



# County of Santa Clara

Office of the County Executive  
Procurement Department  
130 West Tasman Drive  
San Jose, CA 95134  
Telephone 408-491-7400

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## THIRD AMENDMENT TO AGREEMENT # CW2239583 BY AND BETWEEN THE COUNTY OF SANTA CLARA AND WESTERN STATES OIL COMPANY

This is the Third Amendment to the Agreement between the County of Santa Clara ("County") and Western States Oil Company ("Contractor") entered into on January 12, 2021, to provide Ultra-Low Sulfur Diesel and Renewable Diesel 4001 Gallons and Up and Big Tanks for the County.

This Agreement is amended as follows effective October 16, 2023:

1. Key Provision, PAYMENT TERMS, on page # 2 is hereby revised to read as follows:

"NET 30"

2. EXHIBIT A: "COUNTY OF SANTA CLARA STANDARD TERMS AND CONDITIONS," is hereby revised to read as follows:

- a. Section 13, is hereby deleted in its entirety and replaced with the following:

### 13. PAYMENT

County's standard payment term shall be Net Thirty (30), unless otherwise agreed to by the parties. Payment shall be due Net Thirty (30) days from the date of receipt and approval of correct and proper invoices. Payment is deemed to have been made on the date County mails the warrant or initiates the electronic funds transfer.

- b. Section 33, is hereby deleted in its entirety and replaced with the following:

### 33. INDEMNITY

Notwithstanding any other provision of this Agreement, Contractor shall indemnify, release, hold harmless, and defend, with counsel approved by County, County and its officers, agents, and employees from any claim, demand, suit, judgment, liability, loss, injury, damage, or expense of any kind (including attorneys' fees and costs) arising out of, or in connection with, performance of this Agreement by Contractor and/or its officers, agents, employees, or sub-contractors, excepting only loss, injury, or damage caused by the sole negligence or willful misconduct of personnel employed by County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for County as allowed by law.

Contractor shall reimburse County for all costs, attorneys' fees, expenses, and liabilities incurred with respect to any litigation or process in which Contractor contests its obligation to indemnify, defend, and/or hold harmless County under this Agreement and does not prevail in that contest.

- c. Section 44, is hereby deleted in its entirety and replaced with the following:

**44. CONFLICTS OF INTEREST; POLITICAL REFORM ACT**

Contractor shall comply, and require its employees, agents, and subcontractors to comply, with all (1) applicable requirements governing avoidance of impermissible client conflicts; and (2) federal, state and local conflict of interest and disclosure laws and regulations including, without limitation, California Government Code section 1090 et seq., the California Political Reform Act (California Government Code section 87100 et seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et seq.). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by County.

In accepting this Agreement, Contractor covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. Contractor further covenants that, in the performance of this Agreement, it will not use any contractor or employ any person having such an interest. Contractor, including but not limited to Contractor's employees, agents, and subcontractors, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the "Act"), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.

If the disclosure provisions of the Act are applicable to any individual providing service under the Agreement, Contractor shall, upon execution of this Agreement, provide County with the names, description of individual duties to be performed, and email addresses of all individuals, including but not limited to Contractor's employees, agents and subcontractors, that could be substantively involved in "mak[ing] a governmental decision" or "serv[ing] in a staff capacity" and in that capacity participating in making governmental decisions or performing duties that would be performed by an individual in a designated position, (2 CCR 18700.3), as part of Contractor's service to County under this Agreement. Contractor shall immediately notify County of the names and email addresses of any additional individuals later assigned to provide such service to County under this Agreement in such a capacity. Contractor shall immediately notify County of the names of individuals

working in such a capacity who, during the course of the Agreement, end their service to County. Contractor shall ensure that all such individuals identified pursuant to this paragraph understand that they are subject to the Act and shall conform to all requirements of the Act and other applicable conflict of interest and disclosure laws and regulations and shall file Statements of Economic Interests within 30 days of commencing service pursuant to this Agreement, annually by April 1, and within 30 days of their termination of service pursuant to this Agreement.

If applicable, Contractor and its agents shall comply with California Government Code section 84308 (“Levine Act”) and the applicable regulations of the Fair Political Practices Commission concerning campaign disclosure (2 California Code of Regulations sections 18438.1 – 18438.8), which (1) require a party to a proceeding involving a contract to disclose on the record of