

RESOLUTION NO. 2005-199

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
APPROVING THE AGREEMENT FOR A HOUSEHOLD HAZARDOUS WASTE  
COLLECTION PROGRAM AND SUPPLEMENTAL SERVICE PROGRAM  
BETWEEN THE COUNTY OF SACRAMENTO AND  
THE CITY OF ELK GROVE

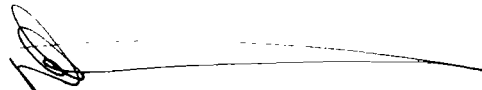
**WHEREAS**, the County of Sacramento operates a PHHWCF capable of providing access to Elk Grove residents; and

**WHEREAS**, the County offers Backyard Composting Workshops to their residents and this would allow residents of Elk Grove to attend those training programs;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Elk Grove authorizes a two year agreement with the County of Sacramento generally with the terms as identified in the attached agreement; and,

**BE IT FURTHER RESOLVED** that the City Manager or his/her designee is hereby authorized and empowered to negotiate terms and execute in the name of the City of Elk Grove an agreement and payments as requested and amendments hereto for the purposes of providing proper disposal of HHW for the residents of Elk Grove, in a form acceptable to the City Attorney.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove on this 13th day of July 2005.



DANIEL BRIGGS, MAYOR of the  
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,  
CITY ATTORNEY

**CERTIFICATION  
ELK GROVE CITY COUNCIL RESOLUTION NO. 2005-199**

STATE OF CALIFORNIA       )  
COUNTY OF SACRAMENTO    )       ss  
CITY OF ELK GROVE         )

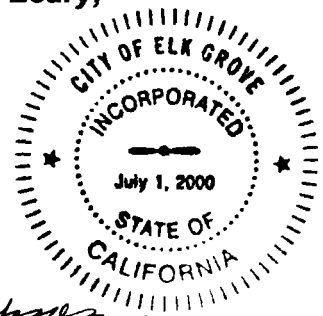
**I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on the 13th day of July, 2005 by the following vote:**


**AYES 4:       COUNCILMEMBERS:       Scherman, Soares, Briggs, Leary,**

**NOES 0:       COUNCILMEMBERS:**

**ABSTAIN 0: COUNCILMEMBERS:**

**ABSENT 1: COUNCILMEMBERS:       Cooper**



  
\_\_\_\_\_  
**Peggy E. Jackson, City Clerk  
City of Elk Grove, California**

**COUNTY OF SACRAMENTO  
MUNICIPAL SERVICES AGENCY**

**AGREEMENT FOR  
Household Hazardous Waste Collection Program and Supplemental  
Service Program Between the County of Sacramento and the  
City of Elk Grove**

THIS AGREEMENT is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2005 by and between the COUNTY OF SACRAMENTO, a political subdivision of the State of California (hereinafter referred to as "COUNTY") and the CITY OF ELK GROVE, a municipal corporation, (hereinafter referred to as "CITY").

**RECITALS**

WHEREAS, COUNTY owns and operates a permitted permanent household hazardous waste collection facility (hereinafter referred to as "PHHWCF"), capable of providing convenient access to CITY residents, located at the COUNTY'S North Area Transfer Station, 4450 Roseville Road, Sacramento County pursuant to California Health and Safety Code Division 20, Chapter 6.5, §25218 and California Code of Regulations, Title 22, Division 4.5, Chapter 20, §66270.60(d)(6); and

WHEREAS, CITY does not operate a permanent household hazardous waste collection facility for the proper disposal, recycling and exchange of household hazardous waste; and

WHEREAS, COUNTY AND CITY desire to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, COUNTY and CITY agree as follows:

**I. DEFINITIONS**

- A. "Conditionally Exempt Small Quantity Generator" (hereinafter referred to as "CESQ generator") means a business concern which meets the criteria specified in Section 261.5 of Title 40 of the Code of Federal Regulations.
- B. "Backyard Composting Program" shall mean a composting workshop offered through the Sacramento County's Department of Waste Management and Recycling.
- C. "Director" shall mean the Director of the Department of Waste Management and Recycling for COUNTY and the City Manager for CITY, or his/her designee for either party.

