

APPENDIX I

RECYCLED WATER AGREEMENT BETWEEN OLIVENHAIN
MUNICIPAL WATER DISTRICT AND GREGORY CANYON,
LTD.



GREGORY CANYON RECYCLED WATER AGREEMENT

This Recycled Water Agreement is entered into by and between the **OLIVENHAIN MUNICIPAL WATER DISTRICT**, a municipal water district organized and operating pursuant to California Water Code §71000 et seq. (hereinafter "District") and the **GREGORY CANYON LTD**, a California Limited Liability Company (hereinafter referred to as "Gregory Canyon"). This Agreement shall become effective as of March 15, 2006 upon execution by the parties.

R-E-C-I-T-A-L-S

- A. Gregory Canyon is a California limited liability company that currently owns a Class 3 solid waste landfill in Northeast San Diego County, outside of the District's service area. As part of this landfill project, Gregory Canyon is in need of recycled water for dust control, compaction, and other activities within the boundary of the project.
- B. The District is a public agency treating and serving water, recycled water and wastewater within a 48 square mile service area in northwestern San Diego County. The District owns and operates the 4S Water Reclamation Facility which treats wastewater and serves tertiary treated recycled water within the District's service area. The District also procures recycled water from other public agencies within the County of San Diego.
- C. Gregory Canyon has requested to purchase up to 230 acre-feet per year of recycled water from the District with supply to Gregory Canyon trucks at the Santa Fe Valley Reservoir and Pump Station site (Delivery Site) near the intersection of Artesian Road and Maranatha Way for a term of 60 years. The 230 acre-feet per year allows for an adequate surplus over the maximum estimated demand of 193 acre-feet and the term coincides with a 30-year term for operation and a 30-year term for closure as requested by Gregory Canyon for its landfill.
- D. The District has agreed to sell tertiary recycled water to Gregory Canyon in accordance with all terms of this Agreement.
- E. Gregory Canyon has agreed to purchase the recycled water from the District in accordance with all terms of this Agreement.

C-O-V-E-N-A-N-T-S

1. Sale of Recycled Water by District. The District agrees to sell and Gregory Canyon agrees to purchase up to 230 acre-feet per year or 244,000 gallons per day of tertiary recycled water for a term of up to 60 years. The 230 acre-feet per year shall be determined on an annual basis commencing with the date (anniversary of the Agreement) the request to commence receipt of water deliveries is initially made for recycled water by Gregory Canyon.

2. Fees Paid to District and the Price For Recycled Water and Future Price Increases. The price for the recycled water sold by the District to Gregory Canyon would be at the rate set by the District Board of Directors from time to time, in its sole discretion. The rate as of March 15, 2006 shall be \$2.03 per one hundred cubic feet. The District makes no guarantee about future price increases and intends to sell recycled water to Gregory Canyon at a recycled water rate established for customers outside the District's formal boundaries set by the District Board of Directors from time to time, in its sole discretion. The recycled water rate for customers outside the District's formal boundaries shall include a 25-cent per one hundred cubic foot City of San Diego capacity charge and a 5-cent per one hundred cubic foot City of San Diego premium charge. Gregory Canyon will also pay a monthly system access charge for the meter which is set for their use at the Delivery Site, currently \$482.00 per month for a 6-inch meter. This monthly system access charge is subject to increases in the future and shall be at the rate set by the District Board of Directors, in its sole discretion. If Gregory Canyon opts out of purchasing water for any 3-month period or longer as stated below in §5, they can request that the meter be sealed per the rules and regulations of the District. While the meter is sealed, Gregory Canyon would not be responsible for paying the monthly system access charge to the District.

In addition to the price for the recycled water set by the District, an additional annual independent fixed fee of \$25,000 for the guarantee of a long term supply as well as out of District transfer shall be paid by Gregory Canyon to District above and beyond the rate charged for the recycled water. Both parties agree that this \$25,000 annual fee is an independent fee paid to District for the guarantee of a long term supply and is payable when the initial request is made for delivery of recycled water and on an annual basis thereafter. This \$25,000 payment is not pro-ratable and shall be paid on the annual anniversary of this Agreement in advance of the next 12-month period during the entire term of this Agreement.

