

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Environmental Resources

BOARD AGENDA # B-8

Urgent

Routine

AGENDA DATE May 12, 2015

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of the Regional Solid Waste Disposal Plan Memorandum of Understanding between the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford; Termination of the City of Newman's Disposal Agreement; and Authorization to Negotiate Disposal Agreements with the Local Transfer Station Owners for the Acceptance of Non-Franchise Municipal Solid Waste

STAFF RECOMMENDATIONS:

1. Approve the Regional Solid Waste Disposal Plan Memorandum of Understanding with the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford.
2. Authorize the Chairman of the Board of Supervisors to sign the Memorandums of Understanding.
3. Terminate the Disposal Agreement with the City of Newman reducing the Landfill tipping fee during diversion of waste deliveries to the Waste-to-Energy facility.

(Continued on next page)

FISCAL IMPACT:

The proposed 10-year regional solid waste disposal plan with city partners uses the County's share of rate stabilization funds of \$2.3 million to offset the reduction in waste-to-energy revenue associated with the 10-year model. The County's model gradually uses the \$2.3M over the 10-year term to incentivize the cities to continue bringing their waste to the higher cost Waste-to-Energy (WTE) option. The County and the City of Modesto (Contracting Communities) will continue to pay the full rate but the partner cities will pay a discounted rate through the use of the rate stabilization funds.

(Continued on next page)

BOARD ACTION AS FOLLOWS:

No. 2015-210

On motion of Supervisor De Martini, Seconded by Supervisor O'Brien

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Monteith, De Martini, and Chairman Withrow

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

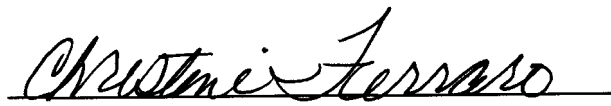
1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

C-2-C-10
C-9-B-8
C-03-A-5
C-7-B-11
C-4-B-8
C-1-B-10
C-5-F-1
C-8-B-8

Approval of the Regional Solid Waste Disposal Plan Memorandum of Understanding between the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford; Termination of the City of Newman's Disposal Agreement; and Authorization to Negotiate Disposal Agreements with the Local Transfer Station Owners for the Acceptance of Non-Franchise Municipal Solid Waste

STAFF RECOMMENDATIONS (CONTINUED):

4. Authorize the Director of Environmental Resources to negotiate Agreements with the local transfer station owners for the acceptance of non-franchise municipal solid waste to supplement disposal of waste at the Fink Road Landfill.

FISCAL IMPACT (CONTINUED):

At the same time, through a volume discount process, additional guaranteed waste flow at the Fink Road Landfill allows the County to lower the contracted tipping fee rate to \$26/ton, possibly escalating to \$29/ton by year 10. The regional solid waste disposal plan includes costs estimated at \$9.5 million in year 2, with annual escalators over the 10-year agreement, associated with the WTE facility contractual obligation, Fink Road Landfill operations and maintenance, along with fixed assets and capital improvements such as cell development, heavy equipment, etc., Assembly Bill 939 program services, Household Hazardous Waste program services, and Geer Road Landfill clean-up costs.

DISCUSSION:

Stanislaus County's solid waste management system includes the Fink Road Landfill, the Waste-to-Energy (WTE) facility, and the Household Hazardous Waste (HHW) facility, each playing a role in managing locally generated solid waste. These facilities are necessary to meet State mandates for adequate disposal capacity, solid waste management planning, and waste diversion as required by the California Integrated Waste Management Act of 1989, otherwise known as Assembly Bill (AB) 939. In order to support each of these components of the County's solid waste management system, participation in both the WTE facility and the Fink Road Landfill (Landfill), is critical because tipping fees not only fund these current operations, they also fund the ongoing closure and corrective action activities associated with the Geer Road Landfill.

AB 939 brought about significant new mandates for cities and counties, requiring that they reduce the amount of waste disposed by 25% no later than 1995 and by 50% no later than 2000, but also provided 10% credit for WTE transformation toward the 50% mandate. To meet these mandates, Stanislaus County and its nine incorporated cities agreed to establish a funding mechanism for implementation and operational costs of programs needed through a disposal fee surcharge on waste sent to the WTE facility. The Board of Supervisors and the Modesto City Council, as partners in the WTE project, approved the disposal fee surcharges for the AB 939 Program and the HHW Program.

In 1994, the County entered into Memorandum of Understanding (MOU) agreements with each of the local cities to formalize the ongoing provision of AB 939 program services and the fee the County would be paid to provide those services. The tipping fee funding mechanism has provided a steady revenue stream for both the AB 939 and HHW programs for nearly 25 years.

Approval of the Regional Solid Waste Disposal Plan Memorandum of Understanding between the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford; Termination of the City of Newman's Disposal Agreement; and Authorization to Negotiate Disposal Agreements with the Local Transfer Station Owners for the Acceptance of Non-Franchise Municipal Solid Waste

This revenue funded implementation and administration of the AB 939 programs that today include:

- Preparation of all required State diversion reporting and tracking;
- Countywide public education/outreach;
- Administration of the Recycling Market Development Zone;
- Application for and administration of regional grants for used oil recycling, used tire recycling, and tire enforcement;
- Serve as staff to the Local Task Force on Solid Waste and Regional Solid Waste Planning Agency (Regional Agency);
- Monitor proposed solid waste legislative and regulatory changes;
- Administration of the County's Food Processing By-Product Program; and
- Administration of the Waste to Energy Service Contract with the City of Modesto.

The revenue also funds the HHW programs which include:

- Conducting a minimum of two mobile collection events each year for each Regional Agency city, except Ceres;
- Access to the permanent Household Hazardous Waste Facility for the collection of Countywide residents' e-waste, used oil, oil filters, paints, pesticides, batteries, sharps, medications and other miscellaneous household chemicals;
- Access to the permanent Household Hazardous Waste Facility for the collection of Countywide qualified/approved Conditionally Exempt Small Quantity Generators' hazardous waste; and
- Countywide public education/outreach.

On June 19, 2001, the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford formed the Stanislaus County Regional Solid Waste Planning Agency by entering into a Joint Powers Agreement. By forming a region it allows participating jurisdictions to do the following: "share" recycling (diversion) credit; and prepare single planning documents for the entire region, rather than needing individual plans for each city and county. Locally, the unincorporated area had sufficient "excess" diversion credit (above 50%) to cover the needs of the MOU cities. Since its inception the Regional Agency has consistently exceeded the 50% mandate requirement.

Within our County we have sufficient volumes of waste to adequately supply both the Landfill and WTE facility when all of our jurisdictions send their waste to County facilities. However, the enticement of lower disposal costs has diverted a portion of our waste to out of County disposal facilities.

Approval of the Regional Solid Waste Disposal Plan Memorandum of Understanding between the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford; Termination of the City of Newman's Disposal Agreement; and Authorization to Negotiate Disposal Agreements with the Local Transfer Station Owners for the Acceptance of Non-Franchise Municipal Solid Waste

Regional Solid Waste Disposal Plan - 10 Year Agreement

In 2013, County staff began working on a Regional Solid Waste Plan (Plan) to retain in-county waste and guarantee adequate volumes of waste. The Plan provides a waste disposal flow strategy to the WTE facility and the Fink Road Landfill. The Contracting Communities (Stanislaus County and the City of Modesto) have a contractual obligation with Covanta, Inc., to provide 243,300 tons of waste annually to the WTE Facility. The new Plan provides a regional approach to meet that contractual obligation, as well providing sufficient waste to the Fink Road Landfill to cover operations and maintenance. The Plan calls for a guaranteed percentage of their franchise waste annually, with 62% of that waste directed to the WTE facility and 38% to the Fink Road Landfill. The Plan also provides for Fink Road Landfill fixed assets and capital improvements such as cell development, heavy equipment, etc., AB 939 program services, Household Hazardous Waste program services, and Geer Road Landfill clean-up costs. To assist in offsetting costs associated with the Plan it provides the County's share of rate stabilization funds of \$2.3 million over the 10-year agreement to reduce the WTE tipping fee.

The Plan also incentivizes the Cities at the Fink Road Landfill because the increased volume of waste received allows the County to decrease the tipping fee, which makes the cost of disposal competitive with out-of-County disposal facilities. In addition, the Department is planning future agreements with the three local transfer station owners to retain the non-franchised municipal solid waste produced in the County. The Department is also planning to meet with the City of Modesto, which is not included in this Agreement, to negotiate a Landfill disposal Memorandum of Understanding. This is needed for Modesto to receive the same tipping fee reduction the County and the other MOU Cities will receive at the Fink Road Landfill.

Meetings to discuss the Plan were held with each of the Regional Cities in June and July 2014. A draft Regional Solid Waste Disposal Plan Memorandum of Understanding was circulated to the cities on September 11, 2014, for their review and consideration. Meetings and discussions continued through March 2015, and on March 16, 2015, the County received tentative agreements from the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, and Riverbank followed by Turlock providing a letter of tentative agreement the following day. Following additional discussions with the City of Waterford, they also submitted their letter of tentative agreement. During the months of April and May, each of the eight Cities have taken City Council action and approved the new Regional Solid Waste Disposal Plan MOU (form of Regional Solid Waste Disposal Plan MOU attached).

On April 14 and 15, 2015, County staff met with franchise haulers/transfer station owners to formalize new reporting/tracking protocol of jurisdictional tonnage. Staff also discussed changes to billing and the quarterly true-up process which will be necessary to verify the tonnage disposed per jurisdiction.

Approval of the Regional Solid Waste Disposal Plan Memorandum of Understanding between the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford; Termination of the City of Newman's Disposal Agreement; and Authorization to Negotiate Disposal Agreements with the Local Transfer Station Owners for the Acceptance of Non-Franchise Municipal Solid Waste

In addition, with the approval of the new Regional Solid Waste Disposal Agreement, the City of Newman's Disposal Agreement reducing the tipping fee at the Fink Road Landfill by \$3 per ton during periods of diversion at the WTE facility is no longer needed. Staff recommends terminating this agreement at the same time the new agreement becomes effective.

There are substantial amounts of in-county solid waste received by transfer stations that are not part of the franchise agreements with the Cities or the County. This non-franchised waste (NFW) is waste brought in by the general public, industrial haulers, and other miscellaneous sources. A large portion of NFW is currently being exported to out-of-county disposal facilities. Since this waste is not included in this Agreement, staff is requesting authorization to negotiate disposal agreements with the local transfer station owners to retain this waste for the County Landfill.

POLICY ISSUE:

The recommended actions are consistent with the Board's priority of the Efficient Delivery of Public Services and Effective Partnerships. It is also consistent with Department's mission to promote a safe and healthy environment and improve the quality of life in the community through partnerships.

STAFFING IMPACTS:

The approval of a new Regional Solid Waste Disposal Plan MOU will increase the Department's workload which will require an additional part time extra help staff in the Solid Waste Division. The new position duties will include working with the franchise haulers to track, record, and true up quarterly delivery reports and to ensure the terms of the new Agreement are being met. In addition, the Department has also requested additional staffing for its Accounting Division in the 2015-2016 Proposed Budget due to the impact the new Agreement will have on Landfill billing.

CONTACT PERSONS:

Jami Aggers, Director of Environmental Resources
Tera Chumley, Senior Management Consultant

Telephone: 209-525-6770
Telephone: 209-525-4393

ATTACHMENTS:

Form of Regional Solid Waste Disposal Plan MOU between the County of Stanislaus and Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford

**REGIONAL SOLID WASTE DISPOSAL PLAN
MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF CERES AND STANISLAUS COUNTY**

This Regional Solid Waste Disposal Plan Memorandum of Understanding (the "Agreement") is made and entered into by and between the County of Stanislaus, ("County") and the City of Ceres ("City") on May 12, 2015. City and County may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this agreement.

RECITALS

WHEREAS, pursuant to Public Resources Code section 40976 the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford entered into a Memorandum of Understanding, dated August 26, 1994, regarding the use and distribution of AB-939 funds to achieve the waste reduction and diversion goals specified in AB-939 (the "AB-939 MOU");

WHEREAS, on or about December 30, 1999, the County and the above cities entered into Amendment 1 of the AB-939 MOU to provide for payment of the cities' proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, on August 1, 2001, the City of Riverbank and on March 29, 2012, the City of Waterford entered into Amendment 2 of the AB-939 MOU to provide for payment of each city's proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, revenue to fund the AB-939 and Household Hazardous Waste services provided by the County is derived in part from tipping fees to the Waste-to-Energy Facility;

WHEREAS, the County, together with the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford formed the Stanislaus County Regional Solid Waste Planning Agency (hereinafter referred to as "Regional Agency") by entering into a Joint Powers Agreement on June 19, 2001, and the formation of the Regional Agency was approved by the California Integrated Waste Management Board on July 9, 2002.

WHEREAS, the purpose of the formation of the Regional Agency JPA was to allow the participating entities to share diversion credits and to prepare a single planning document for the entire region;

WHEREAS, the purpose of this Agreement is for members of the Regional Agency to implement a Regional Solid Waste Disposal Plan (the "Plan") to support the continued operations of the Fink Road Landfill (hereinafter referred to as "Landfill"), and the WTE Facility by ensuring sufficient solid waste is delivered to both facilities to ensure their economic viability, and to provide regional AB 939 and Household Hazardous Waste services;

WHEREAS, the Plan (as set forth by this Agreement and the exhibits incorporated hereto) includes a ten (10) year commitment from the Regional Agency cities to guarantee delivery of a portion of their solid waste to the Landfill and WTE Facility, and a ten (10) year schedule of tipping fees ("Disposal Rates") to be paid to the County pursuant to the Plan; and

WHEREAS, by entering this Agreement the Parties desire to terminate the AB-939 MOU and its amendments and to implement the Plan.

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the Parties hereby agree as follows:

AGREEMENT

1. Incorporation by Reference. The above Recitals are incorporated into this Agreement by this reference. Schedule 1 and Schedule 2 are attached to this Agreement and are incorporated hereto and made a part of this Agreement by this reference.
2. Term. The term of this Agreement ("Term") shall begin on June 1, 2015 (the "Effective Date") and end June 30, 2025 (the "Termination Date"). If mutually agreeable to both Parties, this contract may be extended up to an additional five (5) year period, unless one Party delivers to the other written notice of nonrenewal, which notice shall be delivered no later than 90 days prior to the termination date. Either Party may terminate this Agreement by providing 90 days prior written notice to the other.
3. City's Guaranteed Delivery of Solid Waste to WTE Facility and Landfill.
 - a. The Cities shall deliver to the WTE Facility and the Fink Road Landfill no less than the committed percentage of their Acceptable Solid Waste as set forth in Schedule 1 and the Waste to Energy (WTE) tonnage as set forth in Schedule 2 each month.
 - b. "Acceptable Solid Waste" means that portion of Solid Waste which has characteristics such as that collected and disposed of as part of the normal collection of Solid Waste in the Contracting Cities, such as, but not limited to: garbage, trash, rubbish, refuse, offal, beds, mattresses, sofas, bicycles, baby carriages, automobile or small vehicle tires, as well as processible portions of commercial (including cannery) and industrial Solid Waste, and logs if no more than four (4) feet long and six (6) inches in diameter, branches, leaves, twigs, grass and plant cuttings, excepting, however, unacceptable waste and hazardous waste.
 - c. "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes normally collected by the City's solid waste hauler. Solid Waste does not include hazardous waste, radioactive waste, or medical waste.
4. Tipping Fees.
 - a. For the Term of this Agreement, the City's franchise hauler shall pay the Disposal Rates set forth in Schedule 1 and Schedule 2.

5. County's Obligations. The County agrees to provide and maintain the following programs and services for the City:

- a. All AB 939 Program Services as required by law including but not limited to the following:
 - i. Preparation of all required State diversion reporting and tracking;
 - ii. Countywide public education/outreach;
 - iii. Administration of the Recycling Market Development Zone;
 - iv. Application for and administration of regional grants for used oil recycling, used tire recycling, and tire enforcement;
 - v. Serve as staff to the Local Task Force on Solid Waste and Regional Solid Waste Planning Agency (Regional Agency);
 - vi. Monitor proposed solid waste legislative and regulatory changes;
 - vii. Administration of the County's Food Processing By-Product Program; and
 - viii. Administration of the Waste to Energy Service Contract with the City of Modesto.
- b. The following Household Hazardous Waste (HHW) Programs:
 - i. The County will conduct a minimum of two mobile collection events each year for each Regional Agency city, except Ceres;
 - ii. Access to the permanent Household Hazardous Waste Facility for the collection of Countywide residents' e-waste, used oil, oil filters, paints, pesticides, batteries, sharps, medications and other miscellaneous household chemicals;
 - iii. Access to the permanent Household Hazardous Waste Facility for the collection of Countywide qualified/approved Conditionally Exempt Small Quantity Generators' hazardous waste; and
 - iv. Countywide public education/outreach.

6. Default.

- a. Cure. In the event a Party fails to perform pursuant to the terms and conditions of this Agreement, the Party to whom an obligation is owed will provide the non-performing Party with at least 30 days prior written notice of said non-performance, upon which the non-performing Party will have the opportunity to comply with the request for performance, or in the event of continued non-performance, the Parties shall have the right to then pursue any and all available legal remedies.

