

**SILICON VALLEY**  
**ANIMAL CONTROL AUTHORITY**

**AGENDA ITEM**

## **Mission Trail Waste Systems**

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### **RECOMMENDED MOTION**

That the service contract with Mission Trail Waste Systems for waste and recycling services for FY 2018-19 be received and filed.

### **DISCUSSION**

Staff requires a company to provide waste and recycling services for the animal care center.

### **DOCUMENT ATTACHED**

Copy of Consultant Agreement  
Copy of Service Agreement with Mission Trail Waste Systems "Attachment A"

### **FISCAL IMPACT**

\$5,033.76 from 2018-19 Operating Budget

L, M, J

APR 10 2018

**CONSULTANT AGREEMENT  
MISSION TRAIL WASTE SYSTEMS**

This agreement is made this 5<sup>th</sup> day of April 2018, by SILICON VALLEY ANIMAL CONTROL AUTHORITY, a California Joint Powers Authority ("AUTHORITY") and MISSION TRAIL WASTE SYSTEMS, a California corporation ("CONSULTANT").

**RECITALS**

**WHEREAS**, the Silicon Valley Animal Control Authority desires to retain a consultant to provide waste and recycling services; and

**WHEREAS**, Mission Trail Waste Systems has submitted a satisfactory proposal to provide such services, which is attached and incorporated herein as Attachment A and entitled, "Service Agreement."

**THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. Term of Agreement. This Agreement shall cover services rendered July 1, 2018 to June 30, 2019.
2. Services to be Provided. The services to be performed by CONSULTANT shall consist of services described in Attachment A. CONSULTANT will be responsible for any record keeping and will provide documentation of services upon request from AUTHORITY.
3. Compensation. CONSULTANT will be paid \$419.48 per month for services described in Attachment A. Payment shall be made per monthly invoice provided by CONSULTANT.
4. Termination. AUTHORITY and CONSULTANT shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice.
5. Insurance Requirements.

A. Workers' Compensation. If CONSULTANT employs any employees, CONSULTANT shall maintain during the term of this Agreement Workers' Compensation Insurance in conformance with the laws of the State of California. Such coverage such includes a waiver of subrogation in favor of the AUTHORITY.

B. General Liability Insurance. CONSULTANT shall also procure and maintain at all times during the performance of this Agreement (1) General Commercial Liability Insurance covering CONSULTANT and AUTHORITY for liability arising out of the operations of CONSULTANT and any subcontractors; and (2) Automobile Liability Insurance including coverage for all owned and non-owned

vehicles, licensed or unlicensed, used by or on behalf of CONSULTANT in the performance of work under this Agreement. The policies shall be subject to a limit for each occurrence of One Million Dollars (\$1,000,000) with an annual aggregate of One Million Dollars (\$1,000,000) naming as an additional insured, in connection with CONSULTANT's activities, the AUTHORITY, and its directors, officers, employees and agents. The insurers shall agree that their policies are Primary Insurance and that they shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance covering AUTHORITY.

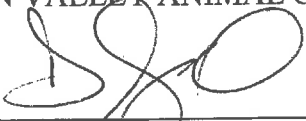
C. Evidence of Insurance. CONSULTANT shall furnish to AUTHORITY Certificates of Insurance indicating compliance with the requirements of this section. The Certificates shall stipulate that thirty (30) days advance written notice of cancellation, non-renewal or reduction in limits of the required policy shall be given to AUTHORITY.

6. Non-Liability of Officials and Employees of AUTHORITY. No official or employee of AUTHORITY shall be personally liable for any default or liability under this Agreement.
7. Compliance with Law. CONSULTANT shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
8. Ownership of Work Project. All documents or other information developed or received by CONSULTANT shall be the property of AUTHORITY. CONSULTANT shall provide AUTHORITY with copies of these items upon demand or upon termination of the Agreement.
9. Notices. All notices shall be personally delivered or mailed, via first class mail, to the below listed addresses. These addresses shall be used for delivery of service of process:
10. Familiarity with Work. By executing this Agreement, CONSULTANT warrants that: (1) it has investigated the work to be performed, (2) it has investigated the site of the work and is aware of all conditions there, and (3) it understands the difficulties, and restrictions of the work under this Agreement. Should CONSULTANT discover any conditions materially differing from those inherent in the work or as represented by AUTHORITY, it shall immediately inform AUTHORITY and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from AUTHORITY.
11. Limitations upon Subcontracting and Assignment. Neither this Agreement or any portion shall be assigned by CONSULTANT nor shall CONSULTANT subcontract any services hereunder without prior written consent of AUTHORITY.