3. Responsibility and Indemnity for Recycled Water after Delivery. Gregory Canyon recognizes that by entering into this Agreement, Gregory Canyon is solely responsible for the use and transportation of all recycled water once it is supplied to Gregory Canyon at the Point of Delivery, which is defined as Gregory Canyon water trucks at the Santa Fe Valley Reservoir and Pump Station site near the intersection of Artesian Road and Maranatha Way. Once the recycled water is delivered at the Point of Delivery, the District shall have no liability for the transportation and use of the recycled water by Gregory Canyon. All liability for the transportation and use of the Recycled Water after receipt at the Delivery Site shall be assumed by Gregory Canyon. Gregory Canyon agrees to indemnify and hold the District harmless and defend the District and its directors, officers, employees, agents, and representatives from and against any and all claims, causes of action, suits, actions, damages, losses, costs, fees, expenses, fines, and penalties, of whatever type or nature, including all costs of defense and attorney fees, caused in whole or in part, or claimed to be caused in whole or in part by the action, inaction, passive or active negligence, or intentional misconduct of Gregory Canyon in the receipt, use and transportation of the Recycled Water after receipt at the Delivery Site. Gregory Canyon agrees to schedule trucking hours to pick up the water at the Point of Delivery so as to avoid the pick-up and drop-off times for the nearby Maranatha School. In addition, Gregory Canyon agrees that if substantiated complaints are received by the District due to the trucking, that Gregory Canyon will meet with the District to discuss the substantiated complaints and Gregory Canyon will implement reasonable solutions to address these complaints.
4. Quality of Recycled Water Delivered by District. District agrees that all recycled water sold to Gregory Canyon shall meet all requirements of the State of California for Title 22 tertiary treated recycled water. District shall be responsible for ensuring that all recycled water delivered or sold to Gregory Canyon meets all Recycled Water Standards at the Delivery Site.
5. Term of Agreement and Termination. Unless either of the parties is in breach of any term or provision of this Agreement, this Agreement shall remain in full force and effect for a term of 60 years. Gregory Canyon has the right to opt out from purchasing recycled water on an annual basis commencing with the beginning of the year as defined in §1 above; however, it must still pay the independent annual fee of \$25,000 annually not later than each anniversary of the Agreement and any and all fees owed for recycled water used in that year by Gregory Canyon. Gregory Canyon's opting out of purchasing recycled water for any period of time whatsoever does not terminate the Agreement and the option to purchase recycled water for the remaining years of the Agreement along with the

obligation to pay the independent fee each year shall remain in full force and effect for the full 60 years of the term of this Agreement provided the independent annual fee of \$25,000 is paid on or before the date required. Failure to pay the independent annual fee within 30 calendar days of the anniversary date shall be construed as a breach of this Agreement by Gregory Canyon and subject the Agreement to cancellation by the District in its sole discretion, as well as remedies for breach in paragraph 6 below. Nothing contained in this Agreement shall be construed as requiring either of the parties to elect to unilaterally terminate this Agreement for any breach by the other party.

6. Remedies for Breach. In the event of a breach of any term or provision of this Agreement by either party, both parties shall have all rights and remedies granted by California law including the express right to seek temporary, preliminary, and permanent injunctions; to recover damages; or to seek specific performance of all or any of the terms of this Agreement. Nothing contained in this Agreement shall be construed as limiting any of the rights and remedies of either parties upon any breach of a term or provision of this Agreement.

7. Installation of Improvements As a material term of this Agreement, Gregory Canyon shall pay for all new capital facilities that will be necessary to fill Gregory Canyon's trucks at the Delivery Site. These improvements include at a minimum, but are not limited to, approximately 1,000 feet of 24' wide asphalt road way, water handling facilities including 6-inch meter necessary to fill the trucks, concrete loading pad, and other ancillary appurtenances as may be required by the District in its sole discretion. It is anticipated that the trucks transporting the recycled water for Gregory Canyon will be able to turn a 360 degree circle with a radius of approximately 235 feet, and that a 24' wide road would provide sufficient width for two trucks to pass each other coming in or out of the site. These improvements are currently estimated to cost fifty thousand dollars (\$50,000.00); however, in no case are the costs for the improvements limited to this amount. All improvements determined necessary by the District must be completed prior to commencing deliveries, and no hauling will be allowed until all necessary regulatory permits (if any) are acquired by Gregory Canyon. Gregory Canyon shall deposit the engineer's estimate of the aforementioned facilities within 90 days in advance of construction of the facilities. In addition, the District is in the process of completing other facilities and improvements at the Santa Fe Valley Pump Station site. If Gregory Canyon desires to secure this site for truck deliveries to the Gregory Canyon Landfill by December 31, 2006, Gregory Canyon shall deposit five thousand dollars (\$5,000.00) with the District, not later than February 1, 2006 in order to re-design the Santa Fe Reservoir site to accommodate tractor trailers hauling water to Gregory

Canyon in the future. The re-design may save future expenses for capital improvements and allow landscaping changes to the site that will mitigate visual impacts that otherwise may present public concerns if removed and re-planted when future capital improvements are commenced.

