

August 25, 2011

Board of Directors
Ventura Regional Sanitation District
Ventura, California

MUNICIPAL SOLID WASTE DISPOSAL CONTRACT BETWEEN VRSD AND CROWN DISPOSAL CO., INC., AND CONTRACT DIRECT HAUL LANDFILL FEES

Summary

Discussions with Crown Disposal Co. Inc. (Crown), the franchise waste hauler for the City of Santa Paula (City), indicate that the Ventura Regional Sanitation District's (VRSD) current contract direct haul fee is not competitive and would preclude Crown from hauling the City's refuse directly to the Toland Road landfill. Staff is requesting that the VRSD Board re-visit the Toland Road contract direct haul fee. This change will impact two clients: E.J. Harrison and Sons, Inc. (Harrison) and Crown.

Background

The Toland Road landfill opened for expanded operations (an increase from 135 tons per day maximum to 1,500 tons per day maximum) in August, 1996. At that time, VRSD developed a two-tiered fee structure that recognized cost differential factors between transfer loads (transfer trucks coming from Del Norte Regional Recycling & Transfer Facility and Gold Coast Recycling) versus direct haul loads (refuse collection vehicles delivering loads to Toland directly from the Santa Clara River Valley). The 1996 fee structure included a five dollar (\$5.00) per ton differential between transfer loads and direct haul loads (\$18.00 per ton and \$23.00 per ton, respectively). The current differential is approximately \$8.00 per ton.

Factors identified in the development of the two-tiered fee structure include:

- Truck Trips and On-site Traffic Control. Transfer trucks deliver up to twenty-five (25) tons per vehicle trip vs. refuse collection vehicles that deliver approximately eight (8) tons per vehicle trip.
- Scale House - Load Weighing. Transfer vehicles arrive at Toland with certified weight tickets. VRSD needs only to spot check these loads whereas every direct haul load must be weighed.

- **Waste Load Checking.** Transfer loads are pre-screened for hazardous and household hazardous waste materials whereas direct haul loads must be inspected at Toland. Hazardous materials must be removed from the landfill, stored, and disposed at VRSD's expense.

The recent region-wide decline in available tonnage paired with local landfill competition warrants the consideration of a lower contract direct haul fee of \$34 per ton. This will maintain a \$3 per ton differential between the contract transfer and contract direct haul fees. Since the initial introduction of this concept, staff has met with Crown, Harrison, and the City of Oxnard separately and distinctly to listen to input on reducing the contract direct haul fee. The goal of staff remains to keep as many tons coming into the Toland Landfill as possible, control our internal costs, and keep our fees as low and competitive as possible.

Fiscal Impact

The Per Ton Rate Analysis (Attachment A) illustrates the potential revenue impacts to VRSD under a variety of scenarios. For this discussion and analysis staff is using a contract direct haul fee of \$34 per ton. The following summaries correspond to potential scenarios identified on the Per Ton Rate Analysis. This analysis does not attempt to identify every possible scenario, but is more intended to show major cost/ton sensitivities.

- **CURRENT PRICE STRUCTURE:** This scenario indicates the current price structure at Toland and a status quo disposal level. The Crown fee per ton is the "non-contract" direct haul fee, while the Harrison fee per ton is set by contract.
- **SCENARIO I:** Scenario I assumes a "contract" direct haul fee (\$38.94 – Harrison's current fee) for Crown and assumes that there would be no reduction in disposal tonnage at Toland. The revenue impact to VRSD is (\$10,000) [Loss compared to CURRENT PRICE STRUCTURE]. As indicated in the summary of this report, negotiations with Crown indicate that at this price point, the company is likely to export its tonnage to an alternate disposal facility.
- **SCENARIO II:** This scenario illustrates the impact to VRSD if Crown exports the City's waste to an alternate disposal facility. The revenue impact to VRSD is (\$581,000) [Loss compared to CURRENT PRICE STRUCTURE].
- **SCENARIO III:** Scenario II evaluates the impact of retaining status quo tonnage at Toland through the proposed \$34.00 per ton contract direct haul fee. The revenue impact to VRSD is (\$133,000) [Loss compared to CURRENT PRICE STRUCTURE].

- **SCENARIO IV:** The agreement between Crown and the City of Santa Paula may require that Crown deliver at least half of refuse collected in Santa Paula to Toland. Scenario IV evaluates the possibility of VRSD making no adjustments to its current price structure – but Crown reducing deliveries to Toland by 50% to meet the obligations of its agreement. This is a speculative scenario in that staff does not know the details of the agreement between Crown and Santa Paula particularly in regards to assumed Toland Road Landfill fees and charges.

