



Meeting Date: 06/26/07

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Grant Dunne, Management Analyst III *Grant Dunne* Agenda Item No. I-18

Reviewed By: City Manager _____ City Attorney *[Signature]* Finance *SW* Other *Mark Norris* *[Signature]*

DATE: June 19, 2007

TO: City Council

FROM: Ken Ortega, Director of Public Works *[Signature]*
Public Works Department

SUBJECT: Settlement Agreement with Exhibit 1 the Fourth Amendment to Service Agreement for Del Norte Regional Recycling and Transfer Station (Del Norte Facility).

RECOMMENDATION

That City Council authorize the Mayor to execute a Settlement Agreement between the City of Oxnard and Republic Services, Incorporated and BLT Enterprises of Oxnard, Inc., including an Exhibit 1, the Fourth Amendment to Agreement relating to the operation and management of the Del Norte Facility located at 111 South Del Norte Boulevard to resolve the litigation entitled Oxnard v. Republic Services, Inc., Ventura County Superior Court Case No. CIV 233956.

DISCUSSION

This settlement agreement resolves pending litigation between the City of Oxnard and Republic Services, Incorporated (Republic) concerning the City's claim for declaratory relief to enforce the termination for convenience provision of the service agreement with Republic. The settlement agreement also resolves Republic's counterclaim of the City's alleged interference with Republic's operations at the Del Norte Facility. The settlement agreement also includes as an Exhibit 1 a Fourth Amendment to the existing service agreement between the City and Republic for the operation and management of the Del Norte Facility.

The Fourth Amendment amends the following terms and conditions of the service agreement:

1. The service agreement provisions concerning the termination of the agreement for 'convenience' by either party are deleted.
2. Republic agrees to pay its employees at the Del Norte Facility in accordance with the Living Wage Policy as adopted by City Council on July 9, 2002.

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Settlement Agreement and Fourth Amendment to Service Agreement to Del Norte Regional Recycling and Transfer Station (Del Norte Facility).

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3. The service agreement provisions requiring minimum personnel staffing for Republic's operations at the Del Norte Facility are deleted.
4. Republic shall annually pay the City the sum of \$500,000 for each year of the remaining term of the service agreement through January 31, 2012. Payments are retroactive to February 1, 2007, and provided in monthly installments.
5. City and Republic agree that the current performance of each party is an acceptable and reasonable performance standard under the service agreement.
6. To the extent that portions of the service agreement are no longer applicable such as design, permitting and construction of the Del Norte Facility such provisions are deleted.

Staff submits that the Settlement Agreement and Fourth Amendment represent a reasonable, beneficial and satisfactory resolution of the issues between the City and Republic.

FINANCIAL IMPACT

The financial impact of the Fourth Amendment on the Environmental Resources Enterprise Fund will be positive due to the annual payments of \$500,000 received from Republic Services, Inc.

GD

Attachment No. 1 – Settlement Agreement

Note: The Settlement Agreement and Exhibit have been provided to the City Council. Copies are available for review at the Circulation Desk in the Library after 6:00 p.m. on the Thursday prior to the Council meeting and at the City Clerk's Office after 8:00 a.m. on Friday.

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