractor will not be entitled to damages or additional payment due to such delays. In any case, no extension of time will be granted for a delay caused by shortage of materials unless the Contractor furnishes to the Project Manager documentary proof that the Contractor has diligently made reasonable and timely efforts to obtain such materials from all known sources."

6-6.2 Extensions of Time.

Greenbook Section 6-6.2 is not incorporated.

6-6.3 Payment for Delays.

Greenbook Section 6-6.3 is not incorporated and is replaced as follows:

"Notwithstanding any other terms and conditions of the Contract Documents, the City shall have no obligation whatsoever to increase the Contract Price or extend the time for delays.

No payment of compensation of any kind shall be made to the Contractor for damages or increased overhead costs caused by any delays in the progress of the Contract, whether such delays are avoidable or unavoidable or caused by any act or omission of the City or its agents. Any accepted delay claim shall be fully compensated for by an extension of time to complete the performance of the Work.

This Section shall not apply to compensable delays caused solely by the City. If a compensable delay is caused solely by the City, the Contractor shall be entitled to an extension of time for completion of Work by the amount of delay caused by the City and equitable adjustment, as determined by the Project Manager, to the Contractor."

6-6.4 Written Notice and Report.

Greenbook Section 6-6.4 is not incorporated and is replaced as follows:

"If the Contractor desires payment for a delay or extension of time because these were caused by the City, Contractor shall file with the Project Manager a written request and report of cause within fifteen (15) Calendar Days after the beginning of the delay. Failure by Contractor to timely file a written request and report of cause will be considered grounds for refusal by the City to consider such request."

6-7 TIME OF COMPLETION [see Greenbook].

6-7.1 General *[see Greenbook].*

6-7.2 Not Used *[see Greenbook].*

6-7.3 Contract Time Accounting *[see Greenbook].*

Greenbook Section 6-7.3 is not incorporated.

6-8 COMPLETION, ACCEPTANCE, AND WARRANTY.

Greenbook Section 6-8 is not incorporated.

6-8.1 Completion.

Greenbook Section 6-8.1 is not incorporated.

6-8.2 Acceptance.

Greenbook Section 6-8.2 is not incorporated.

6-8.3 Warranty.

Greenbook Section 6-8.3 is not incorporated and is replaced as follows:

"Contractor shall warrant the Work against defective materials and workmanship throughout the Contract Term. The Project Manager may notify the Contractor of defective materials and workmanship, and the Contractor shall replace or repair such materials and workmanship in a manner satisfactory to the Project Manager within the time specified in the Project Manager's notice. If the Contractor fails to make such replacement or repairs within the time specified in the notice, the City may perform the Work with its own forces or may bring another contractor to perform the replacement or repairs at the Contractor's expense by deducting these amounts from future payments to the Contractor.

Contractor shall replace, at Contractor's expense, all plant material which, in the opinion of the Project Manager, fails to maintain a healthy, vigorous condition as a result of the Contractor's failure to perform the Work specified herein. Contractor shall warranty all replacement trees, equipment and replacement irrigation items for a period of one (1) year from date of installation. The Contractor shall warranty all replacement shrubs and groundcover for a period of 120 days from date of installation. All Work shall be timely performed."

6-9 LIQUIDATED DAMAGES.

Greenbook Section 6-9 is not incorporated and is replaced as follows:

"Failure of the Contractor to complete the Work within the time allowed will result in damages being sustained by the City. Such damages are, and will continue to be, impracticable and extremely difficult to determine. If the Work is four (4) or more Calendar Days late, as adjusted in accordance with 6-6, the Contractor shall pay to the City, or have withheld from monies due to the Contractor, the sum of $250.

Execution of the Contract shall constitute agreement by the City and Contractor that $250 per week is the minimum value of the costs and actual damage caused by the failure of the Contractor to complete the Work within the allotted time. Such sum is liquidated damages and shall not be construed as a penalty. Such sum may be deducted from payments due the Contractor if such delay occurs."

6-10 USE OF IMPROVEMENT DURING CONSTRUCTION [see Greenbook].

6-11 TERMINATION OF CONTRACT [additional to the Greenbook].

City may terminate this Agreement at any time, with or without cause and without penalty, with written notice. Such termination shall be effective immediately. In the event of termination of this Agreement due to no fault or failure of performance by Contractor, City shall pay Contractor compensation for all Work satisfactorily completed in accordance with all of the terms and provisions of this Agreement, as determined by the City, before the effective date of termination; provided, in no event shall the Contractor receive an amount exceeding that which would have been paid to Contractor for the full performance of the Work. If City pays for any materials, City shall be entitled to the title and possession of such materials.

SECTION 7. RESPONSIBILITIES OF THE CONTRACTOR

7-1 THE CONTRACTOR'S EQUIPMENT AND FACILITIES [see Greenbook].

7-1.1 General *[see Greenbook].*

7-1.2 Temporary Utility Services *[see Greenbook].*

7-1.3 Crushing and Screening Operations *[see Greenbook].*

7-2 LABOR.

Contractor shall compensate all of its employees in accordance with both the City's Living Wage Policy and State-required prevailing wages. Contractor understands that in the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail.

7-2.1 General *[see Greenbook].*

Greenbook Section 7-2.1 is not incorporated and is replaced by the following:

"There shall be no smoking or vaping while at the job sites. Rudeness or discourteous acts by Contractor's employees towards residents, City staff, and so forth will not be tolerated. No Contractor solicitation of any kind is permitted on property."

7-2.1.1 Personnel Clothing [additional to the Greenbook].

All of Contractor's workers shall perform all Work on the premises in clothing that is reasonably clean, neat and not ripped. Worn and tattered clothing shall be promptly replaced.

7-2.1.2 Sleeping [additional to the Greenbook].

During working hours, including during breaks, Contractor's workers shall not sleep at or within two blocks of each job site, even if in a vehicle.

7-2.2 Prevailing Wages.

Greenbook Section 7-2.2 is not incorporated.

7-2.2.1 Public Work [additional to the Greenbook].

The Contractor acknowledges that this Work is a "public work" as defined in Labor Code Section 1720 *et seq.*, and that this Work is subject to Labor Code Section 1720 *et seq.*, including without limitation Labor Code Section 1771, and to the rules and regulations established by the Director of the Department of Industrial Relations ("DIR") implementing such statutes, including but not limited to Title 8, Division 1, Chapter 8 of the California Code of Regulations ("CCR"). The Contractor shall comply with and be bound by all the terms, rules and regulations described in Labor Code Section 1720 *et seq.* and to the rules and regulations established by the Director of the DIR as though set forth in full herein. The Contractor is responsible for ascertaining and complying with all current prevailing wage rates for crafts and any rate changes that occur during the life of the Project.

7-2.2.2 Copies of Wage Rates [additional to the Greenbook].

Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Project are on file with the Special Districts Administrator/ Division Manager at City Hall and will be made available to any interested party on request. Additionally, current wage rate information can be found at the DIR's website at www.dir.ca.gov/. The Contractor shall post such rates at each job site covered by these Contract Documents.

7-2.2.3 Job Site Notices [additional to the Greenbook].

The Contractor is required to post job site notices, as prescribed by regulation.

7-2.2.4 Failure to Pay Prevailing Rates [additional to the Greenbook].

The Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty paid to the City, forfeit two hundred dollars ($200) for each Calendar Day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to these Contract Documents by the Contractor.

7-2.2.5 Apprentices [additional to the Greenbook].

The Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and CCR Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects. The Contractor shall be responsible for compliance with these Sections for all apprenticeable occupations, including notifying approved apprenticeship programs of contract award, employing apprentices, and paying training fund contributions. Before commencing Work, the Contractor shall provide the City with a copy of the information submitted to any applicable apprenticeship program. Within sixty (60) Calendar Days after concluding Work, Contractor shall submit to the City a verified statement of the journeyman and apprentice hours performed under this Contract.

7-2.2.6 Debarment or Suspension [additional to the Greenbook].

The Contractor shall not be debarred or suspended throughout the duration of this Contract pursuant to Labor Code Section 1777.1 or 1777.7. If the Contractor becomes debarred or suspended throughout the duration of the Project, the Contractor shall immediately notify the City.

7-2.3 Payroll Records.

Greenbook Section 7-2.3 is not incorporated and is replaced with the following:

"The Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires the Contractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776, (2) certify and make such payroll records available for inspection as provided by Section 1776, and (3) inform the City of the location of the records. The Contractor has ten (10) days in which to comply subsequent to receipt of a written notice requesting these records, or as a penalty to the City, the Contractor

shall forfeit one hundred dollars ($100) for each Calendar Day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. Additionally, the Contractor shall furnish certified payroll records directly to the Labor Commissioner in accordance with Chapter 8, Subchapter 4.5, Section 16461 of the CCR."

7-2.4 Hours of Labor.

Greenbook Section 7-2.4 is not incorporated and is replaced with the following:

"The Contractor acknowledges that eight (8) hours labor constitutes a legal day's work. The Contractor shall comply with and be bound by Labor Code Section 1810. The Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty paid to the City, forfeit twenty-five dollars ($25) for each worker employed in the performance of this Project by the Contractor for each Calendar Day during which such worker is required or permitted to work more than eight (8) hours in any one (1) Calendar Day and forty (40) hours in any one (1) calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, Work performed by employees of the Contractor in excess of eight (8) hours per day, and forty (40) hours during any one (1) week shall be permitted upon public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay."

7-2.5 Registration with the DIR *[additional to the Greenbook]*.

A Contractor shall not be qualified to bid on, be listed in a Bid proposal (subject to the requirements of Public Contract Code Section 4104), or engage in the performance of any contract for public work, as defined in Labor Code Section 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. An unregistered contractor may submit a Bid that is authorized by Business and Professions Code Section 7029.1 or by Public Contract Code Section 10164 or 20103.5, provided the contractor is registered to perform public work pursuant to Labor Code Section 1725.5 at the time the Contract is awarded.

7-2.6 Compliance Monitoring *[additional to the Greenbook]*.

This Project is subject to compliance monitoring and enforcement by the DIR.

7-2.7 Prevailing Wage Indemnity *[additional to the Greenbook]*.

To the maximum extent permitted by law, the Contractor shall indemnify, hold harmless and defend (at the Contractor's expense with counsel reasonably acceptable to the City) the City, its officials, officers, employees, agents and independent contractors serving in the role of City officials, and volunteers from and against any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed in this Section 7-2 of the General Provisions by anyone (including the Contractor and its officials, officers, employees and agents) in connection with any Work undertaken or in connection with the Contract Documents, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses.

7-2.8 Survival *[additional to the Greenbook].*

All duties of the Contractor under this Section 7-2 shall survive expiration or termination of the Contract.

7-2.9 Living Wage Policy *[additional to the Greenbook].*

The Living Wage Policy of the City of Oxnard was adopted by the City Council on July 9, 2002, to be effective October 1, 2002. Pursuant to this Living Wage Policy, a service contractor shall pay those employees who provide services to the City under contract:

- Effective October 1, 2002, at least $9.00 an hour for the time during which the employee is providing services to the City;
- Effective July 1, 2003, at least $9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
- Effective July 1, 2004, at least $10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
- Effective July 1, 2005, at least $12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.

These hourly rates will be adjusted July 1, 2017, and each July 1 thereafter, according to the percentage change in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles, Riverside, Orange County area relating to all urban consumers (CPI-U), index base 1967 + 100, comparing May of the previous year to May of the current year.

Contractor shall compensate any employee who provides services under this Agreement in accordance with the Living Wage Policy. In fiscal year 2016-17, Contractor shall pay such employee no less than $15.14 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Contractor shall provide to such employee no less than 96 hours of paid leave per calendar year.

7-2.10 Which Service Contractors Must Pay Living Wage *[additional to the Greenbook].*

A service contractor executing a service contract with the City for which the City will pay the contractor $25,000 or more during the contract term shall be subject to the Living Wage Policy. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is $25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.

This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five (5) people.

7-2.11 Posting Living Wage Policy *[additional to the Greenbook].*

Contractor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

7-2.12 Enforcement of Living Wage Policy *[additional to the Greenbook].*

If a service contractor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract. In addition, if Contractor fails to comply with the Living Wage Policy in any manner, Contractor shall pay to City a fine of five hundred dollars ($500) and shall pay to any employee providing services under this Agreement a penalty of three (3) times the amount or value of the compensation owed to such employee under the Living Wage Policy. Contractor shall pay such fine and penalty within fifteen (15) days after the City Manager or designee provides written notice to Contractor of the amount owed.

The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he or she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.

7-2.13 Amendment of Living Wage Policy *[additional to the Greenbook].*

This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.

7-3 INSURANCE [see Greenbook].