Discussion

Based on the local economic conditions, shortage of disposal tonnage, and competitive nature of other landfill options staff recommends the adoption of a \$34 per ton fee for contract direct haul customers. Under the four scenarios provided, Scenario 3 has the least financial impact to the District and maintains disposal tonnage at Toland Road Landfill. Maintaining the broadest tonnage base will allow the District to operate at the lowest possible unit cost.

In order to implement the option of a new contract direct haul fee, staff is recommending two actions. The first action is approval of the agreement for waste disposal between VRSD and Crown. A copy of this proposed contract is attached to this Board letter and it has been executed by Crown. The contract is based upon the model of the existing agreement between VRSD and Harrison and Gold Coast Recycling and Transfer Station, Inc., which your Board approved December 16, 2010 ("Harrison Contract"). There are several key differences between the two contracts. First, the Harrison Contract has a ten-year term. The Crown contract has a five-year term. Second, the Harrison Contract commits Harrison to bring all of Harrison's tons as defined in the contract to Toland throughout the entire ten-year term. The Crown contract commits Crown to bring all of the tons as defined in the contract throughout the entire five-year term so long as the fee stated in the agreement remains in place; and gives Crown the option to be released of its obligation to deliver tons as defined to the landfill in the event VRSD increases its fees above those stated in the contract. Third, the Harrison Contract established a contract direct haul fee of \$38.94 per ton. The Crown contract establishes a contract direct haul fee of \$34 per ton. Other less significant differences between the two contracts will be discussed at the Board meeting.

The second implementation action is authorization to staff to implement a provision found in Section 6A of the Harrison Contract. Section 6A provides that Harrison shall pay no more than the lowest per ton landfill fee for waste of a similar character and tonnage paid by another party. In the event your Board approves the Crown contract, implementation of Section 6A would cause a reduction in the contract direct haul fee to Harrison from \$38.94 per ton to \$34 per ton.

Should you have questions regarding matter, please contact me via email at marklawler@vrsd.com or by telephone at 658-4600.

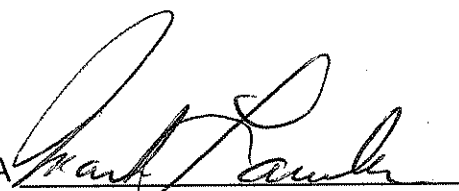
Recommendation

It is recommended the Board:

- a. Authorize the Chairman to sign Contract No. 11-007 with Crown Disposal company; and
- b. Authorize staff to reduce the contract direct haul fee for E.J. Harrison and Sons, Inc. pursuant to their agreement under Section 6A, to \$34 per ton effective June 1, 2011.

Enc.

APPROVED FOR THE SEPTEMBER 1, 2011 AGENDA


Mark Lawler – General Manager

Attachment A

Ventura Regional Sanitation District

Contract Direct Haul Fee Per Ton Rate Analysis

CURRENT PRICE STRUCTURE			
	TONS	RATE	TOTAL
Crown	14,664	\$39.60	\$581,000
Harrison	10,220	\$38.94	\$398,000
Current Total	24,884	-	\$979,000

SCENARIO I			
	TONS	RATE	TOTAL
Crown	14,664	\$38.94	\$571,000
Harrison	10,220	\$38.94	\$398,000
Scenario Total	24,884	-	\$969,000
Current Total			\$979,000
Revenue Impact			(\$10,000)

SCENARIO II		
TONS	RATE	TOTAL
-	\$39.60	-
10,220	\$38.94	\$398,000
10,220	-	\$398,000
		\$979,000
Revenue Impact		(\$581,000)

SCENARIO III			
	TONS	RATE	TOTAL
Crown	14,664	\$34.00	\$499,000
Harrison	10,220	\$34.00	\$347,000
Scenario Total	24,884	-	\$846,000
Current Total			\$979,000
Revenue Impact			(\$133,000)

SCENARIO IV		
TONS	RATE	TOTAL
7,332	\$39.60	\$290,000
10,220	\$38.94	\$398,000
17,552	-	\$688,000
		\$979,000
Revenue Impact		(\$291,000)

VRSD CONTRACT NO. 11-007

AGREEMENT FOR WASTE DISPOSAL AT TOLAND ROAD LANDFILL
BETWEEN
VENTURA REGIONAL SANITATION DISTRICT
AND
CROWN DISPOSAL CO., INC.

THIS AGREEMENT is made and entered into September 1, 2011, by and between Ventura Regional Sanitation District, a public agency formed pursuant to California Health & Safety Code 4700 *et. seq.* ("District"), and Crown Disposal Co., Inc., a California corporation ("Crown").

