

**MASTER AGREEMENT**

THIS AGREEMENT is made and entered into this 1st day of February, 2022, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and each contractor listed in Exhibit A, attached hereto and by this reference incorporated herein, and collectively hereinafter referred to as "CONTRACTOR,". References in this Agreement to "party" or "parties" shall be understood to refer to COUNTY and each CONTRACTOR, unless otherwise specified.

**WITNESSETH:**

WHEREAS COUNTY, through participation in Department of Resources Recycling and Recovery (hereinafter "CalRecycle") grant programs, carries out waste tire cleanup, abatement, and removal activities and receives refund payments from CalRecycle for all approved costs incurred pursuant to Section 42889 et seq. of the Public Resources Code, and

WHEREAS COUNTY, which owns and operates the American Avenue Disposal Site located at 18950 West American Avenue, Kerman, CA 93630, accepts tires from the public and as such, pursuant to Section 42808 of the Public Resources Code, must maintain less than 150 tires per day averaged on an annual basis, and

WHEREAS the aforementioned activities necessitate that COUNTY secure the services of qualified tire disposal and recycling contractors.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto agree as follows:

**1. SERVICES**

A. CONTRACTOR shall perform all services and fulfill all responsibilities as identified in Request for Statement of Qualifications (RFSQ) 21-063, dated June 30, 2021 and attached herein as Exhibit B, and CONTRACTOR(S) responses to said RFSQ 21-063, attached herein as sub-parts of Exhibit C and incorporated by reference and herein made part of this Agreement.

B. It is understood that each CONTRACTOR shall be providing tire disposal and recycling services at one (1) or more of the types of facilities as described in the "County of Fresno Pricing Quotation Form" (hereinafter "Exhibit B") of RFSQ 21-063. The types of facilities include: 1) American

1 Avenue Disposal Site, 2) Various Road Maintenance and Operations Yards located throughout the  
2 County which are subject to change, 3) Other locations as identified by the County and approved by  
3 CalRecycle and the COUNTY's Department of Public Health, Environmental Health Division, which  
4 serves as the Local Enforcement Agency (LEA).

5 C. Each CONTRACTOR warrants that it possesses all licenses and certificates  
6 required by local, State of California, and/or Federal laws and regulations for the conduct of its business  
7 and shall operate its business in accordance with all applicable laws and regulations. Each  
8 CONTRACTOR further warrants that all of its personnel performing services under this Agreement shall  
9 be licensed and certified where required, to lawfully perform their duties and shall maintain such licensure  
10 and certifications throughout the term of this Agreement. CONTRACTOR(S) shall allow COUNTY to  
11 review these documents upon request.

12 D. The cost rates identified in Exhibit B shall remain in effect for the entire duration of  
13 the Agreement and may only be amended once annually for inflation, as determined by the "Consumer  
14 Price Index, All Urban Consumers for San Francisco-Oakland-San Jose, CA, Standard Metropolitan  
15 Statistical Area" as published by the United States Department of Labor, Bureau of Labor Statistics, or  
16 any successor index. Such increase shall be subject to written approval of the Director of Public Works  
17 and Planning (hereinafter "DIRECTOR") or his/her designee. The CONTRACTOR shall initiate the rate  
18 adjustment process by submitting a proposed adjusted fee schedule to the Department of Public Works  
19 and Planning (hereinafter "Department") for review and approval. The DIRECTOR or his/her designee  
20 expressly reserves the right to approve or disapprove all rate increases. Said increases shall not result  
21 in any change to the maximum compensation about payable to CONTRACTOR, as stated in Section 4.

22 **2. TERM**

23 The term of this Agreement shall be for a period of three (3) years, commencing on the 12th day of  
24 September 2021 through and including the 11<sup>th</sup> day of September, 2024. This Agreement may be  
25 extended for two (2) additional consecutive twelve (12) month periods upon written approval of both  
26 parties no later than thirty (30) days prior to the first day of the next twelve (12) month extension period.  
27 The Director of Public Works or his or her designee is authorized to execute such written approval on  
28 behalf of COUNTY based CONTRACTOR'S satisfactory performance.

1 The September 12, 2024 termination date specified herein shall be the termination date for  
2 all CONTRACTORS. Any one-year renewal period of this Agreement for any CONTRACTOR  
3 providing services under this Agreement shall commence on September 13, 2025 and September  
4 13, 2026, as appropriate.