- b. Failure to give Notice. Failure to give, or delay in giving, Notice of Default shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any rights and remedies as to any breach shall not operate as a waiver of any breach or of any such rights or remedies. Delay by either Party in asserting any of its rights and remedies shall not deprive such Party of the right to institute and maintain any action or proceeding which it may deem appropriate to protect, assert or enforce any such rights or remedies.
7. Attorney Fees. In the event that a Party commences litigation to enforce the performance of this Agreement, the prevailing Party shall be entitled to an award of its costs of litigation, including the cost of expert and attorneys' fees.
8. Severability. In the event that any provision of this Agreement shall for any reason be determined to be invalid, illegal, or unenforceable in any respect, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.
9. Necessary Acts. The Parties hereby authorize their respective officers and employees to do all things reasonably necessary to accomplish the purposes of this Agreement.
10. Modification Only in Writing. This Agreement may not be modified, amended, changed, added to, or subtracted from, except by written mutual consent of the Parties hereto and only if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to this Agreement to maintain continuity. Notwithstanding anything to the contrary, no oral agreement or directive from or between either Party, or their designees, shall operate to amend or change the terms of this Agreement.
11. Entire Agreement. This Agreement contains the entire Agreement of the Parties, and no representations, inducements, promises, or agreements otherwise between the parties, not embodied herein, or incorporated herein by reference shall be of any force or effect. Notwithstanding anything to the contrary, no term or provision hereof may be changed, waived, discharged, or terminated unless the same is in writing executed by the Parties.
12. Amendment. This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the Parties hereto if such amendment or change is in written form and executed by the City and by the County.
13. Duplicate Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart, executed telecopy, fax or photocopy shall be deemed to be an original instrument, but all of which together shall constitute one and the same Agreement.

14. Legal Requirements. The Parties shall comply with all applicable federal, state, and local laws in performing this Agreement.
15. Force Majeure. Except as otherwise expressly provided in this Agreement, if the performance of any act required to be performed by either County or City is prevented or delayed or made impracticable by reason of any act of God, strike, lockout, labor trouble, inability to secure materials, Change in Law or regulations, or any other cause (except financial inability) not the fault of the Party required to perform the act, the time for performance of the act will either be extended for a period equivalent to the period of delay or performance of the act will be excused.
- a. "*Change in Law*" as used herein means the enactment, promulgation, amendment or official interpretation or reinterpretation by any order, decision or judgment of any federal, state or local court, administrative agency or governmental body after the Effective Date of (i) any federal statute or regulation not enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or (ii) any state, County or City statute, ordinance, or regulation that was not so enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or establishes requirements making the ownership, operation or maintenance of the Landfill more burdensome than the most stringent requirements (x) in effect as of the Effective Date, (y) agreed to in any applications of the County for official permits, licenses, or approvals, or (z) contained in any official permits, licenses, or approvals with respect to the Landfill obtained as of the Effective Date; provided that a lawful change in federal, State, County, City, or any other tax law shall not be a Change in Law.
 - b. If there is a Change in Law that materially affects operations of the Fink Road Landfill and/or the WTE Facility, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement to effectuate the purpose of this Agreement as stated herein above.
 - c. If there is a Change in Law that materially affects the requirements for the Cities regarding the reuse, recycling, composting or any other form of diversion of solid waste from disposal, including, but not limited to an increase in the percentage of solid waste required to be diverted, as well as changes to applicable diversion credits, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement.
 - d. The Party whose performance of this Agreement is affected pursuant to this Section shall give notice of the conditions affecting performance to the other Party within thirty (30) calendar days that the Party becomes aware that any Change in Law will materially affect performance of this Agreement.
 - e. Upon receiving notice pursuant to this Section, the Parties will have one hundred eighty (180) days to renegotiate this Agreement. If the Parties do not agree that a Change in Law materially affects performance of this Agreement pursuant to this Section, then either Party may request binding mediation, to be paid equally by both Parties, to determine whether the Change in Law is material. Either Party may terminate the Agreement upon three days written notice if it is

determined that a material Change in Law has occurred, and the Parties do not renegotiate the Agreement within one hundred eighty (180) days.

16. Venue. The laws of the State of California shall apply to the construction and enforcement of this Agreement. Any action at law, suit in equity, or judicial proceedings for the enforcement of this Agreement or any provision hereto shall be in the Superior Court of Stanislaus County.

17. Notices. All notices permitted or required by this Agreement or by law to be served on or given to either party hereto by the other party, shall be in writing and shall be effective when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail addressed as follows, or any other address designated by the party:

To: County of Stanislaus:
Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Attn: Susan M. Garcia, C.P.M

To: City of Ceres:
Toby E. Wells, City Manager
City Manager's Office
2720 2nd Street
Ceres, CA 95307

18. Indemnification.

a. County will indemnify, defend and hold harmless the Cities, their officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the County arising out of and/or relating to the provision of the programs and services described in paragraph 5 herein above.

b. Cities will indemnify, defend and hold harmless the County, its officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the Cities arising out of and/or relating to their performance under this Agreement.

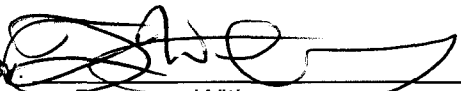
19. Insurance. The Parties shall maintain their own liability insurance coverage, against any claim of civil liability arising out of the performance of this MOU, and provide appropriate evidence of such coverage of the other Party upon request.

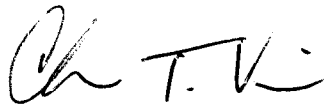
Signatures on Following Page

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written above.

COUNTY OF STANISLAUS

CITY OF CERES

By: 
Terrance Withrow,
Chairman


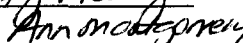
By: 
Chris Vierra,
Mayor

Date: _____

ATTEST:
Christine Ferraro Tallman,
Clerk

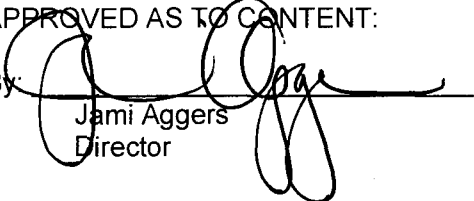
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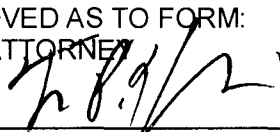
By: 
Liz King,
Assistant Clerk

By: 
Cindy Heidorn
Acting City Clerk 

APPROVED AS TO CONTENT:

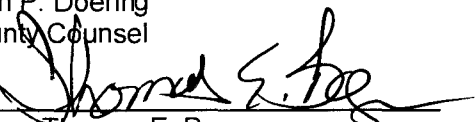
APPROVED AS TO FORM:
CITY ATTORNEY

By: 
Jami Aggers
Director

By: 
~~Michael L. Lyons~~ Tom
City Attorney HALLINAN

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 
Thomas E. Boze,
Deputy County Counsel

SCHEDULE 1

SOLID WASTE TONNAGE GUARANTEE

<u>CITY</u>	<u>GUARANTEED PERCENTAGE⁽¹⁾</u>
CERES	90%
HUGHSON	90%
NEWMAN	90%
OAKDALE	50%
PATTERSON	90%
RIVERBANK	40%
TURLOCK	90%
WATERFORD	50%

DISPOSAL RATES (per ton) ⁽²⁾:

<u>Fiscal Year</u>	<u>Waste To Energy Facility</u>	<u>Fink Road Landfill</u>
2015/2016	\$33.78	\$26.00
2016/2017	\$34.78	\$26.00
2017/2018	\$35.78	\$26.00
2018/2019	\$37.00	\$27.00
2019/2020	\$38.00	\$27.00
2020/2021	\$39.00	\$27.00
2021/2022	\$40.00	\$28.00
2022/2023	\$41.00	\$28.00
2023/2024	\$42.00	\$29.00
2024/2025	\$43.00	\$29.00

(1) Percentage of total Acceptable Solid Waste under the City's jurisdictional authority.

(2) The total tonnage delivered by each agency shall be billed as follows: 62% of total tonnage at the WTE rate up to the scheduled tonnage per Schedule 2 and 38% of total tonnage at the Fink Road Landfill rate.

SCHEDULE 2

WTE PROPOSED MONTHLY DELIVERY SCHEDULE

CITY OF TURLOCK		CITY OF CERES	
July	1,895.94	July	1,429.56
August	2,086.75	August	1,573.43
September	1,895.94	September	1,429.56
October	1,848.23	October	1,393.59
November	1,895.94	November	1,429.56
December	1,895.94	December	1,429.56
January	2,153.63	January	1,623.86
February	2,003.56	February	1,510.70
March	2,091.62	March	1,577.10
April	1,464.31	April	1,104.11
May	2,084.37	May	1,571.63
June	1,896.41	June	1,429.92
Total	23,212.64	Total	17,502.58

CITY OF HUGHSON		CITY OF OAKDALE	
July	182.50	July	425.83
August	200.86	August	468.68
September	182.50	September	425.83
October	177.90	October	415.11
November	182.50	November	425.83
December	182.50	December	425.83
January	207.30	January	483.70
February	192.86	February	450.00
March	201.33	March	469.77
April	140.95	April	328.88
May	200.63	May	468.15
June	182.54	June	425.93
Total	2,234.37	Total	5,213.54

CITY OF PATTERSON

July	456.24
August	502.16
September	456.24
October	444.76
November	456.24
December	456.24
January	518.25
February	482.14
March	503.33
April	352.37
May	501.59
June	456.36

Total 5,585.92

CITY OF NEWMAN

July	299.09
August	329.19
September	299.09
October	291.57
November	299.09
December	299.09
January	339.74
February	316.07
March	329.96
April	231.00
May	328.82
June	299.17

Total 3,661.88

CITY OF RIVERBANK

July	273.74
August	301.30
September	273.74
October	266.86
November	273.74
December	273.74
January	310.95
February	289.28
March	302.00
April	211.42
May	300.95
June	273.81

Total 3,351.53

CITY OF WATERFORD

July	101.39
August	111.59
September	101.39
October	98.84
November	101.39
December	101.39
January	115.17
February	107.14
March	111.85
April	78.31
May	111.46
June	101.41

Total 1,241.33

**REGIONAL SOLID WASTE DISPOSAL PLAN
MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF HUGHSON AND STANISLAUS COUNTY**

This Regional Solid Waste Disposal Plan Memorandum of Understanding (the "Agreement") is made and entered into by and between the County of Stanislaus, ("County") and the City of Hughson ("City") on May 12, 2015. City and County may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this agreement.

RECITALS

WHEREAS, pursuant to Public Resources Code section 40976 the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford entered into a Memorandum of Understanding, dated August 26, 1994, regarding the use and distribution of AB-939 funds to achieve the waste reduction and diversion goals specified in AB-939 (the "AB-939 MOU");

WHEREAS, on or about December 30, 1999, the County and the above cities entered into Amendment 1 of the AB-939 MOU to provide for payment of the cities' proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, on August 1, 2001, the City of Riverbank and on March 29, 2012, the City of Waterford entered into Amendment 2 of the AB-939 MOU to provide for payment of each city's proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, revenue to fund the AB-939 and Household Hazardous Waste services provided by the County is derived in part from tipping fees to the Waste-to-Energy Facility;

WHEREAS, the County, together with the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford formed the Stanislaus County Regional Solid Waste Planning Agency (hereinafter referred to as "Regional Agency") by entering into a Joint Powers Agreement on June 19, 2001, and the formation of the Regional Agency was approved by the California Integrated Waste Management Board on July 9, 2002.

WHEREAS, the purpose of the formation of the Regional Agency JPA was to allow the participating entities to share diversion credits and to prepare a single planning document for the entire region;

WHEREAS, the purpose of this Agreement is for members of the Regional Agency to implement a Regional Solid Waste Disposal Plan (the "Plan") to support the continued operations of the Fink Road Landfill (hereinafter referred to as "Landfill"), and the WTE Facility by ensuring sufficient solid waste is delivered to both facilities to ensure their economic viability, and to provide regional AB 939 and Household Hazardous Waste services;

WHEREAS, the Plan (as set forth by this Agreement and the exhibits incorporated hereto) includes a ten (10) year commitment from the Regional Agency cities to guarantee delivery of a portion of their solid waste to the Landfill and WTE Facility, and a ten (10) year schedule of tipping fees ("Disposal Rates") to be paid to the County pursuant to the Plan; and

WHEREAS, by entering this Agreement the Parties desire to terminate the AB-939 MOU and its amendments and to implement the Plan.

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the Parties hereby agree as follows:

AGREEMENT

1. Incorporation by Reference. The above Recitals are incorporated into this Agreement by this reference. Schedule 1 and Schedule 2 are attached to this Agreement and are incorporated hereto and made a part of this Agreement by this reference.
2. Term. The term of this Agreement (“Term”) shall begin on June 1, 2015 (the “Effective Date”) and end June 30, 2025 (the “Termination Date”). If mutually agreeable to both Parties, this contract may be extended up to an additional five (5) year period, unless one Party delivers to the other written notice of nonrenewal, which notice shall be delivered no later than 90 days prior to the termination date. Either Party may terminate this Agreement by providing 90 days prior written notice to the other.
3. City’s Guaranteed Delivery of Solid Waste to WTE Facility and Landfill.
 - a. The Cities shall deliver to the WTE Facility and the Fink Road Landfill no less than the committed percentage of their Acceptable Solid Waste as set forth in Schedule 1 and the Waste to Energy (WTE) tonnage as set forth in Schedule 2 each month.
 - b. “Acceptable Solid Waste” means that portion of Solid Waste which has characteristics such as that collected and disposed of as part of the normal collection of Solid Waste in the Contracting Cities, such as, but not limited to: garbage, trash, rubbish, refuse, offal, beds, mattresses, sofas, bicycles, baby carriages, automobile or small vehicle tires, as well as processible portions of commercial (including cannery) and industrial Solid Waste, and logs if no more than four (4) feet long and six (6) inches in diameter, branches, leaves, twigs, grass and plant cuttings, excepting, however, unacceptable waste and hazardous waste.
 - c. “Solid Waste” means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes normally collected by the City’s solid waste hauler. Solid Waste does not include hazardous waste, radioactive waste, or medical waste.
4. Tipping Fees.
 - a. For the Term of this Agreement, the City’s franchise hauler shall pay the Disposal Rates set forth in Schedule 1 and Schedule 2.

5. County's Obligations. The County agrees to provide and maintain the following programs and services for the City:

a. All AB 939 Program Services as required by law including but not limited to the following:

- i. Preparation of all required State diversion reporting and tracking;
- ii. Countywide public education/outreach;
- iii. Administration of the Recycling Market Development Zone;
- iv. Application for and administration of regional grants for used oil recycling, used tire recycling, and tire enforcement;
- v. Serve as staff to the Local Task Force on Solid Waste and Regional Solid Waste Planning Agency (Regional Agency);
- vi. Monitor proposed solid waste legislative and regulatory changes;
- vii. Administration of the County's Food Processing By-Product Program; and
- viii. Administration of the Waste to Energy Service Contract with the City of Modesto.

b. The following Household Hazardous Waste (HHW) Programs:

- i. The County will conduct a minimum of two mobile collection events each year for each Regional Agency city, except Ceres;
- ii. Access to the permanent Household Hazardous Waste Facility for the collection of Countywide residents' e-waste, used oil, oil filters, paints, pesticides, batteries, sharps, medications and other miscellaneous household chemicals;
- iii. Access to the permanent Household Hazardous Waste Facility for the collection of Countywide qualified/approved Conditionally Exempt Small Quantity Generators' hazardous waste; and
- iv. Countywide public education/outreach.

6. Default.

- a. Cure. In the event a Party fails to perform pursuant to the terms and conditions of this Agreement, the Party to whom an obligation is owed will provide the non-performing Party with at least 30 days prior written notice of said non-performance, upon which the non-performing Party will have the opportunity to comply with the request for performance, or in the event of continued non-performance, the Parties shall have the right to then pursue any and all available legal remedies.

- b. Failure to give Notice. Failure to give, or delay in giving, Notice of Default shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any rights and remedies as to any breach shall not operate as a waiver of any breach or of any such rights or remedies. Delay by either Party in asserting any of its rights and remedies shall not deprive such Party of the right to institute and maintain any action or proceeding which it may deem appropriate to protect, assert or enforce any such rights or remedies.
7. Attorney Fees. In the event that a Party commences litigation to enforce the performance of this Agreement, the prevailing Party shall be entitled to an award of its costs of litigation, including the cost of expert and attorneys' fees.
8. Severability. In the event that any provision of this Agreement shall for any reason be determined to be invalid, illegal, or unenforceable in any respect, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.
9. Necessary Acts. The Parties hereby authorize their respective officers and employees to do all things reasonably necessary to accomplish the purposes of this Agreement.
10. Modification Only in Writing. This Agreement may not be modified, amended, changed, added to, or subtracted from, except by written mutual consent of the Parties hereto and only if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to this Agreement to maintain continuity. Notwithstanding anything to the contrary, no oral agreement or directive from or between either Party, or their designees, shall operate to amend or change the terms of this Agreement.
11. Entire Agreement. This Agreement contains the entire Agreement of the Parties, and no representations, inducements, promises, or agreements otherwise between the parties, not embodied herein, or incorporated herein by reference shall be of any force or effect. Notwithstanding anything to the contrary, no term or provision hereof may be changed, waived, discharged, or terminated unless the same is in writing executed by the Parties.
12. Amendment. This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the Parties hereto if such amendment or change is in written form and executed by the City and by the County.
13. Duplicate Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart, executed telecopy, fax or photocopy shall be deemed to be an original instrument, but all of which together shall constitute one and the same Agreement.