RECITALS

A. District is a county sanitation district created pursuant to California Health & Safety Code §4700 *et seq.*; and

B. District is authorized to provide public services related to the acquisition, construction, replacement, maintenance and operation of disposal systems and facilities; and

C. District owns and operates a solid waste disposal facility known as Toland Road Landfill ("Landfill") located at 3500 North Toland Road in the unincorporated area of the County of Ventura; and

D. Crown owns and operates a solid waste hauling, recycling, and disposal business which has been awarded a franchise ("Franchise Agreement") to provide solid waste services in the City of Santa Paula. Crown and its affiliated businesses are herein collectively referred to as "Operators"; and

E. Operators desire to secure an environmentally sound, economic and reliable method of disposal of solid waste transported to the Landfill and District desires to secure a reliable supply of solid waste transported to the Landfill.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth, the parties agree as follows:

1. **TERM.** The term of this Agreement shall be deemed to have commenced June 1, 2011, and shall terminate upon either: (1) the termination of the Franchise Agreement between the City of Santa Paula and Crown or (2) May 30, 2016, whichever occurs first. The parties to this Agreement may agree to extensions of this term by written Agreement executed by the parties.

2. **SOLID WASTE DELIVERY COMMITMENTS.**

(a) **Definitions of Waste, Transfer Loads and Direct Haul Loads.** As used in this Agreement, "waste" shall mean solid waste material including "Refuse", "Waste" and "Residual Waste" legally permitted for disposal at the Landfill. "Tons" shall mean tons of waste disposed of at the Landfill. "Transfer Loads" shall mean Residual Solid Waste loaded into covered transfer trucks carrying at least twenty tons of waste, based on an average weight calculated over one month. "Residual Solid Waste" shall mean waste remaining after processing of waste has taken place at Operator's recycling facilities ("Station"). The processing may include the separation, recovery, volume reduction, or conversion of waste and shall include hazardous waste load checking procedures as required by law and the Station's operating permits. "Direct Haul Loads" shall mean waste loaded into packer trucks and other legally permitted trucks for direct delivery to the Landfill. Direct Haul Loads are also referred to as "Refuse not transported by transfer trucks".

(b) **Commitment of All Waste Landfilled by Operators under the Franchise Agreement by and between the City of Santa Paula and Crown** With respect to all waste collected by Operators under the Franchise Agreement which is landfilled by either Direct Haul Loads or by Transfer Loads, Operators shall cause such waste designated for landfilling to be disposed of in the Toland Road Landfill under the terms of this Agreement.

(c) **Title to Waste.** Operators warrant that they have good title to all waste delivered under this Agreement. Title to all waste delivered by Operators to the Landfill under this Agreement shall be conveyed to District upon acceptance by District, provided that all Unacceptable Waste and Hazardous Waste shall remain the property of Operators.

(d) **Commitment Cancellation.** Notwithstanding Section 2(b) above, in the event District increases Landfill Fees charged per ton under Section 6 below, Operators shall no longer be obligated to deliver to the Landfill for disposal any or all of the category of waste covered by such increased fees.

3. DISTRICT SERVICE COMMITMENT.

(a) **Commitment to Accept Waste.** Subject to all the terms of this Agreement and subject to all Landfill Permit conditions and all other applicable requirements of law or regulations, District shall accept all waste delivered by Operators to the Landfill.

(b) **District Landfill Operation Responsibility.** District shall be solely responsible for the handling and disposal of waste delivered to the Landfill in compliance with this Agreement and for compliance with and the administration and enforcement of all

agreements and regulatory requirements, including the Landfill Permits relating to the operation of the Landfill.

(c) **Definition of Landfill Permits.** As used in this Agreement, "Landfill Permits" shall include the Conditional Use Permit No. CUP 3141 Modification #3 approved by the County of Ventura, Waste Discharge Requirements, Order No. 96-053, approved by the Regional Water Quality Control Board - Los Angeles Region, Revised Solid Waste Facility Permit, SWFP #56-AA-0005 approved by the California Integrated Waste Management Board and the County of Ventura Environmental Health Division acting as the Local Enforcement Agency for the California Integrated Waste Management Board and revisions to any of the above referenced permits and all other regulatory approvals necessary for the operation of the Landfill.