5 **3. TERMINATION**

6 A. Non-Allocation of Funds - The terms of this Agreement, and the services to be provided  
7 hereunder, are contingent on the approval of funds by the appropriating government agency. Should  
8 sufficient funds not be allocated, the services provided may be modified, or this Agreement terminated,  
9 at any time by giving the CONTRACTOR thirty (30) days advance written notice.

10 B. Breach of Contract - The COUNTY may immediately suspend or terminate this  
11 Agreement in whole or in part, where in the determination of the COUNTY there is:

- 12 1) An illegal or improper use of funds;
- 13 2) A failure to comply with any term of this Agreement;
- 14 3) A substantially incorrect or incomplete report submitted to the COUNTY;
- 15 4) Improperly performed service.

16 In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach  
17 of this Agreement or any default which may then exist on the part of the CONTRACTOR. Neither shall  
18 such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or  
19 default.

20 C. Without Cause - Under circumstances other than those set forth above, this  
21 Agreement may be terminated by COUNTY upon the giving of thirty (30) days advance written notice of  
22 an intention to terminate to CONTRACTOR.

23 **4. COMPENSATION:**

24 COUNTY agrees to pay CONTRACTOR(S) and CONTRACTOR(S) agree to receive  
25 compensation at the rates quoted on the CONTRACTOR'S Quotation Forms, identified in sub-parts as  
26 Exhibit C, when services are requested by authorized staff from the various Department divisions.

27 In no event shall compensation for services performed under this Agreement exceed \$205,000.00  
28 in any year during the term or renewal periods of this Agreement. The total maximum amount for the

1 services during the three (3) year initial and the two (2) one-year renewal periods shall not exceed  
2 \$1,025,000.00. It is understood that all expenses incidental to CONTRACTOR'S performance of services  
3 under this Agreement shall be borne by CONTRACTOR.

4 **5. INVOICING AND PAYMENT**

5 A. Invoicing

6 CONTRACTOR(S) shall submit, within ten days from date of service, invoices to COUNTY's  
7 Department division staff representative, as identified in Exhibit D. Invoices shall be summarized in a  
8 statement format. All invoices submitted should include the following required information: name of  
9 facility, facility address, service date(s) or date range, programs serviced by CONTRACTOR(S) (either  
10 tire cleanup, tire amnesty, or disposal site). In no event shall CONTRACTOR(S) submit claims to  
11 COUNTY for services that are not duly authorized by COUNTY.

12 B. Payment

13 COUNTY shall make payment(s) to CONTRACTOR(S) within forty-five (45) days after receipt  
14 and verification of CONTRACTOR's invoices by the Department. In the case that invoice(s) received  
15 contain any errors, the Department will request that corrections be made and a revised invoice be issued.  
16 CONTRACTOR(S) understands that the 45 day time frame shall apply only upon receipt, verification,  
17 and approval by the Department of the revised invoice(s).

18 **6. INDEPENDENT CONTRACTOR:** In performance of the work, duties and obligations  
19 assumed by CONTRACTOR under this Agreement, it is mutually understood and agreed that  
20 CONTRACTOR, including any and all of the CONTRACTOR'S officers, agents, and employees will at all  
21 times be acting and performing as an independent contractor, and shall act in an independent capacity  
22 and not as an officer, agent, servant, employee, joint venturer, partner, or associate of the COUNTY.  
23 Furthermore, COUNTY shall have no right to control or supervise or direct the manner or method by  
24 which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to  
25 administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance  
26 with the terms and conditions thereof.  
27 CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the rules and  
28 regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

1           Because of its status as an independent contractor, CONTRACTOR shall have absolutely no right  
2 to employment rights and benefits available to COUNTY employees. CONTRACTOR shall be solely  
3 liable and responsible for providing to, or on behalf of, its employees all legally-required employee  
4 benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all  
5 matters relating to payment of CONTRACTOR'S employees, including compliance with Social Security  
6 withholding and all other regulations governing such matters. It is acknowledged that during the term of  
7 this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this  
8 Agreement.

9           **7.       MODIFICATION:** Any matters of this Agreement may be modified from time to time by the  
10 written consent of all the parties without, in any way, affecting the remainder.

11           **8.       NON-ASSIGNMENT:** Neither party shall assign, transfer or sub-contract this Agreement  
12 nor their rights or duties under this Agreement without the prior written consent of the other  
13 party.