Greenbook Section 7-3 is not incorporated and shall be replaced as follows:

"All insurance requirements are those listed in INS-B, which is attached to the Contract and incorporated to the Contract by this reference."

Greenbook Sections 7-3.1, 7-3.2, 7-3.3 and 7-3.4 are not incorporated into these Contract Documents.

7-4 INDEMNIFICATION [additional to the Greenbook].

The following indemnity provisions shall supersede the indemnity in Greenbook Section 7-3.

7-4.1 Contractor's Duty *[additional to the Greenbook].*

To the maximum extent permitted by law, the Contractor shall, at its sole cost and expense, to defend with competent defense counsel approved by the City Attorney, protect, indemnify, and hold harmless the City, its elected and appointed officials, officers, employees, volunteers, attorneys, agents (including those City agents serving as independent contractors in the role of City representatives), successors, and assigns (collectively "Indemnitees") from and against any

and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, charges, obligations, damages, causes of action, proceedings, suits, losses, stop payment notices, judgments, fines, liens, penalties, liabilities, costs and expenses of every kind and nature whatsoever, in any manner arising out of, incident to, related to, in connection with or resulting from any act, failure to act, error or omission of the Contractor or any of its officers, agents, attorneys, servants, employees, material suppliers or any of their officers, agents, servants or employees, arising out of, incident to, related to, in connection with or resulting from any term, provision, image, plan, covenant, or condition in the Contract Documents, including without limitation, the payment of all consequential damages, attorneys' fees, experts' fees, and other related costs and expenses (individually, a "Claim," or collectively, "Claims"). The Contractor shall promptly pay and satisfy any judgment, award or decree that may be rendered against Indemnitees in any such Claim. The Contractor shall reimburse Indemnitees for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Contractor or Indemnitees. This indemnity shall apply to all Claims regardless of whether any insurance policies are applicable or whether the Claim was caused in part or contributed to by an Indemnitees.

7-4.2 Nonwaiver of Rights *[additional to the Greenbook].*

Indemnitees do not and shall not waive any rights that they may possess against the Contractor because the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to these Contract Documents. This indemnity provision is effective regardless of any prior, concurrent, or subsequent active or passive negligence by Indemnitees and shall operate to fully indemnify Indemnitees against any such negligence.

7-4.3 Waiver of Right of Subrogation *[additional to the Greenbook].*

The Contractor, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all Claims arising out of or incident to the activities or operations performed by or on behalf of the Contractor regardless of any prior, concurrent or subsequent active or passive negligence by Indemnitees.

7-4.4 Survival *[additional to the Greenbook].*

The provisions of this Section 7-4 shall survive the term and termination of the Contract, are intended to be as broad and inclusive as is permitted by the law of the State, and are in addition to any other rights or remedies that Indemnitees may have under the law. Payment is not required as a condition precedent to an Indemnitee's right to recover under this indemnity provision, and an entry of judgment against the Contractor shall be conclusive in favor of the Indemnitee's right to recover under this indemnity provision.

7-5 PERMITS.

Before starting any Work, the Contractor will be required to obtain all necessary permits from the City, which may include obtaining an encroachment permit for Work within the public right-of-way, as well as all other permits and any required from all other agencies. Contractor shall bear all cost for fees for all agencies except for the City's permit fees.

The Contractor shall obtain a City Business License and shall be licensed in accordance with

the California Business and Professions Code. The Contractor shall bear all costs for the City's Business License.

7-6 THE CONTRACTOR'S REPRESENTATIVE [see Greenbook].

7-7 COOPERATION AND COLLATERAL WORK.

The Contractor must coordinate all Work with the City's street sweeping, solid waste collection, and street maintenance contractors, Police and Fire Departments, utility companies' crews, and others when necessary. Payment for conforming to these requirements shall be included in other items of Work, so no additional payment shall be made.

7-8 WORKSITE MAINTENANCE.

Clean-up shall be done as Work progresses at the end of each day and thoroughly before weekends. The Contractor shall not allow the Work site to become littered with trash and waste material, but shall maintain the same in a neat and orderly condition. Materials which need to be disposed shall not be stored at the Project site and cannot be "stockpiled" but shall be removed by the end of each Working Day. If the job site is not cleaned to the satisfaction of the Project Manager, the cleaning will be done or contracted by the City, and the cost will be deducted from the Contract Price.

The Contractor shall make arrangement for storing its equipment and materials. The Contractor shall make its own arrangements for any necessary off-site storage or shop areas necessary for the proper execution of the Work. Approved areas within Work site may be used for temporary storage; however, the Contractor shall be responsible for obtaining any necessary permit from the City. In any case, the Contractor's equipment and personal vehicles of the Contractor's employees shall not be parked on the traveled way or on any section where traffic is restricted at any time.

The Contractor shall deliver, handle, and store products in accordance with the manufacturer's written recommendations and by methods and means that will prevent damage, deterioration, and loss including theft. Delivery schedules shall be controlled to minimize long-term storage of products at the Project site and overcrowding of construction spaces. In particular, the Contractor shall provide delivery and installation coordination to ensure minimum holding or storage times for products recognized to be flammable, hazardous, easily damaged, or sensitive to deterioration, theft, and other sources of loss.

Storage shall be arranged to provide access for inspection. The Contractor shall periodically inspect to assure products are undamaged and are maintained under required conditions.

The Contractor shall promptly remove from the vicinity of the completed Work all rubbish, debris, unused materials, concrete forms, equipment, and temporary structures and facilities used. Final acceptance of the Work by the City will be withheld until the Contractor has satisfactorily complied with the foregoing requirements for final clean-up of the Work site.

All costs associated with the clean-up and storage required to complete the Work shall be the sole responsibility of the Contractor.

7-8.1 General *[see Greenbook].*

7-8.2 Air Pollution Control *[see Greenbook].*

7-8.3 Noise Control *[see Greenbook].*

To minimize the noise impact of construction, Contractor must properly muffle all construction related vehicles and equipment in accordance with the City's ordinances. The Contractor shall inform the public of proposed construction time frames to minimize potential annoyance related to the construction noise.

7-8.4 Storage of Equipment and Materials *[see Greenbook].*

7-8.4.1 General [see Greenbook].

7-8.4.2 Storage in Public Streets [see Greenbook].

7-8.5 Sanitary Sewers *[see Greenbook].*

7-8.5.1 General [see Greenbook].

7-8.5.2 Sewage Bypass and Pumping Plan [see Greenbook].

7-8.5.3 Spill Prevention and Emergency Response Plan [see Greenbook].

7-8.6 Water Pollution Control.

7-8.6.1 General [see Greenbook].

7-8.6.2 Best Management Practices (BMPs) [see Greenbook].

7-8.6.3 Storm Water Pollution Prevention Plan (SWPPP) [see Greenbook].

7-8.6.4 Dewatering.

Failure to dewater per Contractor's approved dewatering plans shall lead to the immediate issuance of a stop payment notice. Any fees associated with the failure to perform dewatering will be passed onto the Contractor.

7-8.6.5 Payment [see Greenbook].

7-9 PROTECTION AND RESTORATION OF EXISTING IMPROVEMENTS.

The Contractor shall mark and protect all survey monuments, manholes, valves, substructures, or other items which are visible on the surface and will be covered by its operations. This shall be completed before start of that operation and approved by the City Inspector.

Where existing traffic striping, pavement markings, and curb markings are damaged, partially removed or their reflectivity reduced by the Contractor's operations, such striping or markings shall also be considered as existing improvements and the Contractor shall repaint or replace such improvements.

Relocations, repairs, replacements, or reestablishments shall be at least equal to the existing improvements and shall match such improvements in finish and dimensions unless otherwise

specified.

All costs to the Contractor for protecting, removing, restoring, relocating, repairing, replacing, or reestablishing existing improvements shall be included in the Bid.

7-10 SAFETY.

7-10.1 Access *[additional to the Greenbook].*

All Work and traffic control shall be scheduled and constructed to provide for a minimum of inconvenience and a maximum of safety to the public vehicular and pedestrian traffic. The Contractor shall be responsible for the protection of vehicular and pedestrian traffic during the Work.

Access to Street intersections, public and private parking lots, commercial businesses, residences and other public and private properties must be maintained at all times. The Contractor shall notify the Project Manager and occupants of all affected properties with written notice at least seventy-two (72) hours before any temporary obstruction of access. Vehicular access to property line shall be maintained at all times, except as required for Work that cannot otherwise be accomplished and for a reasonable period of time. No overnight closure of any driveway will be allowed, except as permitted by the Project Manager.

The Contractor's construction schedule shall allow affected people ample on-street parking within a reasonable distance from their homes and businesses. Requests for changes in the schedule shall be submitted by the Contractor to the Project Manager for approval at least forty-eight (48) hours before the scheduled operations on the Streets affected.

The Contractor shall post "TEMPORARY NO PARKING" signs at least forty-eight (48) hours, but not more than seventy-two (72) hours, in advance of commencing the Work. When determined necessary by the Project Manager, the signs shall be placed no more than one hundred fifty (150) feet apart and at shorter intervals if conditions warrant. Contractor shall furnish and place barricades, if necessary, for posting of signs. The Contractor shall provide the signs and will be responsible for adding the dates and hours of closure to the signs. The Contractor shall report the time of posting to the Oxnard Police Department for the purpose of towing. The Contractor shall remove all signs within forty-eight (48) hours after the portion of the Work affecting parking is completed. Should the Contractor fail to pick up signs within this time frame, the Contractor shall be charged a penalty of twenty-five dollars ($25) per sign per Calendar Day left in the public right-of-way. Said monies will be deducted from any monies due or to become due to the Contractor.

7-10.2 Traffic *[additional to the Greenbook].*

7-10.2.1 Traffic Control Plan (TCP) [additional to the Greenbook]

If Contractor's Work affects traffic in any way, the Contractor shall provide a detailed Traffic Control Plan (TCP) for review and shall conform to the Greenbook, General Provisions, Special Provisions, the latest edition of the California Edition of the Manual on Uniform Traffic Control Devices (MUTCD), the SSS and the SSP and must be approved by the Project Manager before commencing any Work. The TCP shall be prepared under the supervision of and signed and stamped by a registered professional civil engineer or a traffic engineer licensed to practice in the State of California. The TCP shall cover signing, flagging, detour geometric, delineation and

channelization, barriers and barricades, separation of opposing traffic streams, and hours of flash operation at signalized intersection(s). The Contractor shall not commence Work before receiving an approved TCP. Any delay in acquiring TCP approval will be at the Contractor's expense.

Traffic control shall be provided by a qualified traffic control company specializing with a C-31 license during the construction of the Project. Traffic control shall address parking changes as well. Before the beginning of any Work or if there are changes to the proposed TCP and after approval by the City, the qualified traffic control company staff shall complete field checks of the installed traffic control by driving through the Work area to ensure the adequacy of traffic control. During any period when two-way traffic is not provided, the Contractor shall employ properly trained flaggers to control traffic through the area.

For Work in the vicinity of a school, the Contractor shall contact that school's district, obtain a school schedule and school circulation plan, and incorporate information into its schedule and traffic control, such that within one thousand (1,000) feet of the school on routes serving the school for student arrivals and departures are not impacted between one (1) hour before and one (1) hour after the schoolday start time and one (1) hour before or one (1) hour after schoolday end time. Contractor shall notify the relevant school district of any impacts.

The Contractor shall provide and maintain steel traffic plates recessed into the pavement securely over the trench whenever required or at the end of the Working Day.

7-10.2.2 Street Closures, Detours, Barricades [additional to the Greenbook]

Street closures will not be allowed, except as specifically permitted by the City's Traffic Engineer.

Traffic signals shall not be placed in flash operation during the hours that traffic lanes must be kept open as defined in this Section. Under no circumstances shall traffic signals be placed under flash operation without prior approval of the City. The Contractor shall contact the City Inspector at least five (5) Working Days in advance to coordinate signal service, unless a different time frame is required in the Special Provisions.

All traffic control barricades, signs and devices used by the Contractor shall, as a minimum, conform to the latest version of the California Manual of Uniform Traffic Control Devices (CA MUTCD). Should the Contractor fail to provide adequate traffic control or safety barricades, and in the event a responsible individual cannot be located or refuses to perform, the City will, at its option, place needed devices or engage a private firm to place and maintain said traffic control devices. The cost incurred by the City in connection therewith will be deducted from the Contractor's next payment.

7-10.3 Haul Routes.

Greenbook Section 7-10.3 is not be incorporated and is replaced as follows:

"The Contractor must provide the Project Manager with a haul route plan, which must be approved by the Project Manager before anyone uses any haul routes on the Project. Further detail requirements for haul traffic may be delineated in the Special Provisions."

