

**MEMORANDUM OF AGREEMENT**

This Memorandum of Agreement is entered into by and between the Novato Sanitary District (hereinafter referred to as "NSD"), Teamsters Local 315 (hereinafter "Local 315"), and \_\_\_\_\_ ("Vendor").

**WHEREAS**, NSD and Local 315 have a collective bargaining agreement (hereinafter "MOU") covering, among other things, work performed at wastewater treatment plant; and

**WHEREAS**, NSD has decided to engage the Vendor to operate, maintain, and manage a new wastewater treatment plant and to operate, maintain and manage the existing wastewater treatment plant while the new plant is being designed and built; and

**WHEREAS**, It is expected that the Vendor selected by NSD will assume responsibility for the operation of the wastewater treatment plant in mid-2009, which actual takeover date is designated herein as 'Date of Transition'; and

**NOW, THEREFORE**, NSD and Local 315, hereby agreed as follows:

1. Except where indicated otherwise below, this Agreement applies only to bargaining unit employees represented by Local 315 who are employed at NSD's existing wastewater treatment plant as operators, mechanics, or maintenance workers on the Date of Transition.

2. Each wastewater treatment plant employee [listed in Appendix A] on NSD payroll as of the Date of Transition shall be offered employment with the Vendor in a position having the same or better wages as the employee's contractual wage rate as set forth in the MOU. The Vendor shall be prohibited from using or considering any pre-existing medical, physical, or mental condition of any transferred employee for determining

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initial or continued employment or benefit eligibility. The Vendor may require transferred employees to pass a pre-employment drug screening in order to qualify for employment with the Vendor.

3. Employees accepting employment with the Vendor as set forth in paragraph 2 above shall be provided by the Vendor with a substantially equivalent or better package of benefits, including but not limited to health insurance, dental insurance, sick days, vacation days, holidays. Health and other insurance benefits shall be made available to employees without any elimination periods, pre-existing condition provisions or other limitations on full and immediate coverage. The Vendor shall provide transitioned employees with a substantially equivalent or better employee pension benefit plan, provided that this requirement shall not be construed as an agreement by the Vendor or NSD to any specific form of pension.

4. NSD shall in its contract with the Vendor (hereinafter the "Contract Operator") require the Vendor to ensure that the terms and conditions of employment described in paragraphs 2 and 3 above shall be included in the first collective bargaining agreement negotiated between the Vendor and Local 315.

5. The Vendor shall recognize the years of service of each affected employee for benefit calculation purposes.

6. The Vendor shall not have the right to involuntary lay off any transferred Employee for a period of three (3) years after the Date of Transition and then only if consistent with the terms of the collective bargaining agreement in effect at the time. The Vendor shall not terminate the employment of any transferred employee within the two year period unless: (1) the transferred employee voluntarily quits; (2) the transferred, employee voluntarily elects an early retirement, severance, or other incentive termination package sponsored

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and funded by the Vendor, (3) the transferred employee is dismissed for just cause; or (4) any transferred employee who, as of the Date of Transition, has not completed his/her probationary period with NSD and, in the opinion of the Vendor, does not meet the requirements of his/her probationary period. Likewise, just cause shall also be required for any discipline of a transferred employee by the Vendor.

7. NSD in its contract with the Vendor (hereinafter the "Contract Operator Contract") shall require the Vendor to recognize Local 315 as the exclusive bargaining representative of the positions of the transitioned employees and to immediately upon the transition, or sooner if agreeable to the Vendor and Local 315, begin bargaining regarding a collective bargaining agreement, and will require the Vendor to agree not to challenge the appropriateness of the bargaining unit for the term of the Contract Operator Contract. This Memorandum of Agreement shall be incorporated as a term and condition of the Contract Operator Contract.

8. Any dispute regarding the application, interpretation, or alleged breach of this Memorandum of Agreement shall be deemed a grievance. If the grievance is not resolved within thirty (30) days of the submission of the grievance to the other party, the grieving party may submit it for arbitration. The arbitrator shall be selected by filing a request for a list of arbitrators from the American Arbitration Association Labor Arbitration Panel pursuant to its Voluntarily Labor Arbitration Rules then in effect. The decision of the arbitrator shall be final and binding upon the parties. The arbitrator shall have no authority to alter, amend, change, add to, subtract from, or modify any of the terms and conditions of this Memorandum of Agreement. All fees and expenses of the arbitrator shall be borne equally by the parties. Each party shall bear the expenses of the presentation of its own case.

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9. Immediately following the Date of Transition and throughout the period that the new wastewater treatment plant is being built and started up, the Vendor shall be required to conduct training of all transitioned employees so that any transitioned employee will have the opportunity to attain the necessary skills, qualifications, and certifications required for his/her position.

10. Employees transferred to the Vendor shall be considered by the parties to have been laid off by NSD for the purpose of exercising re-employment rights, as set forth in Section 19 of the Novato Sanitary District Personnel Rules and Regulations.