4. **UNACCEPTABLE AND HAZARDOUS WASTE DELIVERED TO LANDFILL.**

(a) **Definitions of Unacceptable and Hazardous Waste.** As used in this Agreement, "Unacceptable Waste" shall include the following: (1) hazardous wastes, designated wastes, or special wastes, such as liquid, oils, waxes, tars, soaps, solvents, or readily water-soluble solids, such as salts, borax, lye, caustic, or acids; (2) semi-solid wastes (waste containing less than fifty percent solids); (3) materials which are of a toxic nature, such as insecticides, poisons, or radioactive materials; (4) infectious materials or hospital or laboratory wastes, except those authorized for disposal to land by official agencies charged with control of plant, animal, and human disease; (5) pesticide containers, unless they are rendered nonhazardous by triple rinsing; and (6) septic tank or chemical toilet wastes. "Hazardous Waste" shall mean any waste managed under Article 1, Chapter 11, Division 4.5 (section 66261.3 *et seq.*) of Title 22 of the California Code of Regulations.

(b) **District Refusal Rights.** District shall dispose of all waste delivered to the Landfill by Operators; provided, however, that District may refuse delivery of (1) any waste delivered at hours outside the Landfill's established operating hours, (2) any waste that contains Unacceptable Waste in abnormal quantities or Hazardous Waste in any quantities, and (3) any waste delivered when the Landfill has been closed to comply with conditions of its operating permits.

(c) **Screening and Removal of Unacceptable Waste and/or Hazardous Waste.** Operators shall not knowingly deliver, and shall use all legal means reasonably available in cooperation with District to prevent the delivery of Unacceptable Waste and/or Hazardous Waste to the Landfill. District may inspect all vehicles delivering waste to the Landfill and all waste delivered, before or after unloading, for the presence of Unacceptable Waste and/or Hazardous Waste. District and Operators shall conduct approved waste load checking programs in compliance with all applicable laws.

(d) **Disposal Responsibility and Costs.** District shall remove and dispose of, or cause the removal and disposal of, all Unacceptable Waste and Hazardous Waste delivered to the Landfill. Operators shall pay District, in addition to the Landfill Fee, all costs and expenses incurred by District in connection with its obligations under this section.

5. **OUT-OF-COUNTY WASTE RESTRICTION.** Operators shall deliver and District shall accept for disposal at the Landfill only waste generated in the County of Ventura.

6. **LANDFILL FEES.**

(a) **Landfill Fees.** In consideration for District's obligations hereunder, District shall charge Operators and Operators shall pay to District, all applicable landfill fees and charges ("Landfill Fees"). The Landfill Fees shall be established at a rate necessary to recover all reasonable costs of providing the services provided by District and shall be calculated per ton of waste Operators are obligated and allowed to deliver to the Landfill. The Landfill Fee for Direct Haul Loads and for Transfer Loads delivered pursuant to this Agreement shall be established and adjusted by the District Board of Directors in accordance with the terms of this Agreement. Notwithstanding any other provision of this Agreement, the per ton Landfill Fee for Transfer Loads or Direct Haul Loads delivered under this Agreement shall be no greater than the lowest per ton Landfill Fee paid by any other user of the Landfill for waste of a similar character and tonnage, unless the parties otherwise agree by a separate written agreement.

(b) **Establishment of Landfill Fees** Effective June 1, 2011, Landfill Fees for all Transfer Loads delivered to the Landfill by Operators under this Agreement shall be calculated at the rate of \$31.00 per ton, and Landfill Fees for all Direct Haul Loads delivered to the Landfill by Operators under this Agreement shall be calculated at the rate of \$34.00 per ton.

(c) **Miscellaneous Fees.** In addition to the fees specified in Section 6(b) above, all miscellaneous fees and charges set forth in District's Ordinance No. VRSD-107, as revised by subsequent ordinances ("Fee Ordinance"), shall be applicable to other waste services performed by District. For example, the Fee Ordinance shall establish the charges related to special pull-offs, tires, alternative daily cover and other specialized services.

(d) **Fee Adjustment.** Effective July 1, 2012, and every July of each year thereafter, the Landfill Fees may be adjusted at a Regular Meeting of the District Board of Directors. Operators shall be provided written notice of any proposed fee adjustment at least sixty (60) days prior to the District Board of Directors Regular Meeting where such fees are to be considered. The District's Board of Directors shall review the fees and make adjustments, if any, based on the following factors:

(1) Evaluation of current information relating to the Landfill, including review of: 1) current users, tonnage and capacity, 2) regulatory requirements, 3) projected costs of the existing and future operations and facilities, and 4) alternative methodologies for establishing fair and equitable charges. The planning, engineering, and financial studies associated with these evaluations shall be utilized during the development of District's Fiscal Year Final Budget ("Budget"), which is adopted by the Board of Directors annually; and

(2) Consideration of budgets, operations plans, capital improvement programs, reserve studies and financial and engineering reports (collectively referred to as the "Landfill Record") which shall be made available to the public. The financial requirements of District, as shown in the Landfill Record, including District's most recently approved Budget, shall be based on current, reliable information and data relating to use projections, regulatory requirements, total system and facility operation, construction, maintenance and replacement costs, general administrative costs, including legal, accounting and other professional service costs, and capital costs; and

(3) Determination of any adjustments required to ensure adequate revenues to finance the improvements and programs necessary to implement the mandated disposal regulations, maintain and improve facilities, and to retire any debt incurred to finance such improvements in a reasonable manner, and to provide for the maintenance of prudent and reasonable reserves.