7-10.4 Safety *[see Greenbook].*

7-10.4.1 ***Work Site Safety [see Greenbook].***

7-10.4.1.1 **General *[see Greenbook].***

7-10.4.1.2 **Work Site Safety Official *[see Greenbook].***

7-10.4.2 ***Safety Orders [see Greenbook].***

7-10.4.2.1 **General *[see Greenbook].***

7-10.4.2.2 **Shoring Plan *[see Greenbook].***

7-10.4.2.3 **Payment *[see Greenbook].***

7-10.4.3 ***Use of Explosives [see Greenbook].***

7-10.4.4 ***Hazardous Substances [see Greenbook].***

7-10.4.5 ***Confined Spaces [see Greenbook].***

7-10.4.5.1 **Confined Space Entry Program (CSEP) *[see Greenbook].***

7-10.4.5.2 **Permit-Required Confined Spaces *[see Greenbook].***

7-10.4.5.3 **Payment *[see Greenbook].***

7-10.5 **Security and Protective Devices.**

7-10.5.1 ***General [see Greenbook].***

7-10.5.2 ***Security Fencing [see Greenbook].***

7-10.5.3 ***Steel Plate Covers [see Greenbook].***

7-10.5.4 ***Protection of the Public [additional to the Greenbook].***

It is part of the service required of the Contractor to make whatever provisions are necessary to protect the public. The Contractor shall use foresight and shall take such steps and precautions as the Contractor's operations warrant to protect the public from danger in the form of loss of life, injury or loss of property, which would result from interruption or contamination of public water supply, interruption of other public service, or from the failure of partly completed Work. Unusual conditions may arise on the Work that will require that immediate and unusual provisions be made to protect the public from danger or loss, or damage to life and property, due directly or indirectly to prosecution of Work under this Contract.

The Contractor shall take all actions necessary to protect persons and property at the job site from any injury or damages associated with the Work. Unless otherwise specified, the Contractor shall supervise and direct the Work and shall be solely responsible for all maintenance methods and sequences.

7-10.5.4.1 Emergencies *[additional to the Greenbook]*.

Whenever an emergency exists and the Contractor has not taken sufficient precautions for the public safety, protection of utilities and protection of adjacent structures or property, which may be damaged by the Contractor's operations, and when immediate action is necessary to protect the public or property, the Project Manager will order the Contractor to provide a remedy for the unsafe condition. If the Contractor fails to act on the situation within a reasonable time period, the Project Manager may provide suitable protection by causing such Work to be done and material to be furnished to bring the Project into compliance with CalOSHA and federal OSHA requirements.

All expenses incurred by the City for emergency repairs will be deducted from the payments due to the Contractor. However, if the City does not take such remedial measures, the Contractor is not relieved of the full responsibility for public safety. The Contractor shall not be entitled to any delay claims for Work stopped by the City to correct an unsafe condition.

7-10.6 Public Notices *[additional to the Greenbook]*.

7-10.6.1 Notification to Property Owners and Businesses [additional to the Greenbook].

In addition to notices required elsewhere in the Contract Documents, the Contractor shall notify adjacent businesses and residents at least four (4) Working Days and again two (2) Working Days in advance of beginning Work. Public notices shall be provided in the form of door hangers, flyers or both, which will include the Contractor's name, the Contractor's phone number, a general description of the Work, and the Calendar Days and times when traffic will be restricted and parking will not be allowed along the Street scheduled for the Work. Contractor must get notice pre-approved by the Project Manager before distribution. All notices shall be hand-delivered by the Contractor to adjacent residents, business, and other areas directed by the Project Manager.

7-10.6.2 Residents' Complaints [additional to the Greenbook].

It is critical that residents' complaints be resolved expeditiously. To achieve this, the Project Manager will inform the Contractor of the complaint verbally or in writing. The Contractor shall offer a viable action to be taken within twenty-four (24) hours of the action to be taken. In any case, Contractor shall refer any residents with complaints to the Project Manager.

7-11 PATENT FEES OR ROYALTIES [see Greenbook].

7-12 ADVERTISING [see Greenbook].

Contractors vehicle shall clearly identify the company name. Other than on that vehicle or on equipment, Contractor shall not advertise or allow advertising at the Work site.

7-13 LAWS TO BE OBSERVED [see Greenbook].

7-14 ANTITRUST CLAIMS.

Greenbook Section 7-14 is not incorporated.

7-15 RECYCLING OF MATERIALS [additional to the Greenbook].

Contractor must adhere to the City's Recycling Plans, which are incorporated by this reference and available through the Project Manager.

7-16 CONFIDENTIALITY [additional to the Greenbook].

7-16.1 Confidential Information *[additional to the Greenbook].*

For the purposes of this Agreement, "Confidential Information" means all information, in whatever form transmitted, relating to the past, present or future business affairs of the City, including without limitation, (i) technical information, including patent, copyright, trade secret, and other proprietary information, techniques, sketches, drawings, plans, specifications, models, inventions, know-how, processes, apparatus, equipment, algorithms, software programs, software source documents and formulas; or (ii) non-technical information, including without limitation pricing, margins, marketing plans and strategies, finances, financial and accounting data and information, suppliers, customers, customer lists, purchasing data, sales and marketing plans, future business plans and any other information belonging to the City or to a third party whose information is in the City's possession or control under obligations of confidentiality, and which (i) is disclosed to the Contractor or (ii) developed by Contractor at the City's expense.

7-16.2 Information Provided by Contractor *[additional to the Greenbook].*

All information provided by the Contractor or developed by the Contractor at the expense of the City shall be considered Confidential Information and shall not be reproduced, transmitted, disclosed or used by the Contractor without the written consent of the City, except as may be necessary for Contractor to fulfill its obligations to the City.

7-16.3 Exemptions *[additional to the Greenbook].*

Notwithstanding the above, these limitations shall not apply to information that: (i) is already known to Contractor at the time of its disclosure or becomes publicly known through no wrongful act or omission of Contractor; (ii) is communicated to a third party with the express written consent of the City and is not subject to restrictions on further use or disclosure; (iii) is independently developed by Contractor; or (v) is required by law to be disclosed to any governmental agency, or required by court order, a court-issued subpoena or other legal process to be disclosed, provided that before making any such disclosure listed in this paragraph, Contractor shall immediately provide the City with written notice and a reasonable opportunity for the City to object to the disclosure or to take action to maintain the confidentiality of the information, unless such prior disclosure is impermissible by law or court order.

7-16.4 Enforcement *[additional to the Greenbook].*

Contractor shall use reasonable care to protect the Confidential Information. In the event of a breach or threatened breach of this Agreement, the City shall be entitled to obtain an injunction prohibiting any such breach, the costs of which shall be paid by Contractor. Any relief granted shall be in addition to and not in lieu of any other legal or equitable relief, including money damages. The City and Contractor acknowledge that Confidential Information is valuable and unique and that disclosure of the Confidential Information in breach of Section 7-16 may result in irreparable injury to the City.

7-16.5 No Warranties by City *[additional to the Greenbook].*

Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Section 7-16 or for any business decisions made by Contractor in reliance on any Confidential Information disclosed under this Section 7-16.

7-16.6 Survival *[additional to the Greenbook].*

All duties of the Contractor under this Section 7-16 shall survive expiration or termination of the Contract.

SECTION 8. FACILITIES FOR AGENCY PERSONNEL

8-1 GENERAL -- 8-6 BASIS OF PAYMENT.

Greenbook Sections 8-1 through 8.6 are not incorporated.

SECTION 9 MEASUREMENT AND PAYMENT

9-1 MEASUREMENT OF QUANTITIES FOR UNIT PRICE WORK.

9-1.1 General *[see Greenbook].*

9-1.2 Methods of Measurement.

The Contract Price shall constitute full compensation for all labor, equipment, materials, tools and incidentals required to complete the Work as outlined in these Contract Documents and as directed by the Project Manager.

9-1.3 Certified Weights *[see Greenbook].*

9-2 LUMP SUM WORK [see Greenbook].

9-3 PAYMENT.

9-3.1 General *[see Greenbook].*

9-3.2 Partial and Final Payment *[additional to Greenbook].*

Each month, Contractor shall submit its standard invoice to the City.

9-3.2.1 Monthly Closure Date and Invoice Date [additional to the Greenbook].

In accordance with Greenbook Section 9-3.2, the monthly closure date shall be the last Working Day of each month. Each invoice must be signed and submitted to the Project Manager before the tenth (10th) Calendar Day of the following month for verification and payment consideration.

9-3.2.2 Payments [additional to the Greenbook].

The City shall attempt to make payments within sixty (60) Calendar Days after receipt of the Contractor's undisputed and properly submitted payment request. The City shall return to the Contractor any payment request determined not to be a proper payment request as soon as practicable and shall explain in writing the reasons why the payment request is not proper.

9-3.3 Delivered Materials *[see Greenbook].*

9-3.4 Mobilization.

Greenbook Section 9-3.4 is not incorporated and is replaced with the following:

"All mobilization and demobilization costs must be included in other Bid items. Contractor shall not receive additional compensation for mobilization and/or demobilization."

9-4 AUDIT [additional to the Greenbook].

The City or its representative shall have the option of inspecting and/or auditing all records and other written materials used by the Contractor in preparing its billings to the City as a condition precedent to any payment to the Contractor or in response to a Public Records Act (Government Code Section 6250 *et seq.*) request. The Contractor will promptly furnish documents requested by the City at no cost. Additionally, the Contractor shall be subject to State Auditor examination and audit at the request of the City or as part of any audit of the City, for a period of three (3) years after final payment under the Contract.

SECTION 10. ADDITIONAL TERMS *[additional to the Greenbook]*

10-1 LICENSES [additional to the Greenbook].

The Contractor shall possess a valid Class C-27 Contractor's license issued by California State Contractors License Board. The Contractor will also be required to possess an Oxnard business license at the time of insurance submission. In accordance with Section 7028.15 of the Business and Professions Code, all Contractors shall be licensed in accordance with the laws of the State of California and any Contractor not so licensed is subject to the penalties imposed by such laws.

If traffic control in a construction zone is required, it must be performed by a State of California Construction Zone Traffic Control Contractor, Specialty Classification C-31.

10-2 NONDISCRIMINATORY EMPLOYMENT [additional to the Greenbook].

The Contractor shall not unlawfully discriminate against any individual based on race, religion or religious creed, color, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, sex,

gender, gender identity, gender expression, age, sexual orientation, immigration status, citizenship or military and veteran status. The Contractor shall comply with the nondiscrimination mandates of all statutes, ordinances and regulations.

10-3 ACCESS TO PRIVATE PROPERTY [additional to the Greenbook].

The Contractor shall be responsible for all fees and costs associated with securing permission to access private property for any portion, and the Contractor shall obtain the required easement or license for the Project.

10-4 WORKING DAYS AND HOURS [additional to the Greenbook].

Contractor may not work on any day or during hours prohibited by the Project Manager. Whenever the Contractor is permitted or directed to perform night Work or to vary the period during which Work is performed during the Working Day, the Contractor shall give twelve (12) hours' notice to the Project Manager so that inspection may be provided. Also, a charge may be made to the Contractor for approved overtime or weekend inspections requested by the Contractor.

10-5 CLAIM DISPUTE RESOLUTION [additional to the Greenbook].

In the event of any dispute or controversy with the City over any matter whatsoever, the Contractor shall not cause any delay or cessation in or of Work, but shall proceed with the performance of the Work in dispute. The Contractor shall retain any and all rights provided that pertain to the resolution of disputes and protests between the parties. The disputed Work will be categorized as an "unresolved dispute" and payment, if any, shall be as later determined by mutual agreement or a court of law. The Contractor shall keep accurate, detailed records of all disputed Work, claims and other disputed matters.

All claims arising out of or related to the Contract Documents, and the consideration and payment of such claims, are subject to the Government Claims Act (Government Code Section 810 *et seq.*) with regard to filing claims. This Contract hereby incorporates those provisions as through fully set forth herein.

10-6 THIRD PARTY CLAIMS [additional to the Greenbook].

The City shall have full authority to compromise or otherwise settle any claim relating to the Project at any time. The City may notify the Contractor of the receipt of any third-party claim relating to the Project; if so, the City shall be entitled to recover its reasonable costs incurred in providing this notice.

The Contractor shall not have any authority to compromise or otherwise settle any claim relating to the Work; any effort by the Contractor to do so shall be deemed a breach of the Contract, and the City will not participate in any such compromise or settlement. Within five (5) Calendar Days of the date that the Contractor receives any third-party claim relating to this Project, the Contractor shall provide written notice thereof and a copy of the claim to the City Attorney.

10-7 ADDITIONAL REPRESENTATIONS [additional to the Greenbook].