- D. "Hazardous Waste" means a waste, or combination of wastes, which because of its quantity, concentration, physical, chemical, or infectious characteristics may either: (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (2) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed; or (3) exhibits one or more of the following characteristics: ignitable, corrosive, reactive, toxic, acutely hazardous, or infectious. (California Health and Safety Code, Division 20, Chapter 6.5 and California Code of Regulations, Title 22, Division 4.5, Chapter 11).
- E. "Household Hazardous Waste" (hereinafter referred to as "HHW") means any hazardous waste generated incidental to owning or maintaining a place of residence, but does not include any waste generated in the course of operating a business concern at a residence. (California Health and Safety Code Division 20, Chapter 6.5, §25218(1)(e)).

**II. SCOPE OF SERVICES**

- A. CITY may direct residential and CESQ generators in the CITY to self-haul HHW to COUNTY'S PHHWCF, located at COUNTY'S North Area Recovery Station (4450 Roseville Road, Sacramento, CA 95842). Any public education or promotional efforts developed by CITY shall indicate the specific days and hours of operation of the PHHWCF.
- B. CITY acknowledges that the PHHWCF does not accept all types and quantities of HHW from residential and CESQ generators. Prohibited materials include, but are not limited to: radioactive materials, railroad ties or treated wood, explosives (flares are acceptable), and medical waste (home generated needles or syringes are acceptable). Ammunition will only be accepted on a case-by-case basis with prior notification. Quantity limits (actual liquid amount) per trip are currently as follows but are subject to change at the will of COUNTY: 10 gallons for latex paint, 20 gallons for used oil, 5 gallons or 50 pounds for all other materials. No containers larger than 5 gallons are accepted.
- C. COUNTY shall accept self-hauled HHW from residential (at no charge to the resident) and CESQ generators from the CITY at COUNTY'S PHHWCF, located at COUNTY'S North Area Transfer Station (4450 Roseville Road, Sacramento, CA 95842), during the hours of operation of the PHHWCF. The initial days and hours of operation of the PHHWCF are as follows, but are subject to change at the will of COUNTY:
  - 1. HHW accepted from residential generators: Tuesday, Thursday, Saturday, and Sunday, from 8:30 AM to 4:00 PM (no appointment necessary).
  - 2. Hazardous waste accepted from CESQ generators: CESQ waste will be accepted on the last Friday of each month from 8:30 a.m. to

12:30 p.m. CESQ generators must call (916) 481-4316 to receive an appointment to self-haul material at the PHHWCF. No material will be accepted from a CESQ generator who (1) does not have an appointment or (2) self-hauls wastes to the PHHWCF during the hours of acceptance of HHW from residential generators.

- D. COUNTY shall charge any CESQ generator in the CITY who self-hauls hazardous wastes to the PHHWCF, by appointment, the same amount for the same materials and quantities as COUNTY charges CESQ generator in the County.
- E. CITY residents may attend COUNTY'S Backyard Composting Workshops.
- F. CITY may develop and deliver advertising or promotional materials to CITY residents regarding the County's household hazardous waste services under this contract.
- G. COUNTY and CITY shall mutually agree to the approval of advertising or promotional materials CITY may develop regarding services under this contract.
- H. COUNTY shall require CITY residents to pre-register and notify COUNTY one (1) week prior to COUNTY'S Backyard Composting Workshop how many CITY residents are scheduled to attend.
- I. The Director of the Department of Waste Management and Recycling shall have the authority to make changes in the scope of services, and compensation therefor, within the general scope of this Agreement, with the prior written consent of the CITY.

### III. COMPENSATION

- A. Residential Generators: CITY shall compensate COUNTY for the participation of residential generators of HHW from CITY at COUNTY'S PHHWCF.
  - 1. The level of compensation shall be \$70.00 per vehicle for the initial contract term, beginning January 1, 2005 and ending January 31, 2007.
  - 2. CITY shall pay COUNTY for residential generators HHW participation at COUNTY'S PHHWCF for the period of January 1, 2005 thru July 31, 2005 upon the receipt of an invoice for actual usage during that period. This amount will be calculated and billed to CITY once this Agreement is fully executed; and will be due and payable at that time.
  - 3. The COUNTY shall maintain a record of the zip code of each vehicle relative to the jurisdiction of waste origin. For the purpose of tracking the number of vehicles using the PHHWCF in order to

calculate the level of compensation due to COUNTY, CITY zip codes are defined as follows:

95624            95758            95759            95757

4. COUNTY shall propose to CITY a per-vehicle price for each succeeding year no later than two months prior to the end of the Agreement term.
  5. Invoices shall be submitted to CITY no later than the fifteenth (15th) day of the month following the monthly invoice period, and CITY shall pay COUNTY within sixty (60) days after receipt of invoice.
- B. CESQ Generators: COUNTY shall charge individual CESQ generator customers delivering hazardous waste to the COUNTY'S PHHWCF, by appointment, based upon the specific material types and quantities received by COUNTY. COUNTY shall charge CESQ generators from the CITY the same amount for the same materials and quantities as COUNTY charges CESQ generators in the County. CITY CESQ customers shall pay COUNTY before gaining access to the COUNTY'S PHHWCF.
- C. Backyard Composting Workshops: CITY shall compensate COUNTY for the participation of residents who attend COUNTY'S Backyard Composting Workshop.
1. CITY will reimburse COUNTY for the actual cost of CITY residents attending the Backyard Composting Workshops for the contract term.
  2. Charges for CITY residents who attend COUNTY'S Backyard Composting Workshop shall be invoiced separately from the invoices submitted to CITY for HHW compensation to COUNTY.
- D. Authority to Modify Terms of Compensation: The Director of the Department of Waste Management and Recycling shall have the authority to modify the terms of compensation in the Agreement on behalf of County's Board of Supervisors, but not without the prior written consent of the City.

**IV. TERM**

This Agreement shall be in effect and commence as of the date first written above and shall end on January 31, 2007.

**V. NOTICE**

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail.

TO COUNTY

County of Sacramento  
Department of Waste Management  
and Recycling  
Attn: David Pelsler, Director  
9850 Goethe Road  
Sacramento, CA 95827-3561

TO CITY

City of Elk Grove  
Attn: John Danielson, City Manager  
8380 Laguna Palms Drive, Suite 200  
Elk Grove, CA 95758

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

**VI. COMPLIANCE WITH LAWS**

COUNTY and CITY shall observe and comply with all applicable Federal, State, and County laws, regulations and ordinances.

**VII. GOVERNING LAWS AND JURISDICTION**

This Agreement shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any legal proceedings arising out of or relating to this Agreement shall be brought in Sacramento County, California.

**VIII. STATUS OF PARTIES**

There is no agency relationship between the parties. Notwithstanding anything contained herein, the employees of each party will continue to be entirely and exclusively under the direction, supervision and control of the employing party.

**IX. INDEMNIFICATION**

A. CITY shall defend, indemnify and hold harmless COUNTY, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against all demands, claims, actions, liabilities, losses, damages, and costs, including payment of reasonable attorneys' fees, arising out of or resulting from the performance of the Agreement, caused in whole or in part by the negligent or intentional acts or omissions of CITY'S officers, directors, agents, employees, or subcontractors.

B. COUNTY shall defend, indemnify, and hold harmless CITY, its officers, directors, agents, employees, and subcontractors of CITY from and against all demands, claims, actions, liabilities, losses, damages and costs, including payment of reasonable attorneys' fees, arising out of or resulting from the performance of the Agreement, caused in whole or in part by the negligent or intentional acts or omissions of COUNTY'S Board of Supervisors, officers, directors, agents, employees, or volunteers.

It is the intention of COUNTY and CITY that the provisions of this paragraph be interpreted to impose on each party responsibility to the other for the acts and omissions of their respective officers, directors, agents, employees, volunteers, COUNTY'S Board of Supervisors, COUNTY'S subcontractors, Elk Grove City Council, and CITY'S subcontractors. It is also the intention of COUNTY and CITY that, where comparative fault is determined to have been contributory, principles of comparative fault will be followed and each party shall bear the proportionate cost of any damage attributable to the fault of that party, its officers, directors, agents, employees, volunteers, COUNTY'S Board of Supervisors, COUNTY'S subcontractors, Elk Grove City Council, and CITY'S subcontractors.

**X. INSURANCE**

Each party, at its sole cost and expense, shall carry insurance-or self-insure-- its activities in connection with this Agreement, and obtain, keep in force and maintain, insurance or equivalent programs of self-insurance, for general liability, workers compensation and business automobile liability adequate to cover its potential liabilities hereunder. Each party agrees to provide the other thirty (30) days' advance written notice of any cancellation, termination or lapse of any of the insurance or self-insurance coverages.

**XI. ASSIGNMENT**

This Agreement is not assignable by CITY or COUNTY in whole or in part.

**XII. AMENDMENT AND WAIVER**

A. Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this Agreement shall be binding upon CITY or COUNTY unless agreed in writing by DIRECTOR and counsel for COUNTY and DIRECTOR and attorney for CITY.

B. The Director of the Department of Waste Management and Recycling shall have the authority to amend this Agreement to extend the term with the written consent of CITY on a year-to year basis, not to exceed two additional years.

