

**AGREEMENT BETWEEN THE CITY OF DUBLIN AND THE CITY OF PLEASANTON REGARDING
EXPENDITURES BY THE OPEN SPACE ADVISORY COMMITTEE CREATED BY AN AGREEMENT
SETTLING LITIGATION OVER THE EXPANSION OF THE ALTAMONT LANDFILL**

This Agreement is entered into by and between the City of Dublin (hereafter "Dublin"), a municipal corporation organized under the laws of the State of California, and the City of Pleasanton (hereafter "Pleasanton"), a municipal corporation organized under the laws of the State of California, this 19th day of JUNE, 2000, 2001.

RECITALS

A. In 1991, Waste Management of Alameda County, Inc. (hereafter WMAC) applied to Alameda County (hereafter "County") for a Conditional Use Permit (hereafter "CUP") that would have allowed it to expand the capacity of the Altamont Landfill and Resource Reclamation Facility (hereafter "Landfill"). The County granted the CUP in 1996, precipitating litigation over the sufficiency of the Environmental Impact Report prepared in conjunction with the CUP application. Pleasanton was one of the plaintiffs in the case.

B. In 1999, the parties to the litigation entered into an agreement settling their claims. As part of that agreement, a copy of which is attached hereto and hereby incorporated by reference, the County agreed to impose on WMAC, as a condition of expanding the Landfill, several fees per ton of waste disposed at the Landfill. The agreement allocated a portion of those fees to an Open Space Account (hereafter "Account"); it further allocated twenty percent of the funds deposited into the Account to the acquisition of open space in the Dublin-Pleasanton area. The County holds all funds in the Account until expenditures are approved.

C. The settlement agreement established an Open Space Advisory Committee (hereafter "Committee") to administer the Account and the acquisition of open space with funds in the Account. Pleasanton, the City of Livermore, the County, and the Sierra Club may all appoint voting members to the Committee. Dublin has nonvoting representation on the Committee. The Committee's tasks, as described in the settlement agreement, are the creation of "priority lists" of properties to acquire in the Dublin-Pleasanton and Livermore areas and the allocation of funds from the Account for the acquisition of the listed open spaces by obtaining title or a permanent easement. Committee decisions regarding the priority list and allocations for the Dublin-Pleasanton area are made by a majority vote of Pleasanton, the County, and the Sierra Club. Once the Committee recommends a priority list and allocations for the Dublin-Pleasanton area, the Pleasanton City Council and the County Board of Supervisors must ratify the recommendations by determining that they are consistent with the requirements of the settlement agreement. If either body does not ratify the recommendation, it is referred back to the Committee for reconsideration. The Committee makes annual adjustments to the priority lists and the proposed expenditures of funds.

D. As a further part of the settlement agreement, WMAC agreed, at the earliest point allowed under its franchise agreements, to include the fees in its per ton rate for disposal at the Landfill, thereby

passing the fee to its franchisors and other jurisdictions that use the Landfill. Each franchisor must then pass the fee along to its customers by increasing rates for solid waste collection and disposal. WMAC has recently included the fees in its proposed per ton disposal rates for Dublin, thereby requesting that Dublin include the fees its customers' rates. Dublin does not believe that, under the terms of its franchise agreement with WMAC, WMAC has the right to include the fees in its disposal rate for Dublin.

E. Believing that the acquisition of open space in the Dublin-Pleasanton area will benefit the residents of both cities, and recognizing that the residents of Dublin will contribute to the Account by indirectly paying the fees discussed above, the parties hereto enter into this Agreement to provide a mechanism for assuring the equitable distribution of the funds from the Account designated for the creation of open space in and around both cities.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Dublin's Responsibilities.

a. Dublin shall, pursuant to its franchise agreement with WMAC and when requested by WMAC, include in the per ton Base Rate defined in that agreement all fees imposed on WMAC by the County as part of the agreement settling the litigation over the expansion of the Landfill.

b. Dublin shall, to the extent permitted by law, continue to study mechanisms and funding sources for open space acquisition and research within and around its boundaries and shall share all information obtained from such studies with Pleasanton and the Committee.

c. Dublin shall actively participate in the Committee and strongly advocate that the funds in the Account be allocated for the acquisition of open space in Pleasanton and Dublin.

2. Pleasanton's Responsibilities.

a. When the Committee creates and makes annual adjustments to the priority lists and proposed allocations of funds, Pleasanton's Committee representative shall vote to place on the priority list properties in Dublin that Dublin's representative has approved. Pleasanton's representative shall, on those occasions, also vote to divide the funds in the Account allocated for the acquisition of open space in the Dublin-Pleasanton area as agreed to by the parties. If the parties reach no other agreement regarding allocation of funds, Pleasanton's representative shall vote that the proposed expenditures for the ensuing year be divided equally between the parties, such that half of the funds are designated for the acquisition of open space in Pleasanton, half for open space in Dublin.

b. If the Committee recommends a priority list that contains properties in Dublin that Dublin's Committee representative has not approved or an allocation of funds for the acquisition of open space in the Dublin-Pleasanton area that is not divided between the parties as they have agreed, the Pleasanton City Council shall vote to disapprove the recommendation as inconsistent with the requirements of the settlement agreement. If the parties have not agreed to an alternative allocation of funds for any given year, the Pleasanton City Council shall similarly vote to disapprove a Committee recommendation for that year that does not evenly divide between the parties the funds allocated for the Dublin-Pleasanton area.

3. Alternative Allocations. The parties may informally agree to an allocation of funds for a single year or for multiple years that is not evenly divided between them. In the absence of an agreement for an alternative allocation, the annual allocation of funds shall remain evenly divided for acquisition of open space in each city.

4. Indemnification. Each party agrees to hold harmless the other and its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives from any and all claims, costs, and liability that may arise directly or indirectly as a result of any actions taken pursuant to this Agreement.

5. Term and Termination. This Agreement shall remain in effect for as long as the Committee exists and makes decisions about the allocation of funds derived from fees imposed as a result of the settlement of the above-described litigation over the expansion of the Landfill. This Agreement may be terminated only by the written consent of both parties.

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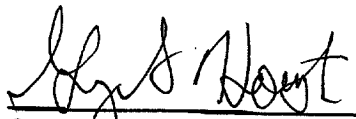
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6. Severability. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

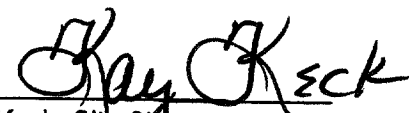
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

CITY OF DUBLIN

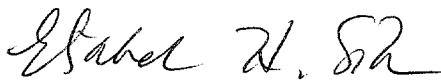
By:


Guy S. Houston, Mayor

Attest:

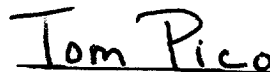

Kay Keck, City Clerk

Approved as to form:


Elizabeth H. Silver, City Attorney

CITY OF PLEASANTON

By:


Ben Tarver, Mayor
Tom Pico

Attest:


Peggy Ezidro, City Clerk

Approved as to form:


Michael Roush, City Attorney

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