By signing the Contract, the Contractor represents, covenants and agrees that: (a) the Contractor is licensed, qualified, and capable of furnishing the labor, materials, and expertise

necessary to perform the services in accordance with the terms and conditions set forth in the Contract Documents; (b) there are no obligations, commitments, or impediments of any kind that will limit or prevent its full performance under the Contract Documents; and (c) there is no litigation pending against the Contractor, and the Contractor is not the subject of any criminal investigation or proceeding.

10-8 CONFLICTS OF INTEREST [additional to the Greenbook].

The Contractor shall not accept any employment or representation during the Contract Term or within twelve (12) months thereafter that is or may likely make the Contractor "financially interested," as provided in Government Code Sections 1090 and 87100, in any decisions made by the City on any matter in connection with which the Contractor has been retained pursuant to the Contract Documents.

10-9 APPLICABLE LAW [additional to the Greenbook].

The validity, interpretation, and performance of these Contract Documents shall be controlled by and construed under the laws of the State of California, excluding California's choice of law rules. Venue for any such action relating to the Contract shall be in the Ventura County Superior Court.

10-10 TIME [additional to the Greenbook].

Time is of the essence in these Contract Documents.

10-11 INDEPENDENT CONTRACTOR [additional to the Greenbook].

The Contractor and its employees and agents shall at all times remain, as to the City, wholly independent contractors rather than employees of the City. Contractor has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Contractor. Neither the City nor any of its officials, officers, employees or agents shall have control over the conduct of the Contractor or any of its officers, employees, or agents, except as herein set forth, and the Contractor is free to dispose of all portions of its time and activities that it is not obligated to devote to the City in such a manner and to such Persons that the Contractor wishes except as expressly provided in these Contract Documents.

Except as Manager may specify in writing, the Contractor and its agents and employees shall have no power or authority, express or implied to act on behalf of City in any capacity, to bind City to any obligation, to incur any debt, obligation, or liability on behalf of the City or otherwise to act on behalf of the City as an agent. The Contractor and its employees and agents shall not, at any time or in any manner, represent that they or any of their agents, servants or employees, are in any manner agents, servants or employees of the City.

The Contractor shall pay all required taxes on amounts paid to them under the Contract, and to indemnify and hold the City harmless from any and all taxes, assessments, penalties, and interest asserted against the City by reason of the independent contractor relationship created by the Contract Documents.

The Contractor and its agents and employees shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of the Contractor' employees and agents,

including compliance with social security requirements, federal and State income tax withholding and all other regulations governing employer-employee relations.

The Contractor and its agents and employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, or health, life, dental, long-term disability and workers' compensation insurance benefits.

10-12 CONSTRUCTION [additional to the Greenbook].

In the event of any asserted ambiguity in, or dispute regarding the interpretation of any matter herein, the interpretation of these Contract Documents shall not be resolved by any rules of interpretation providing for interpretation against the party who causes the uncertainty to exist or against the party who drafted the Contract Documents or who drafted that portion of the Contract Documents.

10-13 THIRD PARTY BENEFICIARIES [additional to the Greenbook].

Nothing in the Contract Documents is intended to make the public or any member thereof a third party beneficiary of the Contract; nor is any term and condition or other provision of the Contract intended to establish a standard of care owed to the public or any member thereof.

10-14 WAIVER [additional to the Greenbook].

No failure or delay on the part of any party in exercising any right or remedy provided in these Contract Documents shall operate as a waiver thereof or preclude any exercise thereof, or the exercise of any other right or remedy provided under these Contract Documents, or otherwise available at law or in equity. In no event shall the making by the City of any payment to the Contractor constitute or be construed as a waiver by the City of any breach of covenant, or any default that may then exist on the part of the Contractor, and the making of any such payment by the City shall in no way impair or prejudice any right or remedy available to the City with regard to such breach or default.

10-15 CUMULATIVE REMEDIES [additional to the Greenbook].

Except if expressly provided herein, no remedy specified in these Contract Documents is intended to be exclusive of any other remedy, and each remedy shall be cumulative, in addition to every other right or remedy provided herein or otherwise available at law or in equity.

10-16 TERM [additional to the Greenbook].

The Contract is effective as of the Effective Date listed, and shall remain in full force and effect for three (3) years thereafter unless the Contract has been otherwise terminated by the City. Additionally, the City Manager, in his or her sole discretion, may renew the Agreement for up to two (2) additional years; if the City Manager chooses to do so, all provisions that apply in the first three (3) years shall apply to the fourth and fifth years. Some provisions may survive the term listed within this Section, as stated in those provisions.

10-17 NOTICE [additional to the Greenbook].

Except as otherwise required by law, any notice or other communication authorized or required by these Contract Documents shall be in writing and shall be deemed received on (a) the day of delivery if delivered by hand or overnight courier service during the City's regular business hours or (b) on the third Working Day following deposit in the United States mail, postage prepaid, to the addresses listed on the Contractor's Bid and City Hall, or at such other address as one party may notify the other.

10-18 SURVIVAL [additional to the Greenbook].

Any provision of these Contract Documents that contemplates performance or observance subsequent to termination (including but not limited to indemnification provisions) shall survive that termination, and shall continue in full force and effect thereafter.

10-19 SEVERABILITY [additional to the Greenbook].

To the extent that any term, provision or part of these Contract Documents is held invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of these Contract Documents shall not be impaired or affected, and shall continue in full force and effect, and shall be valid and enforceable to the fullest extent permitted by law.

SECTION 800. LANDSCAPING AND IRRIGATION

800-1 LANDSCAPING MATERIALS *[see Greenbook].*

800-1.1 Topsoil *[see Greenbook].*

800-1.1.2 Class "A" Topsoil *[see Greenbook].*

800-1.1.3 Class "B" Topsoil.

Greenbook Section 800-1.1.3 is not incorporated.

800-1.1.4 Class "C" Topsoil.

Greenbook Section 800-1.1.4 is not incorporated.

800-1.2 Soil Fertilizing and Conditioning Materials *[see Greenbook].*

800-1.2.1 General *[see Greenbook].*

800-1.2.2 Manure *[see Greenbook].*

800-1.2.3 Commerical Fertilizer *[see Greenbook].*

800-1.2.4 Organic Soil Amendment *[see Greenbook].*

800-1.2.5 Mulch *[see Greenbook].*

800-1.3 Seed *[see Greenbook].*

800-1.4 Plants *[see Greenbook].*

800-1.4.1 General *[see Greenbook].*

800-1.4.2 Trees *[see Greenbook],*

800-1.4.3 Shrubs *[see Greenbook].*

800-1.4.4 Flatted Plants *[see Greenbook].*

800-1.4.5 Sod and Stolons (turf grass) *[see Greenbook].*

800-1.4.6 Cuttings *[see Greenbook].*

800-1.5 Headers, Stakes, and Ties.

Greenbook Section 800-1.5 is not incorporated.

800-2 IRRIGATION SYSTEM MATERIALS.

Greenbook Section 800-2 is not incorporated.

800-3 ELECTRICAL MATERIALS.

Greenbook Section 800-3 is not incorporated.

SECTION 801 INSTALLATION

801-1 General *[see Greenbook].*

801-2 EARTHWORK AND TOPSOIL PLACEMENT *[see Greenbook].*

801-2.1 General.

The words "or Class B" shall be removed from Greenbook Section 801-2.1

801-2.2 Topsoil Preparationg and Conditioning *[see Greenbook].*

801-2.2.1 General.

The following paragraph shall be removed from Greenbook Section 801-2.2.1:

"Class "C" topsoil shall be sacrified and cultivated to a finely divided condition to a depth of 8 inches (200 mm) minimum below finish grade. During this operation, all stones over 1 inch (25 mm) in greatest dimension shall be removed."

801-2.2.2 Fertilizing and Conditioning Procedures *[see Greenbook].*

801-2.3 Finish Grading *[see Greenbook].*

801-3 HEADER INSTALLATION *[see Greenbook].*

801-4 PLANTING *[see Greenbook].*

801-4.1 General *[see Greenbook].*

801-4.2 Protection and Storage *[see Greenbook].*

801-4.3 Layout and Plant Location *[see Greenbook].*

801.4.4 Speciman Planting *[see Greenbook].*

801.4.5 Tree and Shrub Planting *[see Greenbook].*

801-4.6 Plant Staking and Guying *[see Greenbook].*

801.4.6.1 Method "A" Tree Staking *[see Greenbook].*

801.4.6.2 Method "B" Tree Staking *[see Greenbook].*

801-4.6.3 Guying *[see Greenbook].*

801-4.7 Ground Cover and Vine Planting *[see Greenbook].*

801-4.8 Lawn Planting *[see Greenbook].*

801-4.8.1 General *[see Greenbook].*

801-4.8.2 Seed *[see Greenbook].*

801-4.8.3 Sod *[see Greenbook].*

801-4.8.4 Stolon Planting

Greenbook Section 801-4.8.4 is not incorporated.

801-4.9 Erosion Control Planting *[see Greenbook].*

801-4.9.1 General *[see Greenbook].*

801-4.9.2 Straw Stabilization

Greenbook Section 801.4.9.2 is not incorporated.

801-4.9.3 Seeding and Mulching *[see Greenbook].*

801-4.9.4 Sprigging *[see Greenbook].*

801-4.9.5 Watering *[see Greenbook].*

801-5 IRRIGATION SYSTEM INSTALLATION

Greenbook Section 801-5 is not incorporated.

801-6 MAINTENANCE AND PLANT ESTABLISHMENT *[see Greenbook].*

801-7 MEASUREMENT

Greenbook Section 801-7 is not incorporated.

801-8 PAYMENT

Greenbook Section 801-8 is not incorporated.

SPECIAL PROVISIONS

SECTION 1000. TURF MAINTENANCE

1000-1 MOWING AND EDGING OF TURF.

The Contractor shall mow and edge all turf grass. Generally, the turf grass shall be mowed to maintain a height of no less than one (1) inch and no more than two (2) inches; however, site-specific mowing height shall be designated by Project Manager or his or her representative. Mowing frequency shall occur according to the Service Level listed in the City of Oxnard Landscape Maintenance Service Levels and Frequency of Operations for Maintenance Assessment Districts Chart available at the end of these Special Provisions ("Chart") for that particular district; for example, in a district with Service Level B, Contractor shall mow once every two (2) weeks. All turf grass shall be edged along sidewalks, paved and hard surface areas as necessary to prevent overgrowth. Edging shall not be done by chemical methods, unless an approved growth retardant is authorized by the Project Manager or his or her representative. The Contractor shall pick up and dispose of all grass clippings after each mowing operation, or a mulching deck may be utilized upon approval by Project Manager or his or her representative.

1000-2 SOIL AERIFICATION AND THATCH REMOVAL.

The Contractor shall perform soil aerification for all turf grass areas according to the Service Level listed in the Chart for that particular district. For Service Level A, soil aerification shall be completed in October, March and June. For Service Level B and C, soil aerification shall be completed in March. Aerification shall be done with a power driven aerifier using ½ inch coring tine. The schedule must be pre-approved by the Project Manager or his or her representative. Additionally, Contractor shall notify Project Manager or his or her representative with a written schedule one (1) week prior to the date of aerification commencement.

The Contractor shall remove thatch build up in the sod layer according to the Service Level listed in the Chart for that particular district; for example, in a district with Service Level A, Contractor must dethatch annually. Dethatching shall be completed in November. The schedule must be pre-approved by the Project Manager or his or her representative. Thatch removal shall be performed with a power-driver verticutting machine. All grass clippings associated with this process shall be removed from the site and disposed of at the Contractor's expense. The thatch removal shall precede the aerification process. The verticutting shall be performed on all turf areas.

1000-3 FERTILIZATION.

The Contractor shall fertilize all turf grass, shrubs, ground cover and vines according to the Service Level listed in the Chart for that particular district. The schedule must be pre-approved by the Project Manager or his or her representative. Fertilizer shall be delivered to the site in the original unopened container, bearing the manufacturer's guarantee analysis. Any fertilizer that becomes caked or damaged, making it unsuitable for use, will not be accepted. Immediately following application at each site, Contractor shall thoroughly water the fertilizer into the soil. The Project Manager or his or her representative shall be notified with a written schedule one (1) week prior to the date of the application by the Contractor. Such notification will be subject to approval by the Project Manager or his or her representative. A City representative may be present during fertilization. Dispersible granular formulations shall be used on all turf to help incorporate the fertilizer into the turf and prevent/reduce the visibility of the fertilizer pellets.

Any deviation from the schedule requires the written pre-approval of the Project Manager or his or her representative. All fertilization products must be pre-approved by the Project Manager or his or her representative prior to fertilizing.

1000-4 PESTICIDE APPLICATION.

