

COUNTY OF YOLO AGREEMENT NO. _____

CITY OF SACRAMENTO AGREEMENT NO. _____

AGREEMENT FOR ACCEPTANCE DRINKING WATER TREATMENT RESIDUALS

THIS AGREEMENT ("Agreement") is made and entered into on the _____ of _____, 2016, by and between the **County of Yolo** a political subdivision of the State of California ("County"), and the **City of Sacramento**, a municipal corporation ("City").

WITNESSETH

WHEREAS, City desires an agreement for landfill services to dispose of drinking water treatment residual solids from the City's Sacramento River Water Treatment Plant and EA Fairbairn Water Treatment Plant ("Drinking Water Treatment Residuals"), and sediment from the City's Sump 157 Area stockpile; and

WHEREAS, County owns and operates the Yolo County Central Landfill ("YCCL"); and

WHEREAS, County can provide a beneficial use for the Drinking Water Treatment Residuals at YCCL; and

WHEREAS, City has historic analytical laboratory data that indicates the Drinking Water Treatment Residuals meet the County's waste acceptability goals for water quality protection for material not exposed to stormwater or rainfall and thus can be used beneficially as cover material ("Beneficial Use Material"); and

WHEREAS, County and City wish to enter into an agreement to provide for the disposal and beneficial use of Drinking Water Treatment Residuals at YCCL.

NOW, THEREFORE, in consideration of the promises, terms, conditions, and covenants contained herein, County and City agree as follows:

1. TERM

The term of this Agreement shall be from the date of execution through June 30, 2022 unless sooner terminated as hereinafter provided.

2. NOTICE

Notice shall be deemed to have been served when it is deposited in the United States Mail, postage prepaid, and addressed as follows:

TO COUNTY

Linda Sinderson
Deputy Director
County of Yolo
Planning and Public Works
44090 County Road 28H
Woodland, CA 95776

TO CITY

Mike Ragan
Interim Operations Superintendent
City of Sacramento
Department of Utilities
301 Water Street
Sacramento, CA 95811

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

3. COUNTY SERVICES

- a. County shall accept and use beneficially at YCCL Drinking Water Treatment Residuals delivered by City which meet the requirements for Beneficial Use Material as described in Section 4.
- b. Material that does not meet the requirements for Beneficial Use Material as described in Section 4 will be considered Unacceptable Material and will not be accepted by County. City shall be solely responsible for all costs associated with the cleanup and removal of any and all Unacceptable Material.
- c. The disposal site will be at YCCL, located at 44090 County Road 28H, Woodland, California 95776.
- d. County is not responsible for providing any services other than those specified herein.

4. WASTE ACCEPTABILITY

- a. Each fiscal year (July 1 – June 30), not less than 60 days prior to the fiscal year's first Drinking Water Treatment Residual Solids delivery event, City shall submit annual laboratory analysis results for representative residual solids from both the Sacramento River Water Treatment Plant and EA Fairbairn Water Treatment Plant. The representative solids samples will be randomly selected, and generally, from each of the solids types, sludge and filter wash water (or a combination of these two), and analyzed by a state-certified laboratory.
- b. Each fiscal year (July 1 – June 30), not less than 60 days prior to the fiscal year's first Sump 157 Area Sediment delivery event, City shall submit annual laboratory analysis results for a representative sediment sample from the stockpile. The representative solids sample shall be randomly collected from points throughout the stockpile and analyzed by a state-certified laboratory.
- c. The following constituents will be always analyzed annually for Total Metals (Totals) using USEPA 6000/7000 Series Methods:

CCR Title 22 metals list: antimony (Sb), arsenic (As), barium (Ba), beryllium (Be), cadmium (Ca), chromium-total (Cr), cobalt (Co), copper (Cu), lead (Pb), mercury (Hg), molybdenum (Mo), nickel (Ni), selenium (Se), silver (Ag), thallium (Tl), vanadium (V), and zinc (Zn). The following constituents that are not part of Title 22 list also will be analyzed: aluminum (Al), boron (B), manganese (Mn), and iron (Fe).

