

UPPER VALLEY WASTE MANAGEMENT AGENCY
FIRST AMENDMENT TO AGREEMENT #95-09

UPPER VALLEY DISPOSAL SERVICE
SOLID WASTE HANDLING FRANCHISE AGREEMENT

~~THIS FIRST AMENDMENT TO AGENCY AGREEMENT #95-09~~ is made and entered into this 12th day of December, 2005 by and between the UPPER VALLEY WASTE MANAGEMENT AGENCY, a joint powers authority organized under the laws of the STATE OF CALIFORNIA, hereinafter referred to as "AGENCY" and UPPER VALLEY DISPOSAL SERVICE, a California corporation, hereinafter referred to as "CONTRACTOR".

WHEREAS, AGENCY and CONTRACTOR originally entered into Agreement #95-09 on September 25, 1995 for Solid Waste Handling Services throughout the Agency Service Area; and

WHEREAS, the AGENCY acts as a consolidated franchisor for solid waste handling services throughout the SERVICE AREA and sets rates for those solid waste handling services; and

WHEREAS, AGENCY now desires to amend AGENCY Agreement #95-06 with CONTRACTOR with respect to the term, rates and rate setting methodology; and

WHEREAS, this instrument is negotiated and executed by the parties hereto pursuant to the authority conferred on local agencies by Public Resources Code Sections 40059, et seq., to provide for solid waste handling services on an exclusive or non-exclusive basis and with or without competitive bidding, which has been delegated to AGENCY by the JOINT POWERS AGREEMENT pursuant to Government Code section 6500 et seq.

TERMS

NOW, THEREFORE, AGENCY AND CONTRACTOR AGREE as follows:

1. The foregoing recitals are true and correct.
2. In determining the the rates for the period January 1, 2006 through January 1, 2008 as set for in Exhibit "C-December 2005", the following definition revisions to Exhibit "B", Section III, Definitions, are to be used and will continue to be used:

Allowable Expenses, section g., ii

- ii. Intercompany Leases - Intercompany leases for real and personal property entered into prior to the adoption of this methodology are Allowable, but escalation will be limited to current market value at the time of a Rate application. Proposed increases in the amount

for current intercompany leases to adjust for changes in fair market value will be reviewed at the time of any Rate application for an Operating Period and will be subject to substantiation. (See Recoverable Expenses for leases entered into after the adoption of this methodology)

Allowable Expenses, section i.

- i. Consultant Expenses: expenses for consultant services including legal, accounting and other professional services up to seventy five thousand dollars (\$75,000.00) as adjusted by the Index (and not to exceed \$15,000 for legal expenses, \$50,000 for engineering services or \$35,000 for accounting services as adjusted by the Index).

Rate Year: a one year period beginning January 1 and ending the subsequent December 31.

Recoverable Expenses, section a.

- a. Consultant Services: consultant services in excess of seventy five thousand dollars (\$75,000.00) per annum, as adjusted by the Index. Legal, engineering or accounting expenses in excess of the amount treated as Allowable Expenses up to the amounts that are considered Allowable will be Recoverable Expenses and expenses above this amount are Non-Recoverable.

Recoverable Expenses, section e.

- e. Real and Personal Property Intercompany Leases: entered into after the adoption of this methodology will be Recoverable Expenses subject to demonstration of fair market value rent. Lease payments will be considered reasonable only if the monthly lease payment is less than the sum of the straight line depreciation plus the interest payment that would have been made had the asset been purchased rather than leased. The interest payment will be determined by amortizing the fair market value of the asset on the date of the purchase over the asset's potential depreciable life using an interest rate that does not exceed the current prime rate plus one percent (1%).

3. AGENCY and CONTRACTOR agree to the rates as stated in Exhibit "C-December 2005", attached hereto.

4. AGENCY and CONTRACTOR agree to negotiate in good faith prior to July 1, 2006, to amend the existing franchise to incorporate provisions similar to the recent franchise issued to the Napa County Recycling and Waste Services Agreement with Napa County. It is the parties intent such amendment shall take effect January 1, 2009.

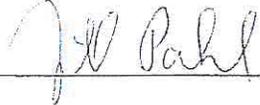
5. Except as provided above, the provisions of AGENCY Agreement #95-06 remain in effect as originally approved.

IN WITNESS WHEREOF, this AGREEMENT is executed by the parties hereto as of the date first above written.

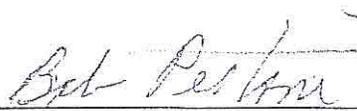
**UPPER VALLEY WASTE
MANAGEMENT AGENCY**

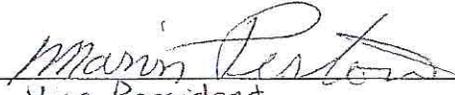
BY: 
MARK LUCE, Chair of the Board of
Directors of the Upper Valley Waste
Management Agency

"AGENCY"

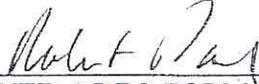
BY: 
ATTEST:
JILL PAHL, Manager of the Board of
Directors

UPPER VALLEY DISPOSAL SERVICE

BY: 
Title: President

BY: 
Title: Vice President

"CONTRACTOR"

BY: 
APPROVED AS TO FORM:
ROBERT PAUL, Agency Legal Counsel