**XIII. SUCCESSORS**

This Agreement shall bind the successors of COUNTY and CITY in the same way as if they were expressly named.

**XIV. TIME**

Time is of the essence of this Agreement.



**XV. INTERPRETATION**

This Agreement shall be deemed to have been prepared equally by both of the parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

**XVI. DISPUTES**

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. If the dispute cannot be resolved by mutual agreement, nothing herein shall preclude either party's right to pursue remedy or relief by civil litigation, pursuant to the laws of the State of California.

**XVII. TERMINATION**

- A. COUNTY may terminate this Agreement without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing. If notice of termination for cause is given by COUNTY to CITY and it is later determined that CITY was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to this paragraph (A).
- B. CITY may terminate this Agreement without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing. If notice of termination for cause is given by CITY to COUNTY and it is later determined that COUNTY was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to this paragraph (B).
- C. COUNTY may terminate this Agreement for cause immediately upon giving written notice to CITY should CITY materially fail to perform any of the covenants contained in this Agreement in the time and/or manner specified.
- D. CITY may terminate this Agreement for cause immediately upon giving written notice to COUNTY should COUNTY materially fail to perform any of the covenants contained in this Agreement in the time and/or manner specified.
- E. COUNTY may terminate or amend this Agreement immediately upon giving written notice to CITY, 1) if advised that funds are not available from external sources for this Agreement or for any portion thereof; 2) if funds in COUNTY'S yearly proposed and final budget are not appropriated by COUNTY for this Agreement or any portion thereof; or 3) if funds that were previously appropriated for this Agreement are reduced, eliminated, and/or re-allocated by County as a result of mid-year budget reductions.
- F. CITY may terminate or amend this Agreement immediately upon giving written notice to COUNTY, 1) if advised that funds are not available from external sources for this Agreement or for any portion thereof; 2) if funds

in CITY'S yearly proposed and final budget are not appropriated by CITY for this Agreement or any portion thereof; or 3) if funds that were previously appropriated for this Agreement are reduced, eliminated, and/or re-allocated by CITY as a result of mid-year budget reductions.

- G. If this Agreement is terminated under paragraph A, B, E or F above, COUNTY shall only be paid for any services completed and provided prior to notice of termination. In the event of termination under paragraph A, B, E or F above, COUNTY shall be paid an amount which bears the same ratio to the total compensation authorized by the Agreement as the services actually performed bear to the total services of COUNTY covered by this Agreement, less payments of compensation previously made.

**XVIII. PRIOR AGREEMENTS**

This Agreement constitutes the entire contract between COUNTY and CITY regarding the subject matter of this Agreement. Any prior agreements, whether oral or written, between COUNTY and CITY regarding the subject matter of this Agreement are hereby terminated effective immediately upon full execution of this Agreement.

**XIX. DUPLICATE COUNTERPARTS**

This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

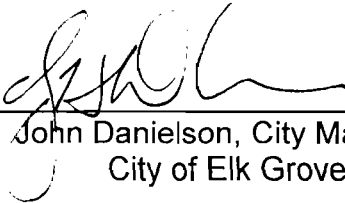
**SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

COUNTY OF SACRAMENTO, a political subdivision of the State of California

CITY OF ELK GROVE, a municipal corporation

By \_\_\_\_\_  
David A. Pelsler, Director  
Department of Waste Management  
and Recycling

By  \_\_\_\_\_  
John Danielson, City Manager  
City of Elk Grove

"COUNTY"

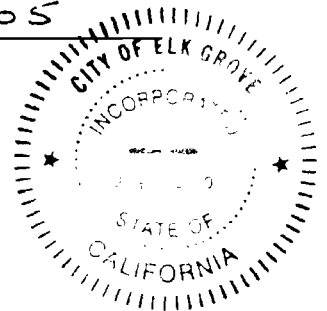
"CITY"

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

Date: 7-28-05

Agreement approved by the Board of Supervisors and signed by the Director under the authority delegated by Resolution No. 99-0327.

ATTEST:




Agenda Date: \_\_\_\_\_

 \_\_\_\_\_  
City Clerk

Item Number: \_\_\_\_\_

REVIEWED AND APPROVED BY COUNTY COUNSEL:


APPROVED AS TO FORM:

By:  \_\_\_\_\_

 \_\_\_\_\_  
City Attorney

Date: 6-21-05

Prepared by:

 \_\_\_\_\_  
Contract Services Section