The following constituents will be always analyzed annually for the Soluble Metals using the Waste Extraction Test (WET) with two buffer solutions; the standard method using Citrate and other using deionized water:

aluminum (Al), arsenic (As), barium (Ba), beryllium (Be), chromium (Cr), Cobalt (Co), Iron (Fe), lead (Pb), manganese (Mn), molybdenum (Mo), nickel (Ni), and vanadium (V).

- d. Additional sampling of any constituent listed above in b. will be required if a sample result, that has been analyzed for Totals is 10 times or greater than the Soluble Limits. The WET method will use two buffer solutions listed above in b.
- e. County will review the annual laboratory analysis, and based on this review the County will within 15 days of receipt of the submittal, request more sampling, approve, or deny

acceptance for the applicable fiscal year of the City's Drinking Water Treatment Residuals as Beneficial Use Material.

- f. The City's Drinking Water Treatment Residuals shall be accepted as Beneficial Use Material for the applicable fiscal year if the constituent concentrations in the annual analytical laboratory analysis do not exceed the Totals or Soluble Limits for acceptance. The latest version of the Landfill's waste acceptance limits will be used (current version is December 2013, included as Attachment A).
- g. The Sump 157 area sediments stockpile is mainly Drinking Water Treatment Residuals from both Plants which has some debris, trash, and concrete. YCCL will accept this stockpile as is as Drinking Water Treatment Residuals provided the debris, trash, and concrete pieces larger than 5 inches are removed prior to arrival at YCCL. If the debris, trash, and concrete pieces are not removed, a special handling fee (based on actual cost) will be applied (See Section 6).

5. COORDINATION

City will provide to County the following information prior to scheduling of each Drinking Water Treatment Residuals delivery event:

- The approximate volume or weight of material to be delivered to YCCL.
- The approximate number of truckloads per day and days of hauling.

6. FEES

City agrees to compensate the County for landfill services as follows:

- a) City shall pay a fee of \$13.50 per ton of Beneficial Use Material delivered to YCCL.
- b) Special handling fee for clean up of debris contamination will be added to loads that require debris removal prior to beneficial reuse at YCCL. The fee will be charged at actual cost based on YCCL's contractor's labor and equipment rates. (typical labor and equipment charge is approximately \$170 per hour).
- c) This Agreement shall not require City to deliver any specific amount of Drinking Water Treatment Residuals to YCCL, nor shall this Agreement prevent City from disposing of Drinking Water Treatment Residuals at other locations or facilities.
- d) If any Federal, State or Local regulatory fee or charge that affects the County's cost to accept Beneficial Use Material hereunder (excluding any County fee or charge) is imposed, increased or decreased, County shall (i) notify City of such new, increased or decreased fee or charge promptly upon learning thereof, (ii) calculate increases or decreases in the tipping fee set forth above in light of such new, increased or decreased fee(s) or charge(s) and (iii) notify City of the increased or decreased tipping fees applicable to this Agreement not less than 60 days before the effective date thereof.
- e) If County determines that any Federal, State or Local regulation adopted after the date this Agreement is executed and that affects the County's cost to accept Beneficial Use Material hereunder (excluding any landfill operational changes not mandated by an outside regulatory agency) necessitates an increase in the tipping fee specified herein, the following shall apply: (i) County will notify City of such regulation promptly upon learning of it and determining that it necessitates an increase in the tipping fee; and (ii) County will calculate the increase in the tipping fee that County reasonably believes is necessitated by such regulation, and notify City of such increase not less than sixty (60) days before the effective date thereof.

f) **CPI Adjustment.**

- i. CPI. When used herein, "CPI" shall be 100% of the "Northern California All Urban Consumers" Consumer Price Index – Urban Consumers, San Francisco - Oakland - San Jose, CA, All items (1982- 84=100).
- ii. CPI Adjustment. Beginning July 1 2017, and on each successive July 1 during the agreement term the fee specified in subsection (a), above, shall be adjusted by an amount equal to the percentage increase in the CPI, if any, during the 12 month period from April of the preceding calendar year to April in the calendar year when such CPI adjustment is being made.
- iii. Not to Exceed Gate Tipping Fee. If an annual CPI adjustment would result in a fee exceeding the YCCL's current generally applicable gate tipping fee for waste acceptability soil, such adjustment shall not exceed such current gate tipping fee.