12. Indemnification. CONSULTANT agrees to protect, hold harmless and defend AUTHORITY and its board, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of or in any way connected with performance of the Agreement by CONSULTANT, its agents, officers, employees, subcontractors, or independent contractors hired by CONSULTANT, excepting only those claims, liabilities, expenses, and damages that arise from AUTHORITY's sole negligence. This indemnification shall apply to all liability regardless of whether any insurance policies are applicable and shall not be limited by any insurance policy limits.
13. Modification. This Agreement constitutes the entire agreement between the parties, unless there is a subsequent mutual written agreement executed by AUTHORITY and CONSULTANT.
14. California Law. This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the central branch of the Santa Clara County Superior Court.
15. Interpretation. This Agreement shall be interpreted as though prepared by both parties.
16. Preservation of Agreement. Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.


**IN WITNESS THEREOF**, these parties have executed this Agreement on the day and year shown below.

SILICON VALLEY ANIMAL CONTROL AUTHORITY

By   
\_\_\_\_\_  
Dan Soszynski, Executive Director

Date 3/28/18

MISSION TRAIL WASTE SYSTEMS

By   
\_\_\_\_\_  
Tim Giacomini, Sales Manager

Date 4-5-18



1060 Richard Avenue  
 Santa Clara, CA 95050  
 Phone: (408) 727-5365  
 Fax: (408) 727-7730

## SERVICE AGREEMENT

Contract # 0000004123      NON-HAZARDOUS WASTE

New Account       Change       Location Change       Other

### Service Address

Name: Silicon Valley Animal Control  
 Street: 3370 Thomas Rd  
 City/State/Zip: Santa Clara, CA 95054-2062  
 Contact:  
 Phone: (408) 764-0344  
 Fax: (408) 988-5411  
 County: Santa Clara Non-Exclusive  
 Email:

### Billing Address

Name: Silicon Valley Animal Control  
 Street: 3370 Thomas Rd  
 City/State/Zip: Santa Clara, CA 95054-2062  
 Contact:  
 Phone: (408) 764-0344  
 Fax: (408) 988-5411  
 Account: 028611  
 Start Date: 07/01/2018  
 P.O. #:

\*\*\*\*\*  
 028611 - 0001 - Silicon Valley Animal Control - 3370 Thomas Rd

#### Current Services

Qty	Service Code	Service Description	Service Frequency	Rate
1.00	1826EXEMPT	AB1826 Exempt Customer	None	\$0.00
1.00	4G	4 Yd Garbage/Refuse - Commercial	2 times per week	\$383.51
1.00	4R	4 Yd Recycling - Commercial	Weekly	\$48.43
<b>Total</b>				<b>\$431.94</b>

#### Proposed Services

Qty	Service Code	Service Description	Service Frequency	Rate
1.00	1826EXEMPT	AB1826 Exempt Customer	None	\$0.00
1.00	3G	3 Yd Garbage/Refuse - Commercial	2 times per week	\$324.83
1.00	3R	3 Yd Recycling - Commercial	Weekly	\$94.65
<b>Total</b>				<b>\$419.48</b>

Notes: Revised S/A for new fiscal year July 1, 2018 thru June 30 2019 per Heidi Springer-TG

The terms & conditions on the reverse side are part of the agreement.  
 The below listed person warrants that they are authorized to bind their organization to the terms and conditions of this contract.

**Customer**

**Contractor**

Authorized Signature

Representative's Signature

Title

Date

Date

Initials JS

**"Refer to SVACA Agreement"**

**TERMS AND CONDITIONS OF SERVICE AGREEMENT**

**TERM.** Customer grants to Contractor the exclusive right to collect and dispose of all Customer's waste materials as warranted below (including recyclables) for an initial term of three years from the effective service date. The term of this Agreement shall be automatically renewed for like terms thereafter unless either party shall give written notice of termination by certified mail to the other at least sixty days prior to the termination of the initial term or any renewal term. In the event Customer terminates this Agreement other than as provided above or Contractor terminates this Agreement for Customer's non-payment, Customer shall pay to Contractor as liquidated damages a sum calculated as follows: (1) if the remaining term under this Agreement is six or more months, Customer shall pay its most recent monthly charge multiplied by six; or (2) if the remaining term under this Agreement is less than six months, Customer shall pay its most recent monthly charge multiplied by the number of months remaining in the term.

