

**AMENDMENT ONE
TO THE
CITY OF RICHMOND WASTEWATER TREATMENT FACILITY
CAPITAL IMPROVEMENTS, OPERATIONS,
MAINTENANCE AND MANAGEMENT AGREEMENT
BY AND BETWEEN
THE CITY OF RICHMOND, CALIFORNIA
AND
VEOLIA WATER NORTH AMERICA OPERATING SERVICES, INC. (F/K/A U.S.
FILTER OPERATING SERVICES, INC.)
DATED AS OF MAY 15, 2002**

THIS AMENDMENT is entered into on the 7th day of Sept. 2004, by and between THE CITY OF RICHMOND, CALIFORNIA (the "City") and VEOLIA WATER NORTH AMERICA OPERATING SERVICES, INC., formerly known as US FILTER OPERATING SERVICES, INC. (the "Company").

WHEREAS, City and Company entered into the City of Richmond Wastewater Treatment Facility Capital Improvements, Operations, Maintenance and Management Agreement dated May 15, 2002 (the "Agreement"), which provides, among other things, for COMPANY to design and construct certain capital improvements at the City's Wastewater Treatment Facility (the "Facility") and for Company to operate, maintain and manage the Facility during the term of the Agreement; and

WHEREAS, the City currently owns, operates and maintains a separate sanitary sewage collection system ("Sanitary Collection System"), which consists of a network of an estimated 185 miles of sewer lines with appurtenant manholes, and 13 wastewater lift stations, and a stormwater collection system ("Stormwater Collection System"), which consists of an estimated 94 miles of stormwater main lines, 3,300 catch basins, 1,200 manholes, 6 miles of open ditch, 6 miles of V ditch and 7 stormwater lift stations (the above Systems hereinafter collectively referred to as the "Collection System"); and

WHEREAS, the operation of the Collection System directly impacts the operation of the Facility under the Agreement; and

WHEREAS, Article XII of the Agreement provides that the City and the Company can agree to add additional services to the Agreement as may be mutually agreed to by the parties; and

WHEREAS, the parties now desire for the Company to operate, maintain and manage and perform construction management responsibilities with respect to the City's Collection System.

NOW, THEREFORE, in mutual consideration herein described and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. The following definitions shall only apply to the Services performed in connection with the Collection System under this Amendment:

"Amendment Commencement Date" is October 15, 2004, or earlier as mutually agreed.

"Capital Improvements" means any expenditures for: (1) the purchase of new equipment or facility items that add to or replace elements of the Collection System; (2) the material improvement or upgrade of all or part of the Collection System; and/or (3) repairs to the Collection System. All expenditures in connection with Capital Improvements are the responsibility of the City.

"CSO" or "Combined Sewer Overflows" means the two locations in the Richmond system where the Sanitary Collection System is designed to overflow into the Stormwater Collection System when the hydraulic capacity of the Sanitary Collection System has been reached, such as during a storm event.

"Maintenance" means those routine and/or repetitive activities required or recommended by the equipment or facility manufacturer or by the Company to maintain the performance and maximize the service life of the various elements of the Collection System.

"Repairs" means those non-routine/non-repetitive activities required for operational continuity, safety and performance generally due to failure or to avert a failure of the equipment or facilities or some component thereof of the Collection System.

"SSOs" or "Sewer System Overflows" means overflows, breaks, blockages and backups of the Sanitary Collection System.

2. Operation of the Collection System. Company shall operate, maintain and repair the Collection System consistent with its present condition within the design capacity and operating capabilities of the installed equipment and piping and other components of the Collection System.

- 2.1 The Company will assume full-risk for the operation, repair and maintenance of the City's existing thirteen (13) sanitary sewer and seven (7) stormwater lift stations upon the completion of the budgeted lift station capital improvements described in Exhibit A. Company shall monitor the alarms installed at the sewer and stormwater lift/pumping stations and CSOs on a 24-hour-a-day/7-day-a-week basis, and Company shall measure the flow rates at strategic locations within the Collection System following completion of the SCADA system upgrade and the pump station improvements described in Exhibit A. All lift/pumping stations repair and maintenance (R&M) will be tracked using the Company's CMMS system, and Company shall perform planned maintenance of all critical equipment included in the Collection System. The operation and maintenance of

the lift/pumping stations will be included in the Company's overall operations and maintenance budget for the Collection System.