8. Completion of CEQA Review and Other Permits. Gregory Canyon shall be solely responsible for complying with all California Environmental Quality Act and National Environmental Protection Act requirements necessary for Gregory Canyon's receipt, use and transportation of the recycled water under this Agreement. Gregory Canyon shall also be solely responsible for any and all permits required under any state, federal or local law for its receipt, use and transportation of recycled water under this Agreement.
9. Miscellaneous Provisions.
 - A. California Law. California law shall govern all terms of this Agreement.
 - B. Venue. In the event any arbitration or litigation is commenced to enforce, interpret or invalidate any terms or provisions of this Agreement, the parties agree that venue shall lie only in the Superior Court for the North County Judicial District, County of San Diego, State of California.
 - C. Modification. This Agreement may not be altered in whole or in part except by a modification, in writing, executed by all the parties to this Agreement.
 - D. Attorney's Fees. In the event of any arbitration or legal or equitable proceeding to invalidate, enforce, challenge, or interpret any terms of this Agreement, the prevailing party shall be entitled to all attorney's fees and costs in addition to any other relief granted by law. The prevailing party shall also be entitled to recover all such fees and costs during any appeals and during any bankruptcy proceedings.
 - E. Entire Agreement. This Agreement, together with all exhibits attached to this Agreement, contains all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, or agreements, whether or not such correspondence, memoranda, or agreements are in conflict with this Agreement, are intended to be replaced in total by this Agreement and its exhibits. The parties mutually declare there are no oral understandings or promises not contained in this Agreement which contains the complete, integrated, and final agreement between the parties.

- F. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties and their respective purchasers, successors, heirs, and assigns.
- G. Unenforceable Provisions. The terms and conditions and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable.
- H. Representation of Capacity to Contract. Each party to this Agreement represents and warrants that he or she has the authority to execute this Agreement on behalf of the entity represented by that individual and that this Agreement is final and binding upon both parties.
- I. Opportunity to be Represented by Independent Counsel. Each of the parties to this Agreement warrant and represent that they have been advised to consult independent legal counsel of their own choosing and have done so prior to executing this Agreement.
- J. No Waiver. The failure of either party to enforce any term, covenant, or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of either party's right to enforce this, or any other term, covenant, or condition of this Agreement. No waiver shall occur unless the waiver is stated expressly in writing and signed by the party waiving the right. No oral waivers shall be effective for any purpose.
- K. Effective Date. The effective date of this Agreement executed in counterparts in the North County Judicial District, County of San Diego, State of California, is March 15, 2006.
- L. Counterparts and Facsimile Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile signatures shall be permitted and shall be treated as original signatures for all purposes.

M. Further Documents and Acts. Each of the parties hereto agrees to cooperate in good faith with each other, and to execute and deliver such further documents and perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this Agreement.