- g) During the term of this Agreement, City's total payments to County shall not exceed a maximum of \$380,000, unless the parties amend this Agreement to increase such maximum.

7. BILLING AND PAYMENTS

- a. Charges shall be compiled each month and an invoice thereof shall be rendered and mailed to City as provided in section 2 above.
- b. City shall pay all undisputed charges promptly upon receipt of the invoice.
- c. Failure to pay said charges within 45 days of invoice shall result in suspension of user privileges at the sole option of County.
- d. Payments of undisputed charges not made within 45 days of date of invoice shall be considered late. Fees for late payments shall be a minimum of \$5.00 or 1.5% per month.
- e. In addition, if City's disposal account is past due more than forty-five (45) days after the due date, County may immediately place City on a cash basis at the current gate tipping fee for waste acceptability soil, until City's account is current and no longer delinquent.

8. TERMINATION OF AGREEMENT

Either party may terminate this Agreement, with or without cause, upon sixty (60) days advance written notice provided to the other party.

The notice of termination shall be deemed served and effective for all purposes on the date it is deposited in the United States mail, postage prepaid and addressed to the respective parties at the address indicated in Section 2.

9. INDEMNIFICATION AND LIABILITY

Each party shall assume the responsibility and liability for the acts and omissions of its own agents, officers, or employees in connection with the performance of their obligations under this Agreement. For tort liability purposes, neither party shall be considered the agent of the other party. Each party shall be liable, if at all, only for the torts of its own officers, agents, or employees that occur within the scope of their Official duties.

City shall assume the responsibility and liability for and City shall indemnify, defend, and hold harmless County, its agents, officers, and employees from and against any and all liabilities, obligations, losses, damages, penalties, fines, claims, actions, suits, costs and expenses, and disbursements (including legal fees and expenses) of any kind and nature whatsoever imposed

in, asserted against, incurred or suffered by County or its agents, officers, or employees by reason of damage, loss or injury (including death) of any kind or nature whatsoever to persons or property caused by or in any way relating to or arising out of any negligent act or action, or any neglect, omission or failure to act when under a duty to act on the part of City, or any of its agents, officers, or employees in its or their performance of this Agreement.

County shall assume the responsibility and liability for and County shall indemnify, defend, and hold harmless City, its agents, officers, and employees from and against any and all liabilities, obligations, losses, damages, penalties, fines, claims, actions, suits, costs and expenses, and disbursements (including legal fees and expenses) of any kind and nature whatsoever imposed in, asserted against, incurred or suffered by City or its agents, officers, or employees by reason of damage, loss or injury (including death) of any kind or nature whatsoever to persons or property caused by or in any way relating to or arising out of any negligent act or action, or any neglect, omission or failure to act when under a duty to act on the part of County, or any of its agents, officers, or employees in its or their performance of this Agreement.

The provisions contained herein include any violation of applicable law, ordinance, regulation or rule, including where the claim, loss, damage, charge or expense was caused by deliberate, willful, or criminal act or action of any party or any of its agents, officers, or employees in its or their performance hereunder.

It is the intent of the parties hereto that, where negligence is determined to have been contributory, principles of comparative negligence will be followed and each party shall bear the proportionate cost of any obligations, losses, damages, expenses and liability costs, including attorney's fees, attributable to that party's negligence or fault. The terms of this Section shall survive any termination of this Agreement.