- 2.2 Company shall develop a plan utilizing as guidance the U.S. EPA's Draft Capacity, Management, Operations & Maintenance (CMOM) guidelines dated March 2004 in an effort to (i) prevent or minimize sanitary sewer overflows or spills, (ii) minimize pump station spills, (iii) achieve the expected life of the managed assets included in the Collection System, (iv) monitor and improve Collection System reliability and performance, and (v) efficiently use the City's funds allocated to the Collection System for operations and maintenance and to improve service reliability of the Collection System (the "Management Plan"). The Management Plan will include the following elements:

- 2.2.1 Development of proper management, operation and maintenance procedures and performance measurements for the Collection System. This will be accomplished through the development of cleaning and televising strategies per the annual cleaning and televising frequencies proposed in this offering as well as the development of a Hot Spots list for areas requiring more frequent maintenance until corrective measures can be implemented. Also included will be written emergency response procedures for various emergencies, which could arise from time to time.

- 1.1.1 Implementation of asset management and long-term planning geared to provide adequate system capacity for base and peak flows in the Collection System. This will be accomplished as described more thoroughly below through:

- A. Use of CMMS software
- B. Flow data collection through basin monitoring
- C. Rainfall modeling
- D. GIS Mapping
- E. A System Evaluation and Capacity Assurance Plan
- F. A written summary of the Company's Management Plan
- G. Documentation that all feasible steps to stop and mitigate impacts of Sanitary Sewer Overflows (SSOs) have been taken. This will be on a phased basis as Company accepts responsibility for the system maintenance per the proposed cleaning and televising schedule and will be subject to City approval for capital repairs and replacements.
- H. Development of procedures to notify parties with reasonable potential of being exposed to pollutants from SSOs. This will be the development of SOP's for the Company to provide notification per regulatory requirements to the local State Water Board, local Health Department and the City of Richmond in the event of a Sanitary Sewer overflow. This will be done in cooperation with the City of Richmond Industrial Pretreatment Program (IPP) group

- who oversee all regulatory issues for the Collection System and CSOs.
- H. Performance of rigorous self-audits through the Company's peer audit program to assess the quality of the Company's Management Plan.
 - H. Completion of a Company Management Plan summary report on an annual basis and providing that report to the City. At the City of Richmond's choosing, these reports may be supplied to regulatory agencies as/if this component of the CMOM is adopted.
- 2.2.3 The above services and Plans will be developed and performed based on the U.S. EPA's preliminary CMOM guidelines. In the event that the final CMOM rules or guidelines differ materially from the U.S. EPA's preliminary CMOM guidelines or the services and Plans developed and performed by the Company after the Effective Date of this Amendment, the parties will treat such material differences as a Change in Law.
- 2.3 Maintenance of the Collection System will be performed by the Company as part of the Annual Fee stated herein on a priority basis, with emergency items completed first, and scheduled Maintenance performed in accordance with the Company's Management Plan and the need and the date received.
- 2.4 Company shall develop and implement a plan to efficiently use the City's capital funds available for the Collection System to reduce the City's current infiltration/inflow (I/I) problems as shown in Exhibit A. The exact allocations are subject to modification upon agreement between the City and Company.
- 2.5 Company shall assume responsibility for all relevant customer service requirements related to the operation of the Collection System including response to routine and emergency calls and new service tap inspections. The Company shall coordinate its responses with the City's insurance and claims administration program to maintain consistency between the two programs.
- 2.6 Company will prepare a plan for inspecting and maintaining the manholes in the Collection System on a four-year cycle. This work will be coordinated with the system cleaning program, and the manhole work will include replacing worn manhole rings and covers and adjusting manhole rings and covers for road construction. Data and information from the manhole inspection and maintenance reports will be used as the basis for identifying manholes that are in need of capital replacement or rehabilitation. The Annual Fee includes the labor and overhead needed to raise or lower 260 manholes per year. Funds for manhole materials will be charged against the City's Capital Improvements budget.
- 2.7 Company will work with the City to provide updated data and information showing sewer mains, manholes and lift stations for the City's Geographic Information System (GIS), including completion of electronic mapping and the Sanitary Collection System database.

- 2.8 Company will maintain the easements for the lift/pump station easements, by mowing, clearing brush, controlling litter and performing Maintenance where needed at the lift stations.
- 2.9 In addition to regular line cleaning, the Company will be responsible for cleaning so-called "Hot Spots" areas of the Collection System that persistently contribute to overflows and other incidents. The Company will use the City's Hot Spots list as a starting point for identifying and cleaning problem areas. If, as part of this process combined with cleaning and televising, additional Hot Spots are identified, the Company will revise the list and supply a copy to the City on a monthly basis for review. This review will give the City an understanding of where the Hot Spots are, as well as those that can be controlled through regular cleaning (with a schedule for doing so) and those that can only be mitigated through capital improvements. Such Hot Spots will be prioritized to a capital improvements list. An example of the latter would be where an 8" line chokes down to a 6" line.
- 2.10 Company will perform all repair and maintenance activities relating to the City's vehicles listed in Exhibit "F" as part of the Annual Fee; provided, however, City shall be responsible for replacing any such vehicles as deemed necessary by the parties.
- 2.11 Section 3.5(3) of the Agreement is hereby amended to read as follows:

"(3) retain responsibility to perform meter reading and maintenance, enforce the Industrial Pretreatment Program, perform all regulatory duties, sampling analysis and reporting associated with the Stormwater Collection System and CSOs and perform long-term Collection System and Service Area Planning;"

3. Capital Improvements. Company will assist the City in performing Capital Improvements to the Collection Systems as follows:

- 3.1 Company shall provide the City with turn-key services to implement a comprehensive Sanitary Collection System rehabilitation program, utilizing the EPA's draft CMOM Program as guidance. The cost of the program will be paid by the City, with initial funds derived from the 1999 Bond Issue of which approximately \$22 million remains to be obligated. The methodology of the turn-key services is described below and generally includes scope determination, engineering services for the purpose of soliciting quotations from contractors, the solicitation of quotations from pre-qualified, invited, sub-contractors, execution of the construction work, and construction and project management and inspection.
- 3.2 Exhibit A is a preliminary CIP broadly showing how the City could invest the remaining \$22 million of the 1999 sewer revenue bonds, including those funds previously obligated by the City for the program described in Exhibit B. This is an

estimate for allocation purposes and depending on the needs of each specific defined project, funds can be moved from one line item to another to meet the needs of the City.

- 3.3 As soon as possible, but not later than sixty days after the effective date of this Amendment, Company will evaluate the Collection System capital projects already identified by the City and will provide a budget level project cost estimate along with firm pricing for engineering services with the intent of preparing detailed scope documents and drawings to solicit contractor pricing. The next step will be to obtain construction pricing using the prepared documents. Company will work with pre-qualified sub-contractors by invitation only. Subcontractor selection will be made by Company based on the best overall subcontractor, after sub-contractor bids are summarized for and reviewed with the City. The Company will then execute the projects in a timely manner while the study and evaluation work discussed below is being completed.
- 3.4 Company shall serve as construction program manager for all Capital Improvement work, including conducting the competitive bidding process. Company shall develop requirements for the pre-qualification of bidders, with an emphasis on local firms, to perform capital work. Company shall review and award contracts to implement the Capital Improvements work.
- 3.5 Within nine (9) months of the commencement date of this Amendment, Company shall prepare and submit to the City, an interim CIP, with the express purpose of informing the City of the Collection System repairs/rehabilitations/replacements that have been discovered during the initial stages of the work. Following the same procedure described in Section 3.2 above, Company will conduct engineering design, solicit quotes from sub-contractors and meet with the City to select the sub-contractor to proceed with the work.
- 3.6 Within 18 months of the commencement date of this Amendment, Company shall complete a comprehensive Capital Improvement Plan (CIP) for the wastewater collection lines, manholes, sewage lift stations, stormwater pumping stations and rolling stock utilized to maintain these systems. The CIP will consist of two parts: (i) those Capital Improvements that have been identified for funding and completion with the remaining dollar balance of the 1999 sewer revenue bond; and, (ii) any additional Capital Improvements that should be made formulated into a five-year capital plan updated annually and reviewed by the City.
- 3.7 Upon completion of the CIP, Company will continue with the recommended and prioritized capital work following the protocol described in Section 3.2 above until the 1999 Bond Funds are expended. Should additional funding be necessary to complete the recommended and prioritized work, at the City's discretion, Company will work with the City to explore options for additional funding.

- 3.8 Company has performed a preliminary review of the condition of the lift/pumping stations. Most of them require Capital Improvements to bring them up to industry standards. Two need to be replaced in their entirety. The Company's budget estimate for the required Capital Improvements to the lift/pumping stations is \$3.2 million, which includes installation of emergency generators at each station as needed but excludes the Company's overhead and profit. Within 120 days of commencement of this Amendment, the Company will complete the due diligence necessary to finalize the scope of work and pricing for the above Capital Improvements. Upon approval of the final scope of work and pricing by the City, the Company will complete all lift station Capital Improvements within 18 months. The Company will not assume full R&M risk for the lift/pumping stations until the Capital Improvements are completed. As the Capital Improvements for each pump station are completed, Company shall assume full R&M risk for the pump station under the Annual Fee subject to the terms of this Amendment.
- 3.9 The City will retain Company to perform an initial cleaning and Closed-Circuit Television (CCTV) inspection of the Collection System during the first two years of the Amendment.
- 3.10 Company will subsequently prepare a System Cleaning Plan for cleaning all parts of the Collection System on a four-year cycle, after the initial cleaning performed during the first two years. Problem areas will be cleaned on an as-needed basis, and hydraulic rodding will be used to clean facilities that are impacted by roots and grease. High pressure cleaning and vacuuming will be the primary preventive maintenance method used for the Sanitary Collection System. The System Cleaning Plan will be updated every three years in order to incorporate system additions. In addition, data and information from these cleaning reports will be used to identify lines that are in need of capital replacement or rehabilitation. Company may use an herbicide chemical treatment application for certain types of root intrusions in sanitary sewer mains.
- 3.11 Company will use the City's CCTV inspection equipment to perform inspections of problem areas or to perform routine inspections in the Collection System and to assess the internal condition of the overall wastewater collection lines and other appurtenances on a ten-year cycle after the initial televising performed during the first two years. These inspections will be thoroughly documented in order to support the Company's operations and the City's Capital Improvement Program (CIP). CCTV inspection will also be used to identify damaged pipe, root intrusion, grade problems, and grease buildups, as well as to pinpoint infiltration and illegal inflows.
- 3.12 Company will work with the City to prepare annual budgets for repairing the Collection System. All repairs to the Collection System shall be paid for by the City as part of the City's CIP.