7. MEASUREMENT.

(a) The tonnage used to calculate the Landfill Fee shall be based on the weight of each loaded transfer truck measured at the weight scales described below minus the certified tare weight for each truck. District may install, operate, and maintain an adequate scale system at the Landfill. Until District's scales are operational, trucks shall be weighed at the Station. Whichever party is operating the scale shall maintain and make available to the other party the following information: (1) Day of the week; (2) Calendar date; (3) Time of day; (4) Vehicle identification; and (5) Total number of tons of waste delivered to the Landfill that is accepted by District. All scales and weighing equipment shall be kept in good and accurate condition operating at the standards of accuracy and reliability specified in the California Code of Regulations. Operators shall establish the tare weight of each transfer truck. Crown shall allow District to provide a number or device to be inserted in or on each truck that will identify the truck to the weigh master or an automated scanner or to provide such other device or means necessary to identify trucks using an unattended, automated system.

8. PAYMENT OF LANDFILL FEES.

(a) **Monthly Statement.** On or before the tenth (10th) working day following the end of any month for which payments are required to be made under this Agreement ("Billing Period"), District shall submit to Operators a bill setting forth the Landfill Fees for such prior month based on the number of tons delivered and accepted by District and the price per ton established pursuant to the Agreement. On or before the twentieth (20th) working day following the date of such bill, Operators shall pay to District the full amount of such Landfill Fees.

(b) **Disputes.** If Operators dispute any amount billed by District in any Billing Statement, Operators shall nonetheless pay the billed amount and shall provide District with written objection within twenty (20) working days of the receipt of such Billing Statement indicating the amount that is being disputed and providing all reasons then known to Operators for its objection to or disagreement with such amount. If Operators and District are not able to resolve such dispute within twenty (20) working days after Operators' objection, either party may pursue legal remedies.

(c) **Failure to Pay Bill.** If payment in full of any bill rendered by District is not made as required, an initial late charge of one and one-half percent (1.5%) and the unpaid balance shall bear an additional interest charge of one and one-half percent (1.5%) per month until full payment is made. District shall also be entitled to recover its reasonable expenses, including attorneys fees, incurred in obtaining payment of any unpaid balance hereunder.

9. OPERATING DAYS AND HOURS.

(a) The Landfill's operating days and hours for receiving waste will be established by District Resolution and made available to Operators. The Landfill shall be open Monday through Friday except for established holidays and closures District determines to be necessary to comply with the Landfill's operating permits or other regulatory requirements. The Landfill may be opened on Saturdays to accommodate Operators' tonnage, subject to written agreement by the parties as to any additional terms.

(b) When Landfill is closed during established operating hours for any reason, District shall notify Operators by telephone of such closures as soon as reasonably possible and, notwithstanding any other provision of this Agreement, Operators shall bear no obligation to deliver waste or pay Landfill Fees for the period of such closures and until the site is reopened and District notifies Operators of the reopening. District shall use commercially reasonable efforts to minimize Landfill closures and periodically meet with Operators to discuss methods of reducing the impact to Operators of such closures.

10. LANDFILL RULES AND TRAFFIC. Operators shall safely and efficiently dispose of waste from Operators' vehicles onto the designated disposal area at the Landfill. Operators recognize that Operators will not be the only user of the Landfill and shall not interfere with other landfill operations. Operators shall obey all instructions, either

verbal or written, provided by District. Operators shall perform their obligations under this Agreement in accordance with the following:

(a) Operators shall comply with all traffic and trucking requirements set forth in Exhibit A hereto which is incorporated herein by reference. District may revise Exhibit A to reflect new regulatory requirements regarding traffic and trucking.

(b) All equipment, including all tractors and trailers shall be maintained and operated in conformance with all laws and regulations governing the use of such equipment;

(c) All drivers shall be properly trained and licensed;

(d) All waste hauling vehicles shall be covered while on the road;

(e) All vehicles shall observe all posted speed limit and traffic warning signs on and off the Landfill. All vehicles shall drive at safe speeds and use low gears and caution driving down hills, and reduce speed to allow for road, weather, traffic and load;

(f) Trucks backing up to unload shall do so slowly and cautiously;

(g) Trucks while in operation shall keep all doors secured;

(h) Drivers and/or helpers shall remain in immediate vicinity of truck;

(i) Trucks shall unload only in areas designated by District personnel;

(j) No salvaging shall be conducted at any time;

(k) Smoking shall be prohibited within the boundaries of the Landfill, except within designated smoking areas approved by the Fire Department; and

(l) Injury or damage to persons or equipment shall be reported to District personnel prior to leaving the site. Any damaged truck shall not be moved prior to reporting.

