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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
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November 26, 2024

Steve Worley
City of Vancouver Public Works
Marine Park Engineering
P.O. Box 1995
Vancouver, WA 98668-1995
steve.worley@cityofvancouver.us

Re: Preliminary Determination of Liability for Release of Hazardous Substances at the following Contaminated Site:

- **Site Name:** Leichner Brothers Landfill
- **Site Address:** 9411 NE 94th Ave, Vancouver, Clark County, WA 98662
- **Cleanup Site ID:** 3019
- **Facility/Site ID:** 1017
- **County Assessor's Parcel Number(s):** 105740-000, 199845-000, and 199863-000

Dear Steve Worley:

Based on credible evidence, the Department of Ecology (Ecology) is proposing to find the City of Vancouver (City) liable under the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW[1], for the release of hazardous substances at the Leichner Brothers Landfill facility (Site). Any person whom Ecology finds, based on credible evidence, to be liable is known under MTCA as a "potentially liable person" or "PLP."

This letter identifies the basis for Ecology's proposed finding and your opportunity to respond to that finding. This letter also describes the scope of your potential liability and next steps in the cleanup process at the Site.

[1] https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305

Proposed Finding of Liability

Ecology is proposing to find the City liable under RCW 70A.305.040[2] for the release of hazardous substances at the Site. This proposed finding is based on the following evidence:

1. The City is an "owner or operator" as defined in RCW 70A.305.020(22)[3]. The City purchased the above-mentioned parcels as documented in the Statutory Warranty Deed bearing the date the 6th of October, 2020, executed by Clark County, Washington and recorded in the office of the County Auditor of Clark County, State of Washington, on December 17, 2020, under Auditor's File Number 5836206 D. The purchased parcels make up a portion of the Site.

2. The City is a person who transported a hazardous waste for disposal or treatment at a facility as defined in RCW 70A.305.040(1)(d). The City is party to the enclosed Settlement Agreement bearing the date the 21st of June, 1990 and to the Disposal Agreement bearing the date the 27th of December, 1988, both amended on July 9, 1996 and November 27, 2012. These agreements indicate that the City has historically contributed to solid waste disposal at the Site.

3. The City is the "Purchaser" in the enclosed Real Estate Purchase and Sale Agreement bearing the date the 7th of November, 2019, executed by Clark County as the "Seller." As stated in Section 10(f) of this agreement:

   > "Purchaser acknowledges that the Property is subject to a Consent Decree issued by the Department of Ecology. Purchaser agrees to not take any action which would cause a violation of that decree. Purchaser acknowledges it will become party to the Consent Decree as owner of the property."

4. Ecology has reviewed reports documenting the presence of hazardous substances at the Site exceeding MTCA cleanup levels. These reports are available on Ecology's Leichner Brothers Landfill cleanup site page[4]. Contaminants of concern (COCs) have historically been detected in groundwater at the Site at concentrations exceeding cleanup levels including volatile organic compounds (VOCs), metals, and inorganic water quality parameters (i.e., ammonia, nitrate, total dissolved solids, and specific conductance). The most recent groundwater data available from 2023 indicates that metals (iron and manganese) are still present in groundwater at concentrations above cleanup levels underlying the portion of the Site owned by the City. Methane has also been detected in landfill gas monitoring probes on the portion of the Site

[2] https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040
[3] https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.020
[4] https://apps.ecology.wa.gov/cleanupsearch/site/3019

owned by the City; however, concentrations have been below the lower explosive limit (LEL) of 5 percent by volume for at least the last 10 years.

5. The MTCA cleanup standards are promulgated to protect human health and the environment. Contaminant concentrations in groundwater that exceed MTCA cleanup standards pose a risk to human health and the environment. In addition, methane detections that exceed the LEL may also pose a risk to human health and the environment.

Opportunity to Respond to Proposed Finding of Liability

In response to Ecology's proposed finding of liability, you may either:

1. Accept your status as a PLP without admitting liability and expedite the process through a voluntary waiver of your right to comment. This may be accomplished by signing and returning the enclosed form or by sending a letter containing similar information to Ecology; or

2. Challenge your status as a PLP by submitting written comments to Ecology within thirty (30) calendar days of the date you receive this letter; or

3. Choose not to comment on your status as a PLP.

Please submit your waiver or written comments to the following address:

Danielle Gibson
Southwest Region Office, Toxics Cleanup Program
P.O. Box 47775
Olympia, WA 98504

After reviewing any comments submitted, or after 30 days if no response has been received, Ecology will make a final determination regarding your status as a PLP and provide you with written notice of that determination.

Identification of Other Potentially Liable Persons

Ecology has identified the following additional persons as potentially liable for the release of hazardous substances at the Site:

1. Leichner Brothers Land Reclamation Corporation; and

2. Clark County.

If you are aware of any other persons who may be liable for the release of hazardous substances at the Site, Ecology encourages you to provide us with their identities and the reason you believe they are liable. Ecology also suggests you contact these other persons to discuss how you can jointly work together to most efficiently clean up the Site.

Responsibility and Scope of Potential Liability

Ecology may either conduct or require PLPs to conduct remedial actions to investigate and clean up the release of hazardous substances at a site. PLPs are encouraged to initiate discussions and negotiations with Ecology and the Office of the Attorney General that may lead to an agreement on the remedial action to be conducted.

Each liable person is strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release of hazardous substances at a site. If Ecology incurs remedial action costs in connection with the investigation or cleanup of real property and those costs are not reimbursed, then Ecology has the authority under RCW 70A.305.060[5] to file a lien against that real property to recover those costs.

Next Steps in Cleanup Process

In response to the release of hazardous substances at the Site, Ecology intends to conduct the following actions under MTCA:

1. Ecology invites the City to enter negotiations for a Consent Decree Amendment that will govern the conduct of the aforementioned remedial activities.

For a description of the process for cleaning up a contaminated site under MTCA, please refer to the enclosed focus sheet.

Ecology's policy is to work cooperatively with PLPs to accomplish the prompt and effective cleanup of contaminated sites. Please note that your cooperation in planning or conducting remedial actions at the Site is not an admission of guilt or liability.

[5] https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.060

Contact Information

If you have any questions regarding this letter or if you would like additional information regarding the cleanup of contaminated sites, please contact me at 360-409-6164 or danielle.gibson@ecy.wa.gov. Thank you for your cooperation.

Sincerely,

Danielle Gibson
Cleanup Site Manager
Toxics Cleanup Program, Southwest Region Office

Enclosures (4): A – Settlement and Disposal Agreements
B – Real Estate Purchase and Sale Agreement
C – PLP Waiver Form
D – Focus: Model Toxics Control Act Cleanup Regulation: Process for Cleanup of Hazardous Waste Sites (Focus No. 94-129)

By certified mail: 9489 0090 0027 6066 7164 93

cc: Cary Driskell, Assistant City Attorney, cary.driskell@cityofvancouver.us
Amanda Migchelbrink, Clark County, amanda.migchelbrink@clark.wa.gov
Victoria Banks, Office of the Attorney General, victoria.banks@atg.wa.gov
Connie Groven, PE, Ecology, connie.groven@ecy.wa.gov
Ecology Site File

Enclosure A

Settlement and Disposal Agreements

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BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, vs. TWIN CITY SANITARY SERVICE, G-65 Respondent.	No. TG-2325
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, vs. BUCHMANN SANITARY SERVICE, INC., G-79 Respondent.	No. TG-2326
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, vs. VANCOUVER SANITARY SERVICE, G-65 Respondent.	No. TG-2327

SETTLEMENT AGREEMENT

RECITALS

PARTIES:

Clark County Disposal, Inc., d/b/a/ Twin City Sanitary Service and Vancouver Sanitary Service, Buchmann Sanitary

Service, Inc. (hereinafter "respondents" or "affiliated haulers"), the Washington Utilities and Transportation Commission (Commission), Clark County, and the City of Vancouver join as parties to this agreement;

CONSIDERATIONS:

WHEREAS the Leichner Brothers Land Reclamation (LBLR) landfill, Clark County and the City of Vancouver, to ensure collection of the full dollar amount necessary for the orderly closure and remediation of the LBLR landfill and to protect their citizens from the possible financial burdens associated with protracted litigation of cleanup and remediation of toxic waste sites, entered into a disposal agreement whereby the County establishes and maintains rates and charges for the LBLR landfill for operations, closure, ground water remediation, insurance and post closure operations and maintenance;

WHEREAS the Washington Utilities and Transportation Commission is charged by law with protection of regulated solid waste collection company customers and the maintenance of fair, just and reasonable rates for solid waste collection services;

WHEREAS, the respondents and LBLR are affiliated companies whose past intercompany financial practices resulted in conflicting interpretations of the just share of closure expenses to be carried by the ratepayer;

WHEREAS differing interpretations of various statutes produced conflicting interpretations of the appropriateness of remediation costs being carried by the ratepayer;

WHEREAS all parties recognize the need to provide for closure of the LBLR landfill immediately following December 31, 1991, the need for long term remediation of groundwater contaminated by years of landfilling industrial and residential waste and the need to accomplish these goals in an environmentally safe and fiscally sound manner;

THE PARTIES HEREBY CONCLUDE, that ratepayers and users of the LBLR landfill should be required to pay their fair share of the costs of closure and remediation;

THAT efficient closure of the landfill requires intergovernmental cooperation for the timely establishment of landfill rates and charges and recognition of those charges in customer rates;

THAT the affiliated haulers should assume debt for closure costs contributed by the ratepayers in an earlier period and should pay a portion of the future costs of groundwater remediation;

AGREEMENT

NOW THEREFORE, the parties agree to the following for purposes of settling these consolidated cases:

1. Definitions.

For the purposes of this agreement, the following definitions shall apply:

"Affiliated companies" means any of the affiliated haulers or Leichner Brothers Land Reclamation Corporation, or Diamond Fab Welding Service, or any of their successors, affiliates or

assigns.

"Affiliated haulers" means Clark County Disposal, Inc., d/b/a Vancouver Sanitary Service or Twin City Sanitary Service and Buchmann Sanitary Service, Inc., or any of their successors or assigns.

"Closure and remedial action budget" means the budget set forth in Exhibit 8 filed in this case.

"Closure loans" means those loans identified in Attachment A hereto.

"Company" means Leichner Brothers Land Reclamation Corporation (LBLR).

"Disposal agreement" means that certain agreement entered into between the County, City and LBLR on December 27, 1988 and as set forth in Exhibit 11 filed in this case.

"O&M costs" means the total expenses for operation and maintenance of the remedial action facilities installed at the LBLR facility as required by the Department of Ecology and approved by the ratemaking or rate approving authority.

"Ratemaking or rate approving authority" means any governmental entity which, pursuant to state law, has authority to lawfully set or review rates for the disposal of waste generated in or deposited in Clark County or for the collection of such waste.

"Revenue margin" means the dollar profit allowed under the operating ratio methodology used by the Commission in setting rates for garbage haulers. The operating ratio approach sets the

rate level equivalent to prudently incurred operating expenses (excluding income taxes and interest) plus a dollar profit. Since the revenue margin is calculated on a pre-tax, pre-interest basis, the hauler is expected to pay income taxes and interest obligations out of the revenue margin.

"Revised Closure and Remedial Action Budget" is the Closure and Remedial Action Budget as revised by paragraph 2 below. A table setting out the Revised Closure and Remedial Action Budget is Attachment B hereto.

2. Adjustments to Closure and Remedial Action Budget.

The Closure and Remedial Action Budget is revised as follows:

a. Attorneys fees account No. 6320.4012 is reduced by <43,645> and account No. 6310.1000 is reduced by <111,551>;

b. Public relations fees account No. 6320.4041 is reduced by <27,431> and account No. 6320.4042 is reduced by <23,568>;

c. Interest expense account No. 6321.8020 is reduced by <129,000>;

d. Contingency account No. 6321.7030 is reduced by <131,000>;

e. Department of Ecology interim remedial action monies, in the sum of $381,336, which have been or will be received have been used to further reduce the Closure and Remedial Action Budget; and

f. Anticipated interest earnings have been credited against total closure costs in the amount of <$215,606> for

Perpetual Maintenance reserves and <$75,754> for Insurance reserves.

3. Tip Fee.

The Tip fee at LBLR shall be $21.00 per compact equivalent yard based on the following:

a. The Revised Closure and Remedial Action Budget (Attachment B), less accrued revenues.

b. From this amount, there is subtracted $3.2 million, which reflects the amount contributed by the affiliated haulers pursuant to paragraph 8 below.

c. From this remainder, there is subtracted $547,445, which reflects the amount contributed by the City pursuant to paragraph 9 below.

d. To this amount is added the LBLR operating budget as set forth in pages 13-15 of Exhibit 4 filed in this case, as recapped on page 8 of Exhibit 5 filed in this case.

e. The resulting difference was divided by 425,000 yards as further described in paragraph 18.b. below.

f. To this amount was added the county administrative fee of $2.03 per compact equivalent yard as set forth in paragraph 11 below.

This resulting tip fee of $21.00 shall be placed into the pro forma budgets of each of the affiliated haulers.

4. Pro Forma Budget.

The proforma adjustments to the operating expenses of the affiliated haulers as set forth in Exhibits 65 and 66 filed in

this case are as follows:

1. Licensing gross weight fee increase: $3,990.00 for Clark County Disposal, Inc., $354.00 for Buchmann Disposal, Inc.

2. FICA rate change: $2,254.00 for Clark County Disposal, Inc., $420.00 for Buchmann Disposal, Inc.

3. The pro forma budgets have been revised to incorporate the rate year estimate of 425,000 compact equivalent yards, rather than the test year level of 442,398 compact equivalent yards.

The revised pro forma statements for each of the affiliated haulers are attached as Attachment C hereto.

5. Revised Rates for Regulated Ratepayers.

The revised rates effective August 1, 1990, for ratepayers in the unincorporated areas of the County shall be those set out in Attachment D hereto. The company agrees to prepare tariff pages incorporating these rates, and to be prepared to file such tariff pages on or before July 20, 1990.

6. $1.3 Million Potential Contribution.

For purposes of this Settlement Agreement the parties agree that the following additional contribution shall be required of the affiliated companies.

a. The affiliated companies, the County and the City agree that the rate calculated using the revised Tip fee set forth in paragraph 3 may generate 1.3 million less than anticipated revenue needs. Except as provided for below, the affiliated companies will contribute 1.3 million on or before August 1,

1995, to cover any shortfall. This amount shall be reduced (1) by an amount as set forth under future cost savings under Paragraph 14; (2) by amounts collected by LBLR in excess of costs for non-closure activity in landfill operations; and (3) by collection of funds in accordance with paragraphs 7.b and 12.

b. Upon completion of construction and installation of the closure and remedial action items identified in the Revised Closure and Remedial Action Budget attached hereto as Attachment B, and after calculation of the offsets set forth in paragraph 6.a above, the company will pay the lesser of 1.3 million or the actual cash shortage remaining. In calculating such shortage, interest earned on funds deposited with the County shall be disregarded.

7. Remedial Action Contribution.

a. In lieu of a present contribution to costs of remedial action as proposed by the Commission staff in its case, the affiliated haulers shall make a contribution towards future remedial action costs as follows: In every calendar year beginning in 1995 and continuing until all O&M costs at the landfill have been paid, any ratemaking or rate approving authority shall calculate the actual revenue margin for the affiliated haulers. Fifteen per cent of that revenue margin, up to a cap of 27.5% of that year's annual O & M costs, shall be paid in periodic payments by the affiliated haulers to Clark County for the purpose of reducing future tip fees.

b. Nothing in this agreement shall be construed to limit

the rights of any party to this agreement or any agency of State or local government to pursue remedies against any person to recover costs of remedial action or to effect remedial action or recover damages resulting from any activity at LBLR pursuant to any applicable law. Any funds received by an affiliated company in such an action shall be applied 50% to reduce future tip fees in the County and the City, and 50% to reduce the obligation of the affiliated companies pursuant to paragraph 6 above. Any funds to be otherwise allocated to the affiliated companies as provided for in this paragraph that are in excess of the actual obligations remaining of the affiliated companies under paragraph 6 shall be applied to reduce future tip fees in the County and the City.

8. $3.2 Million Contribution.

The Commission, in consolidated Cause Nos. TG-2152, TG-2153 and TG-2154, determined that regulated ratepayers had paid in rates $3.2 million which was to be applied to closure of the LBLR landfill. The affiliated haulers agree to assume $3.2 million of the closure obligation by assuming the closure loans to make up this contribution from regulated ratepayers. These loans shall be transferred no later than the dates shown on Attachment A. This payment shall result in a $3.2 million reduction to the amount of the revised budget to be included in rates.

9. City Contribution.

The City of Vancouver will commit to pay into the closure

fund, not later than August 1, 1995, the amount of $940,874. Such amount is the difference between the composite rate determined for the City and that for the regulated area times the number of City compact equivalent yards anticipated to be received at the landfill during its remaining life. The City will continue to contribute to the closure funds an amount calculated on the basis of $25.89 per yard until July 31, 1990. The amount equal to $4.89 ($25.89-21.00) multiplied by the number of City yards collected from January 1, 1990 through July 31, 1990 shall be credited as a reduction of the City commitment set forth in this paragraph. For purposes of calculating the tip fee of $21.00 per compact equivalent yard in this settlement, the amount is $393,429.

10. Write-off of Intercompany Payable Approved.

From January 1, 1990 to present, the LBLR tipping fee has been set at $25.89 per compact equivalent yard, while the interim rates approved for the affiliated haulers by the Commission have only included $21.00 per compact equivalent yard in hauler rates. The affiliated haulers have paid LBLR $21.00 per compact equivalent yard and have booked a payable of $4.89 per compact equivalent yard. The parties agree that this payable should be written off as a part of this settlement. The parties seek Commission approval for the write off of $823,083 owed by the affiliated haulers to LBLR. This amount consists of a January through May, 1990, actual payable accrued of $565,331 and a June through July, 1990, estimated payable accrued of $257,752.

11. County Fee.

That portion of the County Fee proposed to be passed through to ratepayers shall be reduced by $0.44 per compact equivalent yard, an amount which is attributable to those county costs incurred prior to January 1, 1990. These costs were incurred by the County as start-up costs in its search for a new landfill site to replace the LBLR facility. The county has entered into a long-term disposal contract in order to meet this obligation. The parties agree that it is appropriate to recover these costs in a county administrative fee applied to that contract.

12. Insurance Litigation.

Attorneys for LBLR shall vigorously pursue in the best interests of the ratepayers recovery of proceeds of insurance policies in the cases consolidated under the name of Truck Insurance Exchange and Mid-Century Insurance Company vs. Elmer Leichner, et al., Clark County Superior Court Cause No. 872023757.

a. Whatever amounts are recovered shall be transferred to the County for distribution. The County shall apply the funds as follows:

First, it shall reimburse the County's Financial Assurance Reserve Fund for all reasonable attorneys fees and costs associated with the litigation, with a concomitant reduction in the Revised Closure Budget (Attachment B).

Second, it shall apply the funds to offset any additional expenditures associated with new requirements imposed on LBLR (or

the City or County) by the Department of Ecology in relation to the closure of or remedial action at the landfill. Finally, should any recovered funds remain, at least 85% of such amounts shall be used to reduce future tip fees in the County and the City. Should the affiliated companies have a remaining obligation pursuant to paragraph 6, above, then up to 15% of such recoveries may be used to offset such obligation.

b. The parties recognize that the proceeds of any insurance recovery have been pledged to the company bank as security for the closure loans. The application of any amounts recovered shall be calculated in accordance with the three step process described above. The amounts so calculated shall be paid by the affiliated companies to the County's Financial Assurance Reserve Fund, even though the dollars recovered may be paid to the bank, and, if so, the affiliated haulers will have to provide the equivalent amounts from their own resources by August 1, 1995.

13. Deferral of Affiliated Hauler Payments.

In the event that the Affiliated Haulers must refinance their closure loans for an additional two years, the amounts described in paragraphs 6, 7.a, and 12.b shall be calculated, but their collection shall be deferred until August 1, 1997, and spread over the following ten years with interest on the deferred amount. That interest shall be set at the prime rate for commercial borrowing charged by U. S. Bancorp, or its successor, in effect on January 1, 1995. The interest rate shall be

adjusted on January 1 of each year to the then current prime rate to be applied to the remaining principal balance for the succeeding twelve month period. The affiliated companies may prepay this amount at their option.

14. Possible Future Cost Savings.

LBLR shall use its best efforts to reduce the expenditures necessary to close the landfill and fund the remedial action associated with the landfill in a manner consistent with Department of Ecology requirements. Should the amounts necessary to close the landfill and fund such remedial action be less than the Revised Closure and Remedial Action Budget upon completion of construction and installation of the closure and remedial action items identified in the Revised Closure and Remedial Action Budget attached hereto as Attachment B, at least 85% of the amounts saved shall be applied to fund O & M costs, which will reduce the county administrative fee included in future tip fees in the County and the City. Should the affiliated companies have a remaining obligation pursuant paragraph 6, then up to 15% of such cost savings may be used to offset such obligations.

15. Future Grant Proceeds.

Grant proceeds received, other than those described in paragraph 2.e, will go dollar for dollar to reduce future rates, in accordance with Department of Ecology regulations.

16. Due on Sale Provision.

In the event that any or all of the affiliated haulers shall sell substantially all or all of their assets other than in the

ordinary course of business or make any attempt to transfer any garbage and refuse authority issued to the affiliated haulers by the Commission, or should any of the businesses which are being operated through the use of these assets be sold hereunder, or should there be a transfer of majority interest in the stock of the affiliated haulers, then those sums referenced in Sections 6 and 12.b of the Agreement shall become immediately due and payable. This provision shall not apply to a transfer of stock and/or business entities among members of the Leichner family.

The affiliated haulers shall provide not less than forty-five (45) days advance notice of the closing of any transaction referenced above to the County, City, and Commission.

All notices required to be provided to the Commission for the transfer of permit authority shall also be provided to the County and the City within the time limits required by Commission law and regulations.

The affiliated haulers agree to include in any Agreement of Sale a requirement that the obligation set forth in Section 7.a shall become an obligation of the purchaser.

17. Conflicts.

If there is a conflict between this Agreement and the Disposal Agreement, this Agreement shall control.