The Contractor shall control and eliminate all weeds, insects, rodents, diseases and any other pests affecting all plant material. The Contractor's applicator shall hold a valid Qualified Applicator Certificate issued by the California Department of Pesticide Regulation. Any quarterly pesticides used must be on the California Department of Pesticide Regulation's approved chemical list. All pesticide use reports shall be submitted to the Ventura County Agriculture Commissioner and a copy shall be forwarded to the Project Manager. Recommendations need to be procured before application of materials. Restricted materials, if used, shall be used and possessed only in accordance with a permit issued by the Ventura County Agriculture Commissioner. In addition, all pesticides used must have the written approval of the Project Manager or his or her representative before application. The Contractor shall notify the Project Manager or his or her representative three (3) days before application of pesticides. Upon completion of application, the Contractor shall submit to the Project Manager or his or her representative a copy of all pesticide use reports within 24 hours. Contractor shall provide name and license number of personnel spraying the chemicals. Contractor to ensure proper signage is installed prior to pesticide application per City, County and Federal standards. Current standard is to post treatment of park turf areas two (2) days prior to application as notification to residents.

1000-5 IRRIGATION.

The Contractor shall maintain all irrigation systems as required to maintain proper plant growth in all areas. This shall include manual watering by use of hose bibs and quick couplers in addition to, in conjunction with, or in the absence of automatic irrigation systems. Watering shall be accomplished at times of the day or night to ensure the health of all plants and so that the inconvenience to people using the area will be kept at a minimum. Automatic irrigation shall normally take place at night or early morning hours. Any water runoff or overflow onto roadway, sidewalk and hard surface areas shall be kept at an absolute minimum so as not to cause any pedestrian and/or vehicular liabilities. The City reserves the right to require Contractor to change the watering schedule as necessary.

The Contractor shall carefully apply irrigation water in quantities required by the different plant species, time of the year, and other basic environmental factors. The effect of the watering program shall be checked by the Contractor according to the Service Level listed in the Chart for that particular district. The interior of the irrigation controller and booster pump enclosure shall be cleaned annually.

1000-5-1

The Contractor shall maintain and/or replace all irrigation systems and appurtenances. Replacement of irrigation labor costs to be included in this bid. Materials and supplies for the replacement of irrigation may be provided by contractor for an additional fee if pre-approved by the Project Manager or his or her representative. Each such system must include: backflow prevention devices, electrical and battery-operated irrigation controllers, remote control valves, all valve boxes, gate valves, quick coupling valves, quick coupler boxes, valve box covers, all utility covers, main lines, control wiring, lateral lines, all fittings and riser assemblies, hose bibs, sprinkler heads, vandal-proof enclosures and any other irrigation related items. Replacement of any irrigation items shall be with the same manufacturer and in accordance with the manufacturer's installation recommendations unless otherwise pre-approved by the Project Manager or his or her representative. All other irrigation replacement shall be subject to approval by the Project Manager or his or her representative. Contractor shall maintain all irrigation equipment in good working condition such that it shall function properly at all times. Contractor shall regularly inspect irrigation systems, including a sprinkler coverage test, on designated service days. As determined by the City, all routine maintenance labor shall be provided at the Contractor's expense. Additional repair and replacement items not considered routine maintenance will be a separate item subject to the City's Public Projects bid requirements. Contractor shall turn off all irrigation controllers during periods of rain and turn them back on and reprogram them at the end of the rainy period.

1000-5-2
Watering schedule and maintenance of irrigation systems must adhere to the City's Water Ordinance No. 2810.

Once City notifies Contractor of any irrigation related issues, Contractor must respond within 24 hours with a resolution.

1000-6 TURF WEED CONTROL

Contractor shall keep all turf grass areas weed-free and treated for broadleaf weed control according to the Service Level listed in the Chart; for example, in a district with Service Level A, Contractor shall complete, control and eradicate all weeds weekly. Contractor shall do this for that particular district with a product to be pre-approved by the Project Manager or his or her representative.

Contractor shall ensure that all curbs and gutters, paved walkways, stamped concrete, and joints adjacent to landscaped areas, fence lines, light standard bases, buildings and structures are free of all weeds. Herbicides may be used for weed control upon prior approval by the Project Manager or his or her representative. Tree wells should be maintained by a pesticide approved by the Project Manager or his or her representative.

SECTION 2000. SHRUB, VINE AND GROUNDCOVER MAINTENANCE

2000-1 PRUNING AND EDGING.

The Contractor shall prune all shrubs, groundcover and vines. Shrubs shall be pruned as needed for natural shape, pest control and line of site issues for safe flow of traffic to the satisfaction of the Project Manager or his or her representative. Contractor shall prune according to the natural growth of each individual plant to maintain proper plant health by cutting out dead, diseased or injured wood and to control growth when an unshapely shrub might result. Contractor shall prevent all plant growth from entering onto the walkways, roadways, hard surface areas, and along fences and walls. Contractor shall remove faded or dead flower heads or their stalks and plant leaves on a weekly basis or according to the Service Level listed in the Chart for that particular district. Contractor shall remove in a manner so as not to damage remaining or new flower buds from coming into bloom. Edging shall not be done by chemical methods, unless a growth retardant is pre-approved by the Project Manager his or her representative. Vines on walls shall be maintained at a height 4-6" below the top of the block wall and a depth no greater than four inches (4") from the wall.

2000-2 GROUNDCOVER PRUNING.

Groundcover shall be pruned as needed, according to the Project Manager or his or her representative, to maintain separation away from base of trees, shrub masses, and hardscapes. All pruning debris shall be removed from the site at contractor's expense.

2000-3 FERTILIZATION.

Contractor shall make recommendations as to the proper formulation and rates of fertilizers to maintain healthy, vigorous, growing plants according to the Service Level listed in the Chart for that particular district. Final approval regarding which products to be used will be the responsibility of the Project Manager or his or her representative. Contractor shall apply any minor nutrients needed to maintain healthy plant material. Please refer to section 1000-3 for additional Fertilization information.

2000-4 INSECT AND DISEASE CONTROL.

On designated service days, Contractor shall inspect and treat for any insect or disease related

problems.

2000-5 WATER.

Contractor shall monitor moisture levels in irrigated and in non-irrigated bed areas and report any problems, in writing, that may be present during maintenance visits. Contractor is responsible for damage to plants that were not reported to the City in writing and shall be responsible for replacement of these items. All watering must adhere to the City's Water Ordinance No. 2810.

2000-6 BED WEED CONTROL.

Contractor shall control weeds in bed areas by mechanical, physical and chemical methods. Bed areas are to be maintained to control and strive to eliminate weeds. For example, in a district with Service Level A, Contractor shall inspect, control and eradicate all weeds weekly.

SECTION 3000. TREE MAINTENANCE

3000-1 PRUNING.

The Contractor or his or her representative shall possess a valid arborist certification from the International Society of Arboriculture or similar program approved by the City. This arborist must oversee all pruning work including root pruning and certifying all work meets requirements. City may require that the certified arborist directly supervise any staff completing tree work on property. All pruning work shall conform to the current ANSI A300 5.3 Pruning Standard in conjunction with the International Society of Arboriculture Publication. Cleaning shall consist of selective pruning to remove one or more of the following parts: dead, diseased, crossing, touching, and broken branches. Thinning shall consist of selective pruning to reduce density of live branches. Thinning should result in an even distribution of branches on individual limbs and throughout the crown of the tree. Raising shall consist of selective pruning to provide specified vertical clearance. Reduction shall consist of selective pruning to decrease height and/or spread as specified. Safety pruning is to trim a tree given careful consideration to the tree site, surroundings, height, overhang and potential of failure. Pollarding, topping and lion tailing shall be considered unacceptable pruning practices for trees.

Contractor shall prune, shape and structure trees according to the Service Level listed in the Chart for that particular district and root pruning as needed; for example, in a district with Service Level A, Contractor must selectively prune shrubs and trees as required to prevent encroachment and maintain the shrub's and tree's natural form.

There shall not be any removal of trees under this Contract. No topping of trees will be allowed. Tree pruning shall be done to prevent encroachment of walkways, streets and to preclude obstruction of signs. Pruning is to be scheduled according to the Service Level listed in the Chart for that particular district. Water sprout growth on trunk and in main crotch and sucker growth shall be removed throughout the year. A four inch (4") ring of bare soil or mulch will be maintained around each tree to prevent string trimmer/mower damage and competition from turf/groundcover roots. Roots growing around base of tree causing girdling to the trunk area are to be removed. Branches with growth that is crossing or causing rubbing shall be removed to ensure the health of the tree.

Contractor shall remove and dispose of dead or dying palm fronds weekly. Dying palm fronds shall be pruned in a manner that the remaining cut frond stub is cut as close to the trunk of the palm as possible without cutting into the trunk. All pruning cuts shall adhere to current ANSI A300 standards and ISA tree pruning guidelines in conjunction with the International Society of Arboriculture Publication.

3000-2 FERTILIZATION.

Contractor shall fertilize all palm trees using a combination of blood meal and Agriform (slow release)

tablets as needed by installing eight (8) holes around the palm trees. These holes shall be two inches (2") in diameter by twelve inches (12") deep and shall be uniformly located around the base of the palm trees, filled with blood meal, and completely watered in. All other trees shall be maintained in accordance with current ANSI A300 fertilization standards in conjunction with the International Society of Arboriculture Publication.

3000-3 INSECT AND DISEASE CONTROL.

On designated service days, Contractor shall inspect and treat for any insect- or disease-related problems. Contractor is required to notify City and make recommendations, in writing, of all other trees that may need supplemental insect and disease control.

3000-4 WATER.

The Contractor shall provide proper watering of trees, whether done by automated irrigation systems or manually with the use of a hose. Trees shall be maintained in an upright manner and shall be staked as necessary to maintain this position per ANSI guidelines. Watering must adhere to the City's Water Ordinance No. 2810.

3000-5 STAKING.

The Contractor will attach tree stakes as needed to support tree growth. The Contractor shall remove or loosen any and all tree stakes and/or ties before damage to the trunk is caused by girdling. The Contractor shall take all precautions necessary to prevent damage to trees by any device used to accomplish the terms of the contract per ANSI guidelines.

SECTION 4000. GENERAL SITE MAINTENANCE

4000-1 LITTER AND DEBRIS CONTROL.

All areas of maintenance responsibility, including but not limited to paved parking that is not on-street parking in front of residences, shall be kept free of all trimmings, grass cuttings, dirt, mud and litter, including broken glass or other such debris. All trimmings, litter and debris shall be removed and disposed of off-site at the Contractor's expense. Litter and debris pick-up and removal shall be done according to the Service Level listed in the Chart for that particular district and shall include sidewalks adjacent to areas of responsibility. This includes curb and gutter areas.

4000-2 PARK AMENITIES

Contractor must notify the Project Manager or his or her representative of any deficiencies to the park amenities including but not limited to play structures, exercise stations restrooms, tennis courts, benches, picnic tables, trash receptacles and mutt-mitt stations on designated service days. Maintenance of park amenities including restrooms, playgrounds, tennis courts, benches, picnic tables, trash receptacles, and dog mutt-mitt dispensers will be maintained through a separate janitorial contract. However, if Contractor notices any park amenities that need service or repair, they are to be reported to the City for corrective action It is the responsibility of the Contractor to ensure paths of travel are free of any sand, wood chips, or other material that may cause a hazard.

4000-3 ELECTRICAL SYSTEM LIGHTING.

If applicable to the district, the Contractor shall regularly inspect all electrical lighting systems, including, but not limited to, all lighting fixtures, luminaire, ballast or bulb located on the premises of the Work site and report deficiencies to the Project Manager or his or her representative. Contractor shall inspect all lights and timers on a weekly basis. All repairs shall be handled by an outside Electrician and is not included in this contract.

4000-4 WATER AND ELECTRICAL COSTS.

The City shall be responsible for paying all water and electrical costs at the site. However, the Contractor shall make every effort to conserve these resources and must ensure that during the rainy season, all irrigation systems are turned off and turned back on per direction of the City. Watering must adhere to the City's Water Ordinance No. 2810.

4000-5 GRAFFITI

The Contractor shall include all labor and material costs for removal of graffiti from contracted areas as stated in the Service Level document. Such items for repair, removal, replacement or other corrective measures resulting from graffiti include but are not limited to: shrubs, trees, vines, turf, groundcover, all walls and signs, backflow devices, irrigation controllers, remote control wiring, lateral lines, fittings, risers, hose bibs, sprinkler heads, enclosures, or any item within the contracted district that has been vandalized by graffiti. Graffiti shall be removed with chemical/pressure washer on all non-painted surfaces. Under no circumstances do we paint over graffiti on sidewalks, curbs/gutter, block walls or pilasters, monument signs or similar items. Graffiti on painted surfaces shall be removed and the area shall be repainted if necessary. Etching shall be sanded until the etching has been removed. The Contractor shall provide all labor and material to remove graffiti within 24 hours of notification. Any graffiti deemed by the City to be excessive, major or out of the scope of the contract may be assigned to another contractor to complete the removal.