- 3.13 During the third year of the Amendment, the parties will transfer the Enhanced Sanitary and Stormwater Program of the Capital Improvements work described above to the operations budgets included within the Annual Fee with appropriate changes to the Annual Fee as reflected in Exhibit C. Until such time, all Capital Improvements described above shall continue to be paid for by the City as part of the City's CIP.
4. Compensation. Company's compensation for performing the Services described in this Amendment shall be as follows:
- 4.1 Company shall be paid an Annual Fee as shown in Exhibit C for operating and maintaining the Collection System during the term of the Agreement. The Annual Fee shall be subject to adjustments as set forth in Schedule 5 of the Agreement. The adjustments shall be made on the same schedule as the adjustments to the Facility Service Fee starting July 1, 2005.
- 3.1 The following items shall be considered Pass-Through Costs under Schedule 10 of the Agreement: electricity; provided, however, Schedule 8 of the Agreement shall not apply to such Pass-Through Costs.
- 4.3 Within 18 months of the Amendment Commencement Date, the City and Company may develop incentives whereby Company savings in the Annual Fee may be shared between the City and the Company.
- 4.4 Company shall be paid by the City for Capital Improvement work based on monthly progress payments for the work completed and materials stored per industry standard, including Company's overhead and profit. Monthly invoices will be submitted with appropriate documentation to validate the amount requested.
5. Employees. On or before the commencement of the services described in this Amendment, the Company shall complete its interviewing of all current City employees involved with such services whether or not represented by collective bargaining representatives (the "City Employees") who are interested in and apply for a position with the Company. City Employees who apply for employment with the Company shall be offered positions providing comparable wages and benefits to their current City positions with the City. All City Employees may be required to take and pass lawful drug testing as a condition of employment. Additionally, City Employees may be required to take a medical examination, the results of which shall not be a factor in their employment. During the first three (3) years of the Contract Term, the Company shall employ all City Employees hired as its employees in connection with the services performed under this Amendment.
- 5.1 Orientation and Career Planning. Within the first two (2) weeks of starting to perform services under this Amendment, the Company shall conduct a Company orientation and career planning workshop or workshops at the Company's sole

cost and expense for City Employees. The workshop(s) shall apprise City Employees hired under this Section of applicable legal requirements relative to their employment rights, and shall orient the City Employees to the Company's management, operation and maintenance policies and approaches (and its plan for providing such services under this Agreement), its career planning policy, its hiring program and criteria and its compensation and benefits plans.

- 5.2 Comparable Employment. The Company shall provide City Employees hired under this Section with a total package of compensation and benefits comparable to or better than compensation and benefits provided by the City for a minimum of three years following the Commencement Date. The Company acknowledges that it has agreed to recognize and bargain in good faith with the City Employees' collective bargaining representatives, if applicable, to determine the specific terms and conditions of employment to which such City Employees will be subject. All City Employees hired under this Section shall receive year for year credit for years employed by the City for purposes of eligibility and vesting in the Company's benefits programs. All City Employees and dependents currently covered by the City's health insurance program shall be covered during the employment of the City Employees under the Company's health insurance program without disqualification for pre-existing conditions.
- 5.3 Continued Employment. During the three-year period described in Section 5.2 above, the Company shall make available training and development provisions for then existing personnel to transition to future operations. The Company may reduce staffing numbers following the three (3) year period with preferred approaches being voluntary attrition, buyouts, relocation and transfers rather than layoffs. Involuntary layoffs of City Employees hired by the Company are not permissible during the three year period described above. Employees may be terminated for cause or work-related performance at any time. Notwithstanding the foregoing, the Company's commitment to employ a City Employee under this Section 5 shall end upon the earlier of: (i) the end of the three year period following the start of services under this Amendment; (ii) said City Employee reaching retirement age or (iii) earlier as mutually agreed by the City Employee and the Company. Notwithstanding any other terms of this Amendment or the Agreement to the contrary, nothing in this Amendment or the Agreement shall be construed to obligate the Company to maintain minimum staffing levels for services provided under this Amendment or the Agreement unless such staffing levels are required to meet the performance requirements of the contract or the applicable legal and regulatory requirements.
- 5.4 City will offer to buy-out the current full-time employees of the Collection System (see Exhibit D attached hereto) similar to the buy-outs that occurred in connection with the Facility. The buy-outs shall be no greater than 12 months of full-time salary and 6 months of City-provided COBRA benefits for each eligible employee as shown in Exhibit D. Company shall reimburse the City for amounts paid by the City to the current Collection System employees in connection with such buy-outs.