14. Legal Requirements. The Parties shall comply with all applicable federal, state, and local laws in performing this Agreement.
15. Force Majeure. Except as otherwise expressly provided in this Agreement, if the performance of any act required to be performed by either County or City is prevented or delayed or made impracticable by reason of any act of God, strike, lockout, labor trouble, inability to secure materials, Change in Law or regulations, or any other cause (except financial inability) not the fault of the Party required to perform the act, the time for performance of the act will either be extended for a period equivalent to the period of delay or performance of the act will be excused.
- a. "*Change in Law*" as used herein means the enactment, promulgation, amendment or official interpretation or reinterpretation by any order, decision or judgment of any federal, state or local court, administrative agency or governmental body after the Effective Date of (i) any federal statute or regulation not enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or (ii) any state, County or City statute, ordinance, or regulation that was not so enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or establishes requirements making the ownership, operation or maintenance of the Landfill more burdensome than the most stringent requirements (x) in effect as of the Effective Date, (y) agreed to in any applications of the County for official permits, licenses, or approvals, or (z) contained in any official permits, licenses, or approvals with respect to the Landfill obtained as of the Effective Date; provided that a lawful change in federal, State, County, City, or any other tax law shall not be a Change in Law.
 - b. If there is a Change in Law that materially affects operations of the Fink Road Landfill and/or the WTE Facility, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement to effectuate the purpose of this Agreement as stated herein above.
 - c. If there is a Change in Law that materially affects the requirements for the Cities regarding the reuse, recycling, composting or any other form of diversion of solid waste from disposal, including, but not limited to an increase in the percentage of solid waste required to be diverted, as well as changes to applicable diversion credits, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement.
 - d. The Party whose performance of this Agreement is affected pursuant to this Section shall give notice of the conditions affecting performance to the other Party within thirty (30) calendar days that the Party becomes aware that any Change in Law will materially affect performance of this Agreement.
 - e. Upon receiving notice pursuant to this Section, the Parties will have one hundred eighty (180) days to renegotiate this Agreement. If the Parties do not agree that a Change in Law materially affects performance of this Agreement pursuant to this Section, then either Party may request binding mediation, to be paid equally by both Parties, to determine whether the Change in Law is material. Either Party may terminate the Agreement upon three days written notice if it is

determined that a material Change in Law has occurred, and the Parties do not renegotiate the Agreement within one hundred eighty (180) days.

16. Venue. The laws of the State of California shall apply to the construction and enforcement of this Agreement. Any action at law, suit in equity, or judicial proceedings for the enforcement of this Agreement or any provision hereto shall be in the Superior Court of Stanislaus County.

17. Notices. All notices permitted or required by this Agreement or by law to be served on or given to either party hereto by the other party, shall be in writing and shall be effective when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail addressed as follows, or any other address designated by the party:

To: County of Stanislaus:
Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Attn: Susan M. Garcia, C.P.M

To: City of Hughson:
Raul Mendez, City Manager
Office of the City Manager
P.O. Box 9
Hughson, CA 95326

18. Indemnification.

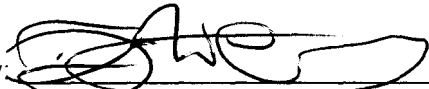
- a. County will indemnify, defend and hold harmless the Cities, their officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the County arising out of and/or relating to the provision of the programs and services described in paragraph 5 herein above.
 - b. Cities will indemnify, defend and hold harmless the County, its officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the Cities arising out of and/or relating to their performance under this Agreement.
19. Insurance. The Parties shall maintain their own liability insurance coverage, against any claim of civil liability arising out of the performance of this MOU, and provide appropriate evidence of such coverage of the other Party upon request.


Signatures on Following Page

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written above.

COUNTY OF STANISLAUS

CITY OF HUGHSON

By: 
Terrance Withrow,
Chairman

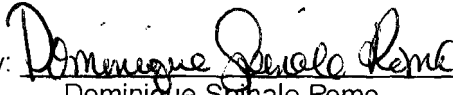
By: 
Matthew Beekman,
Mayor

Date: April 13, 2015

ATTEST:
Christine Ferraro Tallman,
Clerk

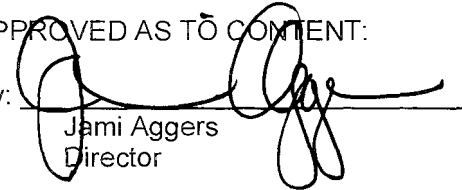
ATTEST:

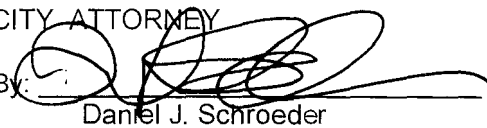
By: 
Liz King,
Assistant Clerk

By: 
Dominique Spihale Romo
City Clerk


APPROVED AS TO CONTENT:

APPROVED AS TO FORM:
CITY ATTORNEY

By: 
Jami Aggers
Director

By: 
Daniel J. Schroeder
City Attorney

APPROVED AS TO FORM:

John P. Doering
County Counsel
By: 
Thomas E. Boze,
Deputy County Counsel

SCHEDULE 1

SOLID WASTE TONNAGE GUARANTEE

<u>CITY</u>	<u>GUARANTEED PERCENTAGE⁽¹⁾</u>
CERES	90%
HUGHSON	90%
NEWMAN	90%
OAKDALE	50%
PATTERSON	90%
RIVERBANK	40%
TURLOCK	90%
WATERFORD	50%

DISPOSAL RATES (per ton) ⁽²⁾:

<u>Fiscal Year</u>	<u>Waste To Energy Facility</u>	<u>Fink Road Landfill</u>
2015/2016	\$33.78	\$26.00
2016/2017	\$34.78	\$26.00
2017/2018	\$35.78	\$26.00
2018/2019	\$37.00	\$27.00
2019/2020	\$38.00	\$27.00
2020/2021	\$39.00	\$27.00
2021/2022	\$40.00	\$28.00
2022/2023	\$41.00	\$28.00
2023/2024	\$42.00	\$29.00
2024/2025	\$43.00	\$29.00

(1) Percentage of total Acceptable Solid Waste under the City's jurisdictional authority.

(2) The total tonnage delivered by each agency shall be billed as follows: 62% of total tonnage at the WTE rate up to the scheduled tonnage per Schedule 2 and 38% of total tonnage at the Fink Road Landfill rate.

SCHEDULE 2

WTE PROPOSED MONTHLY DELIVERY SCHEDULE

CITY OF TURLOCK		CITY OF CERES	
July	1,895.94	July	1,429.56
August	2,086.75	August	1,573.43
September	1,895.94	September	1,429.56
October	1,848.23	October	1,393.59
November	1,895.94	November	1,429.56
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MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF NEWMAN AND STANISLAUS COUNTY**

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WHEREAS, pursuant to Public Resources Code section 40976 the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford entered into a Memorandum of Understanding, dated August 26, 1994, regarding the use and distribution of AB-939 funds to achieve the waste reduction and diversion goals specified in AB-939 (the "AB-939 MOU");

WHEREAS, on or about December 30, 1999, the County and the above cities entered into Amendment 1 of the AB-939 MOU to provide for payment of the cities' proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, on August 1, 2001, the City of Riverbank and on March 29, 2012, the City of Waterford entered into Amendment 2 of the AB-939 MOU to provide for payment of each city's proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, revenue to fund the AB-939 and Household Hazardous Waste services provided by the County is derived in part from tipping fees to the Waste-to-Energy Facility;

WHEREAS, the County, together with the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford formed the Stanislaus County Regional Solid Waste Planning Agency (hereinafter referred to as "Regional Agency") by entering into a Joint Powers Agreement on June 19, 2001, and the formation of the Regional Agency was approved by the California Integrated Waste Management Board on July 9, 2002.

WHEREAS, the purpose of the formation of the Regional Agency JPA was to allow the participating entities to share diversion credits and to prepare a single planning document for the entire region;

WHEREAS, the purpose of this Agreement is for members of the Regional Agency to implement a Regional Solid Waste Disposal Plan (the "Plan") to support the continued operations of the Fink Road Landfill (hereinafter referred to as "Landfill"), and the WTE Facility by ensuring sufficient solid waste is delivered to both facilities to ensure their economic viability, and to provide regional AB 939 and Household Hazardous Waste services;

WHEREAS, the Plan (as set forth by this Agreement and the exhibits incorporated hereto) includes a ten (10) year commitment from the Regional Agency cities to guarantee delivery of a portion of their solid waste to the Landfill and WTE Facility, and a ten (10) year schedule of tipping fees ("Disposal Rates") to be paid to the County pursuant to the Plan; and

WHEREAS, by entering this Agreement the Parties desire to terminate the AB-939 MOU and its amendments and to implement the Plan.

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8. Severability. In the event that any provision of this Agreement shall for any reason be determined to be invalid, illegal, or unenforceable in any respect, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.
9. Necessary Acts. The Parties hereby authorize their respective officers and employees to do all things reasonably necessary to accomplish the purposes of this Agreement.
10. Modification Only in Writing. This Agreement may not be modified, amended, changed, added to, or subtracted from, except by written mutual consent of the Parties hereto and only if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to this Agreement to maintain continuity. Notwithstanding anything to the contrary, no oral agreement or directive from or between either Party, or their designees, shall operate to amend or change the terms of this Agreement.
11. Entire Agreement. This Agreement contains the entire Agreement of the Parties, and no representations, inducements, promises, or agreements otherwise between the parties, not embodied herein, or incorporated herein by reference shall be of any force or effect. Notwithstanding anything to the contrary, no term or provision hereof may be changed, waived, discharged, or terminated unless the same is in writing executed by the Parties.
12. Amendment. This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the Parties hereto if such amendment or change is in written form and executed by the City and by the County.
13. Duplicate Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart, executed telecopy, fax or photocopy shall be deemed to be an original instrument, but all of which together shall constitute one and the same Agreement.

14. Legal Requirements. The Parties shall comply with all applicable federal, state, and local laws in performing this Agreement.
15. Force Majeure. Except as otherwise expressly provided in this Agreement, if the performance of any act required to be performed by either County or City is prevented or delayed or made impracticable by reason of any act of God, strike, lockout, labor trouble, inability to secure materials, Change in Law or regulations, or any other cause (except financial inability) not the fault of the Party required to perform the act, the time for performance of the act will either be extended for a period equivalent to the period of delay or performance of the act will be excused.
- a. "*Change in Law*" as used herein means the enactment, promulgation, amendment or official interpretation or reinterpretation by any order, decision or judgment of any federal, state or local court, administrative agency or governmental body after the Effective Date of (i) any federal statute or regulation not enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or (ii) any state, County or City statute, ordinance, or regulation that was not so enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or establishes requirements making the ownership, operation or maintenance of the Landfill more burdensome than the most stringent requirements (x) in effect as of the Effective Date, (y) agreed to in any applications of the County for official permits, licenses, or approvals, or (z) contained in any official permits, licenses, or approvals with respect to the Landfill obtained as of the Effective Date; provided that a lawful change in federal, State, County, City, or any other tax law shall not be a Change in Law.
 - b. If there is a Change in Law that materially affects operations of the Fink Road Landfill and/or the WTE Facility, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement to effectuate the purpose of this Agreement as stated herein above.
 - c. If there is a Change in Law that materially affects the requirements for the Cities regarding the reuse, recycling, composting or any other form of diversion of solid waste from disposal, including, but not limited to an increase in the percentage of solid waste required to be diverted, as well as changes to applicable diversion credits, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement.
 - d. The Party whose performance of this Agreement is affected pursuant to this Section shall give notice of the conditions affecting performance to the other Party within thirty (30) calendar days that the Party becomes aware that any Change in Law will materially affect performance of this Agreement.
 - e. Upon receiving notice pursuant to this Section, the Parties will have one hundred eighty (180) days to renegotiate this Agreement. If the Parties do not agree that a Change in Law materially affects performance of this Agreement pursuant to this Section, then either Party may request binding mediation, to be paid equally by both Parties, to determine whether the Change in Law is material. Either Party may terminate the Agreement upon three days written notice if it is

determined that a material Change in Law has occurred, and the Parties do not renegotiate the Agreement within one hundred eighty (180) days.

16. Venue. The laws of the State of California shall apply to the construction and enforcement of this Agreement. Any action at law, suit in equity, or judicial proceedings for the enforcement of this Agreement or any provision hereto shall be in the Superior Court of Stanislaus County.

17. Notices. All notices permitted or required by this Agreement or by law to be served on or given to either party hereto by the other party, shall be in writing and shall be effective when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail addressed as follows, or any other address designated by the party:

To: County of Stanislaus:
Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Attn: Susan M. Garcia, C.P.M

To: City of Newman:
Michael Holland, City Manager
City Manager's Office
938 Fresno Street
Newman, CA 95360

18. Indemnification.

- a. County will indemnify, defend and hold harmless the Cities, their officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the County arising out of and/or relating to the provision of the programs and services described in paragraph 5 herein above.
- b. Cities will indemnify, defend and hold harmless the County, its officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the Cities arising out of and/or relating to their performance under this Agreement.

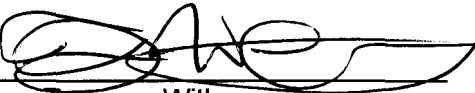
19. Insurance. The Parties shall maintain their own liability insurance coverage, against any claim of civil liability arising out of the performance of this MOU, and provide appropriate evidence of such coverage of the other Party upon request.

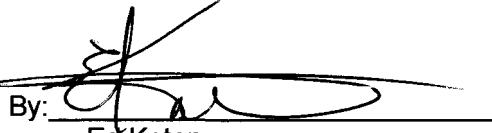
Signatures on Following Page

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written above.

COUNTY OF STANISLAUS

CITY OF NEWMAN

By: 
Terrance Withrow,
Chairman

By: 
Ed Katen,
Mayor

Date: 05-04-2015

ATTEST:
Christine Ferraro Tallman,
Clerk

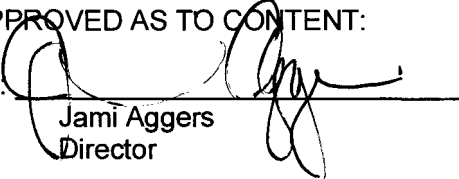
ATTEST:

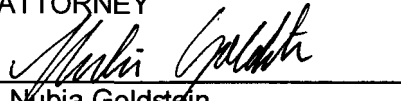
By: 
Liz King,
Assistant Clerk

By: 
Mike Maier
City Clerk

APPROVED AS TO CONTENT:


APPROVED AS TO FORM:
CITY ATTORNEY

By: 
Jami Aggers
Director

By: 
Nubia Goldstein
City Attorney

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 
Thomas E. Boze,
Deputy County Counsel

SCHEDULE 1

SOLID WASTE TONNAGE GUARANTEE

<u>CITY</u>	<u>GUARANTEED PERCENTAGE⁽¹⁾</u>
CERES	90%
HUGHSON	90%
NEWMAN	90%
OAKDALE	50%
PATTERSON	90%
RIVERBANK	40%
TURLOCK	90%
WATERFORD	50%

DISPOSAL RATES (per ton) ⁽²⁾:

<u>Fiscal Year</u>	<u>Waste To Energy Facility</u>	<u>Fink Road Landfill</u>
2015/2016	\$33.78	\$26.00
2016/2017	\$34.78	\$26.00
2017/2018	\$35.78	\$26.00
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2019/2020	\$38.00	\$27.00
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2022/2023	\$41.00	\$28.00
2023/2024	\$42.00	\$29.00
2024/2025	\$43.00	\$29.00

(1) Percentage of total Acceptable Solid Waste under the City's jurisdictional authority.

(2) The total tonnage delivered by each agency shall be billed as follows: 62% of total tonnage at the WTE rate up to the scheduled tonnage per Schedule 2 and 38% of total tonnage at the Fink Road Landfill rate.

SCHEDULE 2

WTE PROPOSED MONTHLY DELIVERY SCHEDULE

CITY OF TURLOCK		CITY OF CERES	
July	1,895.94	July	1,429.56
August	2,086.75	August	1,573.43
September	1,895.94	September	1,429.56
October	1,848.23	October	1,393.59
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February	2,003.56	February	1,510.70
March	2,091.62	March	1,577.10
April	1,464.31	April	1,104.11
May	2,084.37	May	1,571.63
June	1,896.41	June	1,429.92
Total	23,212.64	Total	17,502.58

CITY OF HUGHSON		CITY OF OAKDALE	
July	182.50	July	425.83
August	200.86	August	468.68
September	182.50	September	425.83
October	177.90	October	415.11
November	182.50	November	425.83
December	182.50	December	425.83
January	207.30	January	483.70
February	192.86	February	450.00
March	201.33	March	469.77
April	140.95	April	328.88
May	200.63	May	468.15
June	182.54	June	425.93
Total	2,234.37	Total	5,213.54

CITY OF PATTERSON

July	456.24
August	502.16
September	456.24
October	444.76
November	456.24
December	456.24
January	518.25
February	482.14
March	503.33
April	352.37
May	501.59
June	456.36
Total	5,585.92

CITY OF NEWMAN

July	299.09
August	329.19
September	299.09
October	291.57
November	299.09
December	299.09
January	339.74
February	316.07
March	329.96
April	231.00
May	328.82
June	299.17
Total	3,661.88

CITY OF RIVERBANK

July	273.74
August	301.30
September	273.74
October	266.86
November	273.74
December	273.74
January	310.95
February	289.28
March	302.00
April	211.42
May	300.95
June	273.81
Total	3,351.53

CITY OF WATERFORD

July	101.39
August	111.59
September	101.39
October	98.84
November	101.39
December	101.39
January	115.17
February	107.14
March	111.85
April	78.31
May	111.46
June	101.41
Total	1,241.33

**REGIONAL SOLID WASTE DISPOSAL PLAN
MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF OAKDALE AND STANISLAUS COUNTY**

This Regional Solid Waste Disposal Plan Memorandum of Understanding (the "Agreement") is made and entered into by and between the County of Stanislaus, ("County") and the City of Oakdale ("City") on May 4, 2015. City and County may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this agreement.