14           **9.       HOLD HARMLESS:** CONTRACTOR agrees to indemnify, save, hold harmless, and at  
15 COUNTY'S request, defend the COUNTY, its officers, agents, and employees from any and all cost and  
16 expenses, damages, liabilities, claims, and losses occurring or resulting to COUNTY in connection with  
17 the performance, or failure to perform, by CONTRACTOR, its officers, agents, or employees under this  
18 Agreement, and from any and all costs and expenses (including attorney's fees and costs), damages,  
19 liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured  
20 or damaged by the performance, or failure to perform, of CONTRACTOR, its officers, agents, or  
21 employees under this Agreement.

22           **10.       INSURANCE**

23           Without limiting the COUNTY's right to obtain indemnification from CONTRACTOR or any third  
24 parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect, the following insurance  
25 policies or a program of self-insurance, including but not limited to, an insurance pooling arrangement or  
26 Joint Powers Agreement (JPA) throughout the term of the Agreement:

27           A.       Commercial General Liability

28           Commercial General Liability Insurance with limits of not less than Two Million Dollars

1 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000.00). This  
2 policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including  
3 completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal  
4 liability or any other liability insurance deemed necessary because of the nature of this contract.

5 B. Automobile Liability

6 Comprehensive Automobile Liability Insurance with limits of not less than One Million  
7 Dollars (\$1,000,000.00) per accident for bodily injury and for property damages. Coverage should include  
8 any auto used in connection with this Agreement.

9 C. Professional Liability

10 If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W.,  
11 M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less than One Million  
12 Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

13 D. Worker's Compensation

14 A policy of Worker's Compensation insurance as may be required by the California  
15 Labor Code.

16 CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance  
17 naming the County of Fresno, its officers, agents, and employees, individually and collectively, as  
18 additional insured, but only insofar as the operations under this Agreement are concerned. Such  
19 coverage for additional insured shall apply as primary insurance and any other insurance, or self-  
20 insurance, maintained by COUNTY, its officers, agents and employees shall be excess only and not  
21 contributing with insurance provided under CONTRACTOR's policies herein. This insurance shall not be  
22 cancelled or changed without a minimum of thirty (30) days advance written notice given to COUNTY.

23 Within Thirty (30) days from the date CONTRACTOR signs and executes this Agreement,  
24 CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all of the  
25 foregoing policies, as required herein, to the County of Fresno, (Name and Address of the official who  
26 will administer this contract), stating that such insurance coverage have been obtained and are in full  
27 force; that the County of Fresno, its officers, agents and employees will not be responsible for any  
28 premiums on the policies; that such Commercial General Liability insurance names the County of Fresno,

1 its officers, agents and employees, individually and collectively, as additional insured, but only insofar as  
2 the operations under this Agreement are concerned; that such coverage for additional insured shall apply  
3 as primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers,  
4 agents and employees, shall be excess only and not contributing with insurance provided under  
5 CONTRACTOR's policies herein; and that this insurance shall not be cancelled or changed without a  
6 minimum of thirty (30) days advance, written notice given to COUNTY.

7 In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein  
8 provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate this  
9 Agreement upon the occurrence of such event.

10 All policies shall be issued by admitted insurers licensed to do business in the State of California, and  
11 such insurance shall be purchased from companies possessing a current A.M. Best, Inc. rating of A FSC  
12 VII or better.

13 **11. AUDITS AND INSPECTIONS:** The CONTRACTOR shall at any time during business  
14 hours, and as often as the COUNTY may deem necessary, make available to the COUNTY for  
15 examination all of its records and data with respect to the matters covered by this Agreement. The  
16 CONTRACTOR shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such  
17 records and data necessary to ensure CONTRACTOR'S compliance with the terms of this Agreement. If  
18 this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the  
19 examination and audit of the Auditor General for a period of three (3) years after final payment under  
20 contract (Government Code Section 8546.7).

21 **12. NOTICES:** The persons and their addresses having authority to give and receive  
22 notices under this Agreement include the following:

<b><u>COUNTY</u></b>	<b><u>CONTRACTOR</u></b>
COUNTY OF FRESNO	SEE EXHIBIT A
ATTN: Director, Resources and Administration	
Public Works and Planning	
2220 Tulare Street, 6 <sup>th</sup> Floor	
Fresno, CA 93721	

1 All notices between the COUNTY and CONTRACTOR provided for or permitted under  
2 this Agreement must be in writing and delivered either by personal service, by first-class United States  
3 mail, by an overnight commercial courier service, or by telephonic facsimile transmission. A notice  
4 delivered by personal service is effective upon service to the recipient. A notice delivered by first-class  
5 United States mail is effective three COUNTY business days after deposit in the United States mail,  
6 postage prepaid, addressed to the recipient. A notice delivered by an overnight commercial courier  
7 service is effective one COUNTY business day after deposit with the overnight commercial courier  
8 service, delivery fees prepaid, with delivery instructions given for next day delivery, addressed to the  
9 recipient. A notice delivered by telephonic facsimile is effective when transmission to the recipient is  
10 completed (but, if such transmission is completed outside of COUNTY business hours, then such delivery  
11 shall be deemed to be effective at the next beginning of a COUNTY business day), provided that the  
12 sender maintains a machine record of the completed transmission. For all claims arising out of or related  
13 to this Agreement, nothing in this section establishes, waives, or modifies any claims presentation  
14 requirements or procedures provided by law, including but not limited to the Government Claims Act  
15 (Division 3.6 of Title 1 of the Government Code, beginning with section 810).

16 **13. ADDITION AND DELETION OF CONTRACTORS:** The Director of Public Works and  
17 Planning and the Director of Internal Services/Chief Information Officer reserve the right at any time to  
18 during the term of this Agreement to add new CONTRACTORS to those listed in Exhibit A. It is  
19 understood any such additions will not affect compensation paid to any other CONTRACTOR, and  
20 therefore, such additions may be made by COUNTY without notice or approval of the on the  
21 CONTRACTOR's under this Agreement. Any such contractors added must qualify according to the terms  
22 of RFSQ No. 21-0670. CONTRACTORS also agree that inclusion on Exhibit A does not constitute a  
23 guarantee or promise that any CONTRACTOR shall provide any certain amount of work or services to  
24 COUNTY under this Agreement. Each CONTRACTOR understands that any such additions  
25 will not affect their compensation. These same provisions apply to the termination of any  
26 CONTRACTOR listed in Exhibit A.

27 By executing a signature page, each CONTRACTOR becomes a signatory to this Agreement, and  
28 agrees that is party to this Agreement with the COUNTY and is bound by its terms.



1           **14. GOVERNING LAW:** Venue for any action arising out of or related to this Agreement shall  
2 only be in Fresno County, California.

3           The rights and obligations of the parties and all interpretation and performance of this Agreement  
4 shall be governed in all respects by the laws of the State of California.

5           **15. DISCLOSURE OF SELF-DEALING TRANSACTIONS**

6 This provision is only applicable if the CONTRACTOR is operating as a corporation (a for-profit or non-  
7 profit corporation) or if during the term of the agreement, the CONTRACTOR changes its status to  
8 operate as a corporation. Members of the CONTRACTOR's Board of Directors shall disclose any self-  
9 dealing transactions that they are a party to while CONTRACTOR is providing goods or performing  
10 services under this agreement. A self-dealing transaction shall mean a transaction to which the  
11 CONTRACTOR is a party and in which one or more of its directors has a material financial interest.  
12 Members of the Board of Directors shall disclose any self-dealing transactions that they are a party to by  
13 completing and signing a Self-Dealing Transaction Disclosure Form, attached hereto as Exhibit E and  
14 incorporated herein by reference, and submitting it to the COUNTY prior to commencing with the self-  
15 dealing transaction or immediately thereafter.

16           **16. ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the  
17 CONTRACTOR and COUNTY with respect to the subject matter hereof and supersedes all previous  
18 Agreement negotiations, proposals, commitments, writings, advertisements, publications, and  
19 understanding of any nature whatsoever unless expressly included in this Agreement. In the event of any  
20 inconsistency in interpreting the documents which constitute this Agreement, the inconsistency shall be  
21 resolved by giving precedence in the following order of priority: (1) the text of this Agreement (excluding  
22 Attachment "B", the COUNTY'S RFSQ 21-063, and the CONTRACTOR(S) responses thereto); (2)  
23 Attachment "B"; (3) the COUNTY'S RFSQ 21-063; and (4) the CONTRACTOR(S) responses to  
24 COUNTY'S RFSQ 21-063.

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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first  
2 hereinabove written.

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CONTRACTOR



(Authorized Signature)

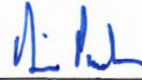
SHERWIN SMITH - CONTRACT MANAGER

Print Name & Title

1316 J. St. Wasco, CA 93280

Mailing Address


COUNTY OF FRESNO



Brian Pacheco, Chairman of the Board of Supervisors of the County of Fresno

ATTEST:

Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By:   
Deputy

FOR ACCOUNTING USE ONLY:

ORG:	55122210	55122211	4510	9026
FUND:	0001	0001	0010	0700
SUBCLASS:	10000	10000	11000	15000
ACCOUNT:	7295	7295	7279	7295