18. Other.

a. The parties agree to act in good faith in implementing this agreement, including the prompt makings of any payments required hereunder.

b. The parties have agreed to use an estimate of 425,000 compact equivalent yards per year, or 850,000 compact equivalent yards to be collected over the life of the LBLR landfill (January 1, 1990 through December 31, 1991). The parties agree to determine, in January 1991, the actual yardage collected during 1990. The balance in the closure funds shall be calculated at that time based on the actual collections. If these calculations indicate a material change, the tipping fee for 1991 shall be recalculated using 1990 actual yardage as the estimate for 1991, and based on the amount remaining to be collected in the Revised Closure and Remedial Action Budget (Attachment A) less the amounts described in paragraph 2.

c. The County, City, and affiliated companies shall use their best efforts to prevent customers of the affiliated companies from ceasing to use the LBLR facility in the future. Should any such customer cease being a customer and the County, City, or affiliated companies determine that such person is a PLP under Initiative 97, the County, City, and ~~LBLR~~ the affiliated companies shall use their best efforts, individually and collectively, to insure that said person pays a fair share of the remedial action costs at the landfill. Such efforts may include the affiliated companies initiating appropriate legal action.

d. The parties concur that the rates in effect for regulated ratepayers from January 1, 1990, to the effective date of the rates approved by the Commission as a result of this settlement, if it is accepted, have generated appropriate revenue

for the affiliated companies in the interim period, and shall not be subject to refund to ratepayers.

e. The City of Vancouver shall extend the existing solid waste collection agreement between the City and Clark County Disposal, Inc. d/b/a/ Vancouver Sanitary Service through July 31, 1995.

f. The affiliated haulers agree to drop their appeal in Court of Appeals No. 13513-2-II (Division II) by filing appropriate papers with that court no later than August 3, 1990. The affiliated haulers and the Commission agree to inform the court of the pendency of this proposed settlement, and to ask that no further briefing be required by the court pending a Commission decision on the settlement.

g. Clark County agrees to limit the use of any funds remaining in County funds in accordance with paragraph 11.11 of the Disposal Agreement, Exhibit 11 filed in this proceeding, only for the purpose of reducing future tip fees, and not for general solid waste purposes.

ENTERED INTO THIS 21st DAY OF JUNE, 1990.

For the Washington
Utilities and Transportation
Commission:

KENNETH O. EIKENBERRY
Attorney General

JEFFREY D. GOLTZ
Assistant Attorney General

MARJORIE R. SCHAER
Assistant Attorney General

For Clark County and the City of Vancouver:

FREDERICK C. PATERSON
Attorney at Law

For Clark County:

RICHARD LOWRY
Deputy Civil Prosecutor

For the City of Vancouver:

KENT SHORTHILL
Director of Finance and Administration

For Clark County Disposal, Inc. and Buchmann Disposal, Inc.:

DAVID W. WILEY
Attorney at Law

STEPHEN W. HORENSTEIN
Attorney at Law

MARK LEICHNER
President, Clark County Disposal, Inc. and Buchmann Sanitary Service, Inc.

CRAIG LEICHNER
Vice President, Clark County Disposal, Inc. and Buchmann Sanitary Service, Inc.

December 1, 1988

DISPOSAL AGREEMENT

THIS AGREEMENT made and entered into this 27 day of Dec, 1988 between the City of Vancouver, a municipal corporation of the State of Washington (the "City"), Clark County, a political subdivision of the State of Washington (the "County"), and Leichner Brothers Land Reclamation Corp., a Washington corporation (the "Company").

RECITALS

A. The present and future health, safety, and welfare of the residents and businesses in the City and County require that an environmentally sound solid waste disposal facility be available to them. Such facility must comply with the requirements of the applicable governmental agencies with jurisdiction over the disposal of putrescible and nonputrescible solid and semi-solid wastes (the "Solid Waste").

B. From 1939 to the present, the governments, residents, businesses and other entities in the County have disposed of their Solid Waste in the sanitary landfill now owned and operated by the Company and located in the vicinity of Northeast 94th Avenue and 86th Street, which is in the unincorporated portion of the County (the "Facility"). During this time the Facility has been licensed to the extent required by law.

C. In order to limit liability for environmental compliance and closure of the Facility, the City and the County have entered into a Solid Waste Reduction and Disposal Agreement dated as of March 29, 1988 which requires that all Solid Waste collected by authorized or approved collectors in the County or under contract to the City be disposed of at the Facility until no later than December 31, 1991.

D. In addition, such agreement requires the establishment, generation, supervision, monitoring and control of a financial assurance reserve fund with separate accounts for environmental compliance, closure, post-closure and self-insurance needs all to be funded from disposal fees generated at the Facility.

E. The City, the County and the Company desire to enter into this Agreement to provide for a disposal site for Solid Waste in Clark County through, but not past, December 31, 1991 and provide for the financial assurance reserve fund necessary for the environmental compliance, closure, post-closure and self insurance needs of the Facility and the parties.

AGREEMENTS

In consideration of the mutual covenants and promises contained herein, the parties hereto hereby agree as follows:

1. Disposal. In accordance with the terms and provisions of this Agreement, the Company shall accept for treatment or disposal at the Facility all acceptable municipal Solid Waste received by the Company at the Facility from residential, governmental and commercial customers located in the incorporated and unincorporated County, utilizing a permitted method of disposal pursuant to the laws and regulations of local, state and federal government.

2. Creation of Fund. Further, in order to comply with all laws of the State of Washington and regulations promulgated thereunder, the County in conjunction with the City shall establish, supervise, monitor and control from disposal fees collected in accordance with this Agreement and other revenue sources designated hereunder, a financial assurance reserve fund to pay for the environmental compliance, closure, post-closure and self-insurance needs of the Facility (the "Fund") and the parties. The Fund shall be established and held by the County, in conjunction with the City, in accordance with this Agreement and invested and reinvested. The Fund shall be made up of four separate interest bearing accounts; the Environmental Compliance Account, the Closure Account, the Post-Closure Account, and the Environmental Liability Account.

3. Maintenance of Facility. During the term of this Agreement, the Company shall provide for the disposal of all acceptable municipal Solid Waste generated in the incorporated and unincorporated County until such time as this Agreement is modified or terminated pursuant to the terms hereof or until such time as the Facility is closed pursuant to the State Solid Waste Management Act, Ch. 70.95 RCW, the State Water Pollution Control Act, Ch. 90.48 RCW, the State Toxic Control Act, Ch. 105B RCW, and all other applicable federal, state or local regulatory action. The Company, in operating the Facility, shall comply with any and all applicable federal, state and local laws, ordinances, rules or regulations.

4. Scope of Operation. The Company shall be responsible for the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of all Solid Waste received at the Facility from residential, governmental and commercial customers in the incorporated and unincorporated County, including the recovery and recycling of materials from Solid Waste which are received at the Facility. In performing such functions, the Company shall provide sufficient personnel, equipment and utilities for

operation of the Facility in accordance with this Agreement. Notwithstanding the foregoing:

4.1 The Company shall not be required to receive, accept or dispose of any Solid Waste which would violate local, state or federal environmental laws or regulations. The Company may reject, or make reasonable additional charges for or fix new or additional rates for the disposal of Solid Waste which would result in unusual operating or disposal cost, expense or liability, or require special environmental handling or disposal. The Company reserves the right to inspect any and all Solid Waste and other material delivered to the Facility for proposed disposal and may reject any such material which the Company believes, or the Southwest Washington Health District (the "SWHD") or Ecology advises the Company, would upon disposal present a significant risk to human health or the environment or create or expose the City, the County, facility users, or the Company to significant potential liability.

4.2 The Company shall be entitled to salvage any materials remaining in Solid Waste received for disposal at the Facility. All revenues generated in excess of the Company's expenses relating to such salvage shall be contributed to the Environmental Compliance Account of the Fund.

4.3 The Company may refuse the right of access to the Facility to any customer who has violated the rules and regulations prescribed by public law or is delinquent by more than thirty (30) days on account of any money due the Company for disposal of Solid Waste. The Company may, with the approval of the City and County, also assess to users of the Facility a reasonable additional fee or charge as a penalty for failure to comply with the rules and regulations prescribed by the SWHD for Solid Waste handling. All such penalty fees collected shall be deposited in the Environmental Compliance Account of the Fund.

5. Insurance.

5.1 The Company shall comply with the Worker Compensation Act of the State of Washington during the term of this Agreement. In the event any work is performed by an agent or subcontractor, the Company shall obtain certification from subcontractors that they too have obtained this coverage or that they do not fall within the scope of the act.

5.2 Unless all parties agree that insurance is not reasonably available to the Company, the Company shall obtain Comprehensive Public Liability and Property Liability Insurance (exclusive of environmental impairment coverage) which conforms to the industry standard for landfill operations. If reasonably available, the coverage shall continue for a minimum of three years past the termination of operations at the Facility.

Coverage shall include, but not be limited to, operations of the Company and Employer Liability Stop Gap Insurance. Such insurance shall have limits of not less than:

	COVERAGE	LIMITS OF LIABILITY
A.	Bodily Injury and/or Property Damage	$1,000,000 each person or occurrence
B.	Policy Aggregate	$2,000,000

The City and the County shall each be named as additional insureds on such policies as respects this Agreement to the extent allowed by the Company's insurers.

5.3 Recognizing that environmental liability insurance is not practically available for sanitary landfills, the City and the County shall establish and maintain an Environmental Liability Account in the Fund, which account shall be available to satisfy environmental impairment liabilities to third parties arising out of the operation of the Facility prior to and subsequent to the date of this Agreement. To the extent that any such environmental impairment liabilities are not covered by insurance nor reimbursable through claims made against potentially liable parties, the proceeds of the Environmental Liability Account shall be used to satisfy such obligations.

6. Indemnity.

6.1 With respect to claims by third parties for personal injury, property damage or other loss not caused by pollution, contamination or release of chemicals or landfill gas arising from the operation of the Facility, the Company shall defend, indemnify and hold the City and the County and the employees and appointed and elected officials of each free and harmless from liability from claims, demands, losses, or expenses, including attorneys' fees and costs, occurring directly or indirectly, by reason of or in connection with any actions or omissions of the Company, its agents, employees or subcontractors. Such indemnity shall not include claims arising as a result of any negligent or intentional actions or omissions of the City or the County, or the agents, employees, or appointed and elected officials of either.

6.2 With respect to claims by third parties for personal injury, property damage or other loss not caused by pollution, contamination or release of chemicals or landfill gas arising from the operation of the Facility, the City and the County shall each indemnify and hold the Company and its employees, agents, subcontractors and officers free and harmless from liability from claims, demands, losses, or expenses, including attorneys' fees and costs, occurring directly or

indirectly by reason of or in connection with the sole negligence or intentional actions or omission of the City and/or the County, or the agents, employees or appointed and elected officials of either.

6.3 With respect to claims by third parties for personal injury, property damage or other loss caused by pollution, contamination or release of chemicals or landfill gas arising from the operation of the Facility, all claims, demands, losses and expenses shall be satisfied pursuant to paragraph 6.7 and no party shall indemnify or hold harmless any other party under this Agreement.

6.4 If the Company deems it necessary in order to comply with this Agreement and/or local, state or federal regulatory requirements applicable to the Facility, upon written request, the City and the County shall, in their discretion, consider indemnifying and holding harmless certain consultants and/or contractors of the Company to the extent such indemnification is reasonably necessary to obtain services of such consultants and/or contractors; provided, that this indemnification shall not be transferable or assignable without the prior written approval of the City and the County.

6.5 In the event of any suit against any party indemnified under this Section 6, the indemnifying party shall appear and defend such suit provided that the indemnifying party is notified in a timely manner of the suit and the indemnified party shall have the right to approve counsel chosen by the indemnifying party to litigate such suit which approval shall not be unreasonably withheld.

6.6 The Company shall make and pursue claims against its insurance coverage for all costs and expenses related to third party claims. Nothing in this Agreement shall constitute a waiver or relinquishment of any claims which the Company may have against its insurers, nor shall any provision of this Agreement waive or relinquish any subrogation or contribution rights that the Company or its insurers may have against another insurer or other potentially liable party. Any monies received from the insurers shall be used to pay any claims covered by such insurance and any excess amounts shall be deposited first, in the Environmental Compliance Account, then the Closure or Post-Closure Accounts of the Fund, provided, however, that the Company shall first be reimbursed from the insurance proceeds for all reasonable costs and expenses, including attorneys' fees, expended by it to seek recovery of sums from its insurers.

6.7 If the City, the County or the Company (or their officers, agents, employees, or consultants, if applicable under 6.4) are held to be jointly or severally liable for

injuries, damage or loss caused by pollution, contamination or release of chemicals or landfill gas arising from the operation of the Facility, any settlement or judgment shall be paid first from insurance, if any, and second, from the Environmental Liability Account to the extent monies are available.

7. Term; Option. The term of this Agreement shall commence on the date hereof and shall terminate one (1) year following issuance by the SWHD, or its successor agency of a certificate of completion of post-closure pursuant to WAC 173-304-407(7)(c) or other appropriate regulation finding that the Facility is stabilized with little or no settlement, gas production or leachate generation. Following the issuance to the Company of the certificate of post-closure of the Facility, it shall be the Company's obligation to notify the County of the commencement of its one year option to purchase all or a portion of that property of the Facility legally described in Exhibit C, attached hereto and made a part hereof, or such additional adjacent properties as the Company may hereafter determine necessary to acquire. The option to purchase shall be in the form attached hereto as Exhibit A and incorporated herein by this reference, which Option Agreement shall be executed by the parties concurrently with the execution of this Agreement.

8. Equipment.

8.1 Upon issuance of a certificate of closure for the Facility by the SWHD, the Company shall sell, liquidate and convey, at fair market value, all right, title and interest held by the Company to all landfill-related equipment owned by the Company which is not necessary for post-closure care of Facility. All funds received from such sale, liquidation conveyance shall be delivered to and deposited in the Post Closure Account.

8.2 Upon issuance of a certificate of post-closure for the Facility by the SWHD, the Company shall sell, liquidate and convey, at fair market value, all right, title and interest held by the Company to all post-closure related equipment, and deliver, deposit and contribute the proceeds therefrom to the Environmental Liability Account of the Fund. A list of assets will be filed with the County.

9. Revenue Requirements.

9.1 Effective the date of execution of this Agreement, and pending rates to be established pursuant to Section 10, the County shall recognize permanent disposal rates approved by the Washington Utilities and Transportation Commission ("WUTC") in cause numbers T6-2152, 53 and 54 which permanent rates are to be effective December 1, 1988.

9.2 Pending rates to be established pursuant to Section 10, the disposal rates for Solid Waste generated in the City shall be those adopted under Ordinance No. M2765 as may be amended following the adoption of permanent rates for Clark County by the WUTC.

9.3 Disposal rates established pursuant to Section 10 shall be fixed at a level which will cover the need for revenues to provide for the costs of (i) operation of the Facility (including all approved operating expenses and where appropriate, depreciation of plant and equipment in existence as of the date hereof and hereafter); (ii) approved replacement or acquisition of equipment, materials, real or personal property, capital and other expenses required to meet federal, state, county or local laws and/or regulations and orders relating to environmental compliance at the Facility; (iii) environmental compliance unrelated to closure or post-closure care of the Facility; (iv) closure according to the Facility's approved closure plan; (v) post-closure care according to the Facility's approved post-closure plan; (vi) funding the Environmental Liability Account of the Fund; and (vii) and administration fees for the City and the County. For the rates under paragraphs 9.1 and 9.2 and rate changes under Section 10 the Company shall provide a proposed breakdown of the portion of the rates attributable to each category of cost specified on Exhibit B attached hereto and incorporated herein by this reference. Approved amounts attributable to (ii) and (iii) shall be allocated to the Environmental Compliance Account; amounts attributable to (iv) shall be allocated to Closure Account; amounts attributable to (v) shall be allocated to the Post-Closure Account; and amounts attributable to (vi) shall be allocated to the Environmental Liability Account.

9.4 All disposal rates for waste received at the Facility shall be subject to review and approval by City and County legislative bodies. Prior to any change in disposal rates, the County and the City, acting through their duly authorized agents, shall have access to and the right to review or audit the Company's financial and operating records and approved compliance, closure and post-closure plans on file for the Facility and shall review any proposed rate change in the light of such information and/or audit as it may deem prudent or necessary in order to make a determination as to whether the proposed rate change is justified under the criteria set forth in paragraph 9.3.

9.5 Notwithstanding anything in this Section 9, if the budget for operations, capital and various fund expenditures for the Facility through 1991 substantially changes, nothing in this Agreement shall require the City or the County to approve rates which are unreasonably higher than rates for similar services in the region.

9.6 In recognition of the fact that the costs of post-closure care of landfills, as required by state statutes and regulations, cannot be estimated with precision while a landfill is still generating revenue, if after termination of operations at the Facility the balances in the Environmental Compliance Account, Closure Account, Post-Closure Account, and Environmental Liability Account of the Fund become insufficient to fund the estimated obligations designated for each such account the City and the County shall investigate all alternatives available to fund such shortfalls.

9.7 Notwithstanding the provisions of Section 9.6, the parties acknowledge that as of the date of this Agreement the WUTC has approved rates which are insufficient to generate revenues necessary to meet the estimated cost of Closure and Post-Closure for the Facility. The parties further acknowledge that as a result of this anticipated shortfall in revenues, the Company is taking actions to generate the needed funds through sources of income from other than City and regulated customers of Clark County Disposal, Inc. and Buchmann Sanitary Service, Inc. It is also acknowledged that the Company is pursuing claims against policies of insurance for environmental compliance costs at the Facility, which if recovered will be applied against the anticipated shortfall. Should the WUTC assert jurisdiction to restrict the application of these additional revenues by ordering a reduction in the rates charged by regulated collection companies in the County, then the City and County shall agree to take such steps as are reasonably necessary to support the Company's application of these revenues to any shortfall. If the WUTC prevails in imposing a rate reduction to offset the additional revenues generated by the Company, the City and County shall negotiate with the Company to determine a method for funding the shortfall.

10. Rate Application and Reporting Procedures.

10.1 Effective as of the Date of Execution of this Agreement, the Company shall prepare a budget for operations, capital and fund expenditures for the facility to be incurred in connection with the closure process. By September 30 of each year, the Company shall submit to the City and the County for approval by ordinance, proposed revisions to such budget and any proposed changes in the disposal rate in accordance with Section 9 provided, at the same time, the Company shall submit operating statements and statistics as to yardage and/or tonnage received at the landfill site, by individual area. Such statements shall show actual amounts through the

period ending June 30, and shall show pro forma projections through calendar year end. The City and the County shall review the budget and any revisions thereto with the Company to serve as a basis for planning the following year's expenditures and shall establish the disposal rates and distributions pursuant to Section 9 within sixty (60) days of the date the Company submits such proposals.

10.2 The Company shall directly expend monies for operating expenses only from the revenue derived from the operating component of disposal fees collected by the Company. The Company shall make no distribution of corporate assets to corporate officers or shareholders without the prior written approval of the City and the County, which approval shall be considered given if such distribution is expressly set forth in the approved budget for such period. All disposal fee revenues generated by the receipt of waste, from whatever source, shall be subject to the terms and conditions of this Agreement. Disposal fee revenue received by the Company relating to the Environmental Compliance Account, the Closure Account, the Post-Closure Account and the Environmental Liability Account of the Fund shall not be directly expended by the Company and such amounts shall be deposited with the County in the Fund and, expenditures for costs relating to environmental compliance, closure, post-closure or environmental liability, shall be submitted to the City and the County for reimbursement as set forth in Section 11 of this Agreement.

10.3 The Company shall submit quarterly financial reports to the City's and the County's designated representatives and the SWHD, including balance sheets and income statements within forty-five (45) days after the end of each calendar quarter. The Company shall submit an annual statement to the City, the County and the SWHD within ninety (90) days after the end of the calendar year. In addition, the Company shall file with the City and the County copies of all reports required by and filed with the WUTC, the Washington State Department of Ecology ("DOE"), or the SWHD by the Company or any affiliate of the Company at the same time such reports are filed with the WUTC, DOE or the SWHD.

10.4 Further, within three (3) months following the end of the Company's fiscal year, the Company shall submit to the City and the County the following:

(i) Actual operating statements for the previous calendar year for all affiliated companies of the Company. Such statements shall show separate amounts for each tariff area and the non-regulated area under the Company's agreement with the City;

(ii) Actual yardage and/or tonnage received at the Facility for the previous calendar year, for each tariff area and separating drop box and stationary compactor yardage from other yardage; and

(iii) A report summarizing all compensation received by each corporate officer of the Company from the Company showing the type and amount of such compensation.

10.5 The Company shall establish a separate set of accounts within the Company's accounting system in which all environmental compliance, closure, post-closure and environmental liability costs shall be reported. The costs reported to each account shall include but not limited to the allocation of labor and equipment. Any such costs which are internal transfers from Clark County Disposal, Inc., or Buchmann Sanitary Service, Inc., must be clearly set forth in closure accounting records. A separate accounts payable account shall be established in which shall be recorded that portion of all disposal fees received by the Company representing the environmental compliance, closure, post-closure and environmental liability components of such fees. The records of the Company and all affiliated companies of the Company shall be open for inspection and audit by authorized representatives of the City or the County at any reasonable time upon prior written request.

10.6 To the extent that net revenues received in any year from disposal fees are insufficient to fully fund the operations obligations of the Facility and the latest estimates of the appropriate balances in the Environmental Compliance Account, Closure Account, Post-Closure Account or Environmental Liability Account of the Fund for any year, the City and the County may approve funding such shortfalls from operating revenues as they become available, from distributions from then existing account balances in other accounts in the Fund and from the approval of disposal rate increases as necessary. Upon prior approval by the City and the County, which approval shall not be unreasonably withheld:

(i) the Company shall be reimbursed from disposal fees and/or applicable future reserves in the Fund for any costs and expenses related to the operation and closure of the Facility consistent with this Agreement to the extent such costs exceed the amount available in the appropriate account of the Fund at the time the cost or expense was incurred; and

(ii) to the extent that a shortfall in revenues from disposal fees at the Facility arises from delays not caused by the Company in approval of rate changes by any governmental agency having jurisdiction and requires the Company to borrow or otherwise obtain funds necessary to

operate the Facility or fulfill the obligations under this Agreement, or other applicable regulations, requirements or orders, the Company shall be reimbursed from future disposal revenues for all expenses incurred by the Company resulting therefrom and for any reasonable financing or carrying costs which the City and County shall determine are necessary to obtain such funds.

11. Financial Assurance Fund.

11.1 Effective upon execution of this Agreement through and until closure of the Facility, any party collecting disposal fees hereunder shall deposit in the Fund with the County the portions of such fees designated for the Fund by the fifteenth day of the month following the month of collection. Upon receipt, the County shall allocate such deposits to the appropriate accounts within the Fund.

11.2 Within sixty (60) days following the execution of this Agreement, the Company shall deliver to the County the amounts currently held in reserve by the Company for the unincorporated areas of the County. Such amounts shall be allocated to the appropriate accounts in the Fund.

11.3 Within sixty (60) days following the execution of this Agreement, the City shall deliver to the County, the amounts currently held in reserve by the City accumulated from June 1, 1988 to the date of execution of this Agreement. Such amounts shall be allocated to the various accounts in the Fund as mutually agreed between the City and the County.

11.4 Within sixty (60) days following the execution of this Agreement, the Company shall deliver to the County and City an inventory of all real and personal assets of the Company.

11.5 The Company shall conduct the operation and closure of the Facility in accordance with all applicable local, state and federal laws and regulations and orders and by September 30 of each year shall submit annually to the City and the County for approval an annual budget for operations and expenditures relating to the environmental compliance, closure and post-closure of the Facility for the following calendar year. Upon approval of such budget, the Company shall perform its services hereunder in accordance with such budget. The Company shall be entitled to incur expenditures for environmental compliance, closure, and post-closure which exceed the approved budget line item therefor by not more than twenty-five thousand dollars. The Company shall not incur any such expenditure which is greater than such amount without the prior written approval of the City and the County, which approval shall not be unreasonably

withheld. In deciding whether to approve any such expenditure, the Company shall provide the City and the County with such appropriate justification as they shall reasonably request.