4000-6 VANDALISM AND THEFT.

The Contractor shall include all labor costs for repairs within the Bid. City to provide all materials. Such items for repair, removal, replacement or other corrective measures resulting from vandalism and theft may include but are not limited to shrubs, trees, vines, turf, groundcover, all walls and signs, backflow devices, irrigation controllers, remote control wiring, lateral lines, fittings, risers, hose bibs, sprinkler heads, enclosures, or any item that has been vandalized by methods other than graffiti or have been stolen from the property. The Contractor shall make all repairs within 24 hours, unless previously approved by the Project Manager or his or her representative, to remove, replace or otherwise correct items affected by vandalism and theft.

4000-7 LANDSCAPE REPLACEMENT.

Contractor must replant landscape areas that fail to thrive as a result of the Contractor or its maintenance or horticultural practices. Contractor shall identify these areas and submit a list of them in writing to the Project Manager or his or her representative. All maintenance of replanted material will be the responsibility of the Contractor, whether planted by the Contractor or some other entity during the Contract Term.

4000-8 INSPECTIONS.

Upon execution of the Contract, Contractor and City will perform a thorough inspection of all landscaping and irrigation in each district to determine if there are deficient areas prior to the beginning of services.

Contractor or representative shall be available to perform regular inspections of the assessment district(s) with the Project Manager or his or her representative. Inspections shall occur once per month at an agreed-upon time.

4000-9 RESPONSE AND INQUIRIES.

The Contractor shall be required to respond (within 30 minutes) to any inquires, telephone calls, and emergency situations emanating from City staff. The Contractor shall have the ability to be contacted by

phone from its office whenever such situations occur on a 24 hour basis, seven (7) days per week. Contractor shall have sufficient staff available to respond to emergencies such as emergency tree work, water main break and irrigation failure.

4000-10 TRAFFIC CONTROL.

Traffic control is the responsibility of the Contractor rather than of the City. If required by the City, Contractor must submit a traffic control plan to the City Traffic Engineer. The City to pay for all traffic control permits.

4000-11 DETENTION BASIN FENCES AND GENERAL FENCE MAINTENANCE.

If applicable to the district, on designated service days, Contractor shall perform a visual inspection, looking for missing and/or damaged parts. Monthly, the fence will be thoroughly inspected for damaged or missing bars, loose footings, and chipped paint. Irrigation heads must be operating in a manner as to not spray the fence. Any issue found during inspections will be reported in writing to the Project Manager or his or her designated representative. If a hazardous condition exists, Contractor must make necessary adjustments to ensure the area is safe. Annually, at minimum, detention basin fencing should be pressure washed to remove any webs, plant material and dirt from the fence.

4000-12 DETENTION BASINS.

Contractor shall trim away any plant material from the fence to mitigate encroachment of plant materials between public areas and detention basins quarterly. Contractor should maintain all vegetation within the detention basin on an annual basis in the month of October, trimming plant material to provide for maintenance access and visibility. Contractor shall clean out any detention basin drains annually to ensure adequate drainage for the rainy season. Contractor shall notify Project Manager or his or her representative of any dead or dying plant material so it can be replaced to mitigate erosion.

4000-13 NATURE TRAIL.

Contractor shall maintain the designated areas of the Nature Trail quarterly for weed control and tree maintenance.

4000-14 SOFTWARE.

Contractor will be required to utilize the Cappsure program during the term of the contract. Usage of the program will include, but is not limited to property check-ins, deficiency reporting, work orders, inventory management, etc. There will be no cost to the Contractor and initial set up and training will be offered by the City of Oxnard once the contract is awarded.

4000-15 DOG PARK

Contractor will work with Project Manager or his or her representative to schedule a regular closure day and time for dog park maintenance.

SECTION 5000. LANDSCAPE MAINTENANCE, FERTILIZATION, WEED AND INSECT CONTROL SPECIFICATION SHEET

5000-1 INSTRUCTIONS FOR USE.

All pesticides, insecticides, fertilizers, and any other chemical products must be used in strict compliance with labels and instructions. Applications must comply with all state and federal regulations. The specifications contained herein are intended to be consistent with current label instructions. In the event the specifications conflict with instructions on the pesticide labels, the label instructions shall govern. MSDS (Material Safety Data Sheets) forms shall be placed in visible locations prior to spray applications.

5000-2 CHEMICALS AND FERTILIZERS.

Contractor, rather than the City, shall apply all chemicals and fertilizers.

5000-3 WEATHER.

Chemical types and applications must be applied based upon the weather conditions.

5000-4 INSECT, DISEASE AND NUTRIENT PROBLEMS.

Contractor shall control any insect, disease, or nutrient problems that may occur during the year.

5000-5 EXTRA VISITS.

Contractor shall make necessary visits during the year to correct any problems that may occur during the Contract Term.

5000-6 NUTRIENTS.

Contractor shall apply proper soil nutrients required to maintain a balanced soil. City to pay for all soil tests to determine what nutrients are needed for the soil.

5000-7 VERTEBRATE (PEST) CONTROL.

Gopher and rodent problems are to be addressed according to the Service Level listed in the Chart for that particular district. Vertebrate pest control abatement shall include the following locations but are not limited to turf, planter beds, shrubbery, vines, ground cover or in association with tree maintenance. Written notification of the type of pesticide to be used and frequency of application must be submitted to the Project Manager or his or her representative for pre-approval. All other vertebrate pest problems shall be handled on a case-by-case basis.

City of Oxnard Landscape Maintenance Service Levels and Frequency of Operations for Assessment Districts Version 3

Turf Maintenance Schedule	Frequency	Level of Service				
		A	B	C	D	F
Mowing, Edging & Trimming around sprinkler heads	Weekly	X				
	Every 2 Weeks		X			
	Every Third Week			X		
	Monthly				X	
	Quarterly					X
Aerate to relieve compaction and stress	3x per Year	X				
	Annually		X	X	X	
	Not Performed					X
Dethatch (remove thatch layer to promote growth)	Annually	X	X	X		
	Not performed				X	X
Overseed Stressed Areas	Bi-Annually	X				
	Annually		X	X		
	Not Performed				X	X

Fertilization Schedule	Frequency	Level of Service				
		A	B	C	D	F
Turf	Quarterly	X				
	Bi-annually		X			
	Annually			X	X	
	None					X
Shrubs, Ground Cover and Vines	Monthly	X				
	Quarterly		X			
	Bi-annually			X		
	Annually				X	
	None					X

Trash and Debris Removal	Frequency	Level of Service				
		A	B	C	D	F
Entire Area including but not limited to: Turf, Shrubs, Groundcover and Gutters	Daily	X				
	Weekly		X	X	X	
	Monthly					
	Not Performed					X

Graffiti	Frequency	Level of Service				
		A	B	C	D	F
Inspect and remove as needed	Daily	X				
	Weekly		X			
	Every two weeks			X		
	Monthly				X	
	When reported					X

Pest Control Schedule	Frequency	Level of Service				
		A	B	C	D	F
Complete control and/or eradication of all plant pests within the landscape on designated service days	Spray and Treat as required	X	X	X	X	
	Not performed					X

Weed Control Schedule	Frequency	Level of Service				
		A	B	C	D	F
Complete control and/or eradication of all weeds within the landscape as scheduled	Daily	X				
	Every 2 Weeks		X			
	Every Third Week			X		
	Monthly				X	
	Quarterly					X

City of Oxnard Landscape Maintenance Service Levels and Frequency of Operations for Assessment Districts Version 3

Irrigation	Frequency	Level of Service				
		A	B	C	D	F
Inspect and adjust/repair as needed	Daily	X				
	Every two weeks		X			
	Every Third week			X		
	Quarterly				X	
	Respond to complaints					X

Pruning and Trimming Schedule		Frequency	Level of Service				
			A	B	C	D	F
Groundcover/ Vines/Shrubs	Trim to prevent encroachment	Weekly	X				
		Monthly		X	X		
		Quarterly				X	
		Semi-annually					X
Trees	Maintain all trees in their natural shape to 13.5' above street and 9' above sidewalks monthly		X				
	Maintain all trees in their natural shape to 13.5' above street and 9' above sidewalks quarterly			X			
	Trim as needed to prevent encroachments or hazards				X	X	
	Report encroachments or hazards						X

WAGON WHEEL DISTRICTS' SITE MAP
(Copies are available for purchase at CyberCopy in Ventura)

City of Oxnard Landscape Maintenance Service Levels and Frequency of Operations for Assessment Districts Version 3

Turf Maintenance Schedule	Frequency	Level of Service				
		A	B	C	D	F
Mowing, Edging & Trimming around sprinkler heads	Weekly	X				
	Every 2 Weeks		X			
	Every Third Week			X		
	Monthly				X	
	Quarterly					X
Aerate to relieve compaction and stress	3x per Year	X				
	Annually		X	X	X	
	Not Performed					X
Dethatch (remove thatch layer to promote growth)	Annually	X	X	X		
	Not performed				X	X
Overseed Stressed Areas	Bi-Annually	X				
	Annually		X	X		
	Not Performed				X	X

Fertilization Schedule	Frequency	Level of Service				
		A	B	C	D	F
Turf	Quarterly	X				
	Bi-annually		X			
	Annually			X	X	
	None					X
Shrubs, Ground Cover and Vines	Monthly	X				
	Quarterly		X			
	Bi-annually			X		
	Annually				X	
	None					X

Trash and Debris Removal	Frequency	Level of Service				
		A	B	C	D	F
Entire Area including but not limited to: Turf, Shrubs, Groundcover and Gutters	Daily	X				
	Weekly		X	X	X	
	Monthly					
	Not Performed					X

Graffiti	Frequency	Level of Service				
		A	B	C	D	F
Inspect and remove as needed	Daily	X				
	Weekly		X			
	Every two weeks			X		
	Monthly				X	
	When reported					X

Pest Control Schedule	Frequency	Level of Service				
		A	B	C	D	F
Complete control and/or eradication of all plant pests within the landscape on designated service days	Spray and Treat as required	X	X	X	X	
	Not performed					X

Weed Control Schedule	Frequency	Level of Service				
		A	B	C	D	F
Complete control and/or eradication of all weeds within the landscape as scheduled	Daily	X				
	Every 2 Weeks		X			
	Every Third Week			X		
	Monthly				X	
	Quarterly					X

City of Oxnard Landscape Maintenance Service Levels and Frequency of Operations for Assessment Districts Version 3

Irrigation	Frequency	Level of Service				
		A	B	C	D	F
Inspect and adjust/repair as needed	Daily	X				
	Every two weeks		X			
	Every Third week			X		
	Quarterly				X	
	Respond to complaints					X

Pruning and Trimming Schedule		Frequency	Level of Service				
			A	B	C	D	F
Groundcover/ Vines/Shrubs	Trim to prevent encroachment	Weekly	X				
		Monthly		X	X		
		Quarterly				X	
		Semi-annually					X
Trees	Maintain all trees in their natural shape to 13.5' above street and 9' above sidewalks monthly		X				
	Maintain all trees in their natural shape to 13.5' above street and 9' above sidewalks quarterly			X			
	Trim as needed to prevent encroachments or hazards				X	X	
	Report encroachments or hazards						X

www.FinanceDTA.com

EXHIBIT E

City of Oxnard
300 West 3rd Street
Oxnard, CA 93030

Dated: September 3, 2020

RE: Intent to Levy Special Taxes for Fiscal Year 2019-20

Dear Ms. Cooper or Authorized Representative,

DTA has been retained by the California Statewide Communities Development Authority ("CSCDA") as the administrative consultant for Community Facilities District ("CFD") No. 2018-01 (Wagon Wheel) located in the City of Oxnard (the "City") and is sending you this letter in that capacity. You are receiving this letter because you have been identified as an authorized representative for the City ("Authorized Representative") and DTA requires confirmation from you to levy special taxes for fiscal year ("FY") 2019-20. The following table identifies the FY 2019-20 maximum CFD special taxes applicable for the City:

District Name	Applicable CFD Special Tax City of Oxnard	Maximum Special Tax FY 2019-20
CSCDA CFD No. 2018-01 (Wagon Wheel)	Wagon Wheel Services Special Tax	$726 per Dwelling Unit $243 per Apartment Unit $12,601 per Undeveloped Acre

It is important that DTA receive email confirmation that the City intends to levy special taxes for the upcoming fiscal year. Please complete the table below and send to DTA, a copy of this letter with the completed table below.