RECITALS

WHEREAS, pursuant to Public Resources Code section 40976 the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford entered into a Memorandum of Understanding, dated August 26, 1994, regarding the use and distribution of AB-939 funds to achieve the waste reduction and diversion goals specified in AB-939 (the "AB-939 MOU");

WHEREAS, on or about December 30, 1999, the County and the above cities entered into Amendment 1 of the AB-939 MOU to provide for payment of the cities' proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, on August 1, 2001, the City of Riverbank and on March 29, 2012, the City of Waterford entered into Amendment 2 of the AB-939 MOU to provide for payment of each city's proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, revenue to fund the AB-939 and Household Hazardous Waste services provided by the County is derived in part from tipping fees to the Waste-to-Energy Facility;

WHEREAS, the County, together with the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford formed the Stanislaus County Regional Solid Waste Planning Agency (hereinafter referred to as "Regional Agency") by entering into a Joint Powers Agreement on June 19, 2001, and the formation of the Regional Agency was approved by the California Integrated Waste Management Board on July 9, 2002.

WHEREAS, the purpose of the formation of the Regional Agency JPA was to allow the participating entities to share diversion credits and to prepare a single planning document for the entire region;

WHEREAS, the purpose of this Agreement is for members of the Regional Agency to implement a Regional Solid Waste Disposal Plan (the "Plan") to support the continued operations of the Fink Road Landfill (hereinafter referred to as "Landfill"), and the WTE Facility by ensuring sufficient solid waste is delivered to both facilities to ensure their economic viability, and to provide regional AB 939 and Household Hazardous Waste services;

WHEREAS, the Plan (as set forth by this Agreement and the exhibits incorporated hereto) includes a ten (10) year commitment from the Regional Agency cities to guarantee delivery of a portion of their solid waste to the Landfill and WTE Facility, and a ten (10) year schedule of tipping fees ("Disposal Rates") to be paid to the County pursuant to the Plan; and

WHEREAS, by entering this Agreement the Parties desire to terminate the AB-939 MOU and its amendments and to implement the Plan.

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the Parties hereby agree as follows:

AGREEMENT

1. Incorporation by Reference. The above Recitals are incorporated into this Agreement by this reference. Schedule 1 and Schedule 2 are attached to this Agreement and are incorporated hereto and made a part of this Agreement by this reference.
2. Term. The term of this Agreement ("Term") shall begin on June 1, 2015 (the "Effective Date") and end June 30, 2025 (the "Termination Date"). If mutually agreeable to both Parties, this contract may be extended up to an additional five (5) year period, unless one Party delivers to the other written notice of nonrenewal, which notice shall be delivered no later than 90 days prior to the termination date. Either Party may terminate this Agreement by providing 90 days prior written notice to the other.
3. City's Guaranteed Delivery of Solid Waste to WTE Facility and Landfill.
 - a. The Cities shall deliver to the WTE Facility and the Fink Road Landfill no less than the committed percentage of their Acceptable Solid Waste as set forth in Schedule 1 and the Waste to Energy (WTE) tonnage as set forth in Schedule 2 each month.
 - b. "Acceptable Solid Waste" means that portion of Solid Waste which has characteristics such as that collected and disposed of as part of the normal collection of Solid Waste in the Contracting Cities, such as, but not limited to: garbage, trash, rubbish, refuse, offal, beds, mattresses, sofas, bicycles, baby carriages, automobile or small vehicle tires, as well as processible portions of commercial (including cannery) and industrial Solid Waste, and logs if no more than four (4) feet long and six (6) inches in diameter, branches, leaves, twigs, grass and plant cuttings, excepting, however, unacceptable waste and hazardous waste.
 - c. "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes normally collected by the City's solid waste hauler. Solid Waste does not include hazardous waste, radioactive waste, or medical waste.
4. Tipping Fees.
 - a. For the Term of this Agreement, the City's franchise hauler shall pay the Disposal Rates set forth in Schedule 1 and Schedule 2.

5. County's Obligations. The County agrees to provide and maintain the following programs and services for the City:

a. All AB 939 Program Services as required by law including but not limited to the following:

- i. Preparation of all required State diversion reporting and tracking;
- ii. Countywide public education/outreach;
- iii. Administration of the Recycling Market Development Zone;
- iv. Application for and administration of regional grants for used oil recycling, used tire recycling, and tire enforcement;
- v. Serve as staff to the Local Task Force on Solid Waste and Regional Solid Waste Planning Agency (Regional Agency);
- vi. Monitor proposed solid waste legislative and regulatory changes;
- vii. Administration of the County's Food Processing By-Product Program; and
- viii. Administration of the Waste to Energy Service Contract with the City of Modesto.

b. The following Household Hazardous Waste (HHW) Programs:

- i. The County will conduct a minimum of two mobile collection events each year for each Regional Agency city, except Ceres;
- ii. Access to the permanent Household Hazardous Waste Facility for the collection of Countywide residents' e-waste, used oil, oil filters, paints, pesticides, batteries, sharps, medications and other miscellaneous household chemicals;
- iii. Access to the permanent Household Hazardous Waste Facility for the collection of Countywide qualified/approved Conditionally Exempt Small Quantity Generators' hazardous waste; and
- iv. Countywide public education/outreach.

6. Default.

- a. Cure. In the event a Party fails to perform pursuant to the terms and conditions of this Agreement, the Party to whom an obligation is owed will provide the non-performing Party with at least 30 days prior written notice of said non-performance, upon which the non-performing Party will have the opportunity to comply with the request for performance, or in the event of continued non-performance, the Parties shall have the right to then pursue any and all available legal remedies.

- b. Failure to give Notice. Failure to give, or delay in giving, Notice of Default shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any rights and remedies as to any breach shall not operate as a waiver of any breach or of any such rights or remedies. Delay by either Party in asserting any of its rights and remedies shall not deprive such Party of the right to institute and maintain any action or proceeding which it may deem appropriate to protect, assert or enforce any such rights or remedies.
7. Attorney Fees. In the event that a Party commences litigation to enforce the performance of this Agreement, the prevailing Party shall be entitled to an award of its costs of litigation, including the cost of expert and attorneys' fees.
8. Severability. In the event that any provision of this Agreement shall for any reason be determined to be invalid, illegal, or unenforceable in any respect, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.
9. Necessary Acts. The Parties hereby authorize their respective officers and employees to do all things reasonably necessary to accomplish the purposes of this Agreement.
10. Modification Only in Writing. This Agreement may not be modified, amended, changed, added to, or subtracted from, except by written mutual consent of the Parties hereto and only if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to this Agreement to maintain continuity. Notwithstanding anything to the contrary, no oral agreement or directive from or between either Party, or their designees, shall operate to amend or change the terms of this Agreement.
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b. If there is a Change in Law that materially affects operations of the Fink Road Landfill and/or the WTE Facility, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement to effectuate the purpose of this Agreement as stated herein above.

c. If there is a Change in Law that materially affects the requirements for the Cities regarding the reuse, recycling, composting or any other form of diversion of solid waste from disposal, including, but not limited to an increase in the percentage of solid waste required to be diverted, as well as changes to applicable diversion credits, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement.

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Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Attn: Susan M. Garcia, C.P.M

To: City of Oakdale:
Bryan Whitemyer, City Manager
City Manager's Office
280 N. Third Avenue
Oakdale, CA 95361

18. Indemnification.

- a. County will indemnify, defend and hold harmless the Cities, their officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the County arising out of and/or relating to the provision of the programs and services described in paragraph 5 herein above.
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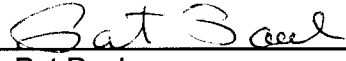
Signatures on Following Page

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written above.

COUNTY OF STANISLAUS

CITY OF OAKDALE

By: 
Terrance Withrow,
Chairman


By: 
Pat Paul,
Mayor

Date: May 7, 2015

ATTEST:
Christine Ferraro Tallman,
Clerk

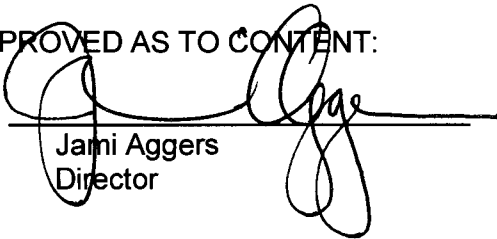
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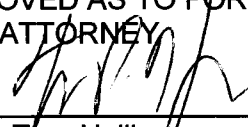
By: 
Liz King,
Assistant Clerk

By: 
Kathy Teixeira
City Clerk

APPROVED AS TO CONTENT:

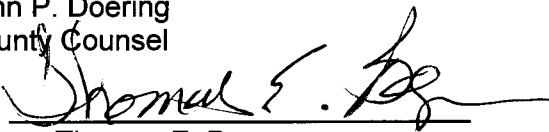
APPROVED AS TO FORM:
CITY ATTORNEY

By: 
Jami Aggers
Director

By: 
Tom Hallinan
City Attorney

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 
Thomas E. Boze,
Deputy County Counsel

SCHEDULE 1

SOLID WASTE TONNAGE GUARANTEE

<u>CITY</u>	<u>GUARANTEED PERCENTAGE⁽¹⁾</u>
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June	1,896.41	June	1,429.92
Total	23,212.64	Total	17,502.58

CITY OF HUGHSON		CITY OF OAKDALE	
July	182.50	July	425.83
August	200.86	August	468.68
September	182.50	September	425.83
October	177.90	October	415.11
November	182.50	November	425.83
December	182.50	December	425.83
January	207.30	January	483.70
February	192.86	February	450.00
March	201.33	March	469.77
April	140.95	April	328.88
May	200.63	May	468.15
June	182.54	June	425.93
Total	2,234.37	Total	5,213.54

CITY OF PATTERSON

July	456.24
August	502.16
September	456.24
October	444.76
November	456.24
December	456.24
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February	482.14
March	503.33
April	352.37
May	501.59
June	456.36

Total 5,585.92

CITY OF NEWMAN

July	299.09
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September	299.09
October	291.57
November	299.09
December	299.09
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February	316.07
March	329.96
April	231.00
May	328.82
June	299.17

Total 3,661.88

CITY OF RIVERBANK

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October	266.86
November	273.74
December	273.74
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February	289.28
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Total 3,351.53

CITY OF WATERFORD

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October	98.84
November	101.39
December	101.39
January	115.17
February	107.14
March	111.85
April	78.31
May	111.46
June	101.41

Total 1,241.33

**REGIONAL SOLID WASTE DISPOSAL PLAN
MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF PATTERSON AND STANISLAUS COUNTY**

This Regional Solid Waste Disposal Plan Memorandum of Understanding (the "Agreement") is made and entered into by and between the County of Stanislaus, ("County") and the City of Patterson ("City") on April 21, 2015. City and County may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this agreement.

RECITALS

WHEREAS, pursuant to Public Resources Code section 40976 the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford entered into a Memorandum of Understanding, dated August 26, 1994, regarding the use and distribution of AB-939 funds to achieve the waste reduction and diversion goals specified in AB-939 (the "AB-939 MOU");

WHEREAS, on or about December 30, 1999, the County and the above cities entered into Amendment 1 of the AB-939 MOU to provide for payment of the cities' proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, on August 1, 2001, the City of Riverbank and on March 29, 2012, the City of Waterford entered into Amendment 2 of the AB-939 MOU to provide for payment of each city's proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, revenue to fund the AB-939 and Household Hazardous Waste services provided by the County is derived in part from tipping fees to the Waste-to-Energy Facility;

WHEREAS, the County, together with the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford formed the Stanislaus County Regional Solid Waste Planning Agency (hereinafter referred to as "Regional Agency") by entering into a Joint Powers Agreement on June 19, 2001, and the formation of the Regional Agency was approved by the California Integrated Waste Management Board on July 9, 2002.

WHEREAS, the purpose of the formation of the Regional Agency JPA was to allow the participating entities to share diversion credits and to prepare a single planning document for the entire region;

WHEREAS, the purpose of this Agreement is for members of the Regional Agency to implement a Regional Solid Waste Disposal Plan (the "Plan") to support the continued operations of the Fink Road Landfill (hereinafter referred to as "Landfill"), and the WTE Facility by ensuring sufficient solid waste is delivered to both facilities to ensure their economic viability, and to provide regional AB 939 and Household Hazardous Waste services;

WHEREAS, the Plan (as set forth by this Agreement and the exhibits incorporated hereto) includes a ten (10) year commitment from the Regional Agency cities to guarantee delivery of a portion of their solid waste to the Landfill and WTE Facility, and a ten (10) year schedule of tipping fees ("Disposal Rates") to be paid to the County pursuant to the Plan; and

WHEREAS, by entering this Agreement the Parties desire to terminate the AB-939 MOU and its amendments and to implement the Plan.

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the Parties hereby agree as follows:

AGREEMENT

1. Incorporation by Reference. The above Recitals are incorporated into this Agreement by this reference. Schedule 1 and Schedule 2 are attached to this Agreement and are incorporated hereto and made a part of this Agreement by this reference.
2. Term. The term of this Agreement ("Term") shall begin on June 1, 2015 (the "Effective Date") and end June 30, 2025 (the "Termination Date"). If mutually agreeable to both Parties, this contract may be extended up to an additional five (5) year period, unless one Party delivers to the other written notice of nonrenewal, which notice shall be delivered no later than 90 days prior to the termination date. Either Party may terminate this Agreement by providing 90 days prior written notice to the other.
3. City's Guaranteed Delivery of Solid Waste to WTE Facility and Landfill.
 - a. The Cities shall deliver to the WTE Facility and the Fink Road Landfill no less than the committed percentage of their Acceptable Solid Waste as set forth in Schedule 1 and the Waste to Energy (WTE) tonnage as set forth in Schedule 2 each month.
 - b. "Acceptable Solid Waste" means that portion of Solid Waste which has characteristics such as that collected and disposed of as part of the normal collection of Solid Waste in the Contracting Cities, such as, but not limited to: garbage, trash, rubbish, refuse, offal, beds, mattresses, sofas, bicycles, baby carriages, automobile or small vehicle tires, as well as processible portions of commercial (including cannery) and industrial Solid Waste, and logs if no more than four (4) feet long and six (6) inches in diameter, branches, leaves, twigs, grass and plant cuttings, excepting, however, unacceptable waste and hazardous waste.
 - c. "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes normally collected by the City's solid waste hauler. Solid Waste does not include hazardous waste, radioactive waste, or medical waste.
4. Tipping Fees.
 - a. For the Term of this Agreement, the City's franchise hauler shall pay the Disposal Rates set forth in Schedule 1 and Schedule 2.

5. County's Obligations. The County agrees to provide and maintain the following programs and services for the City:

- a. All AB 939 Program Services as required by law including but not limited to the following:
 - i. Preparation of all required State diversion reporting and tracking;
 - ii. Countywide public education/outreach;
 - iii. Administration of the Recycling Market Development Zone;
 - iv. Application for and administration of regional grants for used oil recycling, used tire recycling, and tire enforcement;
 - v. Serve as staff to the Local Task Force on Solid Waste and Regional Solid Waste Planning Agency (Regional Agency);
 - vi. Monitor proposed solid waste legislative and regulatory changes;
 - vii. Administration of the County's Food Processing By-Product Program; and
 - viii. Administration of the Waste to Energy Service Contract with the City of Modesto.
- b. The following Household Hazardous Waste (HHW) Programs:
 - i. The County will conduct a minimum of two mobile collection events each year for each Regional Agency city, except Ceres;
 - ii. Access to the permanent Household Hazardous Waste Facility for the collection of Countywide residents' e-waste, used oil, oil filters, paints, pesticides, batteries, sharps, medications and other miscellaneous household chemicals;
 - iii. Access to the permanent Household Hazardous Waste Facility for the collection of Countywide qualified/approved Conditionally Exempt Small Quantity Generators' hazardous waste; and
 - iv. Countywide public education/outreach.

6. Default.

- a. Cure. In the event a Party fails to perform pursuant to the terms and conditions of this Agreement, the Party to whom an obligation is owed will provide the non-performing Party with at least 30 days prior written notice of said non-performance, upon which the non-performing Party will have the opportunity to comply with the request for performance, or in the event of continued non-performance, the Parties shall have the right to then pursue any and all available legal remedies.