11.6 With respect to all expenditures associated with the Facility relating to accounts in the Fund, the Company shall submit a written request to the City and County prior to each withdrawal of amounts from the Fund setting forth the account from which such amounts shall be withdrawn. If such expenditure is in accordance with the approved budget for such period or has been approved pursuant to paragraph 11.5, the City and the County shall reimburse the Company from the appropriate account in the Fund within thirty (30) days of receipt of such request. If such expenditure is not in accordance with the approved budget or has not been approved pursuant to paragraph 11.5, the City and the County shall review the request in conjunction with any environmental compliance orders, decrees or requirements and the approved closure plan and post-closure plan for the Facility, and within thirty (30) days of receipt of the request, issue a written authorization for withdrawal in a form approved by the DOE, to the Company or a written disapproval stating the reasons the disbursement is not authorized in the opinion of the City and County. If the City and County do not approve the disbursement, the Company shall be entitled to present whatever justification the Company deems appropriate or perform whatever acts the Company deems necessary to obtain the approval of the City and County and resubmit the expenditure. If the expenditure is not approved by the City and County within ten (10) days following such resubmittal, the Company shall be authorized to petition the Superior Court of Clark County, Washington to resolve the dispute in accordance with the provisions of Section 13.

11.7 The City and the County may, at their discretion, condition withdrawals from the Fund in whole or in part upon:

(i) The reasonableness of the expenses in view of the cost of comparative services, or materials in the market area;

(ii) The established cost estimate being met for the identified portion of the compliance, closure or post-closure task as provided in the approved compliance, closure or post-closure plan;

(iii) The Company's certification that the identified portion of the compliance, closure or post-closure activities have been completed pursuant to the approved plan, and that the sum authorized has been used solely for the identified compliance, closure or post-closure tasks and associated costs; or

(iv) The Company establishing the need for additional funds beyond the cost estimate identified in the approved compliance, closure or post-closure plan, to the satisfaction of the City and the County.

Nothing herein shall preclude the City and/or County from investigating and auditing the proposed expenses prior to approval of any withdrawal from the Fund.

11.8 The City and County may authorize the release of amounts in the Fund to a third party other than the Company, to effect the completion of any compliance, closure or post-closure activities deemed necessary by the SWHD and/or DOE if:

(i) The Company has failed or refuses to perform such scheduled compliance, closure or post-closure activities in a timely manner as identified in the approved compliance, closure or post-closure plans;

(ii) Compliance, closure or post-closure activities have been improperly performed by the Company and are in noncompliance with the approved compliance, closure or post-closure plan; or

(iii) The Company has violated the terms of the Facility permit, the minimum functional standards for solid waste handling (Chapter 173-304 WAC), or any applicable environmental regulatory consent order or decree.

The Company shall allow such third party access to that portion of the Facility which requires such action.

11.9 If the City and the County determine that a distribution to a third party under the provisions of paragraph 11.8 is appropriate, the City and the County shall:

(i) Provide the Company written notice of such determination; and

(ii) Provide the Company thirty (30) days after receipt of written notification thereof to review and comment in writing to the City and the County on their determination; provided that such period may be shortened if the situation poses an imminent threat to public health or safety if it is not remedied.

If the Company agrees to initiate the necessary corrective action within such thirty (30) day period, the City and the County shall authorize the release of the appropriate amounts from the Fund to

the Company upon successful completion of the respective compliance, closure or post-closure activity.

11.10 All accounts in the Fund shall not be available to any creditor other than the SWHD in the event of bankruptcy or reorganization of the Company or any Facility owner or operator. Any income accruing to any account in the Fund through management of such account shall be deposited in the account and subjected to the same restrictions as the principal in such account. Amounts allocated to any account in the Fund may be allocated to another account in the Fund upon the mutual agreement of the City and the County.

11.11 Excess monies remaining in the Environmental Compliance Account and the Closure Account after the SWHD has certified the completion of closure of the Facility in accordance with the approved closure plan and WAC 173-304-407(4)(e)(i) and other applicable regulations may be released upon agreement of the City and the County after consultation with the Company:

(i) To the Post-Closure Account or the Environmental Liability Account of the Fund; or

(ii) To provide for reduction of the disposal rates the public is charged within the area served by the Facility; or

(iii) To provide for the support of the County's comprehensive solid waste management efforts.

11.12 Excess monies remaining in the Post-Closure Account in the Fund after the SWHD has certified the completion of post-closure of the Facility in accordance with the approved post-closure plan and WAC 173-304-407(7)(c) and other applicable regulations may be released upon agreement by the City and the County after consultation with the Company:

(i) To the Environmental Liability Account of the Fund; or

(ii) To provide for reduction of the disposal rates the public is charged within the area served by the Facility; or

(iii) To provide for support of the County's comprehensive solid waste management efforts.

11.13 The Environmental Liability Fund shall not be terminated earlier than ten (10) years following the issuance of the Certificate of Post-Closure, at which time the City and the County may agree that such funds are no longer necessary and may release excess amounts as set forth below.

(i) To provide for reduction of the disposal rates the public is charged within the area served by the Facility; or

(ii) To provide for support of the County's comprehensive solid waste management efforts.

Notwithstanding the above, the City and County shall not release excess funds if the Company can demonstrate the existence of future contingent liabilities arising from the operation and ownership of the Facility.

11.14 Notwithstanding the provisions of Sections 11.11 and 11.12, should the WUTC or other state or local agency assert jurisdiction over excess monies remaining in either the Closure or Post-Closure accounts, whether directly or indirectly through regulation of the regulated garbage and refuse companies in Clark County, the County with the cooperation of the City as necessary shall take prompt action to defend and support the validity of this Agreement. If the County does not prevail or should it concur in the action or order of such state or local agency affecting the distribution of rate excess monies, the County and the City agree to take whatever action is necessary to effect the appropriate distribution of excess monies.

12. Amendments. This Agreement may be amended by a written agreement signed by all parties hereto at any time upon the initiation of any party by submitting the proposed amendment to the other parties.

13. Dispute Resolution. If the parties are unable to agree upon any proposed revisions to the budget, proposed changes to disposal rates hereunder, reimbursement for any expenditure by the Company, or any other matter under this Agreement, within sixty (60) days after submission of a written request relating thereto to the other parties or after such other time period set forth in this Agreement relating to such dispute, any party may commence an action in the Superior Court of Clark County, Washington to obtain review of the matter and resolution of such item.

14. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns provided that the rights, obligations and duties of the parties as specified in this Agreement may not be transferred or assigned without the prior written approval of all of the parties.

15. Notices. All notices required under this Agreement shall be personally delivered or mailed by certified or registered mail, postage prepaid as follows:

If to the City, address to:

City of Vancouver
Attn: Ronald E. Bartels
Assistant City Manager
P.O. Box 1995
Vancouver, Washington 98668-1995

If to the County, address to:

Clark County
Attn: George Stillman
1408 Franklin
Vancouver, Washington 98660

If to the Company, address to:

Leichner Brothers Land Reclamation Corp.
Attn: Mark and Craig Leichner
P.O. Box 4658
Vancouver, Washington 98662-0658

or to such other address as any party shall specify by written notice so given, and shall be deemed to have been given as of the date so delivered or three days following the date postmarked.

16. Severability. If any provision of this Agreement is declared invalid or unenforceable, then such portion shall be deemed to be severable from this Agreement and shall not affect the remainder hereof.

17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of

Washington including any regulation, ordinance, or other requirements of any governmental agency having jurisdiction over the Facility.

DATED this 27th day of December, 1988.

LEICHNER BROTHERS LAND RECLAMATION CORPORATION

By: _____
President

By: _____
Secretary

CLARK COUNTY

_____
DAVID STURDEVANT

_____
JOHN MCKIBBIN

_____
VERN VEYSEY

CITY OF VANCOUVER

By: _____
BRUCE E. HAGENSEN, Mayor

Approved as to Form:

_____
RICHARD LOWRY
Deputy County Prosecuting Attorney

Attest:

H. KENT SHORTHILL
City Clerk

By: _____
LARRY BELLER
Deputy City Clerk

Approved as to Form:

_____
JERRY F. KING
City Attorney

4. Transfer of Property. Within ten (10) days of receipt of exercise of this option and the Option Price, the Company shall transfer the Option Property to the County by a quitclaim deed.

5. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

EXECUTED as of the day and year first above written.

LEICHNER BROTHERS LAND RECLAMATION CORPORATION

By: _____

Title: _____

CLARK COUNTY

By: _____

Title: _____

--Nov-88

Exhibit "B" (page 2 of 4)

Ichner Brothers Landfill Reclamation
Landfill Closure Costs for the Nine Months Ended September 30, 1988

	ACCOUNT NUMBER	BUDGET	EXPENDITURES 1987	1988	1989	1990	1991	TOTAL	(OVER) UNDER BUDGET DIFFERENCE
NORTH GAS SYSTEM									
COLLECTION SYSTEM	6320.3010	69,950	13,813.10	68,577.39				82,390.49	(12,44
HEADER PIPING	6320.3020	24,000	36,279.26	0.00				36,279.26	(12,279
WELLS	6320.3030	45,000	5,241.88	0.00				5,241.88	39,758
FLARE & EDUCTOR	6320.3040	46,000	613.31	55,119.23				55,732.54	(9,733
MONITORING PROBES	6320.3050	13,500	0.00	2,483.07				2,483.07	11,017
PROFESSIONAL FEES									
LEGAL		254,674							254,674
HORENSTEIN	6320.4011		116,677.39	47,823.05				164,500.44	(164,500
SYROAL,DANELO	6320.4012		147,778.70	114,753.60				262,532.30	(262,532
ENGINEERING		1,144,040							1,144,040
SWEET EDWARDS	6320.4021		0.00	103,941.80				103,941.80	(103,941
SMCON, INC.	6320.4022		98,399.86	0.00				98,399.86	(98,399
COOPER & ASSOCIATES	6320.4023		23,232.23	0.00				23,232.23	(23,232
OLSON ENGINEERING	6320.4024		0.00	4,456.85				4,456.85	(4,457
ACCOUNTING	6320.4030	42,000	21,846.00	15,723.92				37,569.92	4,430
PUBLIC RELATIONS		100,525							100,525
GOGERTY & STASK	6320.4041		61,739.14	25,847.16				87,636.30	(87,636
JOHN WHITE	6320.4042		34,028.33	16,035.80				50,064.13	(50,064
LANDSCAPING									
94TH ALIGNMENT	6320.6010	144,100	3,948.85	12,328.01				16,276.86	127,823
SOUTH ALIGNMENT	6320.6020	114,500	6,000.00	0.00				6,000.00	108,500
NORTH ALIGNMENT	6320.6030	171,750						0.00	171,750
EAST ALIGNMENT	6320.6040	92,550						0.00	92,550
MOBILIZATION									
EQUIPMENT	6320.7010	100,000	0.00	0.00				0.00	100,000
SITE PREPARATION									
REFUSE REMOVAL	6320.8010	38,000	29,536.46	75,407.39				104,943.85	(66,943
FILL MATERIAL	6320.8020	90,000	0.00	229,610.37				229,610.37	(139,610
FINAL CAP									
FOUNDATION LAYER	6320.9010	1,103,400	0.00	0.00				0.00	1,103,400
GEOMEMBRANE	6320.9030	2,317,000	0.00	0.00				0.00	2,317,000
TOP GEOTEXTILE	6320.9050	34,170	0.00	0.00				0.00	34,170
DRAIN LAYER	6320.9060	1,103,400	0.00	0.00				0.00	1,103,400
TOP SOIL	6320.9070	1,532,500	10,950.00	0.00				10,950.00	1,521,550
HYDROSEEDING	6320.9080	167,200	0.00	0.00				0.00	167,200
SOUTH GAS SYSTEM									
COLLECTION SYSTEM	6321.1010	132,600	0.00	5,324.54				5,324.54	127,275
HEADER PIPING	6321.1020	38,000	0.00	0.00				0.00	38,000
WELLS	6321.1030	33,000	0.00	0.00				0.00	33,000
FLARE & EDUCTOR	6321.1040	46,000	0.00	1,245.14				1,245.14	44,755
MONITORING PROBES	6321.1050	9,000	0.00	2,190.13				2,190.13	6,810
FENCING									
6' CHAIN LINK	6321.3010	66,000	0.00	0.00				0.00	66,000
ACCESS GATES	6321.3020	800	0.00	0.00				0.00	800

Leichner Landfill Groundwater Pump and Treat Cost Estimate

(ALL COSTS IN THOUSANDS)

Exhibit "B" (page 4 of 4)

SYSTEM CAPACITY, GPM	150	
CONSTRUCTION COSTS, $1000	$792	
PROJECT LIFE, YEARS	20	
CONSTRUCTION PERIOD, MONTHS	12	
START-UP DATE, YEAR	1989	
AVAILABILITY, %	100	
O & M COST, PER YEAR	$194	
CONSTRUCTION COSTS	1989	
TREATMENT TESTS	$50	
ENGINEERING DESIGN	$130	
PERMITS	$100	
CONSTRUCTION SUPERVISION	$72	
INSTALL WATER WELLS	26	
CONCRETE PAD, SECURITY FENCE	$12	
PIPING	$110	
STORAGE TANK	$16	
TRANSFER PUMP AND PIPING	$15	
DISCHARGE PUMP AND PIPING	$40	
AIR STRIPPER	$50	
CARBON VAPOR FILTER	$38	
ELECTRICAL	$35	
CONTROLS	$48	
SUPPORT SERVICES	15	
STARTUP/CHECK-OUT	$20	
	$792	
ANNUAL OPERATING COSTS		
SYSTEM MANAGEMENT		$24
PARTS AND SUPPLIES		$25
ELECTRICITY		$17
CARBON REPLACEMENT AND DISPOSAL		$24
DISCHARGE DISPOSAL		$24
AIR MONITORING		$12
WATER MONITORING		$48
ANNUAL REPORTS		$5
SUPPORT SERVICES		$3
SYSTEM INSPECTION AND CLEANING		$12
TOTAL		$194

TOTAL UNDISCOUNTED OPERATING COST FOR 20 YEAR LIFE = $194 x 20 = $3,880

NPV* $2,631

* Net Present Value of Cash Flow

THENCE North 45° 15' 28" West 52.90 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 68° 47' 29" West 46.58 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 89° 04' 51" West 99.87 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 00° 00' 24" East 106.08 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 86° 10' 54" West 107.89 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 89° 03' 07" West 150.73 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 88° 22' 33" West 198.80 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 89° 30' 03" West 50.91 feet to a 1/2" iron rod set by Olson Engineering;

THENCE South 87° 58' 16" West 100.06 feet to a 1/2" iron rod set by Olson Engineering;

THENCE South 75° 26' 45" West 30.55 feet to a 1/2" iron rod set by Olson Engineering;

THENCE South 87° 53' 45" West 20.26 feet to a 1/2" iron rod set by Olson Engineering;

THENCE South 72° 27' 01" West 52.91 feet to a 1/2" iron rod set by Olson Engineering;

THENCE South 88° 51' 39" West 54.74 feet to a 1/2" iron rod set by Olson Engineering;

THENCE South 88° 51' 39" West 54.45 feet to a 1/2" iron rod set by Olson Engineering;

THENCE South 00° 49' 51" West 167.05 feet to a 1/2" iron rod set by Olson Engineering;

THENCE North 88° 47' 08" West 100.64 feet to a point on the East line of that tract described in Exhibit_____ of the Boundary Agreement recorded in Clark County Auditor's File_____;

THENCE South 02° 21' 26" West along said East line 152.00 feet to the Southeast corner of that tract described in said Exhibit;

THENCE South 02° 09'58" West along said East line 80.01 feet to the South line of said McPherson tract;

THENCE North 88° 29' 04" West along the South line of said McPherson tract 90.01 feet to the West line of said McAllister D.L.C;

THENCE South 02° 09' 58" West along said West line 236.55 feet to the POINT OF BEGINNING.

EXCEPT any portion thereof lying in N.E. 94th Avenue.

JERRY C. OLSON
STATE OF WASHINGTON
REGISTERED
PROFESSIONAL LAND SURVEYOR

12/5/88

THENCE along said 112.00 foot radius curve to the right 71.20 feet;

THENCE South 38° 23' 58" West 145.23 feet to a 112.00 foot radius curve to the left;

THENCE along said 112.00 foot radius curve to the left 67.84 feet;

THENCE South 03° 41' 36" West 334.98 feet to a 81.16 foot radius curve to the right;

THENCE along said 81.16 foot radius curve to the right 96.69 feet;

THENCE South 71° 56' 50" West 100.00 feet to the End Of Said Easement.

11/30/88

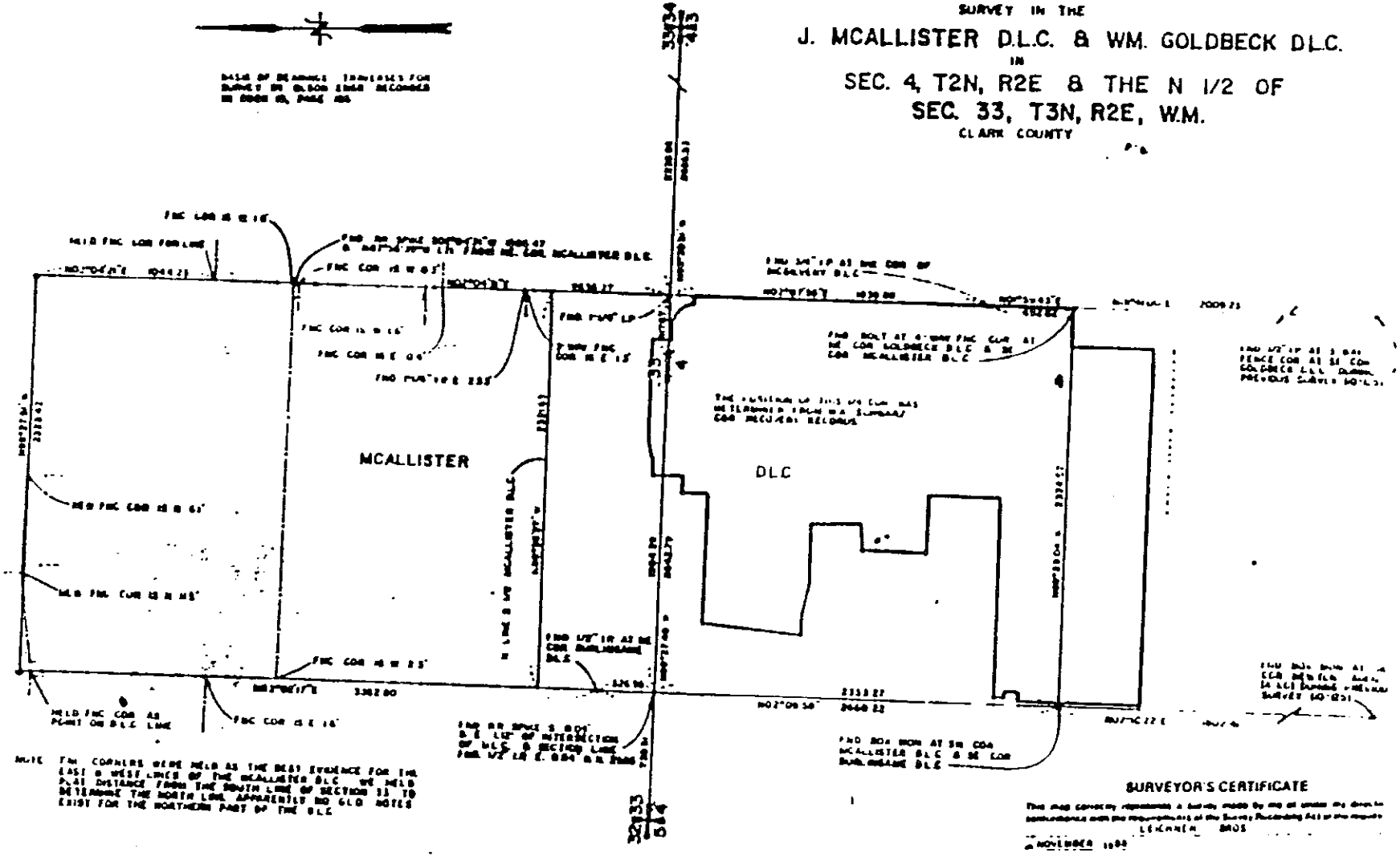
SURVEY IN THE

J. MCALLISTER D.L.C. & WM. GOLDBECK D.L.C.

IN

SEC. 4, T2N, R2E & THE N 1/2 OF SEC. 33, T3N, R2E, W.M.

CLARK COUNTY



NOTE: FW CORNERS WERE HELD AS THE BEST EVIDENCE FOR THE EAST & WEST LINES OF THE MCALLISTER D.L.C. WE HELD PLAT DISTANCE FROM THE SOUTH LINE OF SECTION 33 TO DETERMINE THE NORTH LINE, APPARENTLY NO GLO NOTES EXIST FOR THE NORTHERN PART OF THE D.L.C.

SURVEYOR'S CERTIFICATE

This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Survey Recording Act at the request of LEICHNER BROS in NOVEMBER 1988

AUDITOR'S CERTIFICATE

Filed for record this ____ day of ____ 19__ at ____ M. in Book ____ of Surveys, page ____ at the request of ____

Auditor

PRELIMINARY

12/7/88

OLSON ENGINEERING INC
1111 BROADWAY
VANCOUVER WA 98663

AGREEMENT

This Agreement made and entered into this 27 day of Dec, 1988, by and between the CITY OF VANCOUVER, a municipal corporation in the State of Washington, (hereinafter referred to as "City"), CLARK COUNTY, a political subdivision of the State of Washington, (hereinafter referred to as "County") and CLARK COUNTY DISPOSAL, INC., a Washington corporation and BUCHMANN SANITARY SERVICE, INC., a Washington corporation (hereinafter collectively referred to as "Companies") and MARK LEICHNER, CRAIG LEICHNER, MARGARET LEICHNER, CHERYL ROSALES, and TARI LEICHNER (hereinafter referred to as "Shareholders").

Recitals

1. Disposal Agreement. The City, the County and Leichner Brothers Land Reclamation Corporation (LBLR), have entered into a Disposal Agreement that contains certain agreements between the parties regarding matters that include, but are not limited to the following:

   A. Disposal of waste at the LBLR landfill;

   B. The creation, supervision and monitoring of funds to pay for environmental compliance, closure, post-closure and self insurance needs of the LBLR landfill; and

   C. Maintenance and operation of the landfill facility in accordance with state and federal law.

2. Continuity of Ownership. The parties acknowledge and agree that the successful implementation of the Disposal Agreement above referenced requires cooperation of the Companies and continuity of ownership during the period for which the above referenced Disposal Agreement remains effective.

3. Sale of Companies. Companies and the Shareholders hereby agree that they shall not sell, lease or otherwise transfer the assets of the corporation. This prohibition shall not extend to assignments for collateral purposes only. This prohibition shall also not extend to sales of assets that are in the ordinary course of business (ie. sale of individual items of equipment), nor shall the Shareholders sell shares of stock in the corporation (other than transfers between the Shareholders) without the prior written consent of the City and County until December 31, 1991, or the date the landfill ceases to take refuse.