6. Industrial Pre-Treatment Standards. The Annual Fee paid to Company for operation and maintenance of the Collection System assumes that all customers and users of the City Collection System that utilize and/or make discharges into the Collection System shall meet federal, state and local pre-treatment standards and Applicable Law. City agrees to indemnify, defend and hold Company harmless from any and all claims, damages and losses to the extent that the same are caused by the failure of such customers/users to comply with any or all applicable federal, state and local pre-treatment standards and Applicable Law.
7. Sewer System Overflows. Company shall establish a program to minimize claims and deal effectively with customers that do file claims against the City. Within 90 days of the commencement date of the Company's Services under this Amendment, Company shall establish (i) a routine, normal sewer line preventative maintenance program, and (ii) corrective procedures to be implemented in the event of any personal injury or property damage resulting from a sewer back-up. The program and procedures described in the previous sentence shall include a provision requiring the prompt notification of appropriate City personnel. Emergency calls for service from residences and businesses will be received and responded to 24 hours per day, 7 days per week, 365 days per year. Company will respond to Collection System pump station emergencies, and SSOs, and be on-site within two hours from receiving notice of such SSO occurrences. The approach that will be used in these responses will follow the protocol defined here:
- 6.0 If the cause of the SSO is identified as a broken or blocked service lateral, Company personnel on site will then notify the appropriate City code enforcement official as appropriate per City protocol and the customer of the problem. The customer will be responsible for repairing the break or clearing the blockage and making the necessary repairs. If cleanup on public property is required, Company will perform this work on a time and materials basis and submit supportive documentation with an accompanying invoice to the City, which the City will pay unless the Company is determined to be at fault under Section 8 below.
- 6.0 Repairs made to the Collection System of \$25,000 or greater, excepting emergency repairs, shall require the Company to submit a description of the work and a fixed cost to the City, prior to performing the work. The City shall provide approval of such requests within five (5) business days of receipt. In the case of an emergency, a description and invoice of the work performed will be provided within five (5) business days of completion of the emergency work. The Company shall make all reasonable efforts to notify the City of the need for emergency repairs prior to starting the work, but the inability to contact the City shall not prevent the work from being completed.
- 7.3 If the cause of the SSO is identified as a broken pipe or blockage on the City's portion of the Collection System, then the Company person on-site will arrange to have the broken pipe repaired or the blockage cleared, and the area cleaned up. If the cause is a pump station failure, Company will take immediate action to get the

facility back in service. In either event, the Company shall (i) document the approximate date and time of the problem; (ii) determine the extent of the personal injury or property damage, if any; and (iii) provide notice to City's insurance carrier of the potential loss claim and (iv) make necessary calls and reports to regulatory agencies. The City will be responsible for the cost of repairs and any claims unless the Company is determined to be at fault under Section 8 below.

- 7.4 Company will keep a log of all SSO occurrences and provide a monthly summary to the City.
- 7.5 If a citizen files a claim against City or Company, Company will notify the City, or the City shall notify the Company, and a third-party insurance carrier mutually agreeable to the City and Company, which will make a determination of liability and whether or not to pay the claim filed by the citizen. The City will be responsible for the cost of repairs and any such claims, if the claim is related to a main line failure or interruption, unless the Company is determined to be at fault under Section 8 below.

Except to the extent provided in Section 8 below or to the extent caused by the negligence or willful misconduct of Company, after completing the procedure set forth in this Section, Company shall have no further responsibility or liability to the citizen or City for the personal injury or property damage caused by the sewer back-up or the consequences thereof.

8. Company Responsibility for SSO Occurrences. Company will reimburse the City and assume responsibility for SSO occurrences as follows:

- 8.1 As described in this Amendment, Company will inspect (through CCTV) on a ten-year cycle, clean a specific portion of the Collection System on a four-year cycle and will repair problems discovered during such inspection and cleaning in accordance with provisions of the Capital Improvement Program. Company shall not have any responsibility for SSO occurrences until the particular section of the Collection System has been inspected, cleaned and repaired if necessary at least once during the term of the Agreement. Thereafter, the Company's responsibility will be determined in accordance with Section 8.2 below.
- 8.2 After a section of the Collection System has been inspected, cleaned and repaired if necessary by the Company, the Company's responsibility for a SSO occurrence in that section of the Collection System will be determined by a third party insurance adjuster (the "Adjuster") that is selected by mutual agreement of the parties and paid for by the Company's insurance provider. The Adjuster shall be familiar with the terms of this Agreement and shall investigate the SSO or claim. Such investigation shall include as appropriate relevant information provided by the parties, visits to the SSO site and interviews with fact witnesses. The Adjuster shall then issue a recommendation, which shall be final ten days after issuance

unless the City and/or the Company have a good faith objection to the recommendation. If the Adjuster's recommendation becomes final and the Company's fault is determined to be the sole cause of the SSO, the costs for repairing and remedying the SSO and any attendant claims shall be paid directly by the Company or its insurance carrier (or reimbursed to the City as appropriate). If the Adjuster's recommendation becomes final and Company's fault is not determined to be the sole cause, the costs for repairing and remedying the SSO and any attendant claims shall be paid directly by the City or its insurance carrier less the portion, if any, that is determined to be attributable to the fault of the Company.

8.2.1 The City shall retain ownership of the Collection System and maintain overall ownership responsibility for Collection System. The City shall continue to maintain insurance covering claims arising from the Collection System, and the City shall continue administering, defending and resolving claims under such insurance program, including making payment in settlement thereof, subject to the right to reimbursement from Company as provided in Sections 7 and 8 above. In no event will Company be construed as the owner of the Collection System for purposes of asserting or responding to claims arising from the ownership of the Collection System, including, without limitation, strict liability claims.

8.2.2 Examples of circumstances under which the Company may be determined to be responsible for a SSO occurrence and claim are:

- The Company has not cleaned the portion (after the initial cleaning, televising and repair of the section) of the Collection System experiencing the SSO in the required frequency and there was a blockage in the main line as a result.
- The Company's action directly resulted in the particular damage to the property such as hydraulic pressurization of a gravity line by the Company that causes damage.
- The failure of a lift station related to a mechanical failure of the lift station that does not constitute an Uncontrollable Circumstance under the Agreement (after initial capital improvements have been completed).

8.2.3 Examples of circumstances under which the Company will not be determined to be responsible for an SSO occurrence and claim are:

- Debris has been discharged or disposed of into the Collection System that results in a SSO occurrence (whether the responsible party is identified or not).
- Grease or other viscous substance causing plugs in the Collection System where the Collection System has been cleaned by the

- Company in the agreed upon frequency (whether the responsible party is identified or not).
- Any backup or blockage (whether or not the cause or responsible party is determined) where the Collection System has been cleaned by the Company in the agreed upon frequency.
- Manhole lid breaks/flips/open holes and vehicle damage or pedestrian accidents unless the Company has been notified of such event, has not responded within two (2) hours and has failed to remedy the problem within a reasonable time period.
- SSO property damage and compliance related to flows exceeding the hydraulic capacity of the system or due to structural failure of the Collection System or design flaws of the Collection System.
- Structural failures of the Collection System piping and appurtenances.
- Design flaws of the Collection System where the full hydraulic capacity of the system would result in property damage (example: a basement floor drain at the 50% elevation of the Collection System line).
- Any damage related to service line plugging or failures.

9. Latent Defects and Undiscovered Adverse Conditions. If during the investigations performed by the Company during the first two years of this Amendment (i) the Company discovers information about the condition of the Collection System that materially differs from the information provided to Company prior to execution of this Amendment and (ii) such information substantially impacts the ability of the Company to meet the performance objectives described herein or causes a material increase in the operating and maintenance costs incurred by the Company to meet such performance objective, the Company shall be entitled to an equitable adjustment of each and every performance objective impacted by such new information and/or an equitable adjustment in the Annual Fee.

10. City Duties.

10.1 City shall fund all necessary Capital Improvements required hereunder, including without limitation, Capital Improvements needed to repair or replace the Collection System or to maintain the Collection System in a physical condition that is adequate to provide the service for which the Collection System was designed and constructed. Priority shall be given to meeting regulatory requirements, including safety and health requirements. Any loss, damage, or injury resulting from the City's failure to fund and construct Capital Improvements, whether reasonably requested by Company or otherwise, shall be the sole responsibility of the City.

10.2 City shall keep in force all warranties, guarantees, easements, permits and licenses that City may have with respect to the Collection System.

