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AGREEMENT

THIS AGREEMENT, made and entered into this 30th day of June, 1986, by and between the CITY OF RICHMOND, a municipal corporation in Contra Costa County, California, hereinafter called "City", and RICHMOND SANITARY SERVICE, a co-partnership, hereinafter called "Contractor";

WITNESSETH:

For and in consideration of the covenants and conditions herein contained, City hereby gives and grants to Contractor for a term of 25 years beginning July 1, 1986, and ending June 30, 2011, the exclusive right and privilege to collect and dispose of all solid wastes in said City. As used herein "solid wastes" means putrescible and non-putrescible solid and semi-solid material. The term solid waste includes garbage; refuse; trash; rubbish; kitchen or table food wastes, animal or vegetable wastes; tree, shrub or bush trimmings; newspapers or magazines; ashes; paper or cardboard; tin or aluminum cans; yard clippings; wood; glass; bedding; crockery; plastics or rubber by-products; litter; animal excrement; vegetable or animal sewage; industrial wastes; demolition and construction wastes; and discarded home and industrial appliances.

1. The existing contract between City and Contractor dated October 1, 1984, shall be deemed rescinded as of July 1, 1986.

2. Contractor shall collect and dispose of all solid wastes in said City in accordance with and at the rates fixed by applicable ordinances of said City and by amendments hereto or by any other ordinances of said City, and such rates shall be subject to change, from time to time, by mutual consent of the parties pursuant to applicable amendments to said ordinance or ordinances based on business conditions in general, including the cost of equipment, labor and materials, and rates which may, from time to time, be established for similar services by other municipalities, particularly neighboring cities and municipalities, it being understood that areas hereafter annexed by the City of Richmond shall be covered by rates in effect in such area at the time of annexation.

3. Contractor shall fully and faithfully comply with applicable local, state and federal laws, ordinances and regulations relating to the collection and disposal of solid wastes and Contractor shall at all times during the term of this agreement provide and maintain at its own cost and expense a sanitary collection service and disposal system sufficient in capacity to systematically and in a sanitary manner collect and dispose of all solid wastes in said City as set forth in such ordinances, laws and regulations. Contractor shall keep and maintain its solid waste disposal premises in a sanitary condition.

4. Contractor shall make regular collections of solid wastes on the same day of each week and in the event of failure to make the

required collection from any place of residence or other place on the regular collection day, Contractor shall make such collection within 24 hours after notice to do so from the City Manager.

5. In the event that better methods are developed for the disposal of solid wastes, including, but not by way of limitation, resource recovery, recycling or composting or if a waste-to-energy facility is constructed in Contra Costa County, the City may require Contractor to adopt such methods or may direct the disposal of solid wastes collected in the City to a waste-to-energy facility. Any action required or directed by City shall only be undertaken or implemented by Contractor after the City and Contractor agree on the expenditures required of Contractor to comply with the directives of the City and the manner in which said expenditures are to be reimbursed to Contractor.

6. (a) Contractor shall, without charge therefor, collect solid wastes and dispose of the same from the City Hall and all City-owned buildings and libraries, but Contractor may charge all public agencies other than City, including caterers who supply food at the Memorial Auditorium and other places, for services rendered at the same rates on the same basis as charged for similar services rendered private firms or individuals.

(b) The Contractor shall provide two annual City-wide collections. One collection shall be made in the Spring and the other collection shall be made in the Fall. Said collections shall be made each year throughout the term of this Agreement in

accordance with practices and procedures established by the Contractor.

(c) The Contractor shall collect non-hazardous solid waste and dispose of the same from fifty (50) containers provided by City and located on MacDonald Avenue in the City. Upon prior approval of Contractor, which approval shall not be unreasonably withheld, City may relocate one or more of the containers on MacDonald Avenue to other locations for collection and disposal by Contractor. The containers provided by the City shall comply with the provisions of the Municipal Code of the City of Richmond.

(d) The City shall have the privilege of depositing non-hazardous solid wastes that require no special handling produced by regular municipal operations and collected by municipal employees on municipally-owned property so long as Contractor has the ability to accept such wastes in the West Contra Costa Sanitary Landfill.

7. The solid waste disposal premises operated by Contractor may be used by the residents, businesses, and industrial plants of the City, at such times and on such days as are established from time to time by Contractor.

8. In the event of default in the performance of any of the terms or conditions hereof which involve a substantial cessation of the Contractor's operations or a material breach of Contractor's obligations hereunder, the City Council, by a majority of its members, shall give written notice to Contractor of such default or

breach by Contractor, specifying the nature of the default or the breach and that if the default or breach is not cured within 30 days after such notice is given, the City Council may terminate this agreement. In the event the Contractor does not cure the default or breach within 30 days after having received such notice from the City Council, the City may take over such equipment then owned by Contractor and convenient for use in such collection and disposal to enable the City to provide for the collection and disposal of solid waste within the City until satisfactory arrangements have been made by City with third parties to make such collection and disposal or until the City has itself determined that it will, as a public enterprise, collect and dispose of solid waste within the City. In the event that the City takes over the equipment owned by Contractor for the disposal of solid waste, the City shall pay to Contractor the reasonable value of all collection and/or disposal equipment which the City appropriates. If the parties hereto are unable to agree upon such reasonable value, then said value shall be fixed by appraisers, one of whom shall be appointed by the City and one by the Contractor; and in the event of their failure to agree, the two appraisers shall appoint a third appraiser to make said appraisal; and said appraisal when so made by a majority of said appraisers shall be binding upon the respective parties hereto.