- b. Failure to give Notice. Failure to give, or delay in giving, Notice of Default shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any rights and remedies as to any breach shall not operate as a waiver of any breach or of any such rights or remedies. Delay by either Party in asserting any of its rights and remedies shall not deprive such Party of the right to institute and maintain any action or proceeding which it may deem appropriate to protect, assert or enforce any such rights or remedies.
7. Attorney Fees. In the event that a Party commences litigation to enforce the performance of this Agreement, the prevailing Party shall be entitled to an award of its costs of litigation, including the cost of expert and attorneys' fees.
8. Severability. In the event that any provision of this Agreement shall for any reason be determined to be invalid, illegal, or unenforceable in any respect, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.
9. Necessary Acts. The Parties hereby authorize their respective officers and employees to do all things reasonably necessary to accomplish the purposes of this Agreement.
10. Modification Only in Writing. This Agreement may not be modified, amended, changed, added to, or subtracted from, except by written mutual consent of the Parties hereto and only if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to this Agreement to maintain continuity. Notwithstanding anything to the contrary, no oral agreement or directive from or between either Party, or their designees, shall operate to amend or change the terms of this Agreement.
11. Entire Agreement. This Agreement contains the entire Agreement of the Parties, and no representations, inducements, promises, or agreements otherwise between the parties, not embodied herein, or incorporated herein by reference shall be of any force or effect. Notwithstanding anything to the contrary, no term or provision hereof may be changed, waived, discharged, or terminated unless the same is in writing executed by the Parties.
12. Amendment. This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the Parties hereto if such amendment or change is in written form and executed by the City and by the County.
13. Duplicate Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart, executed telecopy, fax or photocopy shall be deemed to be an original instrument, but all of which together shall constitute one and the same Agreement.

14. Legal Requirements. The Parties shall comply with all applicable federal, state, and local laws in performing this Agreement.
15. Force Majeure. Except as otherwise expressly provided in this Agreement, if the performance of any act required to be performed by either County or City is prevented or delayed or made impracticable by reason of any act of God, strike, lockout, labor trouble, inability to secure materials, Change in Law or regulations, or any other cause (except financial inability) not the fault of the Party required to perform the act, the time for performance of the act will either be extended for a period equivalent to the period of delay or performance of the act will be excused.
- a. "*Change in Law*" as used herein means the enactment, promulgation, amendment or official interpretation or reinterpretation by any order, decision or judgment of any federal, state or local court, administrative agency or governmental body after the Effective Date of (i) any federal statute or regulation not enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or (ii) any state, County or City statute, ordinance, or regulation that was not so enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or establishes requirements making the ownership, operation or maintenance of the Landfill more burdensome than the most stringent requirements (x) in effect as of the Effective Date, (y) agreed to in any applications of the County for official permits, licenses, or approvals, or (z) contained in any official permits, licenses, or approvals with respect to the Landfill obtained as of the Effective Date; provided that a lawful change in federal, State, County, City, or any other tax law shall not be a Change in Law.
 - b. If there is a Change in Law that materially affects operations of the Fink Road Landfill and/or the WTE Facility, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement to effectuate the purpose of this Agreement as stated herein above.
 - c. If there is a Change in Law that materially affects the requirements for the Cities regarding the reuse, recycling, composting or any other form of diversion of solid waste from disposal, including, but not limited to an increase in the percentage of solid waste required to be diverted, as well as changes to applicable diversion credits, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement.
 - d. The Party whose performance of this Agreement is affected pursuant to this Section shall give notice of the conditions affecting performance to the other Party within thirty (30) calendar days that the Party becomes aware that any Change in Law will materially affect performance of this Agreement.
 - e. Upon receiving notice pursuant to this Section, the Parties will have one hundred eighty (180) days to renegotiate this Agreement. If the Parties do not agree that a Change in Law materially affects performance of this Agreement pursuant to this Section, then either Party may request binding mediation, to be paid equally by both Parties, to determine whether the Change in Law is material. Either Party may terminate the Agreement upon three days written notice if it is

determined that a material Change in Law has occurred, and the Parties do not renegotiate the Agreement within one hundred eighty (180) days.

16. Venue. The laws of the State of California shall apply to the construction and enforcement of this Agreement. Any action at law, suit in equity, or judicial proceedings for the enforcement of this Agreement or any provision hereto shall be in the Superior Court of Stanislaus County.

17. Notices. All notices permitted or required by this Agreement or by law to be served on or given to either party hereto by the other party, shall be in writing and shall be effective when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail addressed as follows, or any other address designated by the party:

To: County of Stanislaus:
Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Attn: Susan M. Garcia, C.P.M

To: City of Patterson:
Ken Irwin, City Manager
City Manager's Office
P.O. Box 667
Patterson, CA 95363

18. Indemnification.

a. County will indemnify, defend and hold harmless the Cities, their officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the County arising out of and/or relating to the provision of the programs and services described in paragraph 5 herein above.

b. Cities will indemnify, defend and hold harmless the County, its officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the Cities arising out of and/or relating to their performance under this Agreement.

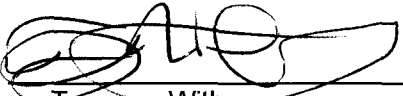
19. Insurance. The Parties shall maintain their own liability insurance coverage, against any claim of civil liability arising out of the performance of this MOU, and provide appropriate evidence of such coverage of the other Party upon request.

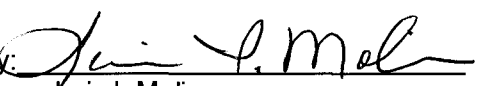
Signatures on Following Page

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written above.

COUNTY OF STANISLAUS

CITY OF PATTERSON

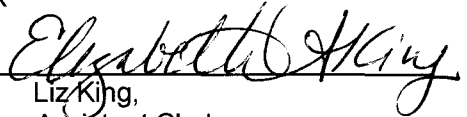
By: 
Terrance Withrow,
Chairman

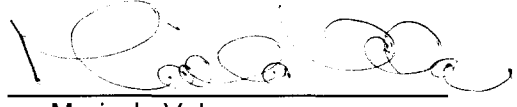
By: 
Luis I. Molina,
Mayor

Date: 4-21-15

ATTEST:
Christine Ferraro Tallman,
Clerk

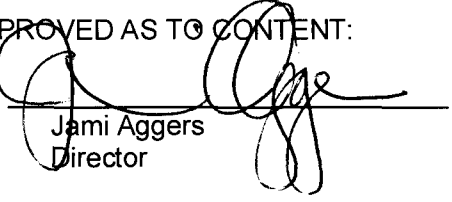
ATTEST:

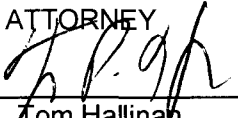
By: 
Liz King,
Assistant Clerk

By: 
Maricela Vela
City Clerk

APPROVED AS TO CONTENT:

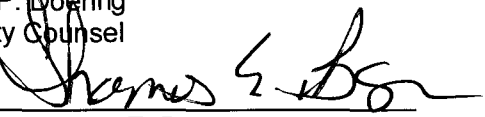
APPROVED AS TO FORM:
CITY ATTORNEY

By: 
Jami Aggers
Director

By: 
Tom Hallinan
City Attorney

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 
Thomas E. Boze,
Deputy County Counsel

SCHEDULE 1

SOLID WASTE TONNAGE GUARANTEE

<u>CITY</u>	<u>GUARANTEED PERCENTAGE⁽¹⁾</u>
CERES	90%
HUGHSON	90%
NEWMAN	90%
OAKDALE	50%
PATTERSON	90%
RIVERBANK	40%
TURLOCK	90%
WATERFORD	50%

DISPOSAL RATES (per ton) ⁽²⁾:

<u>Fiscal Year</u>	<u>Waste To Energy Facility</u>	<u>Fink Road Landfill</u>
2015/2016	\$33.78	\$26.00
2016/2017	\$34.78	\$26.00
2017/2018	\$35.78	\$26.00
2018/2019	\$37.00	\$27.00
2019/2020	\$38.00	\$27.00
2020/2021	\$39.00	\$27.00
2021/2022	\$40.00	\$28.00
2022/2023	\$41.00	\$28.00
2023/2024	\$42.00	\$29.00
2024/2025	\$43.00	\$29.00

(1) Percentage of total Acceptable Solid Waste under the City's jurisdictional authority.

(2) The total tonnage delivered by each agency shall be billed as follows: 62% of total tonnage at the WTE rate up to the scheduled tonnage per Schedule 2 and 38% of total tonnage at the Fink Road Landfill rate.

SCHEDULE 2

WTE PROPOSED MONTHLY DELIVERY SCHEDULE

CITY OF TURLOCK		CITY OF CERES	
July	1,895.94	July	1,429.56
August	2,086.75	August	1,573.43
September	1,895.94	September	1,429.56
October	1,848.23	October	1,393.59
November	1,895.94	November	1,429.56
December	1,895.94	December	1,429.56
January	2,153.63	January	1,623.86
February	2,003.56	February	1,510.70
March	2,091.62	March	1,577.10
April	1,464.31	April	1,104.11
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CITY OF RIVERBANK

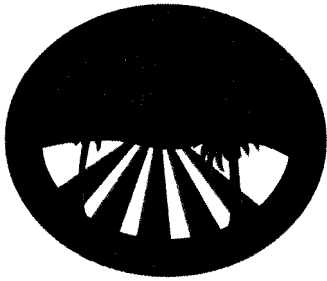
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Total 1,241.33



CITY COUNCIL AGENDA REPORT

TO: Mayor Molina and Members of the City Council
FROM: Ken Irwin, City Manager *K.I.*
BY: Mike Willett, Director of Public Works *MW*
MEETING DATE: April 21, 2015
ITEM NO: 8.2 b.
SUBJECT: Approve and adopt the new Regional Solid Waste Disposal Plan Memorandum of Understanding Between the City and Stanislaus County.

RECOMMENDATION

Approve and adopt the new Regional Solid Waste Disposal Plan Memorandum of Understanding Between the City and Stanislaus County

BACKGROUND

The purpose of this Agreement is for the members of the Regional Agency to implement a Regional Solid Waste Disposal Plan (the "Plan") to support the continued operations of the Fink Road Landfill (hereinafter referred to as "Landfill"), and the Waste To Energy (hereinafter referred to as "WTE") Facility by ensuring sufficient solid waste is delivered to both facilities to ensure their economic viability, and to provide regional AB 939 and Household Hazardous Waste services. The Plan includes a ten (10) year commitment from the Regional Agency cities, (which Patterson is one of nine) to guarantee delivery of a portion of its solid waste to the Landfill and WTE Facility, and a ten (10) year schedule of tipping fees ("Disposal Rates") to be paid to the County pursuant to the Plan. By entering this Agreement the Parties desire to terminate the AB-939 MOU and its amendments and to implement the Plan.

ANALYSIS

At the completion of several meetings between the County and the nine (9) Cities that make up the Regional Solid Waste Partnership, it has been proposed that beginning on June 1, 2015 and end June 30, 2025 this agreement will commit the City of Patterson to delivering to the WTE and the Landfill no less than the committed percentage of its Acceptable Solid Waste (which is 90% of all waste generated throughout the City annually) and meeting the monthly WTE tonnage as set by the proposed monthly delivery schedule.

Solid Waste disposed of as part of normal collection, includes but not limited to garbage, trash, rubbish, refuse, offal, beds, mattresses, sofas, bicycles, baby carriages, automobile or small vehicle tires, as well as processible portions of commercial and industrial Solid Waste, and logs,

branches, leaves, twigs, grass and plant cuttings, semisolid, liquid wastes, rubbish, ashes, industrial wastes, demolition and construction wastes normally collected by the City's solid waste hauler, except for Unacceptable Waste and Hazardous Waste, Radioactive Waste or Medical Waste.

For the purpose of this agreement, the City's franchise hauler (Bertolotti Disposal Inc.) will pay the disposal fees that have been set forth in the Disposal Rates (per ton) in Schedule 1. This Regional Solid Waste Disposal Plan will continue to compensate the County for AB 939 and Household Hazardous Waste Program Services in the amount of actual cost of service for the term of this agreement. The County agrees to provide and maintain all AB 939 Program Services required by law including but not limited to the following:

- Preparation of all required State diversion reporting and tracking
- Countywide public education/outreach; Administration of the Recycling Market Development Zone; Application for and administration of regional grants for used oil recycling, used tire recycling, and tire enforcement
- Serve as staff to the Local Task Force on Solid Waste and Regional Solid Waste Planning Agency (Regional Agency)
- Monitor proposed solid waste legislative and regulatory changes; Administration of the County's Food Processing By-Product Program

The County will also provide the following Household Hazardous Waste (HHW) Programs:

- A minimum of two (2) mobile collection events each year for each agency party to this agreement
- Access to the permanent Household Hazardous Waste Facility for the collection of Countywide residents' e-waste, used oil, oil filters, paints, pesticides, batteries, sharps, medications and other misc. household chemicals
- Access to the permanent Household Hazardous Waste Facility for the collection of Countywide qualified/approved Conditionally Exempt Small Quantity Generators' hazardous waste; Countywide public education/outreach
- Respond to illegal roadside dumping of hazardous materials within each city

The proposed agreement appears to be in the best interest of both the City Patterson and the County of Stanislaus.

FISCAL IMPACT

The City stands to save cost with its contracted hauler since the rates are being lowered for the hauler in terms of disposal fee per ton for both the Landfill and the WTE Facility.

CITY OF RIVERBANK

RESOLUTION NO. 2015-028

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK,
CALIFORNIA, APPROVING THE REGIONAL SOLID WASTE DISPOSAL PLAN
MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF RIVERBANK
AND STANISLAUS COUNTY**

WHEREAS, on August 26, 1994, the City of Riverbank ("City") and Stanislaus County ("County") entered into a Memorandum of Understanding regarding the implementation of the Integrated Waste Management Act of 1989 ("AB 939"); and

WHEREAS, pursuant to the Memorandum of Understanding, the County agreed to perform planning, reporting and educational outreach obligations under AB 939 on behalf of the City and eight other incorporated cities in the County; and

WHEREAS, the County's AB 939 planning, reporting and outreach obligations are funded in part through a surtax on landfill tipping fees; and

WHEREAS, the City Council finds that it is in the best interest of the City for the County to continue performing all AB 939 duties on behalf of the City and other cities in the County; and

WHEREAS, the City Council finds that it is in the best interest of the City to enter into a new Memorandum of Understanding between the City and Stanislaus County; and

WHEREAS, the City Council has reviewed the attached Regional Solid Waste Memorandum of Understanding between the City of Riverbank and Stanislaus County (the "MOU"); and

WHEREAS, the City Council finds that the new MOU establishes competitive rates for tipping fees through fiscal year 2025; and

WHEREAS, the City Council acknowledges that the new MOU requires the City to guarantee delivery of a portion of the solid waste tonnage generated by City residents to the Fink Road Landfill and Waste to Energy Facility; and

WHEREAS, the City Council has reviewed, and approves, all other terms and provisions provided in the new MOU.



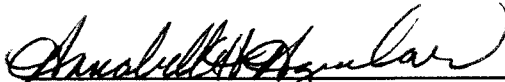
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank hereby declares as follows:

1. The City Council hereby approves the Regional Solid Waste Disposal Plan Memorandum of Understanding between the City of Riverbank and Stanislaus County.
2. The City Council authorizes the Mayor to execute a final draft of the MOU, subject to any final revisions by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 28th day of April, 2015; motioned by Councilmember Cal Campbell, seconded by Councilmember Jeannine Tucker, and upon roll call was carried by the following vote of 4-0:

AYES: Campbell, Jones Cruz, Tucker, and Vice Mayor Barber-Martinez
NAYS: None
ABSENT: Mayor O'Brien
ABSTAINED: None

ATTEST:


Annabelle H. Aguilar, CMC
City Clerk

APPROVED:


Darlene Barber-Martinez
Vice Mayor

Attachment: Solid Waste Management Plan MOU

CERTIFICATION

I hereby certify the foregoing is a true and correct copy of the original document on file in the office of the City Clerk of the City of Riverbank.


CITY CLERK

DATED May 6, 2015

**REGIONAL SOLID WASTE DISPOSAL PLAN
MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF RIVERBANK AND STANISLAUS COUNTY**

This Regional Solid Waste Disposal Plan Memorandum of Understanding (the "Agreement") is made and entered into by and between the County of Stanislaus, ("County") and the City of Riverbank ("City") on April 28, 2015. City and County may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this agreement.

RECITALS

WHEREAS, pursuant to Public Resources Code section 40976 the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford entered into a Memorandum of Understanding, dated August 26, 1994, regarding the use and distribution of AB-939 funds to achieve the waste reduction and diversion goals specified in AB-939 (the "AB-939 MOU");

WHEREAS, on or about December 30, 1999, the County and the above cities entered into Amendment 1 of the AB-939 MOU to provide for payment of the cities' proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, on August 1, 2001, the City of Riverbank and on March 29, 2012, the City of Waterford entered into Amendment 2 of the AB-939 MOU to provide for payment of each city's proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, revenue to fund the AB-939 and Household Hazardous Waste services provided by the County is derived in part from tipping fees to the Waste-to-Energy Facility;

WHEREAS, the County, together with the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford formed the Stanislaus County Regional Solid Waste Planning Agency (hereinafter referred to as "Regional Agency") by entering into a Joint Powers Agreement on June 19, 2001, and the formation of the Regional Agency was approved by the California Integrated Waste Management Board on July 9, 2002.