4. Consent Not Unreasonably Withheld. The City and the County hereby agree that consent to sell, lease or transfer the assets or shares of stock in the Companies will not be unreasonably withheld.

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, vs. TWIN CITY SANITARY SERVICE, G-65 Respondent.	No. TG-2325
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, vs. BUCHMANN SANITARY SERVICE, INC., G-79 Respondent.	No. TG-2326
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, vs. VANCOUVER SANITARY SERVICE, G-65 Respondent.	No. TG-2327

SETTLEMENT AGREEMENT

RECITALS

PARTIES:

Clark County Disposal, Inc., d/b/a/ Twin City Sanitary Service and Vancouver Sanitary Service, Buchmann Sanitary

Service, Inc. (hereinafter "respondents" or "affiliated haulers"), the Washington Utilities and Transportation Commission (Commission), Clark County, and the City of Vancouver join as parties to this agreement;

CONSIDERATIONS:

WHEREAS the Leichner Brothers Land Reclamation (LBLR) landfill, Clark County and the City of Vancouver, to ensure collection of the full dollar amount necessary for the orderly closure and remediation of the LBLR landfill and to protect their citizens from the possible financial burdens associated with protracted litigation of cleanup and remediation of toxic waste sites, entered into a disposal agreement whereby the County establishes and maintains rates and charges for the LBLR landfill for operations, closure, ground water remediation, insurance and post closure operations and maintenance;

WHEREAS the Washington Utilities and Transportation Commission is charged by law with protection of regulated solid waste collection company customers and the maintenance of fair, just and reasonable rates for solid waste collection services;

WHEREAS, the respondents and LBLR are affiliated companies whose past intercompany financial practices resulted in conflicting interpretations of the just share of closure expenses to be carried by the ratepayer;

WHEREAS differing interpretations of various statutes produced conflicting interpretations of the appropriateness of remediation costs being carried by the ratepayer;

WHEREAS all parties recognize the need to provide for closure of the LBLR landfill immediately following December 31, 1991, the need for long term remediation of groundwater contaminated by years of landfilling industrial and residential waste and the need to accomplish these goals in an environmentally safe and fiscally sound manner;

THE PARTIES HEREBY CONCLUDE, that ratepayers and users of the LBLR landfill should be required to pay their fair share of the costs of closure and remediation;

THAT efficient closure of the landfill requires intergovernmental cooperation for the timely establishment of landfill rates and charges and recognition of those charges in customer rates;

THAT the affiliated haulers should assume debt for closure costs contributed by the ratepayers in an earlier period and should pay a portion of the future costs of groundwater remediation;

AGREEMENT

NOW THEREFORE, the parties agree to the following for purposes of settling these consolidated cases:

1. Definitions.

For the purposes of this agreement, the following definitions shall apply:

"Affiliated companies" means any of the affiliated haulers or Leichner Brothers Land Reclamation Corporation, or Diamond Fab Welding Service, or any of their successors, affiliates or

assigns.

"Affiliated haulers" means Clark County Disposal, Inc., d/b/a Vancouver Sanitary Service or Twin City Sanitary Service and Buchmann Sanitary Service, Inc., or any of their successors or assigns.

"Closure and remedial action budget" means the budget set forth in Exhibit 8 filed in this case.

"Closure loans" means those loans identified in Attachment A hereto.

"Company" means Leichner Brothers Land Reclamation Corporation (LBLR).

"Disposal agreement" means that certain agreement entered into between the County, City and LBLR on December 27, 1988 and as set forth in Exhibit 11 filed in this case.

"O&M costs" means the total expenses for operation and maintenance of the remedial action facilities installed at the LBLR facility as required by the Department of Ecology and approved by the ratemaking or rate approving authority.

"Ratemaking or rate approving authority" means any governmental entity which, pursuant to state law, has authority to lawfully set or review rates for the disposal of waste generated in or deposited in Clark County or for the collection of such waste.

"Revenue margin" means the dollar profit allowed under the operating ratio methodology used by the Commission in setting rates for garbage haulers. The operating ratio approach sets the

rate level equivalent to prudently incurred operating expenses (excluding income taxes and interest) plus a dollar profit. Since the revenue margin is calculated on a pre-tax, pre-interest basis, the hauler is expected to pay income taxes and interest obligations out of the revenue margin.

"Revised Closure and Remedial Action Budget" is the Closure and Remedial Action Budget as revised by paragraph 2 below. A table setting out the Revised Closure and Remedial Action Budget is Attachment B hereto.

2. Adjustments to Closure and Remedial Action Budget.

The Closure and Remedial Action Budget is revised as follows:

a. Attorneys fees account No. 6320.4012 is reduced by <43,645> and account No. 6310.1000 is reduced by <111,551>;

b. Public relations fees account No. 6320.4041 is reduced by <27,431> and account No. 6320.4042 is reduced by <23,568>;

c. Interest expense account No. 6321.8020 is reduced by <129,000>;

d. Contingency account No. 6321.7030 is reduced by <131,000>;

e. Department of Ecology interim remedial action monies, in the sum of $381,336, which have been or will be received have been used to further reduce the Closure and Remedial Action Budget; and

f. Anticipated interest earnings have been credited against total closure costs in the amount of <$215,606> for

Perpetual Maintenance reserves and <$75,754> for Insurance reserves.

3. Tip Fee.

The Tip fee at LBLR shall be $21.00 per compact equivalent yard based on the following:

a. The Revised Closure and Remedial Action Budget (Attachment B), less accrued revenues.

b. From this amount, there is subtracted $3.2 million, which reflects the amount contributed by the affiliated haulers pursuant to paragraph 8 below.

c. From this remainder, there is subtracted $547,445, which reflects the amount contributed by the City pursuant to paragraph 9 below.

d. To this amount is added the LBLR operating budget as set forth in pages 13-15 of Exhibit 4 filed in this case, as recapped on page 8 of Exhibit 5 filed in this case.

e. The resulting difference was divided by 425,000 yards as further described in paragraph 18.b. below.

f. To this amount was added the county administrative fee of $2.03 per compact equivalent yard as set forth in paragraph 11 below.

This resulting tip fee of $21.00 shall be placed into the pro forma budgets of each of the affiliated haulers.

4. Pro Forma Budget.

The proforma adjustments to the operating expenses of the affiliated haulers as set forth in Exhibits 65 and 66 filed in

this case are as follows:

1. Licensing gross weight fee increase: $3,990.00 for Clark County Disposal, Inc., $354.00 for Buchmann Disposal, Inc.

2. FICA rate change: $2,254.00 for Clark County Disposal, Inc., $420.00 for Buchmann Disposal, Inc.

3. The pro forma budgets have been revised to incorporate the rate year estimate of 425,000 compact equivalent yards, rather than the test year level of 442,398 compact equivalent yards.

The revised pro forma statements for each of the affiliated haulers are attached as Attachment C hereto.

5. Revised Rates for Regulated Ratepayers.

The revised rates effective August 1, 1990, for ratepayers in the unincorporated areas of the County shall be those set out in Attachment D hereto. The company agrees to prepare tariff pages incorporating these rates, and to be prepared to file such tariff pages on or before July 20, 1990.

6. $1.3 Million Potential Contribution.

For purposes of this Settlement Agreement the parties agree that the following additional contribution shall be required of the affiliated companies.

a. The affiliated companies, the County and the City agree that the rate calculated using the revised Tip fee set forth in paragraph 3 may generate 1.3 million less than anticipated revenue needs. Except as provided for below, the affiliated companies will contribute 1.3 million on or before August 1,

1995, to cover any shortfall. This amount shall be reduced (1) by an amount as set forth under future cost savings under Paragraph 14; (2) by amounts collected by LBLR in excess of costs for non-closure activity in landfill operations; and (3) by collection of funds in accordance with paragraphs 7.b and 12.

b. Upon completion of construction and installation of the closure and remedial action items identified in the Revised Closure and Remedial Action Budget attached hereto as Attachment B, and after calculation of the offsets set forth in paragraph 6.a above, the company will pay the lesser of 1.3 million or the actual cash shortage remaining. In calculating such shortage, interest earned on funds deposited with the County shall be disregarded.

7. Remedial Action Contribution.

a. In lieu of a present contribution to costs of remedial action as proposed by the Commission staff in its case, the affiliated haulers shall make a contribution towards future remedial action costs as follows: In every calendar year beginning in 1995 and continuing until all O&M costs at the landfill have been paid, any ratemaking or rate approving authority shall calculate the actual revenue margin for the affiliated haulers. Fifteen per cent of that revenue margin, up to a cap of 27.5% of that year's annual O & M costs, shall be paid in periodic payments by the affiliated haulers to Clark County for the purpose of reducing future tip fees.

b. Nothing in this agreement shall be construed to limit

the rights of any party to this agreement or any agency of State or local government to pursue remedies against any person to recover costs of remedial action or to effect remedial action or recover damages resulting from any activity at LBLR pursuant to any applicable law. Any funds received by an affiliated company in such an action shall be applied 50% to reduce future tip fees in the County and the City, and 50% to reduce the obligation of the affiliated companies pursuant to paragraph 6 above. Any funds to be otherwise allocated to the affiliated companies as provided for in this paragraph that are in excess of the actual obligations remaining of the affiliated companies under paragraph 6 shall be applied to reduce future tip fees in the County and the City.

8. $3.2 Million Contribution.

The Commission, in consolidated Cause Nos. TG-2152, TG-2153 and TG-2154, determined that regulated ratepayers had paid in rates $3.2 million which was to be applied to closure of the LBLR landfill. The affiliated haulers agree to assume $3.2 million of the closure obligation by assuming the closure loans to make up this contribution from regulated ratepayers. These loans shall be transferred no later than the dates shown on Attachment A. This payment shall result in a $3.2 million reduction to the amount of the revised budget to be included in rates.

9. City Contribution.

The City of Vancouver will commit to pay into the closure

fund, not later than August 1, 1995, the amount of $940,874. Such amount is the difference between the composite rate determined for the City and that for the regulated area times the number of City compact equivalent yards anticipated to be received at the landfill during its remaining life. The City will continue to contribute to the closure funds an amount calculated on the basis of $25.89 per yard until July 31, 1990. The amount equal to $4.89 ($25.89-21.00) multiplied by the number of City yards collected from January 1, 1990 through July 31, 1990 shall be credited as a reduction of the City commitment set forth in this paragraph. For purposes of calculating the tip fee of $21.00 per compact equivalent yard in this settlement, the amount is $393,429.

10. Write-off of Intercompany Payable Approved.

From January 1, 1990 to present, the LBLR tipping fee has been set at $25.89 per compact equivalent yard, while the interim rates approved for the affiliated haulers by the Commission have only included $21.00 per compact equivalent yard in hauler rates. The affiliated haulers have paid LBLR $21.00 per compact equivalent yard and have booked a payable of $4.89 per compact equivalent yard. The parties agree that this payable should be written off as a part of this settlement. The parties seek Commission approval for the write off of $823,083 owed by the affiliated haulers to LBLR. This amount consists of a January through May, 1990, actual payable accrued of $565,331 and a June through July, 1990, estimated payable accrued of $257,752.

11. County Fee.

That portion of the County Fee proposed to be passed through to ratepayers shall be reduced by $0.44 per compact equivalent yard, an amount which is attributable to those county costs incurred prior to January 1, 1990. These costs were incurred by the County as start-up costs in its search for a new landfill site to replace the LBLR facility. The county has entered into a long-term disposal contract in order to meet this obligation. The parties agree that it is appropriate to recover these costs in a county administrative fee applied to that contract.

12. Insurance Litigation.

Attorneys for LBLR shall vigorously pursue in the best interests of the ratepayers recovery of proceeds of insurance policies in the cases consolidated under the name of Truck Insurance Exchange and Mid-Century Insurance Company vs. Elmer Leichner, et al., Clark County Superior Court Cause No. 872023757.

a. Whatever amounts are recovered shall be transferred to the County for distribution. The County shall apply the funds as follows:

First, it shall reimburse the County's Financial Assurance Reserve Fund for all reasonable attorneys fees and costs associated with the litigation, with a concomitant reduction in the Revised Closure Budget (Attachment B).

Second, it shall apply the funds to offset any additional expenditures associated with new requirements imposed on LBLR (or

the City or County) by the Department of Ecology in relation to the closure of or remedial action at the landfill. Finally, should any recovered funds remain, at least 85% of such amounts shall be used to reduce future tip fees in the County and the City. Should the affiliated companies have a remaining obligation pursuant to paragraph 6, above, then up to 15% of such recoveries may be used to offset such obligation.

b. The parties recognize that the proceeds of any insurance recovery have been pledged to the company bank as security for the closure loans. The application of any amounts recovered shall be calculated in accordance with the three step process described above. The amounts so calculated shall be paid by the affiliated companies to the County's Financial Assurance Reserve Fund, even though the dollars recovered may be paid to the bank, and, if so, the affiliated haulers will have to provide the equivalent amounts from their own resources by August 1, 1995.

13. Deferral of Affiliated Hauler Payments.

In the event that the Affiliated Haulers must refinance their closure loans for an additional two years, the amounts described in paragraphs 6, 7.a, and 12.b shall be calculated, but their collection shall be deferred until August 1, 1997, and spread over the following ten years with interest on the deferred amount. That interest shall be set at the prime rate for commercial borrowing charged by U. S. Bancorp, or its successor, in effect on January 1, 1995. The interest rate shall be

adjusted on January 1 of each year to the then current prime rate to be applied to the remaining principal balance for the succeeding twelve month period. The affiliated companies may prepay this amount at their option.

14. Possible Future Cost Savings.

LBLR shall use its best efforts to reduce the expenditures necessary to close the landfill and fund the remedial action associated with the landfill in a manner consistent with Department of Ecology requirements. Should the amounts necessary to close the landfill and fund such remedial action be less than the Revised Closure and Remedial Action Budget upon completion of construction and installation of the closure and remedial action items identified in the Revised Closure and Remedial Action Budget attached hereto as Attachment B, at least 85% of the amounts saved shall be applied to fund O & M costs, which will reduce the county administrative fee included in future tip fees in the County and the City. Should the affiliated companies have a remaining obligation pursuant paragraph 6, then up to 15% of such cost savings may be used to offset such obligations.

15. Future Grant Proceeds.

Grant proceeds received, other than those described in paragraph 2.e, will go dollar for dollar to reduce future rates, in accordance with Department of Ecology regulations.

16. Due on Sale Provision.

In the event that any or all of the affiliated haulers shall sell substantially all or all of their assets other than in the

ordinary course of business or make any attempt to transfer any garbage and refuse authority issued to the affiliated haulers by the Commission, or should any of the businesses which are being operated through the use of these assets be sold hereunder, or should there be a transfer of majority interest in the stock of the affiliated haulers, then those sums referenced in Sections 6 and 12.b of the Agreement shall become immediately due and payable. This provision shall not apply to a transfer of stock and/or business entities among members of the Leichner family.

The affiliated haulers shall provide not less than forty-five (45) days advance notice of the closing of any transaction referenced above to the County, City, and Commission.

All notices required to be provided to the Commission for the transfer of permit authority shall also be provided to the County and the City within the time limits required by Commission law and regulations.

The affiliated haulers agree to include in any Agreement of Sale a requirement that the obligation set forth in Section 7.a shall become an obligation of the purchaser.

17. Conflicts.

If there is a conflict between this Agreement and the Disposal Agreement, this Agreement shall control.

18. Other.

a. The parties agree to act in good faith in implementing this agreement, including the prompt makings of any payments required hereunder.

b. The parties have agreed to use an estimate of 425,000 compact equivalent yards per year, or 850,000 compact equivalent yards to be collected over the life of the LBLR landfill (January 1, 1990 through December 31, 1991). The parties agree to determine, in January 1991, the actual yardage collected during 1990. The balance in the closure funds shall be calculated at that time based on the actual collections. If these calculations indicate a material change, the tipping fee for 1991 shall be recalculated using 1990 actual yardage as the estimate for 1991, and based on the amount remaining to be collected in the Revised Closure and Remedial Action Budget (Attachment A) less the amounts described in paragraph 2.

c. The County, City, and affiliated companies shall use their best efforts to prevent customers of the affiliated companies from ceasing to use the LBLR facility in the future. Should any such customer cease being a customer and the County, City, or affiliated companies determine that such person is a PLP under Initiative 97, the County, City, and ~~LBLR~~ the affiliated companies shall use their best efforts, individually and collectively, to insure that said person pays a fair share of the remedial action costs at the landfill. Such efforts may include the affiliated companies initiating appropriate legal action.

d. The parties concur that the rates in effect for regulated ratepayers from January 1, 1990, to the effective date of the rates approved by the Commission as a result of this settlement, if it is accepted, have generated appropriate revenue

for the affiliated companies in the interim period, and shall not be subject to refund to ratepayers.

e. The City of Vancouver shall extend the existing solid waste collection agreement between the City and Clark County Disposal, Inc. d/b/a/ Vancouver Sanitary Service through July 31, 1995.

f. The affiliated haulers agree to drop their appeal in Court of Appeals No. 13513-2-II (Division II) by filing appropriate papers with that court no later than August 3, 1990. The affiliated haulers and the Commission agree to inform the court of the pendency of this proposed settlement, and to ask that no further briefing be required by the court pending a Commission decision on the settlement.

g. Clark County agrees to limit the use of any funds remaining in County funds in accordance with paragraph 11.11 of the Disposal Agreement, Exhibit 11 filed in this proceeding, only for the purpose of reducing future tip fees, and not for general solid waste purposes.

ENTERED INTO THIS 21st DAY OF JUNE, 1990.

For the Washington
Utilities and Transportation
Commission:

KENNETH O. EIKENBERRY
Attorney General

JEFFREY D. GOLTZ
Assistant Attorney General

MARJORIE R. SCHAER
Assistant Attorney General

For Clark County and the City of Vancouver:

FREDERICK C. PATERSON
Attorney at Law

For Clark County:

RICHARD LOWRY
Deputy Civil Prosecutor

For the City of Vancouver:

KENT SHORTHILL
Director of Finance and Administration

For Clark County Disposal, Inc. and Buchmann Disposal, Inc.:

DAVID W. WILEY
Attorney at Law

STEPHEN W. HORENSTEIN
Attorney at Law

MARK LEICHNER
President, Clark County Disposal, Inc. and Buchmann Sanitary Service, Inc.

CRAIG LEICHNER
Vice President, Clark County Disposal, Inc. and Buchmann Sanitary Service, Inc.

FIRST AMENDMENT TO DISPOSAL AGREEMENT AND SETTLEMENT AGREEMENT

THIS FIRST AMENDMENT to that certain Disposal Agreement dated December 27, 1988, between the City of Vancouver, a municipal corporation of the State of Washington ("City"), Clark County, a municipal subdivision of the State of Washington ("County"), and Leichner Brothers Land Reclamation Corp., a Washington corporation ("LBLR" or "Company") and that certain Settlement Agreement dated June 21, 1990, between City, County, the Washington Utilities and Transportation Commission ("WUTC"), Company and its affiliates, The Disposal Group, Inc. d/b/a Twin City Sanitary and Vancouver Sanitary Service, and Buchmann Sanitary Service, Inc. ("Affiliates"), is made effective as of the 24th day of July, 1996.

RECITALS

A. Company is the owner and operator of the Leichner Landfill (hereinafter the "Site"), a sanitary landfill which served incorporated and unincorporated Clark County.

B. On March 29, 1988, City and County entered into a Solid Waste Reduction and Disposal Agreement to direct the flow of solid waste, provide funding for landfill closure, and to establish and fund a landfill reserve fund (now called the Financial Assurance Reserve Fund, the "FARF") to be possessed and administered by Clark County.

C. City, County and Company entered into a certain Disposal Agreement on December 27, 1988 (the "Disposal Agreement"). The Disposal Agreement provided for the continuation and funding of the FARF with the supervision, monitoring and control of the FARF being the responsibility of County. The FARF was established with separate accounts, intended to fully fund the anticipated costs of mandated closure, post-closure and environmental compliance as well as self-insurance for environmental liability for the Site.

D. Pursuant to the authority set forth in Chapters 35.21 and 36.58 of RCW and in accordance with the Settlement Agreement recorded under Cause Numbers TG-2152, 2153 and 2154 between City, County, WUTC and Company and Affiliates, dated June 21, 1990 (the "Settlement Agreement"), City and County approved the disposal rates to be charged to ratepayers in City and County to fund the FARF. The Settlement Agreement was incorporated into and made a part of administrative orders entered in WUTC Rate Setting Proceedings in Cause Nos. TG-2152, 2153, and 2154. Such rates were based, in part, upon the Revised Closure and Remedial Action Budget ("RCRAB") included as part of the Settlement Agreement.

E. The Settlement Agreement modifies the terms and conditions set forth in the Disposal Agreement to the extent it sets forth funding obligations of the parties and requires, among other things, that excess moneys existing after the issuance of a post-closure certificate in the FARF be used to reduce future tipping fees in County and City.

F. The Settlement Agreement contemplated the possibility of a shortfall in funding of the closure and post-closure activities and anticipated construction of a ground water extraction and treatment system required at the Site once it ceased generating revenue. Pursuant to the terms of the Settlement Agreement, if Company and Affiliates generated less revenue than projected in the RCRAB for closure and post-closure and construction of a ground water extraction and treatment system, and subject to specified reductions and set-offs, Company and Affiliates would contribute up to $1.3 Million (the "Contribution"). The parties now agree as of the date of the execution of this Agreement, a determination has been made under the terms and provisions of the Settlement Agreement that there is not currently a shortfall in funding as contemplated by the provisions of the Settlement Agreement and by virtue of the requirements contained in a Consent Decree dated June 25, 1996 (the "Consent Decree") as agreed to by LBLR and the Washington State Department of Ecology ("Ecology") and the requirement to contribute $1.3 Million under the provisions of the Settlement Agreement is hereby extinguished except as provided in Section 10 below.

G. Following the completion of waste disposal at the Site on December 31, 1991, County funded the FARF for a portion of the anticipated operation and maintenance ("O&M") costs for remedial action activities from surcharges imposed on the disposal of waste disposed of at the Site.

H. Company and Ecology did enter into an Interim Order pursuant to which samplings from ground water were taken from new wells located at points of compliance at the Site to assist Ecology in making the determination that ground water extraction and treatment is not now indicated at the Site.

I. Company, with the participation of County and City, has negotiated with Ecology, pursuant to the Model Toxics Control Act ("MTCA"), the Consent Decree, a site cleanup action plan ("CAP") and scope of work ("SOW"). Company, County, and City have addressed a number of issues with respect to ownership and control of the funds contained in the FARF that are necessary for Company to financially assure compliance with the Consent Decree. By executing the Consent Decree, Company agrees to carry out remedial action at the Site. It is the parties' current anticipation that the remedial actions will consist of continuing monitoring of

ground water at the site, maintenance of the landfill gas control and monitoring systems, maintenance of the final cover and storm water control systems. The Consent Decree will require Company to perform remedial action and incur compliance expenses, including Ecology oversight costs.

