

**AMENDMENT NO. 1  
TO WASTE DISPOSAL AGREEMENT  
WITH CITY OF  
  
COSTA MESA**

This Amendment No. 1 is made and entered into on this \_\_\_\_ day of \_\_\_\_ 2004, by and between the COUNTY OF ORANGE, a political subdivision of the State of California (hereinafter "COUNTY") and CITY designated above (hereinafter "CITY"). The CITY is a general law or charter city and political subdivision of the State of California.

**RECITALS**

WHEREAS, COUNTY and CITY entered into a Waste Disposal Agreement (herein after "Agreement") on April 8, 1997, guaranteeing that CITY shall deliver or cause to be delivered to the Orange County Landfill Disposal System, all of the municipal solid waste generated within its jurisdiction for ten years; and

WHEREAS, COUNTY and CITY have agreed to a three-year extension of the Agreement, amending the provisions for the Initial Term, Option to Renew, Calculation of Average Annual Inflation, and Cumulative Tonnage Targets for County and Importation Acceptable Waste.

NOW, THEREFORE, the parties hereto agree as follows:

1. Section 6.1. subparagraphs (A), (B), and (C) are deleted and replaced with the following:

(A) Initial Term. This Agreement shall become effective, shall be in full force and effect and shall be legally binding upon the CITY and the COUNTY from the Contract Date and shall continue in full force and effect until June 30, 2010, unless earlier terminated in accordance with its terms, in which event the Term shall be deemed to have expired as of the date of such termination.

(B) Option to Renew. This Agreement shall be subject to renewal by mutual agreement of the parties, on or before June 30, 2008, for an additional term of ten years (the "Renewal Term") on the same terms and conditions as are applicable during the Initial Term hereof. The City shall give the County written notice of its irrevocable election to renew this Agreement on or before June 30, 2008. If the parties do not renew this Agreement by June 30, 2008, the Agreement shall expire on June 30, 2010.

(C) Contract Rate During Renewal Term. In connection with the parties' right to renew this Agreement for an additional ten-year term pursuant to Section 6.1(B), the parties shall, on or before June 30, 2008, negotiate an applicable change to the

Contract Rate for such renewal term. In determining any revisions to the Contract Rate to be applicable during any renewal period, in addition to the circumstances described in Section 4.2(A), the parties may take into consideration the following parameters, including but not limited to:

- (i) actual cost of operations;
- (ii) population growth;
- (iii) increase or decrease in available tonnage;
- (iv) economic and disposal market conditions in the Southern California region;
- (v) changes in transportation and technology;
- (vi) closure and expansion of nearby landfills;
- (vii) capacity of the Disposal System; and
- (viii) available reserves.

2. Section 4.2 (F) is deleted and replaced with the following:

(F) Calculation of Average Annual Inflation. For purposes of Section 4.2(A)(ii), the inflation shall be calculated as the change in the Producer Price Index, Finished Goods (“PPI”), reported by the Bureau of Labor Statistics of the United States Department of Labor between July of the year of calculation and July 1, 1997. Average annual inflation shall be deemed to exceed 4% if the ratio between the PPI Index for July for the year of calculation (calculated in accordance with the formula below) and July 1997 exceeds the ratio corresponding to such year of calculation on the table below. The ratio shall be calculated in accordance with the following formula:

(July PPI Index of Calculation Year / PPI Index for July 1997)

<u>Year of Calculation</u>	<u>Ratio</u>
July 1, 1997	1.0000
July 1, 1998	1.0400
July 1, 1999	1.0816
July 1, 2000	1.1248
July 1, 2001	1.1698
July 1, 2002	1.2166
July 1, 2003	1.2653
July 1, 2004	1.3159
July 1, 2005	1.3685
July 1, 2006	1.4233
July 1, 2007	1.4802
July 1, 2008	1.5394
July 1, 2009	1.6010
July 1, 2010	1.6650

In the event the PPI is no longer published during the term of this Agreement, such other index identified by the Bureau of Labor Statistics or otherwise generally accepted as a replacement for PPI shall be used for purposes of this Service Agreement.

3. APPENDIX 2 is deleted and replaced with the following:

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## APPENDIX 2

### Cumulative In-County Tonnage Target to be Used for Purposes of Section 4.2 (B)

<b>Fiscal Year</b>	<b>Tonnage</b>	<b>Cumulative Tonnage</b>
1997 - 1998	2,277	2,277
1998 - 1999	2,134	4,411
1999 - 2000	2,007	6,418
2000 - 2001	2,025	8,443
2001 - 2002	2,042	10,485
2002 - 2003	2,060	12,545
2003 - 2004	2,079	14,624
2004 - 2005	2,096	16,720
2005 - 2006	2,111	18,831
2006 - 2007	2,128	20,959
2007 - 2008 *	4,033	24,992
2008 - 2009 *	4,437	29,429
2009 - 2010 *	4,556	33,985

Note: Tons are expressed in thousands.

\* Fiscal years reflect the minimum tonnage necessary to support the Contract Rate.

### Annual Importation Tonnage Target to be Used for Purposes of Section 4.2 (C)

<b>Year</b>	<b>Fiscal Year</b>	<b>Import Tonnage</b>
1	1997 - 1998	1,428
2	1998 - 1999	1,428
3	1999 - 2000	1,428
4	2000 - 2001	1,428
5	2001 - 2002	1,428
6	2002 - 2003	1,428
7	2003 - 2004	1,428
8	2004 - 2005	1,428
9	2005 - 2006	1,428
10	2006 - 2007	1,428
11	2007 - 2008 *	1,166
12	2008 - 2009 *	1,166
13	2009 - 2010 *	1,166

Note: Tons are expressed in thousands.

\* Fiscal years reflect the minimum tonnage necessary to support the Contract Rate.

4. All other terms and conditions of the Agreement will remain unchanged and CITY agrees to comply with all terms and conditions of the Agreement.

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IN WITNESS WHEREOF, the parties have executed this First Amendment to Agreement the day and year first above written.

“COUNTY”  
COUNTY OF ORANGE

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Janice V. Goss, Director  
Integrated Waste Management Department

APPROVED AS TO FORM:  
OFFICE OF THE COUNTY COUNSEL  
ORANGE COUNTY, CALIFORNIA

Date: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor  
Gary Monahan

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Approved as to Form  
Tom Wood  
Acting City Attorney

Date: \_\_\_\_\_

By: \_\_\_\_\_  
William J. Morris  
Director of Public Services