WHEREAS, the purpose of the formation of the Regional Agency JPA was to allow the participating entities to share diversion credits and to prepare a single planning document for the entire region;

WHEREAS, the purpose of this Agreement is for members of the Regional Agency to implement a Regional Solid Waste Disposal Plan (the "Plan") to support the continued operations of the Fink Road Landfill (hereinafter referred to as "Landfill"), and the WTE Facility by ensuring sufficient solid waste is delivered to both facilities to ensure their economic viability, and to provide regional AB 939 and Household Hazardous Waste services;

WHEREAS, the Plan (as set forth by this Agreement and the exhibits incorporated hereto) includes a ten (10) year commitment from the Regional Agency cities to guarantee delivery of a portion of their solid waste to the Landfill and WTE Facility, and a ten (10) year schedule of tipping fees ("Disposal Rates") to be paid to the County pursuant to the Plan; and

WHEREAS, by entering this Agreement the Parties desire to terminate the AB-939 MOU and its amendments and to implement the Plan.

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the Parties hereby agree as follows:

AGREEMENT

1. Incorporation by Reference. The above Recitals are incorporated into this Agreement by this reference. Schedule 1 and Schedule 2 are attached to this Agreement and are incorporated hereto and made a part of this Agreement by this reference.
2. Term. The term of this Agreement ("Term") shall begin on June 1, 2015 (the "Effective Date") and end June 30, 2025 (the "Termination Date"). If mutually agreeable to both Parties, this contract may be extended up to an additional five (5) year period, unless one Party delivers to the other written notice of nonrenewal, which notice shall be delivered no later than 90 days prior to the termination date. Either Party may terminate this Agreement by providing 90 days prior written notice to the other.
3. City's Guaranteed Delivery of Solid Waste to WTE Facility and Landfill.
 - a. The Cities shall deliver to the WTE Facility and the Fink Road Landfill no less than the committed percentage of their Acceptable Solid Waste as set forth in Schedule 1 and the Waste to Energy (WTE) tonnage as set forth in Schedule 2 each month.
 - b. "Acceptable Solid Waste" means that portion of Solid Waste which has characteristics such as that collected and disposed of as part of the normal collection of Solid Waste in the Contracting Cities, such as, but not limited to: garbage, trash, rubbish, refuse, offal, beds, mattresses, sofas, bicycles, baby carriages, automobile or small vehicle tires, as well as processible portions of commercial (including cannery) and industrial Solid Waste, and logs if no more than four (4) feet long and six (6) inches in diameter, branches, leaves, twigs, grass and plant cuttings, excepting, however, unacceptable waste and hazardous waste.
 - c. "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes normally collected by the City's solid waste hauler. Solid Waste does not include hazardous waste, radioactive waste, or medical waste.
4. Tipping Fees.
 - a. For the Term of this Agreement, the City's franchise hauler shall pay the Disposal Rates set forth in Schedule 1 and Schedule 2.

5. County's Obligations. The County agrees to provide and maintain the following programs and services for the City:

- a. All AB 939 Program Services as required by law including but not limited to the following:
 - i. Preparation of all required State diversion reporting and tracking;
 - ii. Countywide public education/outreach;
 - iii. Administration of the Recycling Market Development Zone;
 - iv. Application for and administration of regional grants for used oil recycling, used tire recycling, and tire enforcement;
 - v. Serve as staff to the Local Task Force on Solid Waste and Regional Solid Waste Planning Agency (Regional Agency);
 - vi. Monitor proposed solid waste legislative and regulatory changes;
 - vii. Administration of the County's Food Processing By-Product Program; and
 - viii. Administration of the Waste to Energy Service Contract with the City of Modesto.
- b. The following Household Hazardous Waste (HHW) Programs:
 - i. The County will conduct a minimum of two mobile collection events each year for each Regional Agency city, except Ceres;
 - ii. Access to the permanent Household Hazardous Waste Facility for the collection of Countywide residents' e-waste, used oil, oil filters, paints, pesticides, batteries, sharps, medications and other miscellaneous household chemicals;
 - iii. Access to the permanent Household Hazardous Waste Facility for the collection of Countywide qualified/approved Conditionally Exempt Small Quantity Generators' hazardous waste; and
 - iv. Countywide public education/outreach.

6. Default.

- a. Cure. In the event a Party fails to perform pursuant to the terms and conditions of this Agreement, the Party to whom an obligation is owed will provide the non-performing Party with at least 30 days prior written notice of said non-performance, upon which the non-performing Party will have the opportunity to comply with the request for performance, or in the event of continued non-performance, the Parties shall have the right to then pursue any and all available legal remedies.

- b. Failure to give Notice. Failure to give, or delay in giving, Notice of Default shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any rights and remedies as to any breach shall not operate as a waiver of any breach or of any such rights or remedies. Delay by either Party in asserting any of its rights and remedies shall not deprive such Party of the right to institute and maintain any action or proceeding which it may deem appropriate to protect, assert or enforce any such rights or remedies.
7. Attorney Fees. In the event that a Party commences litigation to enforce the performance of this Agreement, the prevailing Party shall be entitled to an award of its costs of litigation, including the cost of expert and attorneys' fees.
8. Severability. In the event that any provision of this Agreement shall for any reason be determined to be invalid, illegal, or unenforceable in any respect, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.
9. Necessary Acts. The Parties hereby authorize their respective officers and employees to do all things reasonably necessary to accomplish the purposes of this Agreement.
10. Modification Only in Writing. This Agreement may not be modified, amended, changed, added to, or subtracted from, except by written mutual consent of the Parties hereto and only if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to this Agreement to maintain continuity. Notwithstanding anything to the contrary, no oral agreement or directive from or between either Party, or their designees, shall operate to amend or change the terms of this Agreement.
11. Entire Agreement. This Agreement contains the entire Agreement of the Parties, and no representations, inducements, promises, or agreements otherwise between the parties, not embodied herein, or incorporated herein by reference shall be of any force or effect. Notwithstanding anything to the contrary, no term or provision hereof may be changed, waived, discharged, or terminated unless the same is in writing executed by the Parties.
12. Amendment. This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the Parties hereto if such amendment or change is in written form and executed by the City and by the County.
13. Duplicate Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart, executed telecopy, fax or photocopy shall be deemed to be an original instrument, but all of which together shall constitute one and the same Agreement.

14. Legal Requirements. The Parties shall comply with all applicable federal, state, and local laws in performing this Agreement.

15. Force Majeure. Except as otherwise expressly provided in this Agreement, if the performance of any act required to be performed by either County or City is prevented or delayed or made impracticable by reason of any act of God, strike, lockout, labor trouble, inability to secure materials, Change in Law or regulations, or any other cause (except financial inability) not the fault of the Party required to perform the act, the time for performance of the act will either be extended for a period equivalent to the period of delay or performance of the act will be excused.

- a. "*Change in Law*" as used herein means the enactment, promulgation, amendment or official interpretation or reinterpretation by any order, decision or judgment of any federal, state or local court, administrative agency or governmental body after the Effective Date of (i) any federal statute or regulation not enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or (ii) any state, County or City statute, ordinance, or regulation that was not so enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or establishes requirements making the ownership, operation or maintenance of the Landfill more burdensome than the most stringent requirements (x) in effect as of the Effective Date, (y) agreed to in any applications of the County for official permits, licenses, or approvals, or (z) contained in any official permits, licenses, or approvals with respect to the Landfill obtained as of the Effective Date; provided that a lawful change in federal, State, County, City, or any other tax law shall not be a Change in Law.
- b. If there is a Change in Law that materially affects operations of the Fink Road Landfill and/or the WTE Facility, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement to effectuate the purpose of this Agreement as stated herein above.
- c. If there is a Change in Law that materially affects the requirements for the Cities regarding the reuse, recycling, composting or any other form of diversion of solid waste from disposal, including, but not limited to an increase in the percentage of solid waste required to be diverted, as well as changes to applicable diversion credits, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement.
- d. The Party whose performance of this Agreement is affected pursuant to this Section shall give notice of the conditions affecting performance to the other Party within thirty (30) calendar days that the Party becomes aware that any Change in Law will materially affect performance of this Agreement.
- e. Upon receiving notice pursuant to this Section, the Parties will have one hundred eighty (180) days to renegotiate this Agreement. If the Parties do not agree that a Change in Law materially affects performance of this Agreement pursuant to this Section, then either Party may request binding mediation, to be paid equally by both Parties, to determine whether the Change in Law is material. Either Party may terminate the Agreement upon three days written notice if it is

determined that a material Change in Law has occurred, and the Parties do not renegotiate the Agreement within one hundred eighty (180) days.

16. Venue. The laws of the State of California shall apply to the construction and enforcement of this Agreement. Any action at law, suit in equity, or judicial proceedings for the enforcement of this Agreement or any provision hereto shall be in the Superior Court of Stanislaus County.

17. Notices. All notices permitted or required by this Agreement or by law to be served on or given to either party hereto by the other party, shall be in writing and shall be effective when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail addressed as follows, or any other address designated by the party:

To: County of Stanislaus:
Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Attn: Susan M. Garcia, C.P.M

To: City of Riverbank:
Jill Anderson, City Manager
City Manager's Office
6707 Third Street
Riverbank, CA 95367

18. Indemnification.

- a. County will indemnify, defend and hold harmless the Cities, their officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the County arising out of and/or relating to the provision of the programs and services described in paragraph 5 herein above.
- b. Cities will indemnify, defend and hold harmless the County, its officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the Cities arising out of and/or relating to their performance under this Agreement.

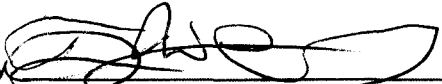
19. Insurance. The Parties shall maintain their own liability insurance coverage, against any claim of civil liability arising out of the performance of this MOU, and provide appropriate evidence of such coverage of the other Party upon request.

Signatures on Following Page

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written above.

COUNTY OF STANISLAUS

CITY OF RIVERBANK

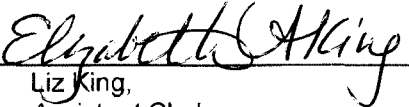
By: 
Terrance Withrow,
Chairman

By: 
Richard O'Brien,
Mayor

Date: 5/6/2015

ATTEST:
Christine Ferraro Tallman,
Clerk

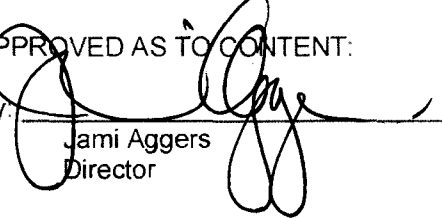
ATTEST:

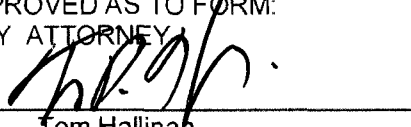
By: 
Liz King,
Assistant Clerk

By: 
Annabelle Aguilar
City Clerk

APPROVED AS TO CONTENT:


APPROVED AS TO FORM:
CITY ATTORNEY

By: 
Jami Aggers
Director

By: 
Tom Hallinan
City Attorney

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 
Thomas E. Boze,
Deputy County Counsel

SCHEDULE 1

SOLID WASTE TONNAGE GUARANTEE

<u>CITY</u>	<u>GUARANTEED PERCENTAGE⁽¹⁾</u>
CERES	90%
HUGHSON	90%
NEWMAN	90%
OAKDALE	50%
PATTERSON	90%
RIVERBANK	40%
TURLOCK	90%
WATERFORD	50%

DISPOSAL RATES (per ton) ⁽²⁾:

<u>Fiscal Year</u>	<u>Waste To Energy Facility</u>	<u>Fink Road Landfill</u>
2015/2016	\$33.78	\$26.00
2016/2017	\$34.78	\$26.00
2017/2018	\$35.78	\$26.00
2018/2019	\$37.00	\$27.00
2019/2020	\$38.00	\$27.00
2020/2021	\$39.00	\$27.00
2021/2022	\$40.00	\$28.00
2022/2023	\$41.00	\$28.00
2023/2024	\$42.00	\$29.00
2024/2025	\$43.00	\$29.00

(1) Percentage of total Acceptable Solid Waste under the City's jurisdictional authority.

(2) The total tonnage delivered by each agency shall be billed as follows: 62% of total tonnage at the WTE rate up to the scheduled tonnage per Schedule 2 and 38% of total tonnage at the Fink Road Landfill rate.

SCHEDULE 2

WTE PROPOSED MONTHLY DELIVERY SCHEDULE

CITY OF TURLOCK		CITY OF CERES	
July	1,895.94	July	1,429.56
August	2,086.75	August	1,573.43
September	1,895.94	September	1,429.56
October	1,848.23	October	1,393.59
November	1,895.94	November	1,429.56
December	1,895.94	December	1,429.56
January	2,153.63	January	1,623.86
February	2,003.56	February	1,510.70
March	2,091.62	March	1,577.10
April	1,464.31	April	1,104.11
May	2,084.37	May	1,571.63
June	1,896.41	June	1,429.92
Total	23,212.64	Total	17,502.58

CITY OF HUGHSON		CITY OF OAKDALE	
July	182.50	July	425.83
August	200.86	August	468.68
September	182.50	September	425.83
October	177.90	October	415.11
November	182.50	November	425.83
December	182.50	December	425.83
January	207.30	January	483.70
February	192.86	February	450.00
March	201.33	March	469.77
April	140.95	April	328.88
May	200.63	May	468.15
June	182.54	June	425.93
Total	2,234.37	Total	5,213.54

CITY OF PATTERSON

July	456.24
August	502.16
September	456.24
October	444.76
November	456.24
December	456.24
January	518.25
February	482.14
March	503.33
April	352.37
May	501.59
June	456.36

Total 5,585.92

CITY OF NEWMAN

July	299.09
August	329.19
September	299.09
October	291.57
November	299.09
December	299.09
January	339.74
February	316.07
March	329.96
April	231.00
May	328.82
June	299.17

Total 3,661.88

CITY OF RIVERBANK

July	273.74
August	301.30
September	273.74
October	266.86
November	273.74
December	273.74
January	310.95
February	289.28
March	302.00
April	211.42
May	300.95
June	273.81

Total 3,351.53

CITY OF WATERFORD

July	101.39
August	111.59
September	101.39
October	98.84
November	101.39
December	101.39
January	115.17
February	107.14
March	111.85
April	78.31
May	111.46
June	101.41

Total 1,241.33

**REGIONAL SOLID WASTE DISPOSAL PLAN
MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF TURLOCK AND STANISLAUS COUNTY**

This Regional Solid Waste Disposal Plan Memorandum of Understanding (the "Agreement") is made and entered into by and between the County of Stanislaus, ("County") and the City of Turlock ("City") on June 1st, 2015. City and County may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this agreement.

RECITALS

WHEREAS, pursuant to Public Resources Code section 40976 the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford entered into a Memorandum of Understanding, dated August 26, 1994, regarding the use and distribution of AB-939 funds to achieve the waste reduction and diversion goals specified in AB-939 (the "AB-939 MOU");

WHEREAS, on or about December 30, 1999, the County and the above cities entered into Amendment 1 of the AB-939 MOU to provide for payment of the cities' proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, on August 1, 2001, the City of Riverbank and on March 29, 2012, the City of Waterford entered into Amendment 2 of the AB-939 MOU to provide for payment of each city's proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, revenue to fund the AB-939 and Household Hazardous Waste services provided by the County is derived in part from tipping fees to the Waste-to-Energy Facility;

WHEREAS, the County, together with the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford formed the Stanislaus County Regional Solid Waste Planning Agency (hereinafter referred to as "Regional Agency") by entering into a Joint Powers Agreement on June 19, 2001, and the formation of the Regional Agency was approved by the California Integrated Waste Management Board on July 9, 2002.

WHEREAS, the purpose of the formation of the Regional Agency JPA was to allow the participating entities to share diversion credits and to prepare a single planning document for the entire region;

WHEREAS, the purpose of this Agreement is for members of the Regional Agency to implement a Regional Solid Waste Disposal Plan (the "Plan") to support the continued operations of the Fink Road Landfill (hereinafter referred to as "Landfill"), and the WTE Facility by ensuring sufficient solid waste is delivered to both facilities to ensure their economic viability, and to provide regional AB 939 and Household Hazardous Waste services;

WHEREAS, the Plan (as set forth by this Agreement and the exhibits incorporated hereto) includes a ten (10) year commitment from the Regional Agency cities to guarantee delivery of a portion of their solid waste to the Landfill and WTE Facility, and a ten (10) year schedule of tipping fees ("Disposal Rates") to be paid to the County pursuant to the Plan; and

WHEREAS, by entering this Agreement the Parties desire to terminate the AB-939 MOU and its amendments and to implement the Plan.