J. The Consent Decree pursuant to WAC 173-340-440(6) will upon its execution require that Company provide assurance acceptable to Ecology of Company's ability to meet the financial obligations attendant with the implementation of the Consent Decree, including the payment of the oversight expenses of Ecology.

K. From its inception through December 31, 1992, LBLR treated the FARF as an asset on its books and records. County has always possessed, controlled and managed the FARF and County and City have never agreed to treatment of it as an asset of LBLR. On December 31, 1992, LBLR, agreed with County and City that LBLR should not treat the FARF as its asset for tax purposes. Therefore, this Amendment is intended to address the financial assurance requirement that will be required under the Final Consent Decree by clarifying the management, use and disposition of the funds in the FARF and the obligation to cover any shortfall in funding that may arise out of the implementation of the Consent Decree.

L. Notwithstanding the foregoing, and given the pending sale of certain assets of The Disposal Group, Inc., Buchmann Sanitary Service, Inc. and Diamond Fabrication and Welding, Inc. to Browning Ferris Industries of Washington, Inc. ("BFI of Washington"), and Company, Affiliates and BFI of Washington agree to make or cause to be made certain payments to the FARF as hereinbelow set forth.

NOW, THEREFORE, IN CONSIDERATION OF COMPANY'S COMMITMENT TO REMEDIATE THE SITE IN COMPLIANCE WITH THE CONSENT DECREE AND THE MUTUAL COVENANTS AND PREMISES CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. Recitals True and Correct. The recitals set forth above are true and correct and by this reference made a part of this Amendment.

2. Purpose. The purpose of the FARF account is to provide funds to carry out closure, post-closure and remedial actions at the site required by Ecology and the Southwest Washington Health District ("SWHD") in the past and future including but not limited to actions required under the Final Consent Decree and to provide funds to satisfy environmental claims.

3. FARF Ownership. Except for funds pledged or deposited by Company or BFI of Washington pursuant to Section 10 below and/or

funds from PLP litigation pursuant to Section 11 below deposited by Company as intended by the parties, moneys in the FARF as of January 1, 1993, interest earned thereon, and any additional revenues generated by City or County or received for the purpose of meeting the obligations for closure, post-closure, environmental compliance or environmental liability shall be an asset of County and shall be disbursed from the FARF by County pursuant to the terms and conditions of the Disposal Agreement, this Amendment, the Consent Decree, and the Settlement Agreement.

In the event that the Internal Revenue Service seeks to impose federal income tax (including interest and/or penalties) on any funds or accumulations contained in the FARF, Company, County and City agree that these funds shall be paid from the following in order of priority and availability:

(a) First, from funds received from cost recovery actions or settlement with potential liable/responsible parties as set forth more specifically in Section 11 of this Agreement;

(b) Second, from funds paid into any account pursuant to Section 10 of this Agreement; and

(c) Third, from other FARF funds generally.

Company agrees that it will not file an amended Federal Income Tax Return declaring the FARF income as income of Company or its affiliates. Company agrees that it will not otherwise file an amended income tax return without the consent of County or City which consent shall not be unreasonably withheld.

Company will promptly notify County and City of any claim or proceeding to impose an income tax liability on LBLR on account of funds contained in the FARF.

The parties to this Agreement hereby agree to vigorously defend against any claim by the Internal Revenue Service for any taxes (including penalties and interest) due and owing with such cost of defense being paid for by the FARF.

By entering into this Agreement, Clark County does not waive any claims which it may have against any individual or entity related to the payment of taxes on the FARF earnings.

4. Consent Decree Performance. At any time during the performance of the required activities under the Consent Decree, including the implementation of closure, post-closure and environmental clean up activities at the Site, Ecology or SWHD may give notice to Company, with copies to City and County, of

Company's failure to comply with any requirement, term or provision of such orders. If Company fails to comply with any such requirement, term or provision within thirty (30) days, Ecology or SWHD shall give notice of such failure to City and County, whereupon City and County may take such steps as are necessary to effect compliance with such orders. If County or City fail to effect compliance with such orders within thirty (30) days of said notice, then Ecology may proceed, in a reasonable manner, to exercise its legal authority to address releases of hazardous substances at the Site. If Ecology so proceeds and seeks reimbursement of its related costs, County shall reimburse Ecology for expenses incurred in performing actions required by the Final Consent Decree from the FARF to the extent funds are available, and in the event the FARF has insufficient funds, Company, City and County agree to investigate all alternatives to fully meet such obligations.

5. Insurance litigation Proceeds. Company, City and County acknowledge that the proceeds of the insurance company litigation referenced in Section 12 of the Settlement Agreement, Truck Insurance Exchange and Mid-Century Insurance Company v. Elmer Leichner, et al., Clark County Superior Court Cause No. 872023757, were paid to the FARF and distributed first to pay or reimburse for all attorney fees and costs associated with the litigation and second to U.S. National Bank on account of the pledge of such funds thereto for security.

The parties acknowledge and agree that pursuant to the provisions of Section 12 of the Settlement Agreement, the amount due and owing repayment to the FARF by Company is Six Hundred Ten Thousand One Hundred Ninety-three and 52/100 Dollars ($610,193.52). Notwithstanding anything contained in the Settlement Agreement to the contrary, the parties agree that as part of the transaction for the sale of assets of Affiliates to BFI of Washington, pursuant to the terms and provisions of that Asset Purchase Agreement by and between The Disposal Group, Inc., Buchmann Sanitary Service, Inc. and Diamond Fabrication and Welding, Inc. and BFI of Washington dated October 18, 1995, and an amendment thereto dated as of the closing of that transaction, BFI of Washington shall pay the FARF the amount of $610,193.52 as follows:

> The principal amount shall bear interest at the rate of 8.75% per annum from and after August 1, 1995. Commencing August 1, 1996, and payable on the same day of each year thereafter, BFI of Washington shall make an annual payment of $50,000.00 plus an amount equal to any interest accrued to date to the FARF, as set forth in the schedule attached hereto as Exhibit "B." From each payment shall first be deducted interest to date of payment and the balance shall be applied to principal.

BFI of Washington shall have the right to repay this obligation at any time without penalty. Provided, that in the event that BFI of Washington pays the entire principal balance of $610,193.52 plus interest thereon at the rate of 5.5% per annum from August 1, 1995, within thirty (30) days of the closing of the sale of The Disposal Group, Inc.'s assets to BFI of Washington, then all other interest which may have accrued shall be forgiven and such payment shall be considered a full satisfaction of this obligation.

6. Environmental Services Agreement. Company has entered into an Environmental Services Agreement ("ESA") with EMCON Northwest ("Project Manager") which has been approved and consented to by City and County to manage remaining closure, post-closure activity and long-term O&M activity at the Site.

7. Payment of Expenditures From and Management of FARF. Recognizing that Company will not have operating revenue sufficient to advance the funds required to comply with the Consent Decree and post-closure permit issued by SWHD and thereafter seek reimbursement from the FARF, County will pay such expenditures as are delineated on the Revised Environmental Compliance Budget (RECB") attached hereto as Exhibit "A" and incorporated herein, and as it may be revised from time to time by the parties. County will make such payments in accordance with the following procedures:

7.0.1. Authorized Representative. Company may appoint an authorized representative to obtain disbursements from the FARF in accordance with this First Amendment and the Disposal Agreement. The authorized representative shall be EMCON Northwest unless changed by mutual agreement of Company, County and City.

7.0.2. Invoicing. As of the date of the execution of this Agreement, all payments to vendors and LBLR due and owing from the FARF are current. On a monthly basis, Company or its authorized representative shall submit to County's Designated Representative invoices and supporting documentation ("Invoices") for all services performed or materials, equipment or supplies purchased during the preceding invoice period pursuant to the RECB. For each invoice submitted, Company or its authorized representative shall provide a reference to the appropriate expense category under the RECB, a reasonably detailed description of the expenses and/or Services provided, including for labor services, the hours expended and the names of personnel or

Subcontractors who provided the services. Each submittal shall also contain a summary of the invoices submitted, summary total with remaining balance for each budget category for which a disbursement is requested, a check made out to each service provider or supplier for the invoices submitted and a total of the amount to be disbursed from the FARF for the invoice period.

Notwithstanding the foregoing, fees for professional services in regard to this Agreement and the Consent Decree not covered by the Environmental Services Agreement shall be paid or rendered directly to LBLR upon receipt by County of statements therefore, in compliance with the procedures set forth herein. Provided, such fees shall not be incurred for nonroutine services nor shall the fees exceed the total amount of $5,000.00 per annum. Any exception to this limitation shall be allowed only if approved and budgeted by the Oversight Committee as provided in Section 7.0.6 of this Agreement prior to the provision of such services.

7.0.3. Records. Company and its authorized representative shall maintain accurate records verifying all labor, materials, supplies and other items provided and expenses incurred under this Agreement. Upon County's request, Company shall promptly provide any and all records and time details that reasonably relate to the performance and payment of Services.

7.0.4. Budget; Quarterly Review. City, County, and Company acknowledge that the RECB is an estimate of the actual expenses which the parties believe will be necessary to complete the SOW, CAP and the Consent Decree and comply with the post-closure permit requirements and that variances may occur in actual expenses. The parties also acknowledge that it is the intent of this Agreement that those providing services hereunder be compensated from the FARF on a time-and-materials basis for costs and expenses that (1) are reasonably in conformance with the RECB and (2) are legal and costs incurred in relation to this Agreement, the Disposal Agreement, the Settlement Agreement and the Consent Decree. Accordingly, County, without further process, may approve payment from the Contingency Category for monthly invoices that will result in the exceedence of an approved RECB category,

provided that the exceedence does not result in an exceedence of the category by more than fifteen percent (15%) or in excess of funds remaining in contingency. To ensure that the RECB is adjusted and made current with actual and revised estimates of expenses, the RECB shall be subject to semi-annual review by the Oversight Committee as referenced in Section 7.0.6 below. If, as a result of such review, revisions are made to the RECB, the revised RECB shall replace Exhibit "A" attached hereto.

7.0.5. Payment. Unless disputed by County as provided herein, or in the Disposal Agreement, County shall disburse from the FARF directly to Company or its authorized representative the full amount due under each Invoice no later than thirty (30) calendar days of the date the Invoice was received. If City or County in good faith dispute whether any expenses set forth in the Invoices are reasonably in conformance with the RECB or are supported by appropriate documentation as provided in Section 7.0.2, City or County shall, within thirty (30) calendar days of the date of the Invoice, give notice to Company in writing of the reasons it believes such expenses are not in conformance with the RECB or this agreement and County shall pay only that portion of the bill which is not then in dispute and refer the disputed amount to the Oversight Committee. In the event that the refusal to pay was unreasonable, County shall be required to pay from the FARF any and all interest and penalties arising from underpayment of billings by the FARF.

7.0.6. Oversight Committee.

A) Oversight Committee Established. There is hereby established a permanent Oversight Committee to oversee management of the Site and the FARF and compliance with the Consent Decree. This Committee shall include the following participants:

(a) A member of the Leichner family;

(b) Company's authorized representative as referenced in Section 7.0.1 above;

(c) Company's legal counsel;

(d) The Director of Public Works for County or the Director's designee;

(e) County staff person assigned the day to day responsibility to manage the FARF fund and landfill activity;

(f) Legal counsel for County;

(g) A designated representative by City; and

(h) City legal counsel.

SWHD, WUTC and Ecology shall each have the right to designate a representative to the Oversight Committee that may attend all or any of the meetings thereof. Notice shall be given to SWHD, WUTC and Ecology of any and all meetings in order that each agency may make a determination as to whether to send a representative.

Subject to the limitations set forth in Section 7.0.2 of this Agreement, County shall pay from the FARF each parties' professional fees incurred in participating on the Oversight Committee.

B) Meetings of the Committee. The Oversight Committee shall meet not less than semi-annually to fulfill its functions and responsibilities as hereinbelow set forth. Notwithstanding the foregoing, any member of the Committee may call a meeting on ten (10) working day's notice to address any issue of concern. An individual member calling a meeting shall use all reasonable efforts to schedule the meeting at the convenience of the Committee members. Any Committee member may participate in any meeting by conference call.

C) Functions and Responsibilities of Oversight Committee. The Oversight Committee shall have responsibility for all activity regarding the Site including but not limited to the following:

(a) Review and resolve any disputes regarding payments due from the FARF;

(b) Review of the status of the FARF fund, its investment activity and current account balances;

(c) Review of technical compliance issues regarding the Consent Degree;

(d) Resolution of any disputes regarding payment of vendors for activity related to the Site; and

(e) Authority to authorize partial releases of the FARF funds (not sooner than 15 years from the effective date of the Consent Decree) if prudent under existing circumstance with the proviso that any funds released to County as hereinbelow set forth shall be utilized seventy percent (70%) to reduce all components of the tipping fee paid by the "G" certificated hauler and any County or any city (other than Camas or Washougal) contracted hauler (excluding self-hauls or hauls from outside County) and thirty percent (30%) to support the implementation of the Clark County Solid Waste Management Plan.

If the Oversight Committee cannot reach consensus on any issues to which it is responsible, then either the Leichner family representative or the Director of Public Works or City representative may request arbitration pursuant to the provisions of Section 12 as hereinbelow set forth.

8. In the Event of Insufficient Funds. Notwithstanding the terms and conditions of the Disposal Agreement, the Settlement Agreement and this First Amendment hereto, Company, City and County hereby agree that if moneys available in the FARF (including funds in any accounts established pursuant to Sections 10 and 11 of this Agreement) as provided for in the Disposal Agreement, the Settlement Agreement and this First Amendment (other than the self-insurance reserve account) are insufficient to meet the obligations of Company as set forth in the Consent Decree and any other obligations imposed by Ecology, then Company, City and County shall investigate all alternatives to fully meet such obligations.

9. Excess funds. Excess money remaining in the FARF after compliance with the Consent Decree (including O&M of the remedial

facilities if required), and any additional Ecology requirements, and after closure and post-closure, as well as satisfaction of any third-party claims for environmental liability, shall be utilized seventy percent (70%) to reduce all components of the tipping fee paid by the "G" certificated hauler and contracted haulers for County and/or cities in Clark County (except Camas and Washougal) and thirty percent (30%) to support the implementation of the Clark County Solid Waste Management Plan. The parties agree that it is their preference that the above-mentioned seventy percent (70%) of the excess FARF funds will be utilized by the County to reduce future tipping fees by offsetting future tipping fee increases at transfer stations designated by the county.

If the County determines that it is not practical to utilize the above-mentioned seventy percent (70%) of the excess FARF funds to offset future tipping fee increases, then those funds shall be utilized to effectuate a pass through/credit to ratepayers as follows. A percentage of the seventy percent (70%) excess funds which is equal to the percentage of the number of customers then being served by the Affiliates' transferee or its successor(s), compared to the total number of customers countywide, shall be provided to Affiliates' transferee or its successor(s). Thereafter distribution shall be made only to the then existing ratepayers through a credit on the ratepayers bills. The Affiliates' transferee or its successor(s) shall file a one-page tariff supplement with the WUTC, subject to WUTC review and approval, and the supplement will include an expiration date and a prorata distribution of the credit over a proposed time period for the then current ratepayers. Should the Affiliates' transferee or its successor(s) no longer be regulated by the WUTC, the credit shall still occur, and shall be overseen by the then applicable governmental or non-governmental authority. The County shall have the right, on reasonable notice, to demand and receive an accounting from the Affiliates' transferee or its successor(s) of the treatment of the excess FARF funds provided to Affiliates' transferee or its successor(s) and to inspect the books and records of Affiliates'transferee or its successor(s) to verify said accounting. The balance of the seventy percent (70%) excess funds shall be made available by the County for distribution to the remaining ratepayers within the county and cities within the county except for those within the cities of Camas and Washougal. All parties agree that it is the intent of this distribution mechanism to have no effect on Affiliates' transferee or its successor(s)' costs of operation or revenue margin, and that the parties will cooperate to ensure that this intent is met. Any excess funds distributed to the Affiliates' transferee or its successor(s) shall not constitute income for any purpose.

10. Pledge of Prior Revenue Margin/Contribution to Shortfall. For purposes of resolving any dispute regarding Affiliates'

obligation to pay creditors' claims pursuant to Affiliates' Chapter 11 Bankruptcy Proceeding and in order to satisfy any obligation Affiliates may have with respect to revenue shortfalls as referenced in Section 6 of the Settlement Agreement (the $1.3 Million contribution) and O&M costs as referenced in Section 7 of the Settlement Agreement, the parties agree as follows:

A) County's Claim No. 33 filed in Affiliates' Bankruptcy Proceeding No. 95-31806T shall be amended and reduced to an amount of $400,000.00.

B) This claim shall be paid on or before the third disbursement to creditors in the above-referenced Chapter 11 Bankruptcy Proceeding.

C) County and Affiliates shall seek creditor and Bankruptcy Court approval to have this claim paid in the amount of $400,000.00 in exchange for forbearance on receipt of payment in earlier disbursements. Obtaining court approval of the payment of the claim in the amount of Four Hundred Thousand ($400,000.00) Dollars shall be a condition precedent to the closing of the sale of certain assets of Affiliates to BFI of Washington.

D) Company agrees with consent of County to invest the payment made pursuant to this Section in a separate interest bearing/investment account as directed by Affiliates with appropriate documentation to ensure access to such funds by County for the purpose stated herein. County shall incur no liability to Company for the financial performance of this investment account. Pursuant to Section 3, Company may use that amount of funds necessary to pay federal income tax on the interest and accumulations of this fund if so required and the FARF, County and City shall have no liability for such tax. County shall have no other obligation with respect to payment of any taxes owing on this investment account.

E) Except as set forth in Section 10(D) above, the funds contained in this account can only be utilized after expenditure of all other funds in the FARF except those retained for the self-insurance reserve account.

F) Those funds contained in this account can be released to Company and, if BFI of Washington has made a contribution as herein provided, prorata to Company and BFI of Washington according to their relative contributions, if not expended upon the earlier of receipt of a final post-closure certificate for the Site from Ecology and/or SWHD or fifteen (15) years from the effective date of the

Consent Decree so long as such release is approved by the Oversight Committee herein referenced. Such approval shall be given by the Oversight Committee if the condition of the Site when compared to conditions of the time of the entry of the Consent Decree is status quo or better.

G) Standby Guarantees. In the event that County has not received payments of at least $315,000.00 on its Claim No. 33 within one (1) year of the closing date of the sale of certain assets of Affiliates to BFI of Washington, then Company, Affiliates and BFI of Washington agree as follows:

(a) Company and Affiliates shall pay that amount necessary to provide County with payment of $250,000.00 on said claim to be held as provided for in this Section 10;

(b) BFI of Washington shall pay that amount necessary, up to $65,00.00, to provide County with payment of $315,000.00 on said claim when combined with amounts received on said claim, including amounts paid pursuant to Section 10.G (a), to be held as provided for in this Section 10.

Company and Affiliates' standby guarantee shall be secured through the granting of a perfected security interest in a cash account or certificate of deposit in the minimum amount of $250,000.00 to be held as mutually agreed upon by County and Company. The granting of the security interest must be accomplished as a condition precedent to the closing of the sale of Affiliates to BFI of Washington. This requirement of the granting of a perfected security interest may be waived by County between the execution of this Agreement and the closing of the sale of certain assets of Affiliates to BFI of Washington if County is satisfied that Claim 33 will be paid in full on the first disbursement to creditors in the Chapter 11 proceeding entitled In re The Disposal Group, Inc. No. 95-31806T.

BFI of Washington's standby guarantee shall be reflected in the guarantee that is issued by BFI of Washington upon execution of this Agreement.

In the event that there are sufficient funds in the bankruptcy estate of Affiliates to make a disbursement on County's Claim No. 33 after Company and Affiliates and/or

BFI of Washington have made payments as called for in this Section 10(G), then the proceeds of such disbursement shall be distributed as follows:

1) First, to reimburse Company and Affiliates the principal sum it paid pursuant to Section 10(G)(a) hereof;

2) Second, to reimburse BFI of Washington the principal sum it paid pursuant to Section 10(G)(b) hereof;

3) Third, to pay County interest on $315,000.00 of its claim, at the rate provided for by the Bankruptcy Rules, from the date of closing until the date it received payment from Company, Affiliates and BFI of Washington pursuant to Sections 10(G)(a) and (b), together with an amount to pay County the principal balance of its claim together with interest thereon from the date of closing until paid;

4) Fourth, to pay Company and Affiliates interest on the amount it paid pursuant to Section (10)(G)(a) at the rate provided for by the Bankruptcy Rules, from the date it made payment pursuant to Section 10(G)(a); and

5) Fifth, to pay BFI of Washington interest on the amount it paid pursuant to Section 10(G)(b), at the rate provided for by the Bankruptcy Rules, from the date it made payment pursuant to Section 10(G)(b).

H) Except as set forth in this Section, the parties agree that Company shall have no further obligation to pay all or any portion of the $1.3 Million potential contribution referenced in Section 6 of the Settlement Agreement as reflected in County's Claim No. 33 filed in Bankruptcy Court Cause No. 95-31806T and shall have no obligation to fund any O&M remedial action costs pursuant to Section 7 of the Settlement Agreement.

11. PLP litigation. The parties hereby agree that Company and/or Affiliates, pursuant to Section 7 of the Settlement Agreement, may pursue cost recovery actions against potentially liable/responsible parties.

Company and Affiliates agree not to pursue such actions against Clark County or any city now or in the future located within Clark County.

If cost recovery is pursued, the Oversight Committee created herein shall review and approve a litigation plan and budget for costs and disbursements which shall thereafter be advanced by the FARF. Attorney fees shall only be paid out of the proceeds of recovery pursuant to a Contingent Fee Agreement to be entered into between Company and its legal counsel.

The net recovery after payment of contingent attorney fees and approved costs and disbursements shall be deposited in a segregated account within the FARF and invested pursuant to the provisions of this Agreement and in accordance with State law. Upon the earlier of receipt of a certificate of completion of post-closure pursuant to Washington Administrative Code provision 173-304-407(7)(e) or fifteen (15) years, the Oversight Committee may release all or a portion of the funds, fifty percent (50%) to County and fifty percent (50%) to Company. In the event of such release, that portion of the funds disbursed to County shall be utilized as set forth in Section 7.0.6(C)(e) of this Agreement.

12. Arbitration. Any controversy or issue arising from the terms of this Agreement shall be determined by arbitration in the following manner:

A) Either party may, by written notice to the other within ten (10) days after a controversy has arisen that is subject to this Agreement, appoint an arbitrator who shall be an attorney duly licensed and in good standing to practice law in the State of Washington. The other party shall, by written notice, within ten (10) days after receipt of such notice by the first party, appoint a second arbitrator, who shall be an attorney duly licensed and in good standing to practice law in the State of Washington, and in default of such second appointment the first arbitrator shall be sole arbitrator.

B) When two arbitrators have been appointed as provided for above, they shall, if possible, agree on a third arbitrator and shall appoint him or her by written notice signed by both of them and a copy mailed to each party to this Agreement within ten (10) days after such appointment.

C) In the event fifteen (15) days shall elapse after the appointment of the second arbitrator without notice of appointment of the third arbitrator as provided for

above, then either party, or both, may in writing, within twenty (20) days after the original appointments, request _____ of _____, City of _____, County of _____, State of _____, to appoint the third arbitrator.