11. RANDOM INSPECTION OF WASTE HAULING VEHICLES. District staff, trained in hazardous waste identification, may randomly inspect waste hauling vehicles entering the Landfill. At least two transfer trucks and five non-transfer trucks per week may be inspected. If hazardous waste materials are found, they shall be removed and disposed of in accordance with State regulations. Operators agree to cooperate with District staff in the random inspection of waste hauling vehicles, and to provide requested information to assist District staff in the identification of the potential source of hazardous waste materials found in waste hauling vehicles.

12. **RIGHT OF SITE INSPECTION.** Subject to the provisions of the operating permits and agreements, District and Operators shall permit duly authorized representatives of District and Operators to enter the Landfill and Station upon notice to the other party during usual business hours for the purpose of inspecting the same. All records of transactions relating to waste delivered to the Landfill, including, but not limited to, documents regarding the source of the waste, calibration of scales, truck maintenance and driver training shall be made available upon request.

13. **PROTECTION OF PERSONS AND PROPERTY.** Operators shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with its performance, including the performance of all persons and entities hauling waste to the Landfill under this Agreement. Operators shall take all reasonable precautions for the safety of, and provide for reasonable protection to prevent damage, injury or loss to, all Operators, District and other related hauler employees and all other persons who may be affected thereby and other property at the Landfill site or adjacent thereto, including roadways, structures and utilities. Operators shall promptly remedy all damage or loss to any property referred to above caused in whole or in part by Operators or other related haulers or contractors or anyone directly or indirectly employed by any of them. Operators shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

14. **COMPLIANCE WITH LAWS AND ORDINANCES.** Operators shall keep itself fully informed of all laws, ordinances, regulations, orders and permits which in any manner affect those engaged and employed herein or the materials used, or which in any way affect the conduct of operations on or off the Landfill site, including all permit conditions and other requirements relating to the Landfill operation. Operators at all times shall observe and comply with, and shall cause all of its agents, employees and contractors to observe and comply with, all such existing and future laws, ordinances, regulations, orders and permits, and shall hold harmless, indemnify and defend District and its directors, officers and employees from liability for violations of such requirements caused by Operators or other related haulers or contractors. Operators or other related haulers and subcontractors shall obtain all licenses and permits required to perform work under this Agreement. Evidence of such permits and licenses shall be provided to District upon request by District.

15. **RECORDS AND ACCOUNTS.** District and Operators shall each, respectively, keep proper books of record and account (separate from all other records and accounts), in which complete and correct entries shall be made of the transactions relating to the Landfill and Station, including records of the quantity, quality and other characteristics of waste delivered by Operators and accepted by District. Such books shall at all reasonable times be subject to the inspection of the Authorized Representative of the other party.

16. INDEMNITY.

(a) **District.** District agrees to hold Operators harmless from and to indemnify and defend Operators against any and all liabilities, claims, actions, lawsuits, costs and expenses, including reasonable attorney fees, liens, judgments and demands, including but not limited to claims of damage to property, bodily injury or death, which may be suffered by Operators, its employees, agents, representatives and/or independent contractors, due to or arising out of the District's operations at the Landfill by District, its employees, agents, representatives and independent contractors, except to the extent such claim(s) result from the negligence or willful misconduct of Operators or its employees, agents, representatives, haulers and/or independent contractors.

(b) **Operators.** Operators agree to hold District harmless from and to indemnify and defend District against any and all liabilities, claims, actions, lawsuits, costs and expenses, including reasonable attorney fees, liens, judgments and demands, including but not limited to claims of damage to property, bodily injury or death, which may be suffered by District, its employees, agents, representatives and its independent contractors or third parties, due to or arising out of Operators' operations upon or in the vicinity of Station or Landfill or any haul route by Operators or their employees, agents, representatives, haulers and/or independent contractors, except to the extent such claim(s) result from the negligence or willful misconduct of District or its employees, agents, representatives and/or independent contractors.