Notwithstanding the above, Contractor shall not be in breach or default under the terms of this Agreement in the event that such breach or default is due to war, insurrection, strikes, walkouts,

riots, floods, earthquakes, fires, acts of God, acts of the public enemy, epidemics, quarantine restrictions, or any other causes beyond the control or not the fault of Contractor.

9. In the event that the City shall itself desire to take over and conduct the collection and/or disposal of solid waste in said City, as a public enterprise, it may do so at any time during the term of this agreement upon giving to Contractor at least one year's written notice of said desire; and upon the expiration of said period of twelve months, this agreement shall be void and of no further force or effect.

10. The privilege hereby granted to Contractor to make said collection and disposal within said City and to make and retain certain charges for the use of its solid waste disposal premises shall be deemed to be and is an exclusive privilege so long as Contractor shall, during the life of this agreement, fully and faithfully carry out and perform all of the conditions and covenants of this agreement on its part to be kept and performed subject, however, to the aforesaid right of cancellation.

11. Contractor agrees to furnish all machinery and equipment necessary to properly perform this agreement and to maintain and keep the same in such condition, particularly with reference to paint and appearance, as required by City during the entire term of this agreement; and all trucks used for such collection and disposal shall be equipped with a suitable cover or otherwise meet the requirements of the Vehicle Code of the State of California.

12. (a) Beginning July 1, 1986, Contractor shall pay to City for said privilege hereby granted the sum of TEN THOUSAND FIVE HUNDRED DOLLARS (\$10,500.00) on the first day of each and every month;

(b) Beginning on January 1, 1987, and at each one year interval, or from time to time thereafter during the term of this Agreement, the amount of payments to be made to the City by Contractor shall be increased in the same proportion as the charge listed in Richmond Municipal Code Section 9.20.150(a)(1) less any surcharge imposed in said section is increased and by the same proportion of any increase in the population of City over the preceding year based upon the population for City as certified by the State of California Department of Finance. (For example, if the charges increased by 2% in January of 1987, and if the population increased by 1%, the franchise fee shall increase by 3%.) If the charges listed in Richmond Municipal Code Section 9.20.150(a)(1) take effect on any date other than January 1st of any year, the franchise fee adjustment shall increase upon the effective date of any increase in charges. The franchise fee, based upon a population increase shall increase once annually on the first of the month following the publication of the Census of City by the State of California Department of Finance.

13. (a)(i) Beginning July 1, 1986, until December 31, 1992, in addition to the amounts provided for in paragraph 12 hereof, Contractor shall pay to City as an additional franchise fee the sum

of seven dollars (\$7.00) per ton for all materials deposited at its landfill that are not collected by Contractor or by Mill Valley Refuse Service, Bay Cities Refuse, Inc., East Bay Sanitary Service, and Crockett Garbage Company, provided said materials are residential solid wastes collected from households under contract to a municipality or other governmental entity;

(ii) City agrees that one seventh (1/7th) of the sum received as an additional franchise fee shall be used to promote the construction of the North Richmond By-Pass;

(iii) City agrees that one seventh (1/7th) of the sum received as an additional franchise fee shall be paid to the West Contra Costa Solid Waste Management Authority (WCCSWMA) for Solid Waste Management Planning and Projects;

(iv) City agrees that one seventh (1/7th) of the sum received as an additional franchise fee shall be paid to Contractor to use in a composting and recycling operation as mutually agreed upon by Contractor and WCCSWMA; and

(v) City agrees that four sevenths (4/7ths) of the sum received as an additional franchise fee shall be paid to Contractor to offset total closure and post-closure costs of West Contra Costa Sanitary Landfill, to the benefit of all customers of the landfill excluding self-haul customers.

(b) Beginning January 1, 1987, the additional franchise fee provided for in paragraph (a) above shall increase in the same

proportion as the Contractor's "tipping fee" less any surcharge portion of the "tipping fee", is increased during the year.

(c) The calculation of additional franchise fee shall be determined by using the scales of Contractor at the Contractor's disposal premises. If the scales are at any time inoperable, the weight shall be estimated by Contractor.