11. NSD shall pay the employees offered transition their accrued and unused vacation days provided by the relevant portions of the MOU. NSD shall make such payments as of the Date of Termination.

12. If NSD reassumes, in whole or in part, any of the operations that are to become the responsibility of the Vendor as set forth herein, all transitioned employee on the payroll of the Vendor at that time shall again become an NSD employee and shall be covered by the applicable MOU in effect at that time. A rehired transitioned employee shall return with all years of prior service with NSD and the Vendor counting for seniority purposes, but only prior years of service with NSD counting for benefit calculation purposes.

13. Once the transitioned employees move to the Vendor's payroll, if any transitioned employee voluntarily quits, retires, or is terminated for just cause, that employee's position shall be filled at the Vendor's discretion.

14. The Vendor shall manage the transitioned employees in all respects from the Date of Transition.

15. In consideration of the payments and other terms of the Memorandum of Agreement, it is agreed as follows:

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- (a) Subject to the provisions of Section 17(b), upon execution of this Memorandum of Agreement by all parties, Local 315 and the undersigned employees hereby release and discharge NSD, the Vendor, their elected and appointed officers, officials, employees, heirs, successors, assigns, directors, agents and attorneys (collectively "Employer Releases") from any and all manner of actions, causes of actions, debts, claims, demands, grievances, unfair labor practices, costs and attorneys fees, both in law and equity, which against the Employer Releases, Local 315 and the undersigned employees has or ever had, by the reason of NSD's decision to and its entering into the Contract Operator Contract with the Vendor, from the beginning of the world to the effective date of the Memorandum of Agreement. Subject to the provisions of Section 17(b), upon execution of this Memorandum of Agreement by all parties, the City, NSD and the Vendor hereby release and discharge Local 315 and the undersigned employees, their elected and appointed officers, officials, employees, heirs, successors, assigns, directors, agents and attorneys (collectively "Union Releases") from any and all manner of actions, causes of actions, debts, claims, demands, grievances, unfair labor practices, costs and attorneys fees, both in law and equity, which against the Union Releases, NSD, and the Vendor has or ever had, by the reason of the actions or activities of the Union Releases in response to NSD's decision to and its entering into the Contract Operator Contract with the Vendor, from the beginning of the world to the effective date of the Memorandum of Agreement.
- (b) The following are all excluded from and are not covered by the Release set forth in Section 17(a):
1. Any Workers compensation claims;
  2. Any disputes regarding the interpretation, application and enforcement of the Memorandum of Agreement;
  3. Any grievances, litigation or claims not related to the decision to the entering into a Contract Operator Contract;
- (c) Any employee who has been offered transition to the Vendor and who has been offered coverage under the Memorandum of Agreement, but has not executed this Memorandum of Agreement, shall not receive an offer of employment with the Vendor nor any of the benefits set forth in the Memorandum of Agreement.

16. Local 315, NSD, and the Vendor agree that the parties are authorized to enter into this Agreement and the Contract Operator Contract, and said parties hereby waive their right to challenge the validity of this Agreement, or any term thereof, for the life of the Contract Operator Contract.

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17. This Memorandum of Agreement shall be governed by the laws of the State of California and any applicable MOU and shall be binding upon and inure to the benefit of the parties hereto and their respective executors, heirs, successors and assigns.

18. Before the Date of Transition of the wastewater treatment plant employees to the Vendor, any vacant positions at NSD for which any employee subject to transition in the Local 315 bargaining unit has the minimum qualifications shall be offered and filled by that employee, prior to that position being offered to the rest of the bargaining unit.

IN WITNESS WHEREOF, this Memorandum of Agreement has been executed on the dates below, but shall not become effective until executed by NSD, Local 315, and the Vendor.

*[Handwritten Signature]*  
Teamsters Local 315

*[Handwritten Signature]*, Secretary  
NSD Board of Directors

Date: 5/11/09

Date: 5/11/2009

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

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This will acknowledge that I have received, read, and understand the Memorandum of Agreement between Novato Sanitary District, Teamsters Local 315, and \_\_\_\_\_(Vendor).

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**APPENDIX A  
LIST OF EMPLOYEES TRANSITIONING TO VENDOR**

**CALPERS MEMBERS - ACTIVE**

<b>EMPLOYEE</b>	<b>DATE OF HIRE</b>	<b>Year of Birth</b>	<b>Position</b>
delongh, Dasse	3/7/84	1962	Lead Operator
Edington, Mark	3/12/84	1957	Operator I
Heffelfinger, Dean	6/10/02	1971	Operator II
Longman, Norman	9/26/88	1957	Mechanical Technician II
Lynch, James	8/24/04	1949	Operator II
McGrane, Brian	1/4/00	1965	Mechanical Technician II
Medina, Angel	9/20/93	1972	Mechanical Tech Leadworker
Silva, Anthony	11/27/95	1970	Operator II
Mann, Edward	3/16/98	1950	Wastewater Facility Manager (not union)

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