D) On appointment of three arbitrators as provided for above, such arbitrators shall hold an arbitration hearing at Vancouver, Washington, within sixty (60) days after such appointments. At the hearing, the laws of evidence of the State of Washington shall apply, and the three arbitrators shall allow each party to present that party's case, evidence, and witnesses, if any, in the presence of the other party, and shall render their award, including a provision for payment of costs and expenses of arbitration to be paid by one or both of the parties to this Agreement, as the arbitrators deem just.

E) The award of the majority of the arbitrators shall be binding on the parties to this Agreement although each party shall retain the right to appeal any questions of law arising at the hearing, and judgment may be entered on such award in any court having Jurisdiction.

F) The prevailing party shall be entitled to costs and reasonable attorney fees. Such costs and fees shall not be paid from the FARF.

13. Except as modified by this Amendment, the provisions of the Disposal Agreement and the Settlement Agreement, shall remain in full force and effect. In case of any conflict between the terms of the Disposal Agreement as modified, the Settlement Agreement, this Amendment, the terms set forth herein and those of the Consent Decree shall control.

Approved as to form:

By: _____
Bronson Potter
Senior Civil Deputy
Prosecuting Attorney

CLARK COUNTY

By: _____

Approved as to form:

By: _____
Ted H. Gathe, City Attorney

CITY OF VANCOUVER

_____
Royce E. Pollard, Mayor

Attest:

_____
H.K. Shorthill, City Clerk
~~By: Judith Hoggatt, Deputy~~

LEICHNER BROTHERS LAND RECLAMATION CORP.

_____
By: Craig Leichner, President

THE DISPOSAL GROUP, INC.

_____
By: Mark Leichner, President

BUCHMANN SANITARY SERVICE, INC.

_____
By: Mark Leichner, President

This Agreement is executed by Browning-Ferris Industries of Washington, Inc. only for the purpose of acknowledging its agreement to perform the obligations imposed upon it and accept the benefits conferred to it by Sections 5, 9, 10 and 12.

BROWNING-FERRIS OF WASHINGTON, INC.

_____
By: (Vice Pres.) John Guest

STAFF OF THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

_____ for Ann E. Rendahl
Ann E. Rendahl
Assistant Attorney General

LEICHNER LANDFILL, CLARK COUNTY, WASHINGTON
ANNUAL POST CLOSURE BUDGET

	ANNUAL BUDGET	LABOR -Field	LABOR -Office	REIMB.	ANALYTICAL	MAINT./ REPAIR	EQUIPMENT REPLACEMENT	RENTALS	UTILITIES	1994 COSTS	1995 COSTS
O&M, MONITORING, and REPORTING											
GW Monitoring	$80,000	$22,000	$16,000	$6,000	$36,000					$64,491	$67,724
SW Monitoring	$46,000	$25,000	$15,000	$1,000	$7,000					$30,761	$50,184
LFG Flare Source Testing	$20,000	$2,500	$3,000		$14,500					$2,884	$14,297
LFG System O & M	$25,000	$22,500		$2,500						$25,918	$37,601
LFG Condensate Permit	$5,000		$5,000							$15,219	$6,722
Maintenance, Repair, etc.	$103,000	$22,000				$30,000	$28,000	$13,400	$8,600	$24,150	$62,053
Post Closure Management	$10,000		$8,500	$1,500						$6,965	$0
Monthly Progress Reports	$10,000		$9,000	$1,000						$3,419	$14,287
CAP Project Management	$10,000		$8,500	$1,500						$5,339	$12,653
	$311,000										
OTHER COSTS											
ECOLOGY Oversight	$10,000										
Legal Fees	$7,500										
Solid Waste Permit Fee	$2,500										
NPDES Permit Fee	$5,000										
Real Estate Taxes	$5,500										
	$341,500	$94,000	$65,000	$13,500	$57,500	$30,000	$28,000	$13,400	$8,600	$179,248	$265,501

EXHIBIT "A"

Principal Balance	$610,193.42
Stated Interest Rat	0.0875
Beginning Period	08/01/95
First Payment Due	08/01/96
Accrued Interest	53,391.92

	INTEREST	PRINCIPAL	BALANCE	TOTAL PAYMENT
			610,193.42	
08/01/96	0.00	50,000.00	560,193.42	103,391.92
08/01/97	49,016.92	50,000.00	510,193.42	99,016.92
08/01/98	44,641.92	50,000.00	460,193.42	94,641.92
08/01/99	40,266.92	50,000.00	410,193.42	90,266.92
08/01/00	35,891.92	50,000.00	360,193.42	85,891.92
08/01/01	31,516.92	50,000.00	310,193.42	81,516.92
08/01/02	27,141.92	50,000.00	260,193.42	77,141.92
08/01/03	22,766.92	50,000.00	210,193.42	72,766.92
08/01/04	18,391.92	50,000.00	160,193.42	68,391.92
08/01/05	14,016.92	50,000.00	110,193.42	64,016.92
08/01/06	9,641.92	50,000.00	60,193.42	59,641.92
08/01/07	5,266.92	50,000.00	10,193.42	55,266.92
08/01/08	891.92	10,193.42	0.00	11,085.34
	299,453.09	610,193.42		

EXHIBIT B

SECOND AMENDMENT TO DISPOSAL AGREEMENT AND SETTLEMENT AGREEMENT

PW 12-78

THIS SECOND AMENDMENT to that Certain Disposal Agreement dated December 27, 1988, between the City of Vancouver, a municipal corporation of the State of Washington ("City"), Clark County, a municipal subdivision of the State of Washington ("County") and Leichner Brothers Land Reclamation Corp., a Washington corporation ("LBLRC" or "Company") and that certain Settlement Agreement dated June 21, 1990, between City, County, and the Washington Utilities and Transportation Commission ("WUTC"), Company and its (former) affiliates, The Disposal Group, Inc. d/b/a Twin City Sanitary and Vancouver Sanitary, and Buchman Sanitary Service, Inc. ("Affiliates") is made effective as of the 27TH of November 2012.

A. Company is owner and operator of the closed Leichner Landfill (hereinafter the "Site"), a sanitary landfill which served incorporated and unincorporated Clark County

B. On March 29, 1988, the City and County entered into a Solid Waste Reduction and Disposal Agreement to Direct the flow of solid waste, provide funding for landfill closure, and to establish and fund a landfill reserve fund (now called the Financial Assurance Reserve Fund, the "FARF") to be possessed and administered by Clark County.

C. The City, County and Company entered into a certain Disposal Agreement on December 27, 1988 (the "Disposal Agreement"). The Disposal Agreement provided for the continuation and funding of the FARF with the supervision, monitoring and control of the FARF being the responsibility of County. The FARF was established with separate accounts, intended to fully fund the anticipated costs of mandated closure, post-closure and environmental compliance as well as self-insurance for environmental liability for the Site.

D. Pursuant to the authority set forth in Chapters 35.21 and 36.58 of RCW and in accordance with the Settlement Agreement recorded under Cause Numbers TG-2325, 2236 and 2327 between City, County, WUTC and Company and Affiliates, dated June 21, 1990 (the "Settlement Agreement"), City and County approved the disposal rates to be charged to ratepayers in City and County to fund the FARF. The Settlement Agreement was incorporated into and made a part of administrative orders entered in WUTC Rate Proceeding in Cause Nos. TG 2352, 2236 and 2327. Such rates were based, in part, upon the Revised Closure and Remedial Action Budget ("RCRAB") included as part of the Settlement Agreement.

E. The Settlement Agreement modifies the terms and conditions set forth in the Disposal Agreement to the extent it sets forth funding obligations of the parties and requires among, other things, that excess monies be used to reduce future tipping fees in County and City.

F. Following the completion of waste disposal at the Site on December 31, 1991, County funded the FARF for a portion of the anticipated operation and maintenance ("O&M") costs for remedial action activities from surcharges imposed on the disposal of waste disposed of at the Site.

G. Company and Ecology did enter into an Interim Order pursuant to which samplings from groundwater were taken from new wells located at points of compliance at the Site to assist Ecology in making the determination that ground water extraction and treatment is now not indicated.

H. Company, with participation of the County and City, negotiated with Ecology, pursuant to the Model Toxics Control Act ("MTCA"), the Consent Decree, a Site clean up action plan ("CAP") and scope of work ("SOW").

I. On July 9, 1996, the Company, County, City and the WUTC entered into a certain First Amendment to the Disposal and Settlement Agreement.

J. The First Amendment to the Disposal and Settlement Agreement served to clarify financial and administrative aspects of the implementation of the Consent Decree and sale of assets of the affiliated companies to Browning-Ferris Industries. Certificates held by Buchman Sanitary G-79 and G-65, and The Disposal Group were transferred to Browning-Ferris Industries of Washington in 1996.

K. In 1997, Waste Connections of Washington, Inc. ("WCW") acquired the stock of Browning-Ferris Industries of Washington and with it, the regulated operations of the Clark County Disposal Group, as a successor in interest once removed. WCW has no affiliated interest in any of the subject landfill agreements past or present, and is merely a successor to the historic regulated operations of the Company's prior collection companies.

L Under Section 9 of the First Amendment to the Disposal and Settlement Agreement, the FARF was subject to a plan of distribution if excess funds remained in the FARF after compliance with actions pursuant to the Consent Decree were completed. Under that limited provision only, WCW, as a successor to the regulated operations of the Affiliates, would be obligated to distribute any such excess funds to the then current rate payers of the successor G-certificated operator.

M. On July 17, 1996, Company and Ecology executed a Consent Decree pursuant to WAC 173-340-440(6) which requires the Company to provide assurance acceptable to Ecology of the Company's ability to meet the financial obligations attendant with the implementation of the Consent Decree, including the payment of the oversight expenses of Ecology.

N. In accordance to WAC 173-304-467(4), the Project Manager completes an annual estimate to determine the future financial obligations associated with implementation of the Consent Decree for estimated remaining life of the project.

O. Company, County and City have agreed to bind an environmental pollution liability policy for the purposes of meeting financial and legal obligations of a future and unforeseen environmental liability resulting from the Site. The limits of the policy are above and beyond the financial assurance requirements of WAC 173-304-467 and the Consent Decree.

P. On May 10, 2011, Company and County executed a Purchase and Sale Agreement ("PSA") which set forth a series of conditions for transferring ownership of the

landfill properties to the County and primary responsibility for implementation of the Consent Decree to the County.

Q. Conditions for finalizing the sale of the Site include amending existing agreements, the Consent Decree, and creation of a Management Agreement to reflect the transfer responsibility for implementation of the Consent Decree to the County and the respective role of the City in matters related to the Site.

R. Upon execution of this Second Amendment to Disposal and Settlement Agreement, the administrative role of the WUTC regarding the Site and financial assurance reserve funds will be extinguished.

S. In addition, upon execution of this Second Amendment, any obligations of WCW or its affiliates under the Disposal Agreement, the Settlement Agreement and/or the First Amendment will be extinguished, including without limitation any obligations of WCW or its affiliates under Section 9 of the First Amendment.

T. Upon closing of the sale of the properties, the responsibilities of the Company shall be limited to an advisory capacity on the Oversight Committee as defined by this Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE PARTIES' COMMITMENT TO REMEDIATE THE SITE IN COMPLIANCE WITH THE CONSENT DECREE AND MUTUAL COVENANTS AND PREMISES CONTAINED HEREIN, City, County, Company and WUTC AGREE AS FOLLOWS:

1. Recitals True and Correct. The recitals set forth above are true and correct and by this reference made a part of this Amendment.

2. Washington Utilities and Transportation Commission Role. Except as noted in Section 10 Excess Funds, the execution of this Agreement by the City, County, Company and WUTC acknowledge that all requirements of the WUTC in the Settlement Agreement are fulfilled and terminates the participation of the WUTC in any further proceedings arising from the terms of this Agreement.

3. Purpose of FARF Sub-Fund Accounts. The purpose of the County and City maintenance sub-fund accounts is to continue to provide post-closure, long term O&M, and remedial actions at the Site required by Ecology and Clark Public Health ("CPH") including but not limited to actions required under the Consent Decree. The purpose of the County and City insurance sub-fund accounts is to provide funds to satisfy deductibles related to environmental claims covered under the environmental pollution liability policy ("Policy") and environmental remediation not covered by the Policy. Funds may be moved within and between the sub-fund accounts as deemed necessary by the Oversight Committee. The CRC long-term maintenance sub-fund account is not subject to the terms and conditions of this amendment, prior settlements, amendments or agreements. Funds contained within the FARF deemed excess may be released subject to the conditions described in Section 10.

4. Environmental Pollution Liability Policy. Company, County, and City agree to bind and maintain an environmental pollution liability policy ("Policy") for the purpose of meeting financial and legal obligations of a future and unforeseen environmental liability at the Site. The County, City and Company will be named insureds to the Policy. Upon Company request, Craig, Mark and Cheryl Rosales will be substituted for Company as a named insured to the Policy. The initial term of Policy is ten years from June 2011 through June 2021. The Policy limits are $20,000,000 per occurrence and $40,000,000 in aggregate with a deductible of $250,000. The deductible will be paid from FARF for successful claims. The Oversight Committee shall evaluate the need to renew Policy and limits of Policy prior to the end of the initial term and any subsequent term of Policy in accordance with Section 8.5(P).

5. Consent Decree Performance. Upon close of sale of the Site, County shall be responsible for performance of required activities under the Consent Decree. County shall be the lead agency for managing the project as directed by the Oversight Committee. At any time during the performance of the required activities under the Consent Decree, including the implementation of post-closure and environmental remediation of the Site, Ecology and CPH may give notice to County, with copies to City and Company, of County's failure to comply with any requirement, term or provision of such orders.

6. Environmental Services Agreement. The County, City and Company have entered into an Environmental Services Agreement ("ESA") with an environmental engineering firm to serve as Environmental Compliance Manager ("ECM") for the Site. The ECM is responsible for managing post-closure and long-term O&M at the Site as described in the Compliance Monitoring Plan and Post-Closure Permit. An annual scope of work ("SOW") is established by the Oversight Committee as described in Section 8.5(D) Administration of the terms and conditions of the ESA is the responsibility of the County Project Manager. Upon close of sale, Company will no longer be a party to current agreement or future agreements.

7. Payment of Expenditures and Management of FARF. County will pay such expenditures as are delineated in the Revised Environmental Compliance Budget ("RECB") attached hereto as Exhibit "A" and incorporated herein, and as it may be revised from time to time by the City and County. County will make payments in accordance with the following procedures:

7.1 Environmental Services Agreement. County, City and Company jointly selected a firm to serve as ECM for the Site. The ECM is authorized to obtain disbursements from FARF as delineated in the SOW, RECB and described in Section 7.4.

7.2 Property Management Services. Company provides services related to the on-going management of the landfill properties. Company is authorized to obtain disbursements from FARF as delineated in the RECB and Property Management Services Memorandum of Understanding ("MOU") attached hereto as Exhibit B. Upon close of sale of the Site, County shall be responsible for all aspects of property management in accordance with the terms and conditions of the PSA and Management Agreement.

7.3 County Project Management. County provides personnel to administer and manage project as described in Management Agreement and Leichner Landfill County Project Management Memorandum of Understanding ("County MOU") attached hereto as Exhibit C and

incorporated herein, and as it may be revised from time to time by the City and County. County Project Manager is authorized to submit a monthly invoice for disbursement from FARF as delineated in the RECB.

7.4 Invoicing. On a monthly basis Company and ECM shall submit to County Project Manager invoices and supporting documentation ("Invoices") for all services performed during the preceding invoice period pursuant to the RECB. Company shall provide a monthly invoice and supporting documentation as described in the MOU through close of sale. ECM shall provide an invoice that references the appropriate RECB expense category, a detailed description of services provided, hours expended, name of personnel and title of personnel performing services, and any subcontractors that provided services. Each submittal shall contain a monthly summary of invoices for each RECB category, total expended to date and remaining balance for each RECB category. County shall invoice FARF for services rendered as approved and incorporated into the approved RECB in accordance with County MOU. Invoices from other vendors, agencies or utilities not covered by ESA, County MOU, or Consent Decree shall be approved in advance by the Oversight Committee and shall be consistent with RECB or incorporated into an amended RECB prior to provision of such goods or services.

7.5 Professional Services Fees. Fees for professional services not covered by the ESA, County MOU, Consent Decree and this Agreement shall be approved in advance by the Oversight Committee and shall be consistent with RECB or incorporated into an amended RECB prior the provision of such services.

7.6 Records. Company, ECM and County shall maintain accurate records verifying all labor, materials, supplies and other items provided, and expenses incurred under this Agreement. Upon request from a party to this Agreement, Company, ECM and or County shall promptly provide any and all records and time details that reasonably relate to the performance and payment of services.

7.7 Revised Environmental Compliance Budget (RECB). City, County and Company acknowledge that the RECB is an estimate of the actual expenses which the parties believe will be necessary to complete the SOW, CAP, Consent Decree, Post Closure Permit, property management, other expenses described in the Management Plan and this Agreement. The City, County and Company acknowledge that variances will occur resulting in the need to amend the RECB. The City, County and Company also acknowledge that it is the intent of this Agreement those providing services hereunder be compensated from FARF on a time and materials basis for expenses that are (1) are reasonably in conformance with the RECB (2) are legal conforming to County procurement policy, the Revised Code of Washington and Washington Administrative Code and (3) costs incurred are in relation to this Agreement and the Consent Decree. Accordingly, County Project Manager, without further process, may approve payment from the contingency category of RECB for monthly invoices that will result in the exceedence of an approved RECB category, provided that the exceedence does not result in an exceedence of the category by more than fifteen percent (15%) or in excess of funds remaining in contingency. The City, County and Company agree the Oversight Committee shall be provided with a quarterly budget update by County. To ensure the RECB is adjusted and made current with actual and revised estimates of expenses, the RECB shall be subject to semi-annual review by Oversight Committee as referenced in Section 8.5(I) below. If as a result of such a review,

revisions are made to RECB, the revised RECB shall be replaced as Exhibit "A" attached hereto. Upon close of sale, Company will no longer participate in development of RECB. Company may request a copy of most recent version of RECB for review. County is responsible for providing copy of RECB to Company within 30 days of request.

7.8 Payment. Unless disputed by County or City, County shall disburse from FARF the full amount due under each invoice directly to authorized vendors, utilities, agencies, and County no later than thirty (30) calendar days of the date the invoice was received. If the County or City in good faith dispute whether any expenses set forth in the invoices are reasonably in conformance with the RECB or are supported by documentation, as provided in Section 7.4, County shall, within thirty (30) calendar days give notice to vendor, utility, agency, or County in writing of the reason it believes such expenses are not in conformance with the RECB or this Agreement and County shall pay only the portion of the invoice which is then not in dispute and refer the disputed amount to the Oversight Committee for review. The Oversight Committee is responsible for resolving any disputes regarding payments due from FARF per Section 8.5(K).

8. Oversight Committee.

8.1 Oversight Committee Established. There is hereby established a permanent Oversight Committee ("Committee") to oversee management of the Site and the FARF and compliance with the Consent Decree. This Committee shall include:

(A) Director of County Department of Environmental Services or the Director's designee or successor;

(B) County Project Manager assigned the day to day responsibility to manage Site and disbursement of funds from FARF;

(C) Legal Counsel for County;

(D) County Financial Analyst assigned the responsibility for monthly disbursement of funds from FARF, FARF financial statements and RECB reports;

(E) Director of City Public Works Department or the Director's designee or successor;

(F) Legal Counsel for City; and

(G) A designated representative of Clark County Public Health ("CCPH").

Subject to limitation set forth in Section 7.4 of this Agreement and County MOU; Committee members shall not be compensated from FARF for expenses associated with participation on Committee

8.2 Company to Serve as a Limited Advisory Member to Committee. Upon close of sale, Member of Leichner Family, Company Authorized Representative and Company Legal Counsel will no longer be members of Committee. Company shall have the right to designate a representative to the Committee that may attend all or any of the meetings thereof. Designated

representative will serve in a limited advisory role to Voting Members. For the purposes of this agreement, a Limited Advisory Role is defined as a non-voting member of the Committee with meeting attendance being at the sole option of the Company. Meeting notices will be provided to a designated representative in order that the designated representative may make determination to attend. Company is responsible for all expenses for designated representative to attend meeting unless specifically authorized by this Agreement.

8.3 Meetings of the Committee. The Committee shall meet on a quarterly basis, or as needed, but not less semi-annually to fulfill its functions as hereinbelow set forth. County Project Manager is responsible for scheduling meetings and establishing an agenda, notwithstanding the foregoing, any member of the Committee may call a meeting on ten (10) days' notice to address any issue of concern. An individual member calling a meeting shall use all reasonable efforts to schedule the meeting at the convenience of the Committee members. Committee members may remotely participate in any meeting by conference call or other electronic means available.

8.4 Voting Members. County Director of the Department of Environmental Services Department, designee, or successor and City Director of Public Works, designee, or successor are the only authorized voting members of the Committee. County and City will take into consideration advice of other members when required to vote in order to fulfill its functions as set forth in Section 8.5. County and City must mutually agree on issues that result in the release of funds from FARF except as provided by this Agreement. If County and City cannot reach a mutual agreement on any issues to which it is responsible, the parties shall strive to resolve all disputes through negotiation in good faith. If negotiation is not successful, they may agree to enter into mediation as described in Section 13.2. Mediation shall take place only if the parties agree to it in advance in writing. The parties should make specific provision in writing for the selection of a mediator, acceptable to both sides, along with the compensation, if any, for the mediator, the time period allotted for completion of the mediation and any other reasonable provisions that will enhance the efficient, inexpensive and prompt resolution of the issues. The parties may also agree to Binding Arbitration as described in Section 13.3. Arbitration shall take place only if the parties agree to it in advance in writing. The parties should make specific provisions in writing for the selection of one arbitrator (not a panel), acceptable to both sides, along with the compensation, if any, for the arbitrator, the time period allotted for completion of the arbitration and any other reasonable provisions that will enhance the efficient, inexpensive and prompt resolution of the issues. The City and County may choose any other means to resolve issues presented.

8.5 Functions and Responsibilities of Oversight Committee. The Oversight Committee shall have responsibility for all activity regarding the Site. Functions and responsibilities of Committee include but are not limited to the following:

(A) Ensure compliance with agreements, permits, Consent Decree and all local, state and federal laws applicable to activities at the Site.

(B) Review technical compliance issues regarding permits, Consent Decree, and all local, state and federal laws applicable to activities at the Site.

(C) Review and approval of an annual Revised Environmental Compliance Budget ("RECB") as described in Section 7.7. Annual RECB shall be memorialized through a MOU executed by Voting Members. The approved RECB will become Exhibit "A" to this Agreement.

(D) Review and approval of an annual budget for ESA. Committee shall review all tasks assigned to ESA provider. Except in an emergency as defined by this Agreement and State Procurement Law, prior written approval of Voting members is necessary for task order or change in task order activities that fall outside established tasks described in ESA SOW or those tasks consistent with CAP, Consent Decree or Post Closure Permit. ESA budget shall be incorporated in annual RECB, and approved as described in Section 8.5(C).