10. INSURANCE

Each party, at its sole cost and expense, shall carry insurance –or self-insure - its activities in connection with this Agreement, and obtain, keep in force and maintain, insurance or equivalent programs of self-insurance, for general liability, workers compensation, and business automobile liability adequate to cover its potential liabilities hereunder. Each party agrees to provide the other party written evidence of such insurance, or self-insurance, and to provide thirty (30) days' advance written notice to the other party of any cancellation, termination or lapse of any of the insurance or self-insurance coverages.

11. APPLICABLE LAW

This Agreement shall be deemed to be executed within the State of California and construed in accordance with and governed by the laws of the State of California.

12. LICENSES AND PERMITS

Each party shall possess and maintain all licenses, permits, certificates and credentials required by the laws of the United States, the State of California, the Counties of Yolo and Sacramento and all other appropriate governmental agencies, that are necessary for each party's performance of its obligations under this Agreement. A party's failure to maintain such licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by the other party upon written notice thereof.

13. MUTUAL WAIVER OF SUBROGATION

The parties agree that in the event of loss due to a claim arising out of any negligence, omission, or failure to act when under a duty by any of their agents, officers, or employees, against their respective workers' compensation, general liability, and/or auto liability insurance policies, each party shall look solely to its own insurance for recovery.

14. HEALTH, SAFETY AND ENVIRONMENTAL REGULATION COMPLIANCE

The parties shall comply with all applicable Federal, State and Local laws, ordinances, rules and regulations pertaining to health and safety protection of their respective employees, including requirements applicable to an Injury and Illness Protection Plan and a program to communicate any significant hazards of work to be performed under this Agreement.

The parties agree to comply with all applicable hazardous waste and environmental laws, ordinances, rules and regulations, enacted or promulgated by any public or governmental authority or agency having jurisdiction. Without limiting the generality of the foregoing, County shall operate and maintain the YCCL in compliance with all such laws, ordinances, rules and regulations, and City, its agents, officers, and employees shall have no responsibility or other liability for County's failure to do so.

15. ASSIGNMENT OF AGREEMENT

a. Neither party may assign this agreement, in whole or in part, without the written consent of the non-assigning party, and any purported assignment without such consent shall be void and of no effect.

b. City may subcontract the delivery of Drinking Water Treatment Residual under this Agreement, provided that City shall remain legally responsible for the performance of all Agreement terms, and the City's subcontractor will be subject to all applicable provisions of this Agreement.

16. BINDING EFFECT

This Agreement shall bind the successors and approved assigns of County and City to the obligations imposed on County and City, respectively, in the same manner as if they were expressly named parties to this Agreement.

17. AMENDMENTS

Modifications or amendments affecting the work hereunder shall be in writing and executed by both parties.

18. WAIVER

The waiver at any time by any party of any of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

19. SEVERABILITY

The invalidity, illegality or unenforceability of any provision of this Agreement shall not render the other provisions unenforceable, invalid or illegal.

20. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

21. DISPUTE RESOLUTION

With respect to any alleged breach or dispute arising under this Agreement, the Parties shall meet and attempt, in good faith and in using their best and reasonable efforts, to resolve the same prior to the commencement of litigation.

22. WARRANTY OF CONTRACTING AUTHORITY

The signers of this Agreement have the capacity and are authorized to execute this Agreement as the representatives of their respective parties, and to bind said parties to the terms hereof.

23. ENTIRE AGREEMENT

This instrument constitutes the entire Agreement between the County and City concerning the subject matter hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year set forth above.

County

County of Yolo, a political
Subdivision of the State of California

By: _____
Jim Provenza, Chair
Board of Supervisors

Attest:
Julie Dachtler, Clerk
Board of Supervisors

By: _____
Deputy
(Seal)

Approved as to Form:
Philip

By:  _____

City

City of Sacramento, a municipal
corporation

By: _____
for Howard Chan
Interim City Manager

Attest:

By: _____
City Clerk
(Seal)

Approved as to Form:

By: _____
Joe Robinson
Deputy City Attorney