District Name	Intend to Levy Special Taxes for FY 2019-20	Total Required Special Tax FY 2019-20 - Estimated
CSCDA CFD No. 2018-01 (Wagon Wheel)	[YES] [NO]	
Authorized Signature		Date
Full Name		

Please do not hesitate to contact me at (800) 969-4382 if you have any questions.

Sincerely,

Nathan D. Perez, Managing Director

EXHIBIT F

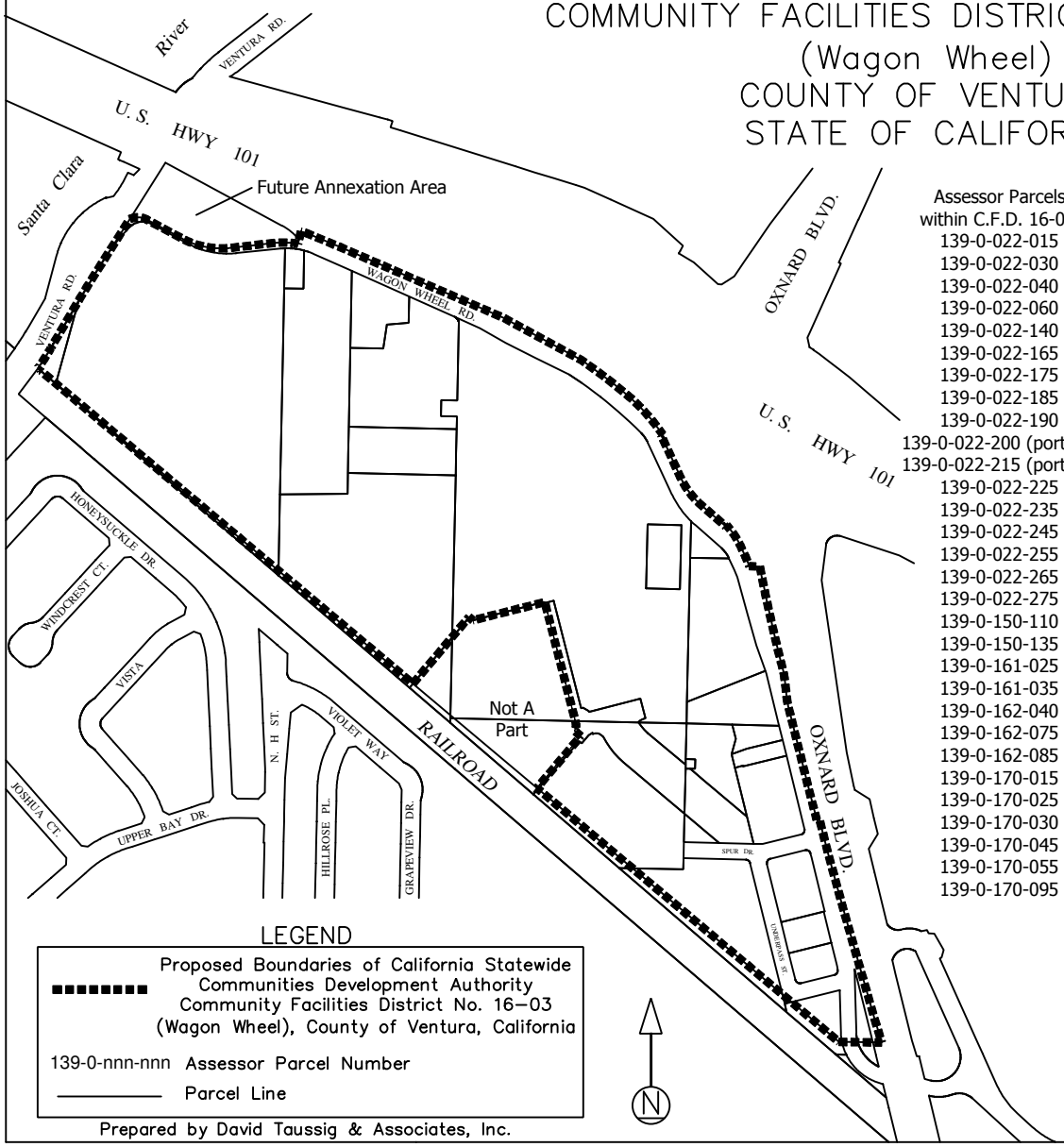
Wagon Wheel Forecast Annual Maintenance Cost

Fiscal Year _____

Item	City CFD Obligation and Maintenance	Master HOA (note 1) and Maintenance	City Maintenance and Inspection	Sub Assoc HOA
LANDSCAPE				
Roadway Parkway & Medians				
Oxnard Blvd/WW Entrance				
Ventura Road/WW Entrance				
Lot A Park				
Lot B Park				
Lot C Park				
MUP Undercrossing				
MUP/Exercise Eqmt				
Caltrans Edge				
Reserve (not incl MUP underx)				
Total (2)				
Park & Ride				
50 spaces and Kiosks Maint				
Reserve				
Structures				
Lot 16 and 17 MUP Walls Reserve				
MUP Undercrossing Reserve				
STORM DRAIN UNITS				
Labor Crew & Equipment				
Disposal				
units and filter replacments				
FLOOD PROTECTION				
Annual Flood Wall Maintenance/ Inspection				
Annual Material Replacement / Labor				
Five Year Certification & FEMA Report				
Walls and Gate Reserve				
SOUND WALLS & INT LANDSCAPE				
Caltrans Edge				
Oxnard Blvd Edge				
UPRR Edge				
Interior Landscape/Amenities				
Speical Districts Admin Costs				
Administrative				
Monthly Site Inspections				
Budget Administration				
Total Annual Budget				

SHEET 1 OF 1

PROPOSED BOUNDARIES OF CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY COMMUNITY FACILITIES DISTRICT NO. 16–03 (Wagon Wheel) COUNTY OF VENTURA STATE OF CALIFORNIA



Assessor Parcels within C.F.D. 16-03:

139-0-022-015
139-0-022-030
139-0-022-040
139-0-022-060
139-0-022-140
139-0-022-165
139-0-022-175
139-0-022-185
139-0-022-190
139-0-022-200 (portion)
139-0-022-215 (portion)
139-0-022-225
139-0-022-235
139-0-022-245
139-0-022-255
139-0-022-265
139-0-022-275
139-0-150-110
139-0-150-135
139-0-161-025
139-0-161-035
139-0-162-040
139-0-162-075
139-0-162-085
139-0-170-015
139-0-170-025
139-0-170-030
139-0-170-045
139-0-170-055
139-0-170-095

Reference is hereby made to the Assessor maps of the County of Ventura for a description of the lines and dimensions of these parcels.

(1) Filed in the office of the Secretary of California Statewide Communities Development Authority this _____ day of _____, 2016.

_____
Secretary, California Statewide Communities Development Authority

(2) I hereby certify that the within map showing the proposed boundaries of California Statewide Communities Development Authority Community Facilities District No. 16–03 (Wagon Wheel), County of Ventura, State of California, was approved by the Commission of the California Statewide Communities Development Authority at a regular meeting thereof, held on this _____ day of _____, 2016, by its Resolution No. _____.

_____
Secretary, California Statewide Communities Development Authority

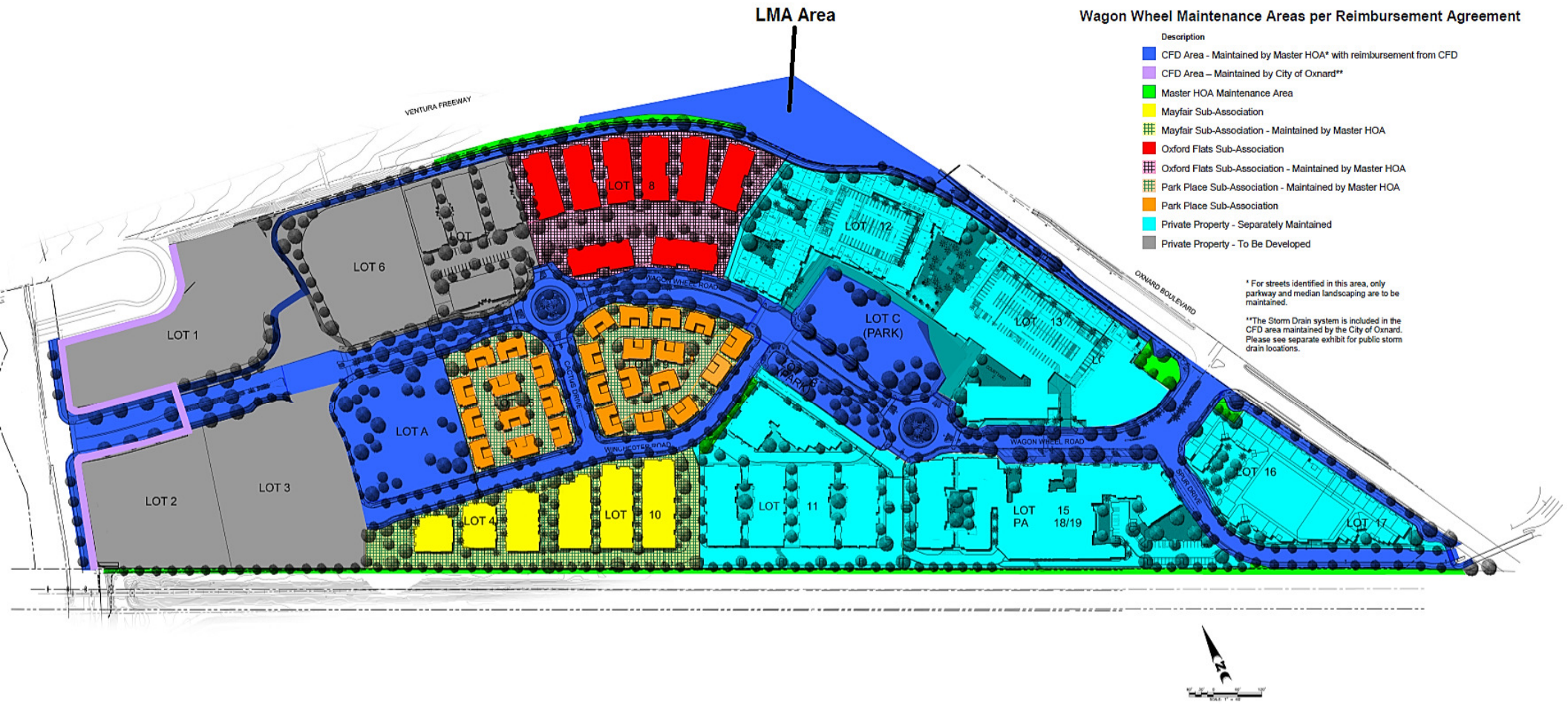
(3) Filed this _____ day of _____, 2016, at the hour of _____ o'clock __m, in Book _____ of Maps of Assessment and Community Facilities Districts at Page _____ and as Instrument No. _____ in the office of the County Recorder in the County of Ventura, State of California.