Dated: March 15, 2006

OLIVENHAIN MUNICIPAL WATER
DISTRICT, a Municipal Water District

By: Kimberly A. Thorner
Kimberly A. Thorner
Assistant General Manager

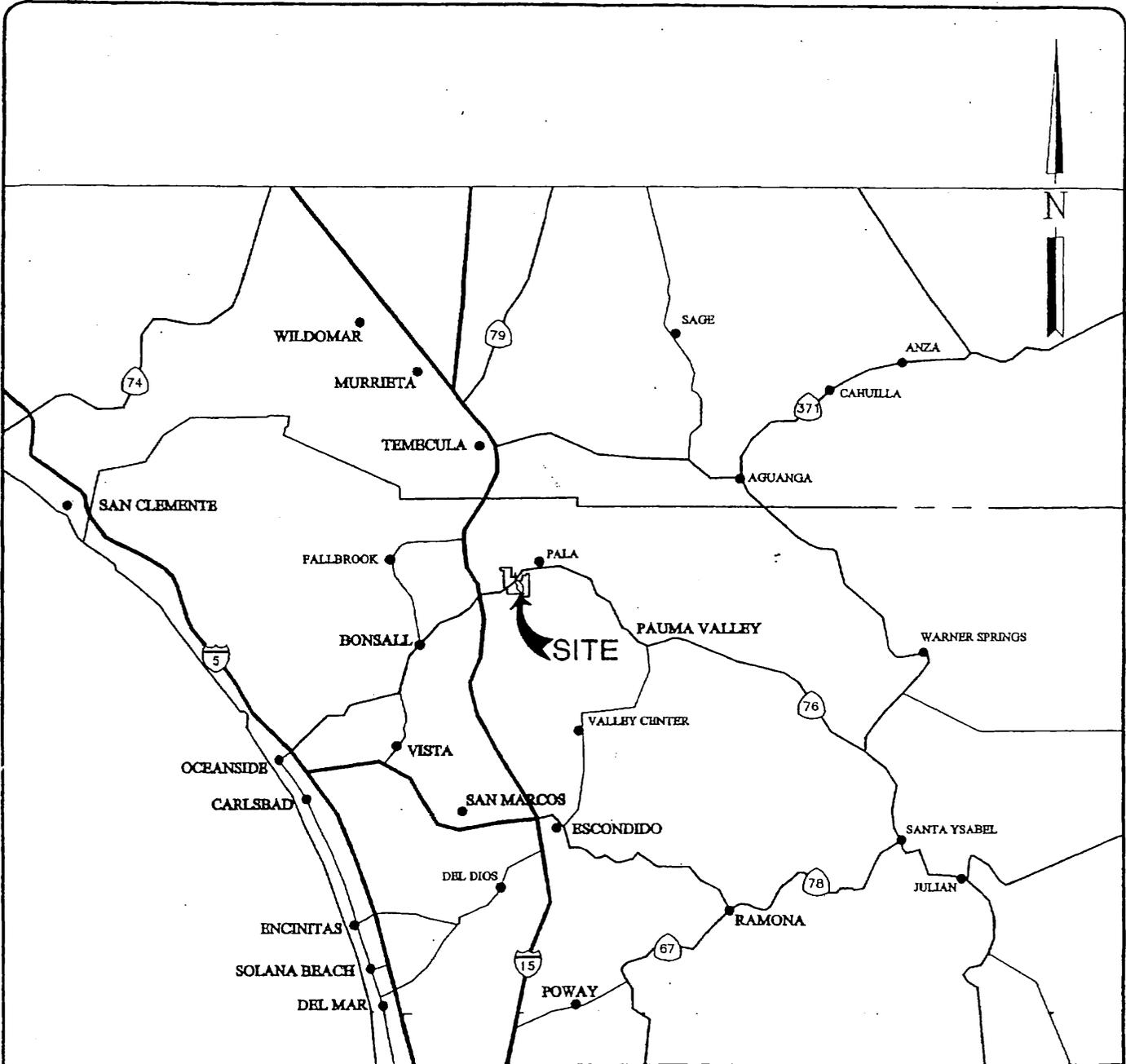
Dated: March 24, 2006

GREGORY CANYON LTD, a California Limited
Liability Company

By: James J. Turner

**Gregory Canyon Recycled Water Agreement
List of Exhibits**

1. Exhibit "A" Map of Gregory Canyon Site
2. Exhibit "B" Plot of Location of the Santa Fe Valley Recycled Water Pump Station and Tank Truck Filling Site