**WASTE MATERIALS.** Customer warrants that the waste materials delivered to Contractor hereunder will not contain any hazardous, toxic or radioactive wastes or substances as defined by applicable federal, state, local or provincial laws or regulations. Materials delivered to Contractor hereunder will not contain any special waste, as so defined, unless and except as specifically described in "Generator's Waste Material Profile Sheet" attached hereto. Contractor shall acquire title to the waste materials when loaded into Contractor's vehicles; provided however, that title to and liability for the waste materials excluded from this agreement above shall remain with Customer, and Customer agrees to indemnify, defend and hold harmless Contractor against all claims, damages, suits, penalties, fines and liabilities for injury or death to persons or loss or damage to property or the environment arising out of breach of the warranty stated above. The warranties and indemnities contained herein shall survive the termination of this agreement.

**DEFINITION OF EQUIPMENT.** The term "equipment" as used herein shall mean all equipment furnished by contractor in providing the services as specified on the face of this agreement. All equipment furnished by Contractor, which Customer has not purchased, shall remain the property of Contractor and Customer shall have no right, title or interest in the equipment.

**CUSTOMER'S RESPONSIBILITY FOR EQUIPMENT.** Customer shall be responsible for all loss or damage to the equipment, other than normal wear and tear and except for loss or damage resulting from Contractor's handling of the equipment when providing its services hereunder. Customer shall not overload or move the equipment, or make any alterations or improvements to the equipment and shall use the equipment only for the proper purposes for which it is intended. Customer agrees to indemnify, defend and hold harmless Contractor against all claims, damages, suits, penalties, fines and liabilities for injury or death to persons or loss or damage to property arising out of Customer's use, operation or possession of the equipment. On collection day, Customer shall provide unobstructed access to the equipment. If the equipment is inaccessible, Customer will be notified and any additional collection service or attempts to provide such service shall be charged as an "extra pick-up".

**CHARGES AND PAYMENT.** Customer shall pay Contractor for the services provided by Contractor in accordance with the Schedule of Charges shown on the face of this agreement. Customer shall be liable for all taxes, fees or other charges imposed upon the disposal of Customer's waste materials by federal, state, local or provincial laws and regulations. Payment shall be made by Customer within ten (10) days after receipt of an invoice from Contractor. In the event that any payment is not made when due, Contractor, at its sole option, may, at any time, terminate this agreement on notice to Customer and recover any equipment on the premises of Customer. Contractor may impose, and Customer agrees to pay, a late fee not to exceed the maximum rate allowed by applicable law for all past due payments.

**DISPOSAL AND FUEL COST INCREASES.** Since disposal charges and fuel costs are a significant portion of the cost of Contractor's services provided hereunder, Contractor may increase the unit price of the Schedule of Charges in an amount equal to any equivalent unit increase in disposal or fuel costs.

**OTHER ADJUSTMENTS TO SCHEDULE OF CHARGES.** The Schedule of Charges may be adjusted from time to time to reflect increases in the Consumer Price Index since the last adjustment (or since the date of execution of this agreement for the first adjustment). The Schedule of Charges may be adjusted for reasons other than increases in disposal or fuel costs or the Consumer Price Index, subject to approval by Customer.

**PAVEMENT DAMAGE.** Contractor shall not be responsible for damage to Customer's pavement or other driving surface resulting from the weight of Contractor's vehicles servicing the equipment location designated by Customer.

**CHANGES.** Changes in the Schedule of Charges, frequency of collection service, number, capacity and type of equipment may be agreed to orally or in writing, by the parties. Consent to oral changes shall be evidenced by the action and practices of the parties.

**ATTORNEY'S FEES.** In the event of a breach of this agreement by either party, the breaching party shall pay all reasonable attorneys' fees, collection fees and costs of the other party incident to any action brought to enforce this agreement.

**ASSIGNMENT AND BENEFIT.** This agreement shall be binding on the parties and their successors and assigns.

**RELOCATION.** In the event the Customer moves within Contractor's trading area, Contractor will move the trash container to Customer's new address and contract will continue to be in force.

**RIGHT TO COMPETE.** Customer grants to Contractor the right to compete with any hauler which Customer receives (or intends to make) relating to the provision of nonhazardous waste collection and disposal services upon the termination of this Agreement for any reason and agrees to give Contractor written notice of any such offer and a reasonable opportunity to respond to it.

**MISCELLANEOUS.** If any conflict or differences exist in this agreement between terms which are printed and those which are typed or written the typed or written language shall govern.

Initials \_\_\_\_\_