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15. Force Majeure. Except as otherwise expressly provided in this Agreement, if the performance of any act required to be performed by either County or City is prevented or delayed or made impracticable by reason of any act of God, strike, lockout, labor trouble, inability to secure materials, Change in Law or regulations, or any other cause (except financial inability) not the fault of the Party required to perform the act, the time for performance of the act will either be extended for a period equivalent to the period of delay or performance of the act will be excused.
- a. "*Change in Law*" as used herein means the enactment, promulgation, amendment or official interpretation or reinterpretation by any order, decision or judgment of any federal, state or local court, administrative agency or governmental body after the Effective Date of (i) any federal statute or regulation not enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or (ii) any state, County or City statute, ordinance, or regulation that was not so enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or establishes requirements making the ownership, operation or maintenance of the Landfill more burdensome than the most stringent requirements (x) in effect as of the Effective Date, (y) agreed to in any applications of the County for official permits, licenses, or approvals, or (z) contained in any official permits, licenses, or approvals with respect to the Landfill obtained as of the Effective Date; provided that a lawful change in federal, State, County, City, or any other tax law shall not be a Change in Law.
 - b. If there is a Change in Law that materially affects operations of the Fink Road Landfill and/or the WTE Facility, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement to effectuate the purpose of this Agreement as stated herein above.
 - c. If there is a Change in Law that materially affects the requirements for the Cities regarding the reuse, recycling, composting or any other form of diversion of solid waste from disposal, including, but not limited to an increase in the percentage of solid waste required to be diverted, as well as changes to applicable diversion credits, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement.
 - d. The Party whose performance of this Agreement is affected pursuant to this Section shall give notice of the conditions affecting performance to the other Party within thirty (30) calendar days that the Party becomes aware that any Change in Law will materially affect performance of this Agreement.
 - e. Upon receiving notice pursuant to this Section, the Parties will have one hundred eighty (180) days to renegotiate this Agreement. If the Parties do not agree that a Change in Law materially affects performance of this Agreement pursuant to this Section, then either Party may request binding mediation, to be paid equally by both Parties, to determine whether the Change in Law is material. Either Party may terminate the Agreement upon three days written notice if it is

determined that a material Change in Law has occurred, and the Parties do not renegotiate the Agreement within one hundred eighty (180) days.

16. Venue. The laws of the State of California shall apply to the construction and enforcement of this Agreement. Any action at law, suit in equity, or judicial proceedings for the enforcement of this Agreement or any provision hereto shall be in the Superior Court of Stanislaus County.

17. Notices. All notices permitted or required by this Agreement or by law to be served on or given to either party hereto by the other party, shall be in writing and shall be effective when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail addressed as follows, or any other address designated by the party:

To: County of Stanislaus:
Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Attn: Susan M. Garcia, C.P.M

To: City of Turlock:
Roy W. Wasden, City Manager
City Manager's Office
156 S. Broadway, Suite 230
Turlock, CA 95380

18. Indemnification.

- a. County will indemnify, defend and hold harmless the Cities, their officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the County arising out of and/or relating to the provision of the programs and services described in paragraph 5 herein above.
- b. Cities will indemnify, defend and hold harmless the County, its officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the Cities arising out of and/or relating to their performance under this Agreement.


19. Insurance. The Parties shall maintain their own liability insurance coverage, against any claim of civil liability arising out of the performance of this MOU, and provide appropriate evidence of such coverage of the other Party upon request.

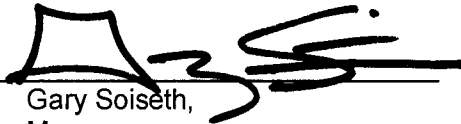
Signatures on Following Page

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written above.

COUNTY OF STANISLAUS

CITY OF TURLOCK

By: 
Terrance Withrow,
Chairman


By: 
Gary Soiseth,
Mayor

Date: 5/3/15

ATTEST:
Christine Ferraro Tallman,
Clerk

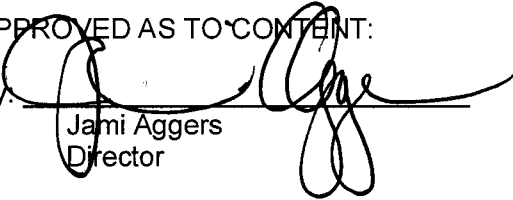
ATTEST:


By: 
Liz King,
Assistant Clerk

By: 
Kellie E. Weaver
City Clerk

APPROVED AS TO CONTENT:

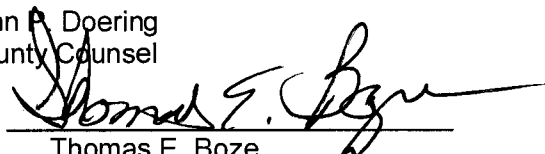
APPROVED AS TO FORM:
CITY ATTORNEY

By: 
Jami Aggers
Director

By: 
Phaedra A. Norton
City Attorney

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 
Thomas E. Boze,
Deputy County Counsel

SCHEDULE 1

SOLID WASTE TONNAGE GUARANTEE

<u>CITY</u>	<u>GUARANTEED PERCENTAGE⁽¹⁾</u>
CERES	90%
HUGHSON	90%
NEWMAN	90%
OAKDALE	50%
PATTERSON	90%
RIVERBANK	40%
TURLOCK	90%
WATERFORD	50%

DISPOSAL RATES (per ton) ⁽²⁾:

<u>Fiscal Year</u>	<u>Waste To Energy Facility</u>	<u>Fink Road Landfill</u>
2015/2016	\$33.78	\$26.00
2016/2017	\$34.78	\$26.00
2017/2018	\$35.78	\$26.00
2018/2019	\$37.00	\$27.00
2019/2020	\$38.00	\$27.00
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2022/2023	\$41.00	\$28.00
2023/2024	\$42.00	\$29.00
2024/2025	\$43.00	\$29.00

(1) Percentage of total Acceptable Solid Waste under the City's jurisdictional authority.

(2) The total tonnage delivered by each agency shall be billed as follows: 62% of total tonnage at the WTE rate up to the scheduled tonnage per Schedule 2 and 38% of total tonnage at the Fink Road Landfill rate.

SCHEDULE 2

WTE PROPOSED MONTHLY DELIVERY SCHEDULE

CITY OF TURLOCK		CITY OF CERES	
July	1,895.94	July	1,429.56
August	2,086.75	August	1,573.43
September	1,895.94	September	1,429.56
October	1,848.23	October	1,393.59
November	1,895.94	November	1,429.56
December	1,895.94	December	1,429.56
January	2,153.63	January	1,623.86
February	2,003.56	February	1,510.70
March	2,091.62	March	1,577.10
April	1,464.31	April	1,104.11
May	2,084.37	May	1,571.63
June	1,896.41	June	1,429.92
Total	23,212.64	Total	17,502.58

CITY OF HUGHSON		CITY OF OAKDALE	
July	182.50	July	425.83
August	200.86	August	468.68
September	182.50	September	425.83
October	177.90	October	415.11
November	182.50	November	425.83
December	182.50	December	425.83
January	207.30	January	483.70
February	192.86	February	450.00
March	201.33	March	469.77
April	140.95	April	328.88
May	200.63	May	468.15
June	182.54	June	425.93
Total	2,234.37	Total	5,213.54

CITY OF PATTERSON

July	456.24
August	502.16
September	456.24
October	444.76
November	456.24
December	456.24
January	518.25
February	482.14
March	503.33
April	352.37
May	501.59
June	456.36
Total	5,585.92

CITY OF NEWMAN

July	299.09
August	329.19
September	299.09
October	291.57
November	299.09
December	299.09
January	339.74
February	316.07
March	329.96
April	231.00
May	328.82
June	299.17
Total	3,661.88

CITY OF RIVERBANK

July	273.74
August	301.30
September	273.74
October	266.86
November	273.74
December	273.74
January	310.95
February	289.28
March	302.00
April	211.42
May	300.95
June	273.81
Total	3,351.53

CITY OF WATERFORD

July	101.39
August	111.59
September	101.39
October	98.84
November	101.39
December	101.39
January	115.17
February	107.14
March	111.85
April	78.31
May	111.46
June	101.41
Total	1,241.33

**WATERFORD CITY COUNCIL
RESOLUTION 2015-34**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATERFORD
APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF
WATERFORD AND STANISLAUS COUNTY REALTING TO ADMINISTERING THE
REGIONAL SOLID WASTE DISPOSAL PLAN**

WHEREAS, on August 26, 1994, Stanislaus County and the cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford entered into a Memorandum of Understanding (MOU); and,

WHEREAS, an amendment was made to the "MOU" in 2012 regarding the use and distribution of AB 939 funds to achieve waste reduction and diversion goals specified in AB 939 and to provide for payment of the cities' proportional share of the costs for services provided by the County; and,

WHEREAS, Stanislaus County and the eight cities formed the Stanislaus County Regional Solid Waste Planning Agency (hereinafter referred to as "Regional Agency") by entering into a Joint Powers Agreement on June 19, 2001; and,

WHEREAS, the "Regional Agency" was approved by the California Integrated Waste Management Board on July 9, 2002; and,

WHEREAS, the purpose of the formation of the "Regional Agency" JPA was to allow the participating entities to share diversion credits and to prepare a single planning document for the entire region; and,

WHEREAS, Stanislaus County in coordination with the eight cities has prepared a Memorandum of Understanding ("MOU"), attached hereto, for adoption by each member city; and,

WHEREAS, the purpose of the "MOU" is for members of the Regional Agency to implement a Regional Solid Waste Disposal Plan (the "Plan") with a ten (10) year commitment from the "Regional Agency" which guarantees delivery of a portion of their solid waste to the Landfill and WTE Facility and a ten (10) year schedule of tipping fees to be paid to the County pursuant to the Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WATERFORD DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council does hereby approve the Regional Solid Waste Disposal Plan Memorandum of Understanding ("MOU"), attached hereto as Exhibit "A", with Stanislaus County and authorizes the Mayor of the City of Waterford to execute on their behalf.

PASSED AND ADOPTED by the Waterford City Council at a regular meeting held on the 16th day of April 2015 by the following vote:


AYES: VAN WINKLE, ALDALO, KRAUSE, WHITFIELD, GOTHAN

NOES:

ABSENT:

ABSTAIN:

CITY OF WATERFORD,

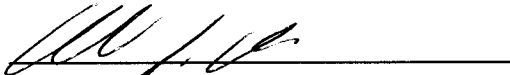

MICHAEL VAN WINKLE, MAYOR

ATTEST:



Patricia Krause, Deputy City Clerk

APPROVED AS TO FORM:



Corbett J. Browning, City Attorney

**REGIONAL SOLID WASTE DISPOSAL PLAN
MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF WATERFORD AND STANISLAUS COUNTY**

This Regional Solid Waste Disposal Plan Memorandum of Understanding (the "Agreement") is made and entered into by and between the County of Stanislaus, ("County") and the City of Waterford ("City") on May 12, 2015. City and County may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this agreement.

RECITALS

WHEREAS, pursuant to Public Resources Code section 40976 the County and the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford entered into a Memorandum of Understanding, dated August 26, 1994, regarding the use and distribution of AB-939 funds to achieve the waste reduction and diversion goals specified in AB-939 (the "AB-939 MOU");

WHEREAS, on or about December 30, 1999, the County and the above cities entered into Amendment 1 of the AB-939 MOU to provide for payment of the cities' proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, on August 1, 2001, the City of Riverbank and on March 29, 2012, the City of Waterford entered into Amendment 2 of the AB-939 MOU to provide for payment of each city's proportional share of the costs for services provided by the County pursuant to AB-939;

WHEREAS, revenue to fund the AB-939 and Household Hazardous Waste services provided by the County is derived in part from tipping fees to the Waste-to-Energy Facility;

WHEREAS, the County, together with the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford formed the Stanislaus County Regional Solid Waste Planning Agency (hereinafter referred to as "Regional Agency") by entering into a Joint Powers Agreement on June 19, 2001, and the formation of the Regional Agency was approved by the California Integrated Waste Management Board on July 9, 2002.

WHEREAS, the purpose of the formation of the Regional Agency JPA was to allow the participating entities to share diversion credits and to prepare a single planning document for the entire region;

WHEREAS, the purpose of this Agreement is for members of the Regional Agency to implement a Regional Solid Waste Disposal Plan (the "Plan") to support the continued operations of the Fink Road Landfill (hereinafter referred to as "Landfill"), and the WTE Facility by ensuring sufficient solid waste is delivered to both facilities to ensure their economic viability, and to provide regional AB 939 and Household Hazardous Waste services;

WHEREAS, the Plan (as set forth by this Agreement and the exhibits incorporated hereto) includes a ten (10) year commitment from the Regional Agency cities to guarantee delivery of a portion of their solid waste to the Landfill and WTE Facility, and a ten (10) year schedule of tipping fees ("Disposal Rates") to be paid to the County pursuant to the Plan; and

WHEREAS, by entering this Agreement the Parties desire to terminate the AB-939 MOU and its amendments and to implement the Plan.

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the Parties hereby agree as follows:

AGREEMENT

1. Incorporation by Reference. The above Recitals are incorporated into this Agreement by this reference. Schedule 1 and Schedule 2 are attached to this Agreement and are incorporated hereto and made a part of this Agreement by this reference.
2. Term. The term of this Agreement (“Term”) shall begin on June 1, 2015 (the “Effective Date”) and end June 30, 2025 (the “Termination Date”). If mutually agreeable to both Parties, this contract may be extended up to an additional five (5) year period, unless one Party delivers to the other written notice of nonrenewal, which notice shall be delivered no later than 90 days prior to the termination date. Either Party may terminate this Agreement by providing 90 days prior written notice to the other.
3. City’s Guaranteed Delivery of Solid Waste to WTE Facility and Landfill.
 - a. The Cities shall deliver to the WTE Facility and the Fink Road Landfill no less than the committed percentage of their Acceptable Solid Waste as set forth in Schedule 1 and the Waste to Energy (WTE) tonnage as set forth in Schedule 2 each month.
 - b. “Acceptable Solid Waste” means that portion of Solid Waste which has characteristics such as that collected and disposed of as part of the normal collection of Solid Waste in the Contracting Cities, such as, but not limited to: garbage, trash, rubbish, refuse, offal, beds, mattresses, sofas, bicycles, baby carriages, automobile or small vehicle tires, as well as processible portions of commercial (including cannery) and industrial Solid Waste, and logs if no more than four (4) feet long and six (6) inches in diameter, branches, leaves, twigs, grass and plant cuttings, excepting, however, unacceptable waste and hazardous waste.
 - c. “Solid Waste” means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes normally collected by the City’s solid waste hauler. Solid Waste does not include hazardous waste, radioactive waste, or medical waste.
4. Tipping Fees.
 - a. For the Term of this Agreement, the City’s franchise hauler shall pay the Disposal Rates set forth in Schedule 1 and Schedule 2.

5. County's Obligations. The County agrees to provide and maintain the following programs and services for the City:

- a. All AB 939 Program Services as required by law including but not limited to the following:
 - i. Preparation of all required State diversion reporting and tracking;
 - ii. Countywide public education/outreach;
 - iii. Administration of the Recycling Market Development Zone;
 - iv. Application for and administration of regional grants for used oil recycling, used tire recycling, and tire enforcement;
 - v. Serve as staff to the Local Task Force on Solid Waste and Regional Solid Waste Planning Agency (Regional Agency);
 - vi. Monitor proposed solid waste legislative and regulatory changes;
 - vii. Administration of the County's Food Processing By-Product Program; and
 - viii. Administration of the Waste to Energy Service Contract with the City of Modesto.
- b. The following Household Hazardous Waste (HHW) Programs:
 - i. The County will conduct a minimum of two mobile collection events each year for each Regional Agency city, except Ceres;
 - ii. Access to the permanent Household Hazardous Waste Facility for the collection of Countywide residents' e-waste, used oil, oil filters, paints, pesticides, batteries, sharps, medications and other miscellaneous household chemicals;
 - iii. Access to the permanent Household Hazardous Waste Facility for the collection of Countywide qualified/approved Conditionally Exempt Small Quantity Generators' hazardous waste; and
 - iv. Countywide public education/outreach.

6. Default.

- a. Cure. In the event a Party fails to perform pursuant to the terms and conditions of this Agreement, the Party to whom an obligation is owed will provide the non-performing Party with at least 30 days prior written notice of said non-performance, upon which the non-performing Party will have the opportunity to comply with the request for performance, or in the event of continued non-performance, the Parties shall have the right to then pursue any and all available legal remedies.

- b. Failure to give Notice. Failure to give, or delay in giving, Notice of Default shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any rights and remedies as to any breach shall not operate as a waiver of any breach or of any such rights or remedies. Delay by either Party in asserting any of its rights and remedies shall not deprive such Party of the right to institute and maintain any action or proceeding which it may deem appropriate to protect, assert or enforce any such rights or remedies.
7. Attorney Fees. In the event that a Party commences litigation to enforce the performance of this Agreement, the prevailing Party shall be entitled to an award of its costs of litigation, including the cost of expert and attorneys' fees.
8. Severability. In the event that any provision of this Agreement shall for any reason be determined to be invalid, illegal, or unenforceable in any respect, the Parties hereto shall negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the Parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, or supplemented, or otherwise affected by such action, remain in full force and effect.
9. Necessary Acts. The Parties hereby authorize their respective officers and employees to do all things reasonably necessary to accomplish the purposes of this Agreement.
10. Modification Only in Writing. This Agreement may not be modified, amended, changed, added to, or subtracted from, except by written mutual consent of the Parties hereto and only if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to this Agreement to maintain continuity. Notwithstanding anything to the contrary, no oral agreement or directive from or between either Party, or their designees, shall operate to amend or change the terms of this Agreement.
11. Entire Agreement. This Agreement contains the entire Agreement of the Parties, and no representations, inducements, promises, or agreements otherwise between the parties, not embodied herein, or incorporated herein by reference shall be of any force or effect. Notwithstanding anything to the contrary, no term or provision hereof may be changed, waived, discharged, or terminated unless the same is in writing executed by the Parties.
12. Amendment. This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the Parties hereto if such amendment or change is in written form and executed by the City and by the County.
13. Duplicate Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart, executed telecopy, fax or photocopy shall be deemed to be an original instrument, but all of which together shall constitute one and the same Agreement.