17. INSURANCE.

(a) **Minimum Coverage.** Operators will not commence or continue to perform under this Agreement unless Operators have provided for insurance coverage for any liability, loss, expense or claim which may arise out of or result from Operators performance under this Agreement, whether such performance be by Operators or by any hauler or contractor or anyone directly or indirectly employed by any of them, or by anyone for whose act any of them may be liable, with the following limits:

(1) General liability insurance, including comprehensive form, premises operation and broad form property damage coverage, with a limit of not less than Two Million Dollars (\$2,000,000) combined single limit coverage;

(2) Automobile liability insurance, including comprehensive form including loading and unloading, owned, hired and non-owned coverage, with a limit of not less than Five Million Dollars (\$5,000,000) combined single limit coverage;

(3) Contractual personal injury liability and contractual property damage insurance covering liability assumed under this Agreement, with a limit of not less than Two Million Dollars (\$2,000,000) combined single limit coverage; and

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(4) Workers' compensation insurance as required by law.

(b) **Certificates.** Certificates of insurance acceptable to District shall be filed with District prior to commencement of any operation or performance under this Agreement. These certificates shall provide that District is an insured for coverage in (1), (2) and (3) above, that the insurance afforded shall be primary insurance, and that coverage afforded under the policies will not be canceled until at least thirty (30) days' prior written notice has been given to District.

18. SUCCESSORS/ASSIGNMENT/SUBCONTRACTORS.

(a) **Binding on Successors.** District and Operators each binds itself and its successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Agreement.

(b) **Assignment.** Operators may assign this Agreement provided that before any such assignment becomes effective, Operators shall obtain a written acknowledgment by the assignee(s) that the assignee(s) are obligated and bound by all the terms hereof as Operators' successor hereunder.

(c) **Responsibility for Subcontractors.** Operators shall be fully responsible for all acts and omissions of its haulers, subcontractors and of persons and organizations directly or indirectly employed by them and of persons and organizations for whose acts any of them may be liable to the same extent that it is responsible for the acts and omissions of persons directly employed by it.

19. RELATIONSHIP OF OPERATORS TO DISTRICT. It is expressly understood between the parties hereto that no employee-employer relationship is intended, the relationship of Operators to District being that of an independent contractor. District shall not be required to make any payroll deductions or provide Workers' Compensation Insurance coverage or health benefits to Operators. Operators are solely responsible for selecting the means, methods and procedures for performing hereunder, and for coordinating all portions of its performance so the results will be satisfactory to District.

20. DEFAULT/REMEDIES.

(a) **Default by Operators.** Operators shall be deemed in default under this Agreement only if Operators shall fail, neglect or refuse to keep and perform any of the covenants, conditions, stipulations or agreements herein agreed to be performed by Operators, and such failure to perform is not cured within sixty (60) days after written notice specifying the nature and extent of such failure has been given to Operators. Upon Operators' failure to cure such default, District, at its option, may declare this Agreement terminated effective upon such date as District shall designate.

(b) **Default by District.** District shall be deemed in default under this Agreement only if District shall fail, neglect or refuse to keep and perform any of the covenants, conditions, stipulations or agreements herein agreed to be performed by District, and such failure to perform is not cured within sixty (60) days after written notice specifying the nature and extent of any such failure has been given to District. Upon District's failure to cure such default, Operators, at their option, may declare this Agreement terminated effective upon such date as Operators shall designate.

(c) **Remedies and Waiver.** Except as otherwise herein expressly provided, all rights and remedies of either party shall be cumulative and none shall exclude any other right or remedy allowed by law; the exercise by either party of any remedy provided for herein or by law shall not be to the exclusion of any other remedy. Either party's failure to take advantage of any default or breach of covenant on the part of the other party shall not be construed as a waiver thereof, nor shall any custom or practice which may grow up between the parties in the course of administering this instrument be construed to waive or lessen the right of either party to insist upon the performance by the other of any term, covenant or condition hereof, or to exercise any rights given it on account of any such default. A waiver of a particular breach or default shall not be deemed to be a waiver of the same right or any other subsequent breach or default.

21. **ATTORNEY FEES.** In the event that either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any term, covenant or condition of this contract, or to interpret any term, covenant or condition, the party prevailing in said action or proceeding shall be entitled to recover, in addition to its court costs, reasonable out-of-pocket expenses (including, but not limited to phone calls, photocopying, expert witnesses, travel, etc.) and reasonable attorney fees to be fixed by the court, and such recovery shall include court costs and attorney fees on appeal, if any. The court will determine who the "prevailing party" is whether or not the suit proceeds to final judgment.

22. **GENERAL PROVISIONS.**

(a) **Time.** Time is of the essence of this Agreement. Any reference herein to days, unless otherwise defined, shall be interpreted as referring to calendar days.