(E) Review and approval of an annual budget for County Project Manager salary and benefits. Approval of County Project Manager budget shall be memorialized through County MOU executed by voting members. County MOU shall describe County Project Manager roles and responsibilities for Site. Any changes to County Project Manager roles and responsibilities or annual budget shall be memorialized in an amended County MOU. Approved annual budget for County Project Manager shall be incorporated in annual RECB, and approved as described in Section 8.5(C).

(F) On an as needed basis, Committee shall review and approve a budget for major infrastructure improvements deemed necessary to ensure compliance with agreements, permits, Consent Decree and all local, state and federal laws applicable to activities at the Site. Infrastructure improvement budget shall be incorporated in annual or an amended RECB, and approved as described in Section 8.5(C).

(G) On a bi-annual basis, County Director, with the assistance of County Financial Analyst and County Project Manager, shall prepare and submit a bi-annual FARF budget (County Fund 6310) for approval through County budget process. County budget submittal shall be based on RECB. However, County may include reasonable contingencies in the bi-annual budget submittal to cover uncertainties associated with the two-year County budget cycle. County may amend bi-annual budget to reflect approved amendments to RECB as deemed necessary.

(H) On a quarterly basis, Committee shall review RECB as described in Section 7.7. County Financial Analyst will prepare and present Committee with quarterly budget summary and FARF financial statements for review.

(I) On a semi-annual basis, or as deemed necessary, Committee shall review budget and determine if a budget amendment is necessary. County Financial Analyst will prepare and present Committee with semi-annual budget summary for review. Budget amendments to RECB shall be memorialized through MOU executed by Voting Members as described in Section 8.5(C).

(J) Approve the selection of vendors to provide materials, goods, and services for Site. Selection of vendors for Site shall be in accordance with County procurement policies and County MOU. Voting Members shall, in writing (which may be done by electronic mail),

acknowledge approval of selection and authorize County Project Manager to proceed with procurement. Budget for approved vendors shall be incorporated in RECB, and approved as described in Section 8.5(C).

(K) County Project Manager shall forward to Committee for review any disputes regarding vendor performance, payment for goods and services or other payments from FARF related to activity at the Site. Committee is authorized to resolve vendor disputes as allowed by County procurement policies or may opt to forward dispute to County Procurement Manager and Prosecuting Attorney for review and resolution.

(L) Approve the utilization of County forces not covered by County MOU or other agency forces to provide services at the Site. Approval shall be memorialized through MOU or other form of intergovernmental agreement executed by Voting Members. Agreements with County or other agency may be approved for an on-going basis or a specific term. Term and conditions of agreements shall be reviewed on an annual basis.

(M) On an annual basis in accordance with WAC 173-304-468(2)(c) and Consent Decree Article XXIV(B), County Financial Analyst shall update post-closure cost estimate for the estimated remaining post-closure phase of the landfill. Committee shall review post-closure cost estimate to determine adequacy of financial assurance provided by FARF. Following review of Committee, County Financial Analyst shall forward post-closure cost estimate to the designated representative of Company and Washington State Department of Ecology for annual review per the terms and conditions of the PSA and Consent Decree.

(N) On an annual basis, or as deemed necessary, Committee shall review the status of the FARF fund, fund investment activity and current balances of City and County maintenance and insurance sub-funds.

(O) Committee shall review on an annual basis, or deemed as necessary, the amount of funds held in FARF County and City Insurance sub-funds. Committee shall evaluate adequacy of financial assurance as compared to risk associated with condition of Site. Voting members of Committee may establish a minimum amount to be held in the insurance sub-funds to provide adequate financial assurance and meet Policy deductibles.

(P) On an as needed basis or at least one-year prior to end of term of current Policy, Committee shall review the term of Policy, Policy limits and deductible to determine adequacy of financial assurance provided compared to risk associated with condition of Site. If deemed necessary, Committee shall confer with and provide a recommendation to County Risk Manager regarding length of Policy term and Policy limits of future Policy.

(Q) Committee may authorize County to transfer FARF funds between sub-funds in the event of insufficient funds or as directed by Committee as mutually agreed and memorialized through MOU executed by Voting Members.

(R) Committee may authorize the release of remaining FARF funds to County and City solid waste enterprise funds upon Ecology or CCPH determination that the Site is stabilized and no longer requires post-closure care. Committee may also authorize the partial

release of FARF funds in accordance with Section 10. Release of funds must be mutually agreed to and memorialized through MOU executed by Voting Members.

9. In Event of Insufficient Funds. Notwithstanding the terms and conditions of the Disposal Agreement, the Settlement Agreement, the First Amendment to Settlement and Disposal Agreement, and this Second Amendment hereto, Company, City and County hereby agree that if moneys available in FARF are insufficient to meet obligations as set forth in the Consent Decree or any other obligations imposed by Ecology or other regulatory authority, the County shall utilize rate authority granted under RCW 36.58 as now in effect or hereinafter amended to establish a rate to fund regulatory obligations through the County contract regarding operations of the County transfer system.

10. Excess Funds. The Company, City and County hereby agree that it is not practical, nor in the public interest, to release FARF funds to reduce tipping fees at the transfer station while excluding self-haul or certain cities that utilize the regional County system. The Parties to this Agreement agree that it is not practical to refund excess funds to WUTC regulated rated payers and rate payers residing in the City as described in Section 9 Excess funds of the First Amendment to this Agreement. The parties further agree that the Committee may only release Excess Funds for the following purposes:

(A) Fund purchase of Site from LBLRC as described in Section 11;

(B) Fund master planning or redevelopment of the Site for a public use;

(C) Off-set future capital costs associated with the regional County transfer system; or

(D) Support the implementation of County Comprehensive Solid Waste Management Plan

Funds may be deemed excess by Committee when total FARF fund balance compared to obligations identified in the annual post closure cost estimate exceed 110% of projected financial obligations. Committee is authorized to release funds in excess of the 110% threshold in accordance with terms and conditions of Section 8.5(R). In accordance with Section 8.5(M), County Financial Analyst shall update post-closure cost estimate for the estimated remaining post-closure phase of the landfill on an annual basis. Annual post-closure cost estimate serves as a financial model to determine if FARF fund balances are sufficient to meet to meet obligations as set forth in the Consent Decree or any other obligations imposed by Ecology, or other regulatory authority, through an estimated date of Site stabilization. This Section shall not be modified or amended without prior notification and approval of the WUTC.

11. Release of Excess Funds for Purchase of Site. The City, County and Company hereby agree that moneys retained the in the CRC long-term maintenance sub-fund account are not subject to the terms and conditions of this Amendment, prior settlements, amendments or agreements associated with the Site. The City, County and Company further agree that excess funds are available for release, and fifteen years have passed since the effective date of the Consent Decree per Section 7.0.6(C)(e) of the First Amendment to this Agreement. The City, County and Company hereby agree to release a total of $1,151,000 from CRC long-term

maintenance sub-fund account and County Insurance sub-fund account for the purchase of the Site from LBLRC.

12. Proceeds from Future Sale of Property. The City, County and Company to this Agreement hereby agree that a planning process may be implemented to determine potential alternative uses for the Site. The City, County and Company acknowledge the County intent to evaluate the potential to release a portion of the property from Consent Decree and surplus the property. In the event the County surpluses property acquired from Company, the City, County and Company agree that proceeds from sale shall be deposited in County Maintenance sub-fund account, and is subject to the terms and conditions of this amendment, prior settlements, amendments or agreements associated with the Site.

13. Dispute Resolution. These dispute resolution provisions supersede prior provisions and govern this Agreement. For the purposes of Section 13 Dispute Resolution, the term parties or party refers to the City and or County.

13.1 Negotiation. The parties shall strive to resolve any dispute or issue arising from the terms of this Agreement by negotiation in good faith and with due regard for efficiency to the extent feasible.

13.2 Mediation. If the parties are not successful in resolving a dispute or issue arising from the terms of this Agreement by negotiation, they may agree to mediation but only if this is expressed in a document signed by the parties. The document must also include provisions for: (1) selection of a mediator agreed to by the parties; (2) compensation for the mediator; (3) a deadline by which the mediator's written decision is required; and (4) any other provisions the parties deem necessary.

13.3 Arbitration. If the parties are not successful in resolving a dispute or issue arising from the terms of this Agreement by mediation, or they choose to forego mediation, they may agree to arbitration, but only if this is expressed in a document signed by the parties. Arbitration shall then take place in the following manner:

(A) Either party may, by written notice to the other within fourteen days (14) after a dispute or issue has arisen that is subject to this Agreement and not resolved by negotiation or mediation, may propose an arbitrator and seek concurrence from the other party. The arbitrator shall be an attorney duly licensed and in good standing to practice law in the State of Washington. The other party shall, by written notice, within ten (10) days after receipt of such notice by the first party, provide concurrence or offer a substitute. If the parties do not agree to an arbitrator within ten (10) additional days they may continue to seek agreement to an arbitrator for another ten (10) additional days or the option of arbitration is terminated.

(B) On appointment of the arbitrator as provided for above, the parties agree they will each pay one-half of the costs and expenses of the arbitration and such arbitrator shall hold an arbitration hearing in Vancouver, Washington, within thirty (30) days after such appointment. At the hearing, the laws of evidence of the State of Washington shall apply and the arbitrator shall allow each party to present that party's case, evidence and witnesses, if any, in

the presence of the other party, and shall render the award, including a provision for payment of costs and expenses of arbitration.

(C) The award of the arbitrator shall be binding on the parties to this Agreement although each party shall retain the right to appeal any questions of law arising at the hearing and judgment may be entered on such award in any court having jurisdiction.

(D) The parties may choose any other means to resolve the issues presented.

CITY OF VANCOUVER, a municipal
Corporation of the State of Washington

By: _____

Its: CITY MANAGER

Date: Nov 30, 2012

CLARK COUNTY, a municipal subdivision
Of the State of Washington

By: _____

Its: CHAIR, BOARD OF COMMISSIONERS

Date: 11/27/12

LEICHNER BROTHERS LAND
RECLAMATION CORP., a Washington
Corporation

By: _____

Its: PRESIDENT

Date: 11/28/12

Waste Connections of Washington, Inc., a Washington
Corporation

By: _____

It's REGION VICE PRESIDENT

Date: 10/9/12

FOR THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION:

By: _____
Steven V. King
Its: Executive Director - Acting

Approved as to Form:

_____
~~Bronson Potter~~
Clark County ~~Chief~~ Deputy Prosecutor

Approved as to Form:

_____
Ted Gathe
City of Vancouver
City Attorney

Enclosure B

Real Estate Purchase and Sale Agreement

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REAL ESTATE PURCHASE AND SALE AGREEMENT
("Agreement")

1. **Effective Date.** November 7, 2019

2. **Parties.** Clark County, a political subdivision of the State of Washington, hereinafter referred to as "**Seller**", and

City of Vancouver, Washington, a municipal corporation, hereinafter referred to as "**Purchaser**".

3. **Property Sold**. Purchaser hereby agrees to purchase, and Seller hereby agrees to sell, the real property which portion is legally described in Exhibit A and is depicted in the attached Exhibit B, attached hereto and incorporated herein by reference (the "Property") and all improvements thereon excepting the existing gas probes, monitoring wells and gas flare station and which is a part of Assessor's parcel Numbers 105740-000, 199863-000, 199845-000 and 199864-000 located at 8713 NE 94th Ave., Vancouver, County of Clark, Washington. The Purchaser will purchase the listed parcels in their entirety. Any boundary line adjustments shall only occur with the Seller's consent which consent shall not be unreasonably withheld and provided this shall not preclude the Purchaser from combining parcels.

4. **Purchase Price**. The TOTAL PURCHASE PRICE shall be established by an appraisal to be conducted by the Purchaser. Purchaser shall be responsible for all costs associated with the aforementioned appraisal establishing the fair market value ("Appraised Value") of the property. The Seller reserves the right to hire an appraiser, at its cost, to review the appraisal provided by the Purchaser or conduct its own separate appraisal. If the Seller hires an appraiser, that review shall be completed within sixty (60) days of receiving the appraisal conducted by the Purchaser. If the two (2) Appraised Values are within ten percent (10%) of each other, the Purchase Price shall be the average of the two (2) Appraised Values. If the two (2) Appraised Values are not within ten percent (10%) of each other, the Parties shall mutually agree upon a third appraiser. The third appraiser will determine their opinion of Appraised Value. The Purchase Price shall then be determined by the average of the third Appraised Value with that of the first two (2) Appraised Values closest to it. The Purchase Price shall be payable as follows: all cash at Closing.

5. **Earnest Money**. Earnest Money Deposit. Upon execution of this Agreement, Purchaser shall deliver to the Escrow Holder as defined in herein, for the account of Purchaser $10,000.00 as earnest money (the "Earnest Money") in the form of ☐ cash or ☐ check or ☒ promissory note (the "Note"). If the Earnest Money is in the form of a check being held undeposited by the ☐ Listing ☐ Selling Firm, it shall be deposited no later than 5 PM Pacific Time three days after execution of the Agreement by Purchaser and Seller in the ☐ Listing ☐ Selling Licensee's Pooled Trust Account (with interest paid to the Washington Housing Fund) ☒ to the Escrow (as

hereinafter defined) for depositing in a separate, interest-bearing account. If the Earnest Money is in the form of the Note, it shall be due and payable no later than 5 PM Pacific Time one day ☐ after execution of this Agreement by Purchaser and Seller or ☒ after satisfaction or waiver by Purchaser of the conditions to Purchaser's obligation to purchase the Property set forth in this Agreement or ☐Other:_____. If the Note is not redeemed and paid in full when due, then (i) the Note shall be delivered and endorsed to Seller (if not already in Seller's possession), (ii) Seller may collect the Earnest Money from Purchaser, either pursuant to an action on the Note or an action on this Agreement, and (iii) Seller shall have no further obligations under this Agreement. The purchase and sale of the Property shall be accomplished through an escrow (the "Escrow") which Seller has established or will establish with Fidelity National Title, attn: Melissa Miller (the "Title Company) and the Earnest Money shall be deposited with ☒ Title Company or ☐ Other: _____. The Earnest Money shall be applied to the payment of the purchase price for the Property at Closing. Any interest earned on the Earnest Money shall be considered to be part of the Earnest Money. The Earnest Money shall be returned to Purchaser in the event any condition to Purchaser's obligation to purchase the Property shall fail to be satisfied or waived through no fault of Purchaser.

6. Title. Title shall be conveyed by Statutory Warranty Deed free of encumbrances or defects, except those of record acceptable to Purchaser and encroachments, defined as Permitted Exceptions in Paragraph 7 below. Rights reserved in federal patents or state deeds, building or use restrictions general to the area, existing easements not inconsistent with Purchaser's intended use, and building or zoning regulations or provisions shall not be deemed encumbrances or defects. Platted or vacated streets or roadways within the boundaries of the Property shall not be considered an encumbrance, and Purchaser accepts any and all risk associated with such platted or vacated streets or roadways.

7. Title Insurance. Within ten (10) days of the Effective Date, Seller shall open Escrow at Fidelity National Title, Vancouver, WA (attention: Melissa Miller) (Escrow Agent) and deliver to Purchaser a Preliminary Commitment issued by Fidelity National Title for a standard purchaser's Title Insurance policy. Purchaser shall have fifteen (15) days to notify Seller of any encumbrance or defect in the Preliminary Commitment that is not acceptable to the Purchaser. Seller shall have ten (10) days after being notified of an encumbrance or defect to remove the encumbrance or defect or to notify seller the encumbrance or defect will not be removed. Purchaser has five (5) days after being notified by Seller that Seller is not removing an encumbrance or defect to terminate this Real Estate Purchase and Sale Agreement. If Purchaser does not object to an encumbrance or defect, or terminate the Agreement after Seller's failure to remove the same, the encumbrance or defect will be deemed a "Permitted Exception." Seller shall reasonably cooperate in the investigation of the condition of title. In the event of any title defect arises subsequent to the date of the preliminary commitment, Seller shall cause the same to be cured as provided in this section.

8. Contingent Conditions. The enforceability of this Agreement, except as otherwise provided herein, and the obligation of the parties to close escrow is subject to the occurrence or waiver of the following condition(s) within ninety (90) days of the Effective Date hereof and, in any event, prior to the date of closing:

a. Purchaser's obligation to close is contingent upon Purchaser's satisfaction as to the physical condition of the Property, within the Study Period as defined in Paragraph 9 below, as well as the condition of title to the Property as set out in Paragraph 7.

b. The Parties' obligation to close is subject to the satisfaction of the requirements regarding the transfer and reuse of the Property as stated in the Restrictive Covenant recorded under Auditor's recording number 9804090180 including but not limited to: notice of the conveyance to the Department of Ecology ("Ecology") and Ecology's confirmation that the proposed use is not inconsistent with the covenant.

c. The Parties' obligations to close are subject to the ratification of this Agreement within thirty (30) days of the Due Diligence Termination Date.

d. The approval of the sale by the LLOC (Leichner Landfill Oversight Committee). In April of 2019, the Oversight Committee approved a Memorandum of Agreement releasing parcels 199845-000, 105740-000 and 199863-000 for future development.

e. The Parties shall enter into a management agreement for the property. The agreement will detail, in part, the Parties' responsibilities and actions necessary prior to and after closing of the Property. Included in the management agreement, but not limited to, will be responsibility for maintenance of all common improvements, provisions for access to monitor and maintain the monitoring wells, gas probes and gas flare station or other portions of the closed landfill adjacent to the Property, and amendment of the existing Consent Decree.

9. Study Period. The ("**Study Period**") will commence on the Effective Date and end at 5:00 p.m. on the date which is eighty (80) calendar days following the Effective Date (the **"Due Diligence Termination Date"**).

a. During the Study Period Purchaser may contract with vendors for the performance of the following services for the Property being sold:

Level 1 environmental assessment and report;

Boundary survey and boundary line adjustments;

Topographic survey; and

Geotechnical investigation and report.

The Purchaser shall be solely responsible for costs associated with the services described above.

b. Additionally, during the Study Period Purchaser shall have the right to inspect, investigate, test and examine, at Purchaser's expense, all aspects, matters and conditions relating to the Property and the Purchaser's intended use thereof, including, but not limited to, zoning, the presence of hazardous or toxic substances, soil conditions, the availability of utilities, and governmental requirements and restrictions affecting the Property. Purchaser's Due Diligence shall also include a review of the status of all Leases, Licenses and Contracts, if any, pertaining to the Property. Seller shall reasonably cooperate, and shall instruct its agents, employees and

representatives to reasonably cooperate in facilitating Purchaser's Due Diligence of the Property and the proposed transaction.

Purchaser shall pay the costs of all additional tests, inspections, Due Diligences and reviews conducted pursuant to this Agreement. After the performance of any tests, reviews and inspections, Purchaser shall promptly restore any damage to the Property to the same condition as existed prior to the conduct of said tests, reviews and inspections, and this obligation of Purchaser shall survive any termination of this Agreement. Purchaser shall notify Seller prior to any entry and will not unreasonably interfere with or disrupt any business operations at the Property.

c. Nothing stated in this Section shall be deemed to authorize Purchaser to create or suffer any lien to be placed against the Property, and Purchaser shall indemnify, defend and hold Seller harmless from any and all costs or liens arising or claimed as a result of any such activity on or with respect to the Property and from any claims, loss or damage (including, without limitation, reasonable attorney's fees and costs), suffered by Seller as a result of the activities of the Purchaser or of any party employed or engaged by Purchaser to perform any test, inspection, Due Diligence or review on the Property, except to the extent arising from the negligence or willful misconduct of Seller or its agents, and this obligation shall survive any termination of this Agreement.

d. Within ten (10) days of the Effective Date, Seller shall deliver to Purchaser, for inspection and review all reports concerning the condition of the Property and all licenses, permits, improvement agreements, bonds, development agreements, leases, agreements, contracts, documents, instruments, reports, surveys, books and records relating to the Property ("Seller's Records"). Should Seller fail to timely deliver to Purchaser all of the Seller's Records, the Study Inspection Period and Due Diligence Termination Date shall each be extended for one (1) day for each day of delay in Purchaser's receipt of all of the Seller's Deliveries.

e. In the event that Purchaser does not give Seller a written approval or waiver of all Contingencies, other than City Council ratification, on or prior to the Due Diligence Termination Date, then such Contingencies shall be deemed waived.

f. At any time prior to the expiration of the Study Period, Purchaser elects in its sole discretion not to proceed to acquire the Property due to circumstance discovered during Purchaser's due diligence that demonstrate the Purchaser will not be able to use the Property for its intended use, Purchaser may terminate this Agreement by giving written notice of termination to Seller and Escrow Agent. Should Purchaser not give written notice of termination within the Study Period, Purchaser may not thereafter terminate this Agreement without Seller's consent.

g. Each party shall promptly pursue and utilize best efforts to complete the procedure required for any pre-sale approval requirements. If any of the above conditions are not satisfied or waived by the benefitted party prior to the date of closing, the benefited party may withdraw from this transaction and may be released from all liability hereunder by giving written notice to the other party and the escrow/closing agent. The agreement by a party to close this transaction

constitutes their approval or waiver of all such conditions if they have not been approved or waived earlier.

10. Representations and Condition of Property.

a. Boundaries. To Seller's knowledge, there are no unrecorded easements, unrecorded reservations or encroachments on the Property, nor any encroachments by improvements on such real property onto any easements or rights of way or any adjoining property or which would otherwise conflict with the property rights of any other person, except for the Permitted Exceptions.

b. Seller makes no representations as to the boundaries of the Property; or that any existing curbs or sidewalks or fences are the boundary of the Property; and Seller disclaims any and all warranties against encroachments upon the Property.

c. Zoning. Seller makes no representations as to the zoning of the Property. Purchaser has investigated the current status of zoning on the Property to its satisfaction.

d. Wetlands. Purchaser has made its own determination as to existence or nonexistence of wetlands on the Property and is not relying on any representations of Seller.

e. Environmental Contamination. Other than the conditions disclosed by the Seller pursuant to Subsection 9.d of this Agreement, Seller is aware of no environmental contamination on or affecting the Property. In the event that undisclosed environmental contamination is found on the Property and is determined to have existed prior to the date of closing, Sellers agree to defend and indemnify and hold Purchaser harmless against all claims of any nature including but not limited to claims for damages, injunction or administrative enforcement.

f. Consent Decree. Purchaser acknowledges that the Property is subject to Consent Decree issued by the Department of Ecology. Purchaser agrees to not take any action which would cause a violation of that decree. Purchaser acknowledges it will become party to the Consent Decree as owner of the property.

g. Master Plan. Purchaser agrees that its development and use of the Property shall be consistent with the terms and conditions of the approval of the Leichner Master Planned Development CUP 2016-00001.

h. Survival. All representations and warranties set forth above shall be true as of the date of closing and shall survive closing and not merged into the documents delivered at closing.

11. Closing. The sale shall be closed in the office of closing agent, Fidelity National Title within no more than thirty (30) days after satisfaction or waiver of all contingencies ("Closing Date"), provided the parties can mutually agree to extend the Closing Date to a date that is within thirty days of the Closing Date ("Extended Closing Date"). Purchaser and Seller shall deposit with Escrow Agent all instruments, documents and monies necessary to complete the sale in accordance with this Agreement.