14. Legal Requirements. The Parties shall comply with all applicable federal, state, and local laws in performing this Agreement.
15. Force Majeure. Except as otherwise expressly provided in this Agreement, if the performance of any act required to be performed by either County or City is prevented or delayed or made impracticable by reason of any act of God, strike, lockout, labor trouble, inability to secure materials, Change in Law or regulations, or any other cause (except financial inability) not the fault of the Party required to perform the act, the time for performance of the act will either be extended for a period equivalent to the period of delay or performance of the act will be excused.
- a. "*Change in Law*" as used herein means the enactment, promulgation, amendment or official interpretation or reinterpretation by any order, decision or judgment of any federal, state or local court, administrative agency or governmental body after the Effective Date of (i) any federal statute or regulation not enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or (ii) any state, County or City statute, ordinance, or regulation that was not so enacted, promulgated, amended, interpreted or reinterpreted on or before the Effective Date, as applicable, or establishes requirements making the ownership, operation or maintenance of the Landfill more burdensome than the most stringent requirements (x) in effect as of the Effective Date, (y) agreed to in any applications of the County for official permits, licenses, or approvals, or (z) contained in any official permits, licenses, or approvals with respect to the Landfill obtained as of the Effective Date; provided that a lawful change in federal, State, County, City, or any other tax law shall not be a Change in Law.
 - b. If there is a Change in Law that materially affects operations of the Fink Road Landfill and/or the WTE Facility, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement to effectuate the purpose of this Agreement as stated herein above.
 - c. If there is a Change in Law that materially affects the requirements for the Cities regarding the reuse, recycling, composting or any other form of diversion of solid waste from disposal, including, but not limited to an increase in the percentage of solid waste required to be diverted, as well as changes to applicable diversion credits, the Parties hereto agree to act in good faith to amend or renegotiate this Agreement.
 - d. The Party whose performance of this Agreement is affected pursuant to this Section shall give notice of the conditions affecting performance to the other Party within thirty (30) calendar days that the Party becomes aware that any Change in Law will materially affect performance of this Agreement.
 - e. Upon receiving notice pursuant to this Section, the Parties will have one hundred eighty (180) days to renegotiate this Agreement. If the Parties do not agree that a Change in Law materially affects performance of this Agreement pursuant to this Section, then either Party may request binding mediation, to be paid equally by both Parties, to determine whether the Change in Law is material. Either Party may terminate the Agreement upon three days written notice if it is

determined that a material Change in Law has occurred, and the Parties do not renegotiate the Agreement within one hundred eighty (180) days.

16. Venue. The laws of the State of California shall apply to the construction and enforcement of this Agreement. Any action at law, suit in equity, or judicial proceedings for the enforcement of this Agreement or any provision hereto shall be in the Superior Court of Stanislaus County.

17. Notices. All notices permitted or required by this Agreement or by law to be served on or given to either party hereto by the other party, shall be in writing and shall be effective when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail addressed as follows, or any other address designated by the party:

To: County of Stanislaus:
Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Attn: Susan M. Garcia, C.P.M

To: City of Waterford:
Tim Ogden, City Manager
City Hall
P.O. Box 199
Waterford, CA 95386

18. Indemnification.

- a. County will indemnify, defend and hold harmless the Cities, their officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the County arising out of and/or relating to the provision of the programs and services described in paragraph 5 herein above.
- b. Cities will indemnify, defend and hold harmless the County, its officers, board members, employees and agents, from any claim, expense or cost, damage or liability imposed for injury occurring by reason of the negligent acts or omissions or willful misconduct of the Cities arising out of and/or relating to their performance under this Agreement.

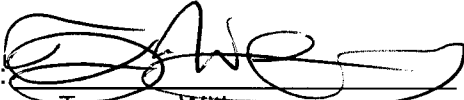
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Signatures on Following Page

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written above.

COUNTY OF STANISLAUS

CITY OF ~~OAKDALE~~ WATERFORD

By: 
Terrance Withrow,
Chairman

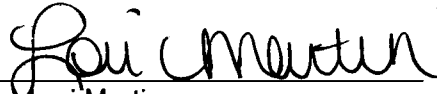
By: 
Michael Van Winkle,
Mayor

Date: 4/16/15

ATTEST:
Christine Ferraro Tallman,
Clerk

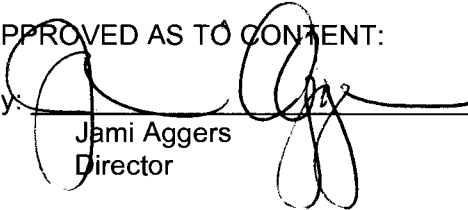
ATTEST:

By: 
Liz King,
Assistant Clerk

By: 
Lori Martin
City Clerk

APPROVED AS TO CONTENT:

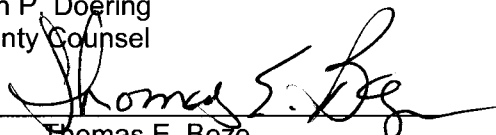
APPROVED AS TO FORM:
CITY ATTORNEY

By: 
Jami Aggers
Director

By: 
Corbett Browning
City Attorney

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 
Thomas E. Boze,
Deputy County Counsel

SCHEDULE 1

SOLID WASTE TONNAGE GUARANTEE

<u>CITY</u>	<u>GUARANTEED PERCENTAGE⁽¹⁾</u>
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NEWMAN	90%
OAKDALE	50%
PATTERSON	90%
RIVERBANK	40%
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WATERFORD	50%

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(1) Percentage of total Acceptable Solid Waste under the City's jurisdictional authority.

(2) The total tonnage delivered by each agency shall be billed as follows: 62% of total tonnage at the WTE rate up to the scheduled tonnage per Schedule 2 and 38% of total tonnage at the Fink Road Landfill rate.

SCHEDULE 2

WTE PROPOSED MONTHLY DELIVERY SCHEDULE

CITY OF TURLOCK		CITY OF CERES	
July	1,895.94	July	1,429.56
August	2,086.75	August	1,573.43
September	1,895.94	September	1,429.56
October	1,848.23	October	1,393.59
November	1,895.94	November	1,429.56
December	1,895.94	December	1,429.56
January	2,153.63	January	1,623.86
February	2,003.56	February	1,510.70
March	2,091.62	March	1,577.10
April	1,464.31	April	1,104.11
May	2,084.37	May	1,571.63
June	1,896.41	June	1,429.92
Total	23,212.64	Total	17,502.58

CITY OF HUGHSON		CITY OF OAKDALE	
July	182.50	July	425.83
August	200.86	August	468.68
September	182.50	September	425.83
October	177.90	October	415.11
November	182.50	November	425.83
December	182.50	December	425.83
January	207.30	January	483.70
February	192.86	February	450.00
March	201.33	March	469.77
April	140.95	April	328.88
May	200.63	May	468.15
June	182.54	June	425.93
Total	2,234.37	Total	5,213.54

CITY OF PATTERSON

July	456.24
August	502.16
September	456.24
October	444.76
November	456.24
December	456.24
January	518.25
February	482.14
March	503.33
April	352.37
May	501.59
June	456.36

Total 5,585.92

CITY OF NEWMAN

July	299.09
August	329.19
September	299.09
October	291.57
November	299.09
December	299.09
January	339.74
February	316.07
March	329.96
April	231.00
May	328.82
June	299.17

Total 3,661.88

CITY OF RIVERBANK

July	273.74
August	301.30
September	273.74
October	266.86
November	273.74
December	273.74
January	310.95
February	289.28
March	302.00
April	211.42
May	300.95
June	273.81

Total 3,351.53

CITY OF WATERFORD

July	101.39
August	111.59
September	101.39
October	98.84
November	101.39
December	101.39
January	115.17
February	107.14
March	111.85
April	78.31
May	111.46
June	101.41

Total 1,241.33

**SOLID WASTE DISPOSAL AGREEMENT BETWEEN STANISLAUS COUNTY AND
BERTOLOTTI TRANSFER INC.**

This DISPOSAL AGREEMENT (hereinafter referred to as "Agreement") is made and entered into by and between the COUNTY OF STANISLAUS, (hereinafter referred to as "County") and BERTOLOTTI TRANSFER STATION, INC., (hereinafter referred to as "Bertolotti Transfer").

RECITALS

Whereas, Bertolotti Transfer receives in-county solid waste not covered under the Franchise Agreements, known as Non-Franchised Solid Waste (NFSW); and

Whereas, the in-county NFSW delivered to Bertolotti Transfer is comprised of solid waste from the public (public hauls), solid waste from private haulers who are not represented under franchise agreements and industrial waste haulers; and

Whereas, Bertolotti Transfer oversees the disposal of NFSW at their transfer station; and

Whereas, the County owns and operates the Fink Road Landfill, a Class III landfill, and the County desires to enter into a contract to receive NFSW from Bertolotti Transfer under the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

AGREEMENT

1. Discounted Tipping Fee

1.1 County will charge Bertolotti Transfer and its contracted Haulers the discounted tipping fees shown in Schedule 1 of this Agreement for all non-hazardous NFSW generated within the County's boundaries ("Eligible Solid Waste") and delivered to the Fink Road Landfill. County may refuse to accept certain types of waste in accordance with, or to maintain compliance with, applicable laws and permits. The final determination as to whether waste is acceptable shall rest solely with County as it is responsible for the operations and permit compliance of the Landfill.

2. Billing

2.1 Bertolotti Transfer shall pay the all invoices within 30 days of the date shown on the invoice.

2.2 County will send Bertolotti Transfer a monthly invoice for all NFSW delivered to the Fink Road Landfill billed at the discount rate stated in Schedule 1.

2.3 Each quarter the County will determine the quantity of non-Eligible Solid Waste delivered to the Landfill and will send Bertolotti Transfer an invoice for the tipping fee amount owed.

2.4 In the event Bertolotti Transfer disputes the tonnage or fee represented in an invoice, Bertolotti Transfer must provide County with written notice disputing the fee or calculation within the 30 day period for payment. Bertolotti Transfer's failure to follow this administrative procedure shall constitute a waiver of any claim arising from the disputed invoice.

3. Term

3.1 The term of this Agreement shall begin June 1, 2015, and end June 30, 2020, unless sooner terminated as provided below or unless some other method or time of termination is listed herein. This Agreement shall be extended for an additional 5 year term upon the same terms and conditions set forth herein and the tipping fees in Schedule 1, unless a written notice of nonrenewal is delivered by either party 60 days prior to the end of initial term.

3.2 Bertolotti Transfer agrees to deliver annually not less than 35,000 tons of Eligible Solid Waste to Fink Road Landfill for disposal. If Bertolotti Transfer is unable to deliver this minimum amount for two consecutive fiscal years, the County at its option may terminate this agreement by delivering 30 days written notice.

3.3 Either party may terminate this Agreement by giving 60 days written notice to the other party.

4. Miscellaneous Provisions

4.1 Liability. No party or its respective officers or employees shall assume any liability for the acts, omissions, or negligence of the other party or its respective officers or employees.

4.2 Workers Compensation Insurance. Bertolotti Transfer shall maintain Workers' Compensation insurance as required by the State of California and shall provide the County with a waiver of subrogation endorsement in favor of the County, its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement.

4.3 Emergencies. In the event of an emergency as determined by County or to address safety or regulatory concerns, County may, upon giving reasonable notice, require disposal of waste at an alternate location to be determined by Bertolotti Transfer. Bertolotti Transfer will not be entitled to a refund or any associated costs, fees or damages arising from a temporary delay. County shall immediately attempt to remedy any incidents or situations which cause County to refuse to accept waste from Bertolotti Transfer.

4.4 Non-Discrimination. During the performance of this Agreement, Bertolotti Transfer and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. Bertolotti Transfer and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections

12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

4.5 Non-Exclusive Agreement. Bertolotti Transfer acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

4.6 Required Licenses, Certificates and Permits. Any licenses, certificates or permits required by the federal, state, county or municipal governments for Bertolotti Transfer to transport the waste described in this Agreement must be procured by Bertolotti Transfer and be valid at the time Bertolotti Transfer enters into this Agreement. Further, during the term of this Agreement, Bertolotti Transfer must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses and business licenses.

4.7 Amendment. This agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

4.8 Notices. All notices permitted or required by this Agreement or by law to be served on or given to either party hereto by the other party, shall be in writing and shall be effective when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail addressed as follows, or any other address designated by the party:

To: County of Stanislaus:
Department of Environmental Resources
3800 Cornucopia Way, Suite C
Modesto, CA 95358
Attn: Stephanie Musso

To: Bertolotti Transfer Inc.:
Steve Holloway
General Manager/Controller
P.O. Box 127
Ceres, CA 95307

4.9 Assignment. Neither party may assign their rights or duties under this Agreement without the written consent of the other party.

4.10 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

4.11 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on
July 23, 2015.

COUNTY OF STANISLAUS

By: 

Jami Aggers, Director
Department of Environmental Resources

BERTOLOTTI TRANSFER INC.

By: 

Steve Holloway
General Manager/Controller
Bertolotti Transfer, Inc.

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 

Thomas Boze
Assistant County Counsel

SCHEDULE 1 - DISPOSAL RATES (per ton):

<u>Fiscal Year</u>	<u>Fink Road Landfill</u>
2015/2016	\$26.00
2016/2017	\$26.00
2017/2018	\$26.00
2018/2019	\$27.00
2019/2020	\$27.00

SCHEDULE 1 – 5 YEAR EXTENSION (per ton)

2020/2021	\$27.00
2021/2022	\$28.00
2022/2023	\$28.00
2023/2024	\$29.00
2024/2025	\$29.00

Stanislaus County Regional Solid Waste Disposal Plan Memoranda of Understanding

Jami Aggers, Director

Department of Environmental Resources

March 12, 2015

Background

- The County's solid waste management system: the Fink Road Landfill, the Waste-to-Energy (WTE) facility, and the Household Hazardous Waste (HHW) Facility
- Necessary to meet State mandates for adequate disposal capacity, solid waste management planning and waste diversion

Background - Cont'd.

- To support each of these infrastructure components, participation in both the WTE facility and the Landfill is necessary
- Tipping fees not only fund these current operations & the State mandates, they also fund the ongoing closure and corrective action activities at Geer Road; the County's closed site

Background - Cont'd.

- Assembly Bill 939 (AB 939) became effective in 1990, and since that time the County + Cities have partnered to meet the mandated waste diversion requirements
- Memorandum of Understanding (MOU) Agreements established in 1994

Regional Agency

- In June 2001, Stanislaus County entered into a JPA to form a Regional Agency with the cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford
- This allowed sharing of the County's "excess" diversion credit so that all met the 50% mandate

Regional Solid Waste Partnership

- Within our County we have sufficient waste volumes to adequately supply both the Landfill and WTE facility
- However, the enticement of lower tipping fees in our neighboring counties had diverted a portion of our local waste in recent years

New Regional SW Model: 10 year Agreement - Cont'd

- Contracting Communities' (Modesto & the County) obligation with Covanta is to provide 243,300 tons annually
- Model provides that as well as sufficient waste to the Fink Road Landfill to cover operations and maintenance

New Regional SW Model: 10 year Agreement - Cont'd

- Of the waste the Regional Agency cities can control, the proposal is to direct 62% to the WTE facility and 38% to the Fink Road LF
- The Plan utilizes the County's share of the rate stabilization funds of \$2.3 million over the 10-year period to reduce WTE tipping fee

New Regional SW Model: 10 year Agreement - Cont'd

- The plan also incentivizes the Cities at the Fink Road Landfill. Specifically, by increasing the volume of waste at the landfill, the tipping fee can be lowered which makes it competitive with out-of-county disposal facilities

New Regional SW Model: 10 year Agreement - Cont'd

- The Department is planning future agreements with the three local transfer station owners to retain non-franchise municipal solid waste produced in the County

New Regional SW Model: 10 year Agreement - Cont'd.

- In addition, the Department also plans to meet with the City of Modesto to negotiate a Landfill disposal MOU so the City can receive the same tipping fee reduction the County and the other MOU Cities will receive at the Fink Road Landfill

New Regional SW Model: 10 year Agreement - Cont'd.

- By March 2015, tentative agreements were received from the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford

New Regional SW Model: 10 year Agreement - Cont'd.

- In mid-April, County staff met with franchise haulers/transfer station owners to formalize new reporting/tracking protocol, changes to billing and the quarterly true-up process

New Regional SW Model: 10 year Agreement - Cont'd.

- During the months of April and May, each of the eight cities have taken City Council action and approved the new Regional Solid Waste Disposal Plan MOU
- Staff intends to finalize Agreements to become effective June 1, 2015

New Regional SW Model: 10 year Agreement - Cont'd.

- A substantial amount of in-county waste received by transfer stations is being exported to out-of-county facilities
- The Department is requesting authorization to negotiate disposal agreements with the local transfer station owners to retain this waste for the County Landfill

Staff Recommendations

- Approve the Regional Solid Waste Disposal Plan Memoranda of Understanding with the Cities of Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford
- Authorize the Board Chairman to execute the Agreements

Staff Recommendations – Cont'd

- Terminate the Disposal Agreement with Newman reducing the Landfill tipping fee during diversion periods to the WTE facility
- Authorize the Director of Env. Resources to negotiate with the local transfer station owners for the acceptance of non-franchise waste to supplement disposal of waste at the Fink Road Landfill

Questions?