(d) Upon reasonable notice to Contractor, City shall have the right to audit the weight records of Contractor to determine for itself the additional franchise fee provided for herein. Any dispute between City and Contractor concerning the amount of any additional franchise fee shall be resolved by binding arbitration in accordance with the provisions of the Code of Civil Procedure of the State of California. Contractor agrees that upon termination of the present agreements with Mill Valley Garbage Company, Bay Cities Refuse, Inc., East Bay Sanitary Service, Bayview Refuse Service, Inc., Berkeley Sanitary Service, and Crockett Garbage Company, said agreements will not be renewed or modified without the prior consent of the City. Any new contract which Contractor proposes to enter into that is subject to the provisions of this Paragraph shall be submitted to the City Manager for his or her approval, which approval shall not be unreasonably withheld. If the tonnage charge payable to the City as provided herein shall prove to be void or illegal, Contractor shall have no liability for payment of said charge to the City. "Solid Waste" as used herein does not include sewage sludge.

14. Contractor shall provide City with copies of its reports to the County of Contra Costa and the Bay Area Regional Water Quality Control Board of tonnages of materials deposited at its disposal premises. Contractor further agrees to advise City of any material change in the operation of the disposal premises. Contractor and City representatives shall meet and confer at such times and at such frequencies as may be reasonably necessary to further the interests of both parties in preserving and/or expanding the useful life and capacity of the disposal premises.

15. Contractor shall have, and is hereby given, the exclusive right to all salvage from said collections and said disposal premises and it may grant a permit to any third person, firm or corporation to collect and keep said salvage upon such terms and conditions as Contractor may desire.

16. Contractor shall indemnify and save the City, its agents, officers and employees harmless from and against any and all liability, claims, suits, actions, damages, penalties and/or causes of action arising during the term of this agreement out of any personal injury, bodily injury, loss of life or damage to property, violation of any federal, state or municipal law or ordinance or other cause in connection with the activities of Contractor, its subcontractors, agents and employees under this agreement or on account of the performance or character of the work, unforeseen difficulties, accidents, occurrences or other causes and from and against all costs, counsel fees, expenses incurred in obtaining

expert testimony and the attendance of witnesses, expenses and liability incurred in and about any such claim, the investigation thereof or the defense of any action or proceedings brought thereon, and from and against any orders, judgments or decrees which may be entered therein unless arising out of the sole negligence or willful misconduct of the City. Approval of the insurance coverage does not relieve the Contractor or subcontractors of liability under this Indemnification Clause.

17. Contractor, at its own cost and expense, shall carry and maintain full Workers' Compensation Insurance and Employers' Liability with an insurance carrier satisfactory to the City. Policy shall provide that no cancellation, major change in coverage or expiration shall become effective or occur until at least ten (10) days after receipt of such notice by City. In the event Contractor is self-insured, it shall furnish Certificate of Permission to Self-Insure signed by the Department of Industrial Relations Administration of Self Insurance in Sacramento, California.

18. Contractor at its own cost and expense shall maintain liability and property damage insurance for the period covered by this Agreement in the amount of One Million Dollars (\$1,000,000.00) per occurrence combined single limit coverage. If available, City, its officers and employees, shall be named as an additional insured, and the policy shall stipulate that this insurance will operate as primary insurance and that no other insurance carried by the City

will be called upon to contribute to a loss suffered by Contractor hereunder.

A coverage verification shall be completed and signed by Contractor's insurance representative, and returned to the City within 45 days after the effective date of this Agreement. The Coverage Verification form must be approved by the City Attorney's office before the terms of this Agreement shall be in effect.

Upon notification of receipt by the City of a notice of cancellation, major change in coverage or expiration, Contractor shall file with the City a certified copy of a new or renewal policy and certificates for such policies, satisfactory to the City Manager and City Attorney or, in lieu thereof, such other evidence of Contractor's financial ability to respond to damages that is satisfactory to the City Manager and City Attorney.

If at any time during the term of the Agreement, or any extension thereto, the Contractor fails to comply with the provisions of this paragraph, the City Manager shall give written notice to Contractor of such default or breach, specifying the nature of the default or the breach and that if the default or breach is not cured within 30 days after such notice is given, the City Council, after a public hearing at which Contractor is invited to attend, may terminate this Agreement.

19. Any provision or provisions of this Agreement which shall prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof, and the remaining

provisions hereof shall nevertheless remain in full force and effect as though said invalid, void, or illegal provision or provisions had not been inserted in this Agreement, it being the intent of the parties hereto that all of the remaining provisions of this Agreement shall continue to be fully effective to the fullest extent permitted by law.

IN WITNESS WHEREOF, City has caused these presents to be signed and its corporate seal affixed by its Mayor and Clerk thereunto duly authorized and Contractor has caused these presents to be signed on its behalf by its Managing Partner and Secretary, being two of its co-partners, thereunto duly authorized by all the co-partners of Contractor, all on the day and year first above written.

Attest:

BY Harlan J. Heydon
City Clerk

CITY OF RICHMOND, a
municipal corporation

BY [Signature]
Mayor

Approved as to form:

BY Malcolm Lute
City Attorney

RICHMOND SANITARY SERVICE, a
co-partnership

BY [Signature]
Title: Managing Partner

BY [Signature]
Title: Secretary and Partner

(acknowledgments)