For purposes of this Agreement, "date of closing" shall be construed as the date upon which all appropriate documents are recorded and proceeds of this sale are available for disbursement to Seller. Funds held in reserve accounts pursuant to escrow instructions shall be deemed, for purposes of this definition, as available for disbursement to Seller.

12. Failure to Close.

Purchaser's Remedies. If, due to no fault or delay on the part of the Purchaser, the Seller, for any reason fails to close the purchase of the Property, the Purchaser may at its option exercise any remedy available to it by law or in equity under the circumstances including, but not limited to, the remedy of specific performance and enforcement of this Agreement through an action in eminent domain.

Sellers' Remedies. If, due to no fault or delay on the part of the Seller, the Purchaser fails to close the purchase of the Property and Purchaser has not terminated the purchase as authorized under this Agreement, Seller, as its exclusive remedy, shall be entitled to the remedy of forfeiture of the earnest money as provided in this Agreement.

13. Closing Costs and Prorated Items. Seller and Purchaser shall each pay one-half (1/2) of the escrow fees for closing the transaction. Seller shall pay for the cost of providing a standard purchaser's title insurance policy. Seller shall pay any real estate excise tax. Purchaser shall pay recording fees. If applicable, any property taxes, assessments, water, utility charges on the Property shall be prorated as of the date of closing, and Purchaser assumes and agrees to pay all real property taxes from and after the date of closing.

14. Maintenance of Property. Seller shall maintain the Property in its current condition prior to closing and as described in the management agreement.

15. Monitoring Wells, Gas Probes and Gas Flare Station. There are groundwater monitoring wells, gas probes and a gas flare station located on the Property. The Purchase Price is based upon an appraisal which included an extraordinary assumption that the Seller would be responsible for the costs of relocating three gas probes and the potential abandonment and/or protection of existing groundwater monitoring wells. The Parties' responsibilities for the monitoring wells, gas probes and gas flare station shall be described in the management agreement.

16. Miscellaneous.

a. Seller and Purchaser warrant one to the other that they have not used the services of any real estate company, real estate sales agent or broker and that there is not a sales commission owed on this Property.

b. All agreements, warranties, limitations of warranties, and disclaimers contained herein shall continue to be binding after the closing of this transaction.

c. Notices shall be deemed given on the date of personal delivery to the other party, or in the case of mailing, two (2) business days after the notice has been mailed by certified mail, return receipt requested. Notices shall be directed to the following:

Seller:

Shawn Henessee
P.O. 5000
Vancouver, WA 98666-5000
Shawn.Henessee@clark.wa.gov

Purchaser:

Eric Holmes
P.O. Box 1995
Vancouver, WA. 98668-1995
Eric.Holmes@cityofvancouver.us

d. Time is of the essence in this Agreement.

e. Paragraph headings are included solely for the convenience of the reader, and are not intended to be a part of this Agreement.

f. It is agreed as used herein the "singular" includes the plural and the "masculine" includes the feminine and vice versa as the context may require.

g. There are no other verbal or other agreements which modify or affect this Agreement, or which affect this transaction.

h. This Agreement may be signed in counter parts and shall be binding upon execution by all parties.

i. In the event suit, arbitration or action is instituted to interpret or enforce the terms of this Agreement or to rescind this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial, on any appeal, and on any petition for review, in addition to all other sums provided by law.

17. Assignment. Purchaser may not assign its interest herein without consent of Seller.

Seller:	**Purchaser:**
Clark County, Washington	City of Vancouver, Washington, a municipal corporation

By: _____
Shawn Hansson
County Manager

Date: 11-7-19

By: _____
Eric Holmes, City Manager

Date: 11-21-19

Approved as to form:

By: _____
A. Mighelbrink

Approved as to form:

By: _____
Jonathan Young, ~~Acting~~ City Attorney

Attest:

By: _____
Rebecca Messinger
Clerk

Attest:

By: _____
City Clerk

EXHIBIT A
LEGAL DESCRIPTION

Parcel Numbers 105740-000, 199863-000, 199845-000 and 199864-000 located at 8713 NE 94th Ave.

Parcel Number 105740-000 NEWTON NW1/2 LOT 1 N1/2 LOT 2, 3, 4 & 5 25.49Acres

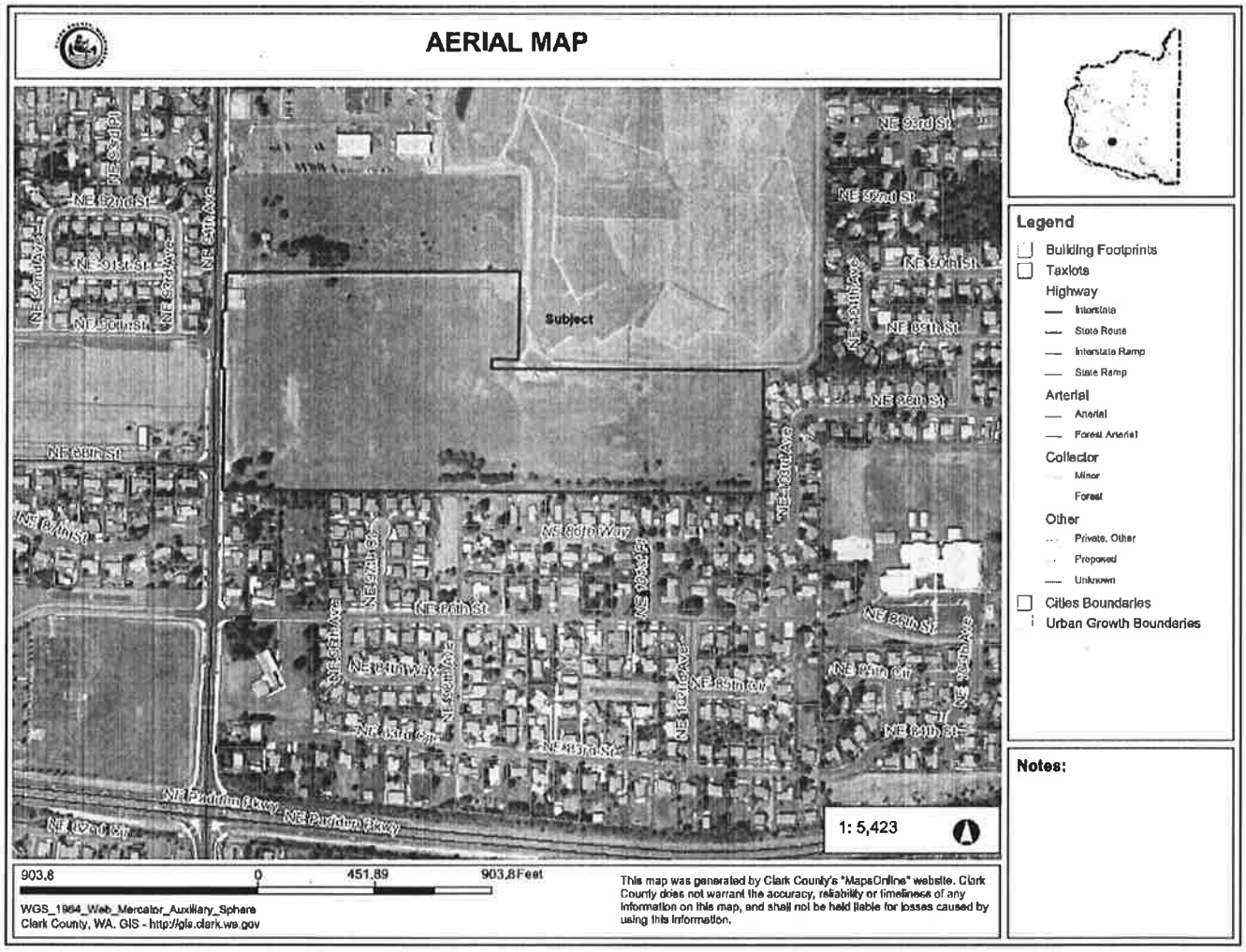
Parcel Number 199863-000 #32 JAMES MCALLISTER DLC 7.42Acres

Parcel Number 199845-000 #13 JAMES MCALLISTER DLC 2.12 Acres

Parcel Number 199864-000 #33 JAMES MCALLISTER DLC .13Acres

35.16 acres

EXHIBIT B
LOT DEPICTION



Enclosure C

PLP Waiver Form

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PLP Waiver Form

Steve Worley
City of Vancouver
415 W. 6th Street
Vancouver, WA 98660

Pursuant to WAC 173-340-500 and WAC 173-340-520(1)(b)(i), I Steve Worley, a duly authorized representative of the City of Vancouver, do hereby waive the right to the thirty (30) day notice and comment period described in WAC 173-340-500(3) and accept status of the City of Vancouver as a Potentially Liable Person at the following contaminated site:

- Site Name: Leichner Brothers Landfill
- Site Address: 9411 NE 94th Ave, Vancouver, Clark County, WA 98666
- Cleanup Site ID: 3019
- Facility/Site ID: 1017
- County Assessor's Parcel Number(s): 105740-000, 199845-000, and 199863-000

By waiving this right, the City of Vancouver makes no admission of liability.

_____ _____

Signature Date

Relation to the Site: Public Works Director, City of Vancouver

Enclosure D

Focus: Model Toxics Control Act Cleanup Regulation: Process for Cleanup of Hazardous Waste Sites (Focus No. 94-129)

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WASHINGTON STATE DEPARTMENT OF ECOLOGY

Focus

Model Toxics Control Act Cleanup Regulation: Process for Cleanup of Hazardous Waste Sites

In March of 1989, an innovative, citizen-mandated toxic waste cleanup law went into effect in Washington, changing the way hazardous waste sites in this state are cleaned up. Passed by voters as Initiative 97, this law is known as the Model Toxics Control Act, chapter 70.105D RCW. This fact sheet provides a brief overview of the process for the cleanup of contaminated sites under the rules Ecology adopted to implement that Act (chapter 173-340 WAC).

How the Law Works

The cleanup of hazardous waste sites is complex and expensive. In an effort to avoid the confusion and delays associated with the federal Superfund program, the Model Toxics Control Act is designed to be as streamlined as possible. It sets strict cleanup standards to ensure that the quality of cleanup and protection of human health and the environment are not compromised. At the same time, the rules that guide cleanup under the Act have built-in flexibility to allow cleanups to be addressed on a site-specific basis.

The Model Toxics Control Act funds hazardous waste cleanup through a tax on the wholesale value of hazardous substances. The tax is imposed on the first in-state possessor of hazardous substances at the rate of 0.7 percent, or $7 per $1,000. Since its passage in 1988, the Act has guided the cleanup of thousands of hazardous waste sites that dot the Washington landscape. The Washington State Department of Ecology's Toxic Cleanup Program ensures that these sites are investigated and cleaned up.

What Constitutes a Hazardous Waste Site?

Any owner or operator who has information that a hazardous substance has been released to the environment at the owner or operator's facility and may be a threat to human health or the environment must report this information to the Department of Ecology (Ecology). If an "initial investigation" by Ecology confirms further action (such as testing or cleanup) may be necessary, the facility is entered onto either Ecology's "Integrated Site Information System" database or "Leaking Underground Storage Tank" database. These are computerized databases used to track progress on all confirmed or suspected contaminated sites in Washington State. All confirmed sites that have not been already voluntarily cleaned up are ranked and placed on the state "Hazardous Sites List." Owners, operators, and other persons known to be potentially liable for the cleanup of the site will receive an "Early Notice Letter" from Ecology notifying them that their site is suspected of needing cleanup, and that it is Ecology's policy to work cooperatively with them to accomplish prompt and effective cleanup.

November 2007 (revised) Focus No. 94-129 *printed on recycled paper*

Who is Responsible for Cleanup?

Any past or present relationship with a contaminated site may result in liability. Under the Model Toxics Control Act a potentially liable person can be:

- A current or past facility owner or operator.
- Anyone who arranged for disposal or treatment of hazardous substances at the site.
- Anyone who transported hazardous substances for disposal or treatment at a contaminated site, unless the facility could legally receive the hazardous materials at the time of transport.
- Anyone who sells a hazardous substance with written instructions for its use, and abiding by the instructions results in contamination.

In situations where there is more than one potentially liable person, each person is jointly and severally liable for cleanup at the site. That means each person can be held liable for the entire cost of cleanup. In cases where there is more than one potentially liable person at a site, Ecology encourages these persons to get together to negotiate how the cost of cleanup will be shared among all potentially liable persons.

Ecology must notify anyone it knows may be a "potentially liable person" and allow an opportunity for comment before making any further determination on that person's liability. The comment period may be waived at the potentially liable person's request or if Ecology has to conduct emergency cleanup at the site.

Achieving Cleanups through Cooperation

Although Ecology has the legal authority to order a liable party to clean up, the department prefers to achieve cleanups cooperatively. Ecology believes that a non-adversarial relationship with potentially liable persons improves the prospect for prompt and efficient cleanup. The rules implementing the Model Toxics Control Act, which were developed by Ecology in consultation with the Science Advisory Board (created by the Act), and representatives from citizen, environmental and business groups, and government agencies, are designed to:

- Encourage independent cleanups initiated by potentially liable persons, thus providing for quicker cleanups with less legal complexity.
- Encourage an open process for the public, local government and liable parties to discuss cleanup options and community concerns.
- Facilitate cooperative cleanup agreements rather than Ecology-initiated orders. *Ecology can, and does, however use enforcement tools in emergencies or with recalcitrant potentially liable persons.*

What is the Potentially Liable Person's Role in Cleanup?

The Model Toxics Control Act requires potentially liable persons to assume responsibility for cleaning up contaminated sites. For this reason, Ecology does not usually conduct the actual cleanup when a potentially liable person can be identified. Rather, Ecology oversees the cleanup of sites to ensure that investigations, public involvement and actual cleanup and monitoring are done appropriately. Ecology's costs of this oversight are required to be paid by the liable party.

When contamination is confirmed at the site, the owner or operator may decide to proceed with cleanup without Ecology assistance or approval. Such "independent cleanups" are

allowed under the Model Toxics Control Act under most circumstances, but must be reported to Ecology, and are done at the owner's or operator's own risk. Ecology may require additional cleanup work at these sites to bring them into compliance with the state cleanup standards. Most cleanups in Washington are done independently.

Other than local governments, potentially liable persons conducting independent cleanups do not have access to financial assistance from Ecology. Those who plan to seek contributions from other persons to help pay for cleanup costs need to be sure their cleanup is "the substantial equivalent of a department-conducted or department-supervised remedial action." Ecology has provided guidance on how to meet this requirement in WAC 173-340-545. Persons interested in pursuing a private contribution action on an independent cleanup should carefully review this guidance prior to conducting site work.

Working with Ecology to Achieve Cleanup

Ecology and potentially liable persons often work cooperatively to reach cleanup solutions. Options for working with Ecology include formal agreements such as consent decrees and agreed orders, and seeking technical assistance through the Voluntary Cleanup Program. These mechanisms allow Ecology to take an active role in cleanup, providing help to potentially liable persons and minimizing costs by ensuring the job meets state standards the first time. This also minimizes the possibility that additional cleanup will be required in the future – providing significant assurances to investors and lenders.

Here is a summary of the most common mechanisms used by Ecology:

- **Voluntary Cleanup Program**: Many property owners choose to cleanup their sites independent of Ecology oversight. This allows many smaller or less complex sites to be cleaned up quickly without having to go through a formal process. A disadvantage to property owners is that Ecology does not approve the cleanup. This can present a problem to property owners who need state approval of the cleanup to satisfy a buyer or lender.

  One option to the property owner wanting to conduct an independent cleanup yet still receive some feedback from Ecology is to request a technical consultation through Ecology's Voluntary Cleanup Program. Under this voluntary program, the property owner submits a cleanup report with a fee to cover Ecology's review costs. Based on the review, Ecology either issues a letter stating that the site needs "No Further Action" or identifies what additional work is needed. Since Ecology is not directly involved in the site cleanup work, the level of certainty in Ecology's response is less than in a consent decree or agreed order. However, many persons have found a "No Further Action" letter to be sufficient for their needs, making the Voluntary Cleanup Program a popular option.

- **Consent Decrees:** A consent decree is a formal legal agreement filed in court. The work requirements in the decree and the terms under which it must be done are negotiated and agreed to by the potentially liable person, Ecology and the state Attorney General's office. Before consent decrees can become final, they must undergo a public review and comment period that typically includes a public hearing. Consent decrees protect the potentially liable person from being sued for "contribution" by other persons that incur cleanup expenses at the site while facilitating any contribution claims against the other persons when they are responsible for part of the cleanup costs. Sites cleaned up under a consent decree are also exempt from having to obtain certain state and local permits that could delay the cleanup.

- ***De Minimus* Consent Decree:** Landowners whose contribution to site contamination is "insignificant in amount and toxicity" may be eligible for a de minimus consent decree. In these decrees, landowner typically settle their liability by paying for some of the cleanup instead of actually conducting the cleanup work. Ecology usually accepts a de minimus settlement proposal only if the landowner is affiliated with a larger site cleanup that Ecology is currently working on.
- **Prospective Purchaser Consent Decree:** A consent decree may also be available for a "prospective purchaser" of contaminated property. In this situation, a person who is not already liable for cleanup and wishes to purchase a cleanup site for redevelopment or reuse may apply to negotiate a prospective purchaser consent decree. The applicant must show, among other things, that they will contribute substantial new resources towards the cleanup. Cleanups that also have a substantial public benefit will receive a higher priority for prospective purchaser agreements. If the application is accepted, the requirements for cleanup are negotiated and specified in a consent decree so that the purchaser can better estimate the cost of cleanup before buying the land.
- **Agreed Orders:** Unlike a consent decree, an agreed order is not filed in court and is not a settlement. Rather, it is a legally binding administrative order issued by Ecology and agreed to by the potentially liable person. Agreed orders are available for remedial investigations, feasibility studies, and final cleanups. An agreed order describes the site activities that must occur for Ecology to agree not to take enforcement action for that phase of work. As with consent decrees, agreed orders are subject to public review and offer the advantage of facilitating contribution claims against other persons and exempting cleanup work from obtaining certain state and local permits.

Ecology-Initiated Cleanup Orders

Administrative orders requiring cleanup activities without an agreement with a potentially liable person are known as **enforcement orders**. These orders are usually issued to a potentially liable person when Ecology believes a cleanup solution cannot be achieved expeditiously through negotiation or if an emergency exists. If the responsible party fails to comply with an enforcement order, Ecology can clean up the site and later recover costs from the responsible person(s) at up to three times the amount spent. The state Attorney General's Office may also seek a fine of up to $25,000 a day for violating an order. Enforcement orders are subject to public notification.

Financial Assistance

Each year, Ecology provides millions of dollars in grants to local governments to help pay for the cost of site cleanup. In general, such grants are available only for sites where the cleanup work is being done under an order or decree. Ecology can also provide grants to local governments to help defray the cost of replacing a public water supply well contaminated by a hazardous waste site. Grants are also available for local citizen groups and neighborhoods affected by contaminated sites to facilitate public review of the cleanup. See Chapter 173-322 WAC for additional information on grants to local governments and Chapter 173-321 WAC for additional information on public participation grants.

Public Involvement

Public notices are required on all agreed orders, consent decrees, and enforcement orders. Public notification is also required for all Ecology-conducted remedial actions.

Ecology's Site Register is a widely used means of providing information about cleanup efforts to the public and is one way of assisting community involvement. The Site Register is published every two weeks to inform citizens of public meetings and comment periods, discussions or negotiations of legal agreements, and other cleanup activities. The Site Register can be accessed on the Internet at: www.ecy.wa.gov/programs/tcp/pub_inv/pub_inv2.html.

How Sites are Cleaned Up

The rules describing the cleanup process at a hazardous waste site are in chapter 173-340 WAC. The following is a general description of the steps taken during the cleanup of an average hazardous waste site. Consult the rules for the specific requirements for each step in the cleanup process.

1. Site Discovery: Sites where contamination is found must be reported to Ecology's Toxics Cleanup Program within 90 days of discovery, unless it involves a release of hazardous materials from an underground storage tank system. In that case, the site discovery must be reported to Ecology within 24 hours. At this point, potentially liable persons may choose to conduct independent cleanup without assistance from the department, but cleanup results must be reported to Ecology.

2. Initial Investigation: Ecology is required to conduct an initial investigation of the site within 90 days of receiving a site discovery report. Based on information obtained about the site, a decision must be made within 30 days to determine if the site requires additional investigation, emergency cleanup, or no further action. If further action is required under the Model Toxics Control Act, Ecology sends early notice letters to owners, operators and other potentially liable persons inviting them to work cooperatively with the department.

3. Site Hazard Assessment: A site hazard assessment is conducted to confirm the presence of hazardous substances and to determine the relative risk the site poses to human health and the environment.

4. Hazard Ranking: The Model Toxics Control Act requires that sites be ranked according to the relative health and environmental risk each site poses. Working with the Science Advisory Board, Ecology created the Washington Ranking Method to categorize sites using data from site hazard assessments. Sites are ranked on a scale of 1 to 5. A score of 1 represents the highest level of risk and 5 the lowest. Ranked sites are placed on the state Hazardous Sites List.

5. Remedial Investigation/Feasibility Study: A remedial investigation and feasibility study is conducted to define the extent and magnitude of contamination at the site. Potential impacts on human health and the environment and alternative cleanup technologies are also evaluated in this study. Sites being cleaned up by Ecology or by potentially liable persons under a consent decree, agreed order or enforcement order are required to provide for a 30 day public review before finalizing the report.

6. Selection of Cleanup Action: Using information gathered during the study, a cleanup action plan is developed. The plan identifies preferred cleanup methods and specifies cleanup standards and other requirements at the site. A draft of the plan is subject to public review and comment before it is finalized.

7. Site Cleanup: Actual cleanup begins when the cleanup action plan is implemented. This includes design, construction, operation and monitoring of cleanup actions. A site may be taken off the Hazardous Sites List after cleanup is completed and Ecology determines cleanup standards have been met.

For More Information / Special Accommodation Needs

If you would like more information about the state Model Toxics Control Act, please call us toll-free at **1-800-826-7716**, or contact your regional Washington State Department of Ecology office listed below. Information about site cleanup, including a listing of ranked hazardous waste sites, is also accessible through our Internet address: http://www.ecy.wa.gov/programs/tcp/cleanup.html

- **Northwest Regional Office** **425/649-7000**
  (Island, King, Kitsap, San Juan, Skagit, Snohomish, Whatcom Counties)
- **Southwest Regional Office** **360/407-6300**
  (Southwestern Washington, Olympic Peninsula, Pierce, Thurston and Mason Counties)
- **Central Regional Office** **509/575-2490**
  (Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, Yakima Counties)
- **Eastern Regional Office** **509/329-3400**
  (Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman Counties)

If you need this publication in an alternative format, please contact the Toxics Cleanup Program at (360) 407-7170. Persons with a hearing loss can call 711 for the Washington Relay Service. Persons with a speech disability can call 877-833-6341.

Disclaimer Notice: This fact sheet is intended to help the user understand the Model Toxics Control Act Cleanup Regulation, chapter 173-340 WAC. It does not establish or modify regulatory requirements.