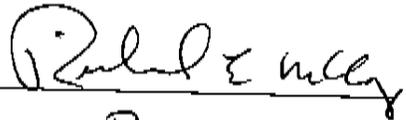
- 10.3 City shall pay all sales, excise, *ad valorem*, property, franchise, occupational and disposal taxes, or other taxes associated with the Capital Improvements program, if any, other than taxes imposed upon Company's net income and/or payroll taxes for Company employees. In the event Company is required to pay any sales tax or use taxes on the value of the services provided by Company hereunder or the services provided by any subcontractor of Company, such payments shall be reimbursed by City, unless City furnishes a valid and properly executed exemption certificate relieving City and Company of the obligation for such taxes. In the event City furnishes an exemption certificate which is invalid or not applicable to services by Company, City shall indemnify Company for any taxes, interest, penalties, and increment costs, expenses or fees which it may incur as a result of Company's reliance on such certificate.
- 10.4 Consistent with the Company's Safety and Security Plan, the City shall provide the Collection System with appropriate devices to protect against any losses resulting from the theft, damage, or unauthorized use of property owned by the City and shall accept liability for such losses, except to the extent such losses are directly caused by the negligent acts or omissions of Company.
- 10.5 City shall provide for Company's exclusive use of all City vehicles and equipment presently used for operating the Collection System. City shall provide Company with maintenance records, current upon the commencement date of this Amendment, on all such vehicles. City shall continue to provide and maintain all property insurance, registrations and licenses for City's vehicles and equipment used in connection with the Collection System as listed in Exhibit E.
- 10.6 Company shall be entitled to an equitable adjustment of its performance obligations and compensation in the event that the condition of the Collection System is materially different than during the period between the initial inspection of the Collection System by Company and the commencement date of the Amendment.
- 10.7 City shall provide all traffic control required for the cleaning, televising, repairing and maintenance of the Collection System as required by the Company, including Police Service as needed to provide a safe working condition for those engaged in such work and the general public.
- 9.7 City shall provide and pay for disposal costs, including landfill tipping fees, for all material removed from the City's Collection System as a result of cleaning, maintaining, televising or repair of the system.
- 9.7 City shall provide equipment and funding for odor control and corrosion control systems recommended by the Company and approved by the City. Such equipment may consist of chemical scrubbers, bio-filters, liquid chemical addition or other systems as may be needed to eliminate or control odors and corrosion originating in the Collection System.

- 9.7 City shall provide all permitting and regulatory monitoring and reporting related to the CSO discharges and all storm water discharges (currently provided by the City Industrial Pretreatment Program staff). City shall retain all responsibility and liability for the CSO discharges and all storm water discharges subject to the Company's agreement hereunder to operate the flow monitoring devices related to the CSO as part of the overall operation of the Collection System.
- 10.11 **Early Termination** – Should the City decide to terminate this Agreement with Company prior to the end of its term for any reason, City shall pay to Company the amount shown in Exhibit F to reimburse the Company the costs of start-up, mobilization and demobilization for the work described in the Amendment in addition to any other amount owed to Company by the City under the Agreement.
11. **Effective Date, Start Date and Term.** This Amendment shall take effect upon the date first entered above unless otherwise provided for herein. Company shall begin operations of the Collection System on October 15, 2004, or earlier as mutually agreed and the Company shall continue such operations until the Agreement is terminated in accordance with the terms of the Agreement.
12. **Application of Terms.** The performance and compensation rights and obligations contained in this Amendment are exclusive and shall control with respect to the Collection System services to be performed under this Amendment. Unless otherwise specifically agreed to by the parties in this Amendment, nothing in the Agreement pertaining to the Facility shall reduce the compensation owed to Company for performing the Collection System services described in this Amendment or increase the costs to Company of performing the Collection System services described in this Amendment. Subject to the above requirement, the terms of the Agreement shall apply equally to the services performed under this Amendment, including without limitation, the terms of Articles VII pertaining to Liability, Insurance, Uncontrollable Circumstances and Indemnification the terms of Article VIII of the Agreement pertaining to Events of Default, Remedies and Termination. Unless otherwise stated herein, the provisions of Articles IV, V and VI and Schedule 8 of the Agreement shall not apply to Collection System services performed under this Amendment.
13. All terms of the Agreement not specifically amended or modified by this instrument shall remain unmodified and in full force and effect. The terms of this Amendment represent the entire agreement between the City and the Company with respect to the Collection System and supersede all prior verbal or written representations, statements, understandings or agreements with respect to the subject matter of this Amendment. Any waiver, modification or amendment of the terms of this Amendment shall be effective only if in writing and signed by an authorized representative of each party hereto.

WHEREFORE, both parties indicate their approval of this Amendment by their signature below and each party warrants that all action necessary to bind the parties to the terms of this Agreement has been taken.

City of Richmond, California

Veolia Water North America Operating Services, Inc.