Mark A. Lunn,
Clerk and Recorder/Registrar of Voters
By _____
Deputy
Fee _____

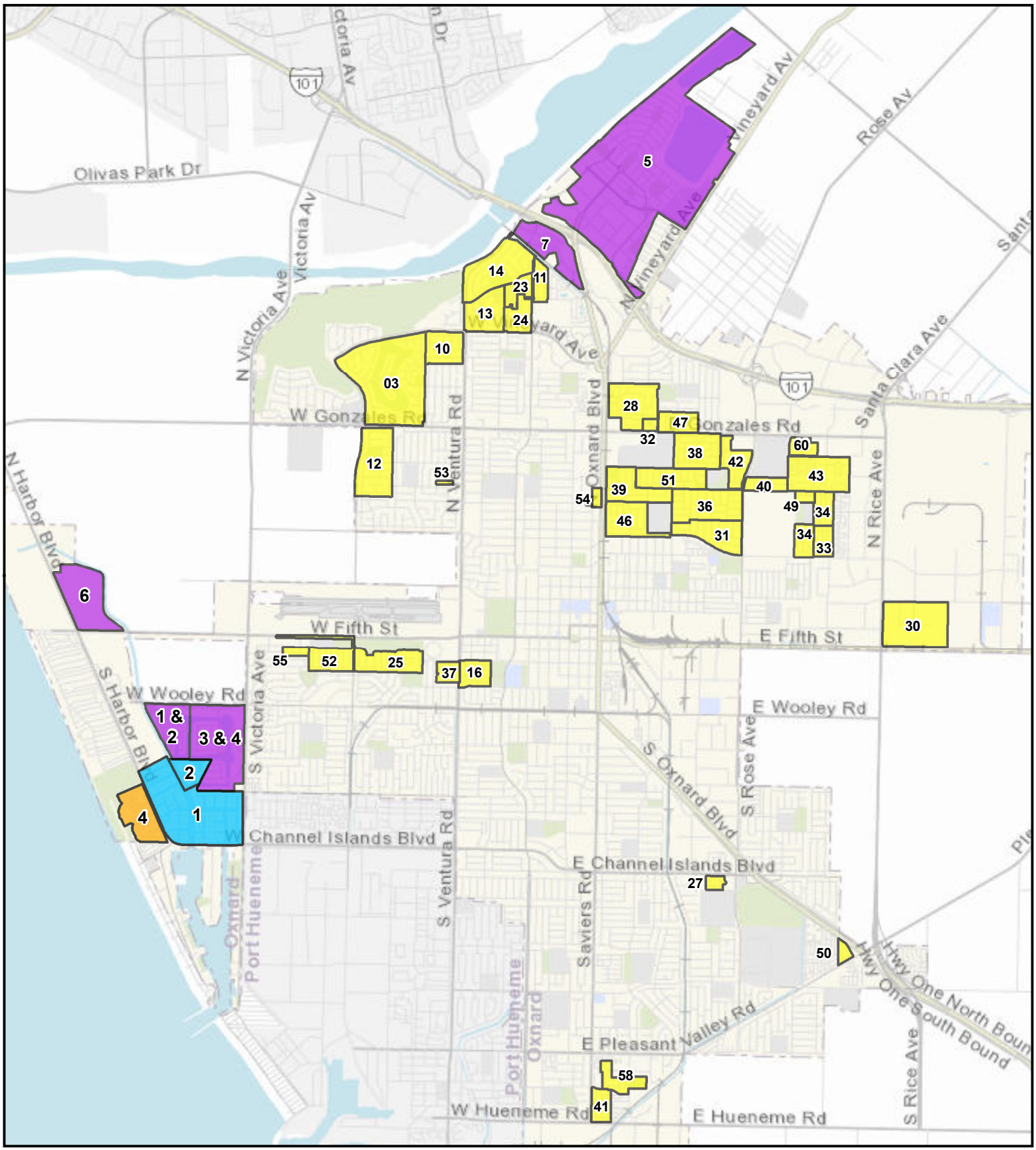
LEGEND

▬▬▬▬	Proposed Boundaries of California Statewide Communities Development Authority Community Facilities District No. 16–03 (Wagon Wheel), County of Ventura, California
139-0-nnn-nnn	Assessor Parcel Number
———	Parcel Line

Prepared by David Taussig & Associates, Inc.


LMA Area
Wagon Wheel Maintenance Areas per Reimbursement Agreement
Description
CFD Area - Maintained by Master HOA* with reimbursement from CFD
CFD Area – Maintained by City of Oxnard**
Master HOA Maintenance Area
Mayfair Sub-Association
Mayfair Sub-Association - Maintained by Master HOA
Oxford Flats Sub-Association
Oxford Flats Sub-Association - Maintained by Master HOA
Park Place Sub-Association - Maintained by Master HOA
Park Place Sub-Association
Private Property - Separately Maintained
Private Property - To Be Developed
* For streets identified in this area, only parkway and median landscaping are to be maintained.
**The Storm Drain system is included in the CFD area maintained by the City of Oxnard. Please see separate exhibit for public storm drain locations.
VENTURA FREEWAY
OXNARD BOULEVARD
WAGON WHEEL ROAD
WINCHESTER ROAD
CACTUS DRIVE
SPUR DRIVE
LOT 1
LOT 2
LOT 3
LOT 4
LOT 6
LOT 8
LOT 10
LOT 11
LOT 12
LOT 13
LOT 16
LOT 17
LOT A
LOT C (PARK)
PARK
LOT PA 15 18/19
N

CITY OF OXNARD ASSESSMENT DISTRICTS



Maintenance Assessment District (District No.)

Community Facilities District (District No.)

Waterway Assessment District (Zone No.)

Landscape Maintenance District (District No.)

Created by:
CITY OF OXNARD
Geographic Information Systems Division
August 2020

3,000 0 3,000 6,000 Feet

This map is compiled by the City of Oxnard GIS Division, which is developed and operated solely for the convenience of the City. The City does not make any representations or warranties regarding the use, accuracy, reliability, and/or completeness of this map and no decision involving a risk of economic loss or physical injury should be made in reliance thereon.

N W E S

Data Source:
City of Oxnard GIS Division
County of Ventura GIS Program

Caltrans Landscape Maintenance Agreement and Wagon Wheel HOA Reimbursement Agreement

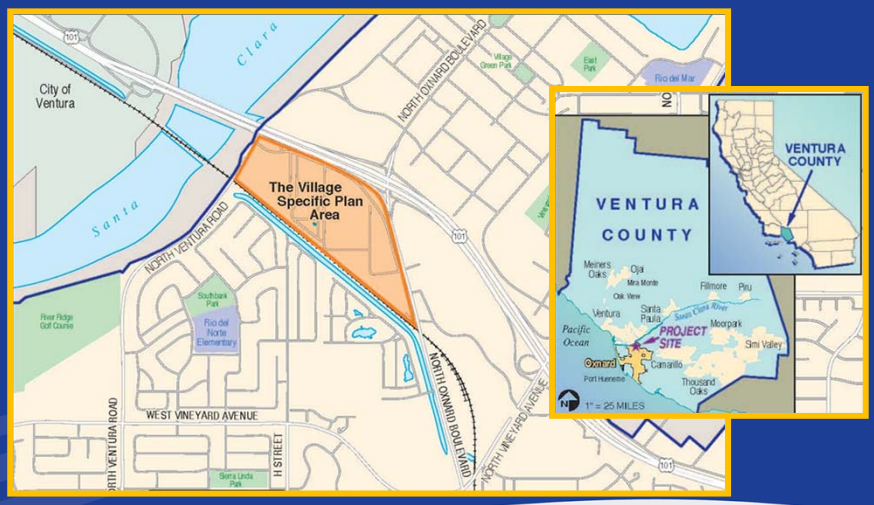
Adam Smith
Project Manager

Public Works & Transportation Committee
September 22, 2020

That the Public Works and Transportation Committee recommend that City Council authorize the City Manager to negotiate and execute:

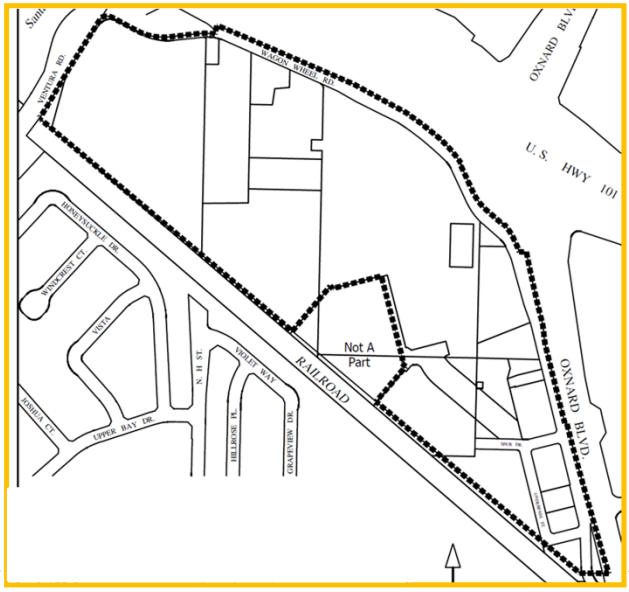
1. Agreement Number A-8238 between the State of California Department of Transportation (Caltrans) and the City of Oxnard (City) for landscape maintenance within the right-of-way of State Highway 101 within the City; and
2. Agreement Number A-8239 between Wagon Wheel Master Property Owners Association (Master Association) and the Wagon Wheel Community Facilities District (CFD) No. 2018-01, an agency formed by the City for Landscape Maintenance Funding

Village Specific Plan



Vicinity Map

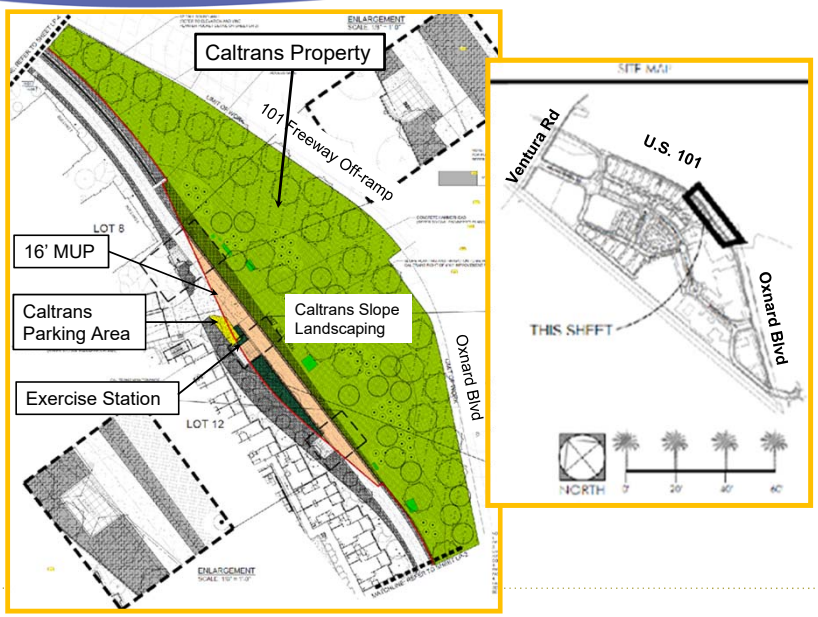
CITY OF OXNARD CALIFORNIA



- July 2015 DA Amendment – CFD Required to fund Development & Maintenance of Public Improvements
  - Public Parks, Public Landscaping, Multi-Use Path (MUP), Exercise Equipment, MUP Bridge, Street Lighting, Retaining Walls, Sidewalks, Stormwater Facilities, Flood Improvements, Caltrans Landscape Areas
- Dec. 2016 – CFD Formed.
- Nov. 2019 – MUP design approved contingent on Caltrans authorization to encroach in Caltrans Right-of-Way. Town Square apartment building also designed contingent on MUP encroachment.

- 2020 - Building permits for Town Square on hold until Caltrans approves MUP encroachment
- July 2020 – Caltrans to allow MUP encroachment, pending approval of Landscape Maintenance Agreement (LMA)

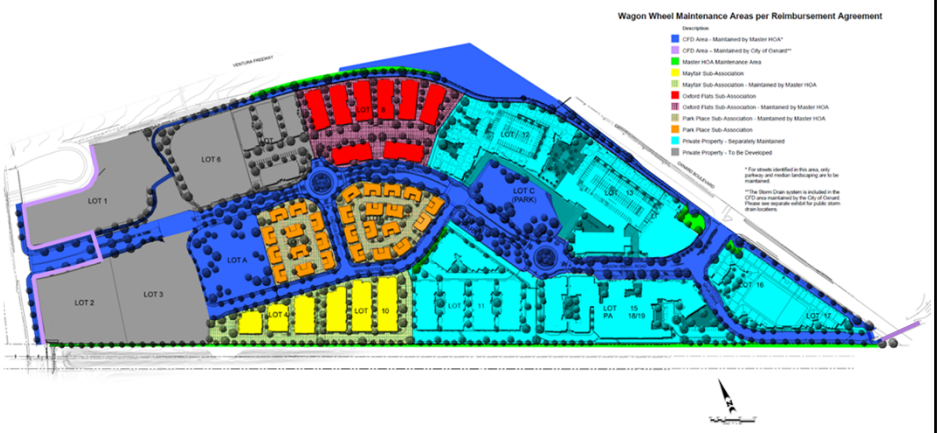
- Caltrans policy only allows LMA with a governmental entity
- City responsible for maintenance of improvements that Developer installs in Caltrans ROW:
  - Landscaping and irrigation,
  - Portion of the MUP, Exercise station, Lighting, Security cameras
  - Caltrans maintenance parking stall, and
  - Tube steel fence and gates (collectively the “Landscaping”)
- Annual Maintenance Cost Forecast $23,819, paid by the CFD



- Reimbursement Agreement would allow CFD to fund Master Association to maintain Caltrans Right-of-Way (LMA items), and maintain other public improvements

- Maintenance Program (Exhibit A):
  - HOA to maintain three (3) parks, MUP, exercise equipment, lighting, public landscaping, Caltrans slope
  - City to maintain storm drain units, flood protection, MUP bridge & Admin with CFD Funds

- Annual Maintenance Budget $585,942 (Exhibit B):
  - HOA Maintenance with CFD Funds $382,107
  - City Maintenance with CFD Funds $203,835



QUESTIONS
ANSWERS