(b) **Notices.** Any notice to be given under this Agreement shall be in writing and shall be deemed given two (2) days after being sent by first class mail, addressed to:

District:

Ventura Regional Sanitation District
1001 Partridge Drive, Suite 150
Ventura, California 93003-5562

Crown:

Crown Disposal Co., Inc.
Post Office Box 1081
Sun Valley, California 91352

or to such other address as either party may designate hereinafter in writing delivered to the other party.

(c) **Governing Law/Venue.** This Agreement, and all matters relating to this Agreement, shall be governed by the laws of the State of California in force at the time any need for interpreting this Agreement or any decision or holding concerning this Agreement arises. Venue for any judicial action relating to this Agreement shall be in Ventura County.

(d) **Severability.** If any clause, provision, paragraph, section or article of this Agreement shall be ruled invalid by any court of jurisdiction, then the parties shall: (1) promptly meet and negotiate a substitute for such clause, provision, paragraph, section or article which shall, to the greatest extent legally permissible, effect the intent of the parties therein; (2) if necessary or desirable to accomplish item (1) above, apply to the court having declared such invalidity for a judicial construction of the invalidated portion of this Agreement; and (3) negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with items (1) and (2) above to effect the intent of the parties in the invalid provision. The invalidity of such clause, provision, paragraph, section or article shall not affect any of the remaining provisions hereof, and this Agreement shall be construed and enforced as if such invalid portion did not exist.

(e) **Prior Understandings and Usage.** This Agreement contains the entire agreement between the parties and supersedes all previous written or oral negotiations, commitments, understandings, proposals and writings. It is expressly understood by the parties that the terms of this Agreement shall not be modified by course of performance, course of dealing, usage or informal arrangements which may occur from time to time over the term of this Agreement or by evidence of additional terms not expressly contained in this Agreement.

(f) **Amendments.** No amendments to this Agreement may be made except by a writing signed by the parties.

(g) **Execution.** The parties have executed this Agreement as of the date first stated above. This Agreement may be executed in counterparts with the same force and effect as if one document were signed by all parties.

Approved as to form:

ARNOLD, BLEUEL, LAROCHELLE,
MATHEWS & ZIRBEL, LLP

VENTURA REGIONAL SANITATION
DISTRICT

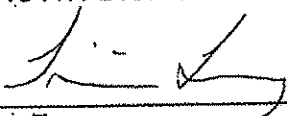
By: _____
Mark A. Zirbel
District General Counsel

James Monahan, Chairman
Board of Directors

ATTEST:

CROWN DISPOSAL CO., INC.

Josie Guzman
Clerk of the Board



Tim Fry
General Manager

10-18

EXHIBIT A

SPECIAL TRUCKING PROVISIONS

The terms of this Exhibit shall apply to the party providing the trucking services for hauling of waste under this Agreement. The term "Operator" shall be deemed to include Operators' and their trucking subcontractors.

1. Delivery shall be made during the operating days and hours as described in Section 9 of this Agreement.

a. Operator is restricted from making a left turn from eastbound Highway 126 onto Toland Road between 8:00 am to 8:30 am, and then 2:30 pm to 3:00 pm every day that the Santa Clara School is in session.

b. Operator is restricted from making a left turn onto eastbound Highway 126 from Toland Road between 4:00 pm and 6:00 p.m.

c. Operator shall not use the Sespe Underpass.

d. Equipment entering the Landfill will pass the District-operated scalehouse and merge with other Landfill traffic restrictions. At all times, Operator shall take reasonable precautions to avoid interference with District operations and the creation of any safety hazard.

e. Any driver that does not comply with the restrictions set forth herein shall be banned from the Toland Landfill.

2. All waste will be dumped as close to previously dumped waste at the Landfill operating face or as directed by District's appointed personnel.

3. The delivery is to be under the supervision of the District, on the Toland Landfill property. All activities and delivery shall comply with applicable local, State and Federal health and safety rules. The Operator shall comply with applicable codes and permit conditions.

4. Smoking shall not be permitted in any area, which has not been specifically designated as a "Smoking Area". Operator is not permitted to do any "hotwork" such as welding on site.

5. The following measures are required to assure non-interference by the Operator with District operations:

a. The Operator must provide continuous access to the active refuse dumping area.

b. The Operator must follow posted speed limit signs and comply with all District rules regarding traffic control and other activity occurring on Toland Landfill.

c. The Operator shall comply with other directions of the Landfill Superintendent.

6. Trucks and equipment are strictly prohibited from traveling on areas that may generate dust without watering or otherwise controlling dust beforehand. If dust control is not manageable during periods of high winds the District will stop delivery until weather conditions improve.

7. The Operator should only use "Jake Brakes" on Toland Road from Highway 126 to the Landfill and/or while on the Toland Landfill when absolutely necessary.