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3/20/14

CITY OF FRESNO
City Clerk's Office (Original)

AGREEMENT

THIS AGREEMENT ("the Agreement") is made and entered into this 29th day of April, 2014 by and between the County of Fresno, a political subdivision of the State of California, hereinafter called COUNTY, and the City of Fresno, a municipal corporation, hereinafter called CITY, with reference to the following facts:

W I T N E S S E T H:

A. WHEREAS, the current agreement between COUNTY and CITY regarding CITY's use of the American Avenue Landfill, dated August 24, 1993 (hereinafter "the Current Disposal Agreement"), is scheduled to expire on June 30, 2014; and

B. WHEREAS, CITY previously retained the services of HF&H Consultants ("CONSULTANT"), and after conducting an extensive review of COUNTY's financial books and records regarding COUNTY's operations at the American Avenue Disposal Site, said CONSULTANT prepared a report recommending that COUNTY and CITY enter into negotiations for a new successor disposal agreement between the parties, which is the intent of the parties in entering into this Agreement, as more thoroughly set forth below; and

C. WHEREAS, in the absence of this Agreement, it is likely that COUNTY and CITY each would be required to contract separately for negotiation services in connection with the proposal for a new successor disposal agreement; and

D. WHEREAS, the COUNTY has obtained a quotation from HF&H Consultants ("CONSULTANT") for its services in facilitating the negotiations between the respective parties, and it is hereby agreed that it is more economical for COUNTY to contract separately for the services offered by CONSULTANT to facilitate said negotiations on the proposal for a new successor disposal agreement, and to split the cost between the respective parties hereto, as more thoroughly provided below.

NOW, THEREFORE, it is mutually agreed as follows:

1. COUNTY ADMINISTRATION OF CONSULTANT AGREEMENT

A. The parties hereto agree that CONSULTANT's work, as described in Exhibit A attached hereto and by this reference incorporated herein, shall be performed as a separate contract between CONSULTANT and COUNTY which shall be administered by COUNTY throughout the entire term thereof (completion of which during FY 2014-15 currently is contemplated by the parties hereto).

B. COUNTY has prepared the scope of work, specifications, and other contract requirements necessary for the award of the contract to CONSULTANT, and COUNTY represents that it will comply with any and all federal, state and local laws as are applicable respecting COUNTY'S award of the contract to CONSULTANT. COUNTY will execute an "Agreement for Consulting Services" with CONSULTANT, a draft of which has been submitted to CITY for review, which indicates that CITY is an intended third party beneficiary to such agreement.

2. CONSULTANT'S SCOPE OF WORK

The total cost of CONSULTANT's work, including but not limited to facilitation of disposal agreement negotiations and stakeholders meetings and such other services as are described in Exhibit A hereto, is $191,194, the cost of which shall be divided between CITY and COUNTY, as more thoroughly provided in the immediately following Paragraph 3.

3. DIVISION OF RESPONSIBILITY FOR COST OF CONSULTANT'S SERVICES

Each party hereto shall pay its share of the project costs in accordance with the provisions of this Agreement. COUNTY and CITY each hereby agree to pay one-half of the cost incurred for CONSULTANT's services in facilitating the negotiations between the respective parties and the total of which shall not exceed $127,125. The COUNTY hereby agrees to pay an additional $34,524 for the defined stakeholder meetings. Accordingly, the estimated cost to each jurisdiction for its

respective budgetary purposes is as follows:

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	CITY Funds	COUNTY Funds	TOTAL
Contract Cost	$63,562.50	$98,086.50	$161,649
Extra Services	$ 9,534.50	$20,010.50	$ 29,545

4. REQUISITE APPROVALS FOR ADDITIONAL WORK BY CONSULTANT

No "extra services" or other additional (or alternative) items of work, other than those listed in Exhibit A hereto, shall be commenced by CONSULTANT without advance written approval by both CITY and COUNTY; and it is expressly agreed and acknowledged by the parties hereto that CITY shall not be responsible under the provisions of this Agreement to reimburse COUNTY for any work performed by CONSULTANT that has not been properly authorized in advance, in accordance with the provisions of this Paragraph 4.

5. DEPOSIT/PAYMENT OF BALANCE OF CITY'S REIMBURSABLE COSTS

Upon execution of this Agreement, the CITY will promptly deposit with the COUNTY an amount equal to fifty percent (50%) of the CITY's share of the CONSULTANT's Contract Cost, in accordance with the immediately preceding Section 4 of this Agreement. Within sixty (60) days after completion by CONSULTANT of its services and delivery to COUNTY's staff of an appropriate invoice and sufficient supporting documentation, CITY will pay to COUNTY the remaining balance of its share of the CITY's reimbursable costs hereunder.

6. NO ASSIGNMENT

Neither party shall assign, transfer or sub-contract, in whole or in part, any of its respective rights or duties under this Agreement without the written consent of the other party.

7. SEVERABILITY

The provisions of this Agreement are severable. The invalidity or unenforceability of any one provision in this Agreement shall not affect the other provisions.

8. INTEGRATION / MODIFICATION

Each party acknowledges that it has read and fully understands the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument executed by the duly authorized representatives of both CITY and COUNTY.

9. NO THIRD-PARTY BENEFICIARIES

This Agreement is entered into solely and exclusively for the benefit of the parties hereto. Nothing in this Agreement is intended to benefit or confer any rights or remedies in favor of any other person or entity.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first herein above written.

CITY OF FRESNO

BY: _____
BRUCE RUDD, CITY MANAGER
CITY OF FRESNO

APPROVED AS TO FORM:

DOUGLAS T. SLOAN
CITY ATTORNEY

By: _____
MARY ANNE B. TOOKE
DEPUTY

March 12, 2014

ATTEST:

YVONNE SPENCE
City Clerk

By: _____
Deputy

COUNTY OF FRESNO

BY: _____
CHAIRMAN
BOARD OF SUPERVISORS

REVIEWED AND RECOMMENDED FOR APPROVAL

BY: _____
ALAN WEAVER, DIRECTOR,
DEPARTMENT OF PUBLIC
WORKS AND PLANNING,
COUNTY OF FRESNO

APPROVED AS TO LEGAL FORM

KEVIN BRIGGS,
COUNTY COUNSEL

BY: _____
DEPUTY

APPROVED AS TO ACCOUNTING FORM

BY _____
VICKI CROW, AUDITOR-
CONTROLLER/
TREASURER-TAX COLLECTOR

ATTEST:

BERNICE E. SEIDEL, Clerk
Board of Supervisors

By _____
Deputy