By: 
 Print Name: RICHARD E. MCCOY
 Title: ASSISTANT CITY MANAGER
 Date: SEPT. 7, 2004

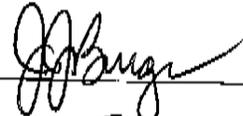
By: 
 Print Name: John J. Burgess VAC
 Title: Senior VP/COO
 Date: 9/13/04

EXHIBIT A
CAPITAL IMPROVEMENT PLAN

Task	Description	Totals
A	Sewer System Investigations (Pre-Engineering, Exhibit B)	\$793,211
B	Enhanced Sanitary and Stormwater Program The following tasks represent some of the primary components that a sanitary and stormwater program a city the size of Richmond should consist of. Only those items that are necessary for the ongoing operation of the two systems will be transferred to the operating budget as funds become available: State-of-the art equipment Deferred maintenance Regular system cleaning and televising Deferred system cleaning and televising Vehicle replacement	\$5,887,594
C	Capital Work to be Performed	\$15,425,000
	Total	\$22,105,805

EXHIBIT B

PROPOSAL TO PROVIDE ENGINEERING SERVICES

JUNE 11, 2004

EXHIBIT C**ANNUAL FEE**

Annual Fee at Amendment Commencement Date	\$1,334,190
Annual Fee Starting 24 Months After Amendment Commencement Date, (including the transfer of elements of the Enhanced Sanitary and Stormwater Program included in Exhibit A to the Annual Fee)	\$2,997,671

EXHIBIT D**EMPLOYEES ELIGIBLE FOR BUY-OUT OFFER PER SECTION 5.4****Costs Based on Richmond Sanitary & Storm Collections
Staff Information as of March 8, 2004**

Staff Member	Date of Hire	City Job Title	Total
John Wilborne	3/10/1980	Collection System Leadworker	\$110,666
Dave Williamson	1/14/1991	Collection Sys. Maintenance Mechanic	\$103,129
Vince Whittington	1/14/1991	Collection Sys. Maintenance Mechanic	\$103,129
Christopher Beardsley	1/22/1990	Collection Sys. Maintenance Worker	\$94,082
Victor Perez	10/1/1990	Collection Sys. Maintenance Worker	\$94,082
Leslie Stoll	10/1/1990	Collection Sys. Maintenance Worker	\$94,082
Robert Chelemedos Jr.	4/23/1990	Collection Sys. Maintenance Worker	\$94,082
			\$693,252

51.7% City benefit rate includes vacation, sick leave, holiday, medical, dental, vision, professional development, retirement (employer and employee costs), LTD, Life insurance & workmans comp.

EXHIBIT E
BEGINNING ROLLING STOCK INVENTORY

City Vehicle #	Make	Year	VIN	Model	Description
684	Caterpillar			3406B	350 KW diesel Gen-Set
above	Trailer		21582M		
191	UtilMaster-GMC Chasis				TV Van Utilmaster Wakarusa, IN
above	Cues TV Equipment			PDR 90 Model 1210	Cues Inc Orlando, FL
???	Trailer				Tadem Axle Heavy Trailer
188	GMC	1994	1GDM7H1J1RJ502103		Diesel Dumptruck
195	GMC	1994	1GDM7H1J9RJ502253		Diesel Dumptruck
187	Chevrolet	2002	3GBKC34F42M115639		Heavy Service Truck with utility bed
199	GMC	1993	IGDG6H1J9PJ503951	3500	Diesel
above	Sreco-Flexible				
198	Ford	1994	1FDXR82E5RVA22793		Hy-Power Rodder
above	Sreco-Jetter		WMT-931712	L8000	Ford Diesel
175	Freightliner	2000	1FV6JJB64YHB40696	HV2080TM/H	
197	Freightliner	2000	1FVXJJB6YHB40705	FL-80	Vactor 2100
179	Freightliner	2000	1FV6JJB6YHB40697	FL-80	Vactor 2100
???	Generac	2000		FL-80	Vactor 2100
above	Trailer for above		1T9FX1523V1097017	97A03777-S	80KW diesel Gen-Set, Auto-start cap
194	Chevrolet	1992	1GCDC14H1NZ168568		shortbed
193	Chevrolet	1992	1CGGC24K8NE162613	1500	longbed with tool boxes
178	Ford	1988	1FDYK82ABJVA34446-8	2500	Ford diesel
above	Vactor Jet Rodder		88-4-3392 (above a bad VIN)	L8000	
174	Ford	1994	1FDXH70C1RVA22014	810	Peabody Myers Vactor-gasoline vacit
above	Ingersoll Rand				Cabover heavy utility box truck with b
	Portable Power snake			17r and pipe vise	
	Small portable generator				
	Portable pressure washer				
	Portable motor driven welder				
	All other tools an equipment under inventory for the Collection System's				

EXHIBIT F
EARLY TERMINATION SCHEDULE

The schedule below defines the fee to be paid by the City to the Company in the event the City terminates this Amendment prior to the end of the contract period.

Beginning Year 1 through the end of Year 5	-	\$750,000.00
Beginning Year 6 through the end of Year 10	-	\$550,000.00
Beginning Year 11 through the end of Year 15	-	\$400,000.00
Beginning Year 16 through the end of Year 18	-	\$250,000.00