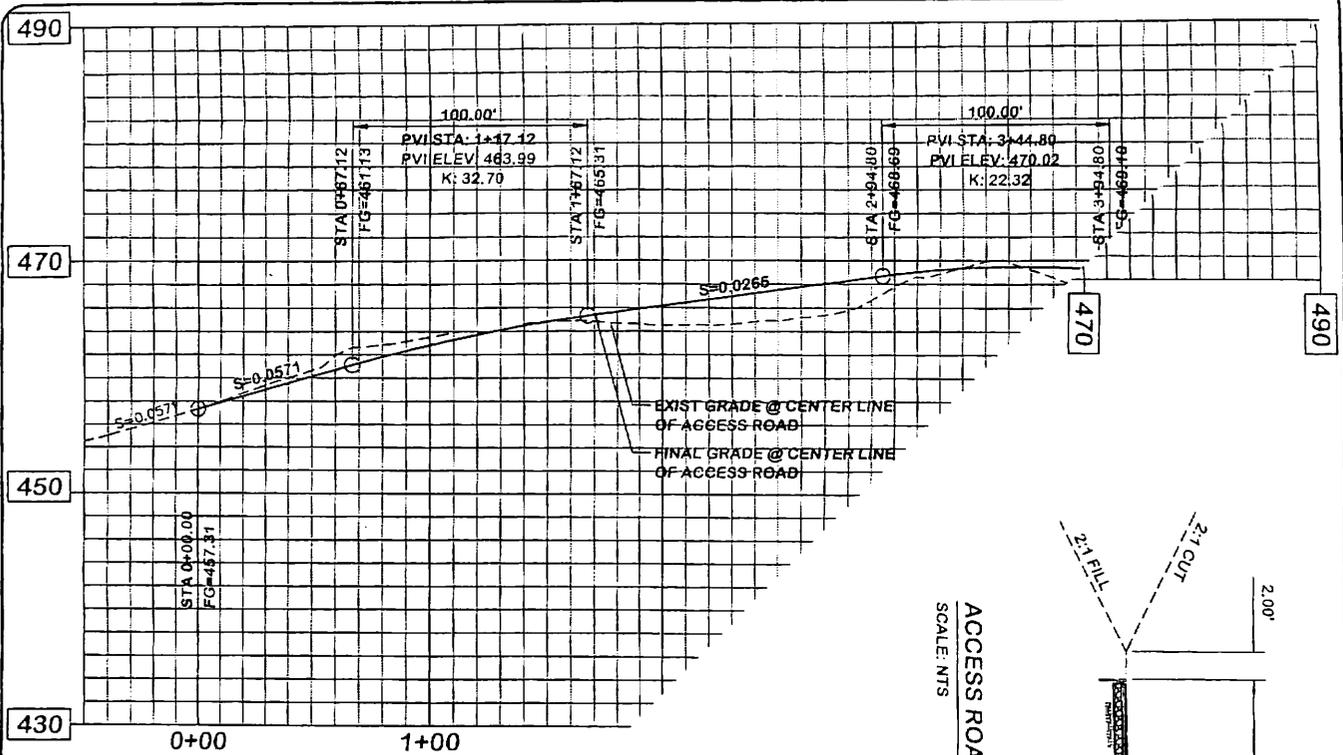


VICINITY MAP
NTS

FIGURE 1

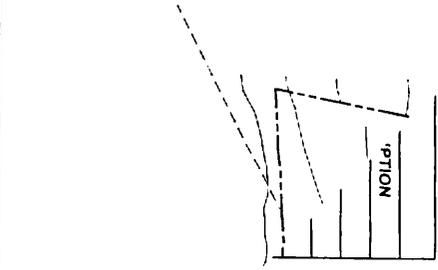
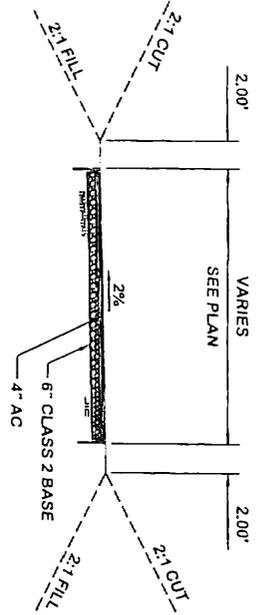
 <p>(909) 860-7777</p> <p>BRYAN A. STIRRAT & ASSOCIATES CIVIL AND ENVIRONMENTAL ENGINEERS 1360 VALLEY VISTA DRIVE DIAMOND BAR, CA 91765</p>	GREGORY CANYON LANDFILL		JOB NO. 97139-300
	VICINITY MAP		DATE 02-99
			DRAWN BY B.A.B.
			CHECKED BY J.B.

H:/DWG/GREGORY/VICINITY

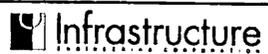


EXIST GRADE @ CENTER LINE OF ACCESS ROAD
 FINAL GRADE @ CENTER LINE OF ACCESS ROAD

ACCESS ROAD CROSS SECTION
 SCALE: NTS



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 1966 Olivenhain Road
 Encinitas, CA 92024 (760)753-6466



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 Poway, California 92064
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 www.lecorporation.com

DESIGN				
DHN				
DRAWN				
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AMG	MARK	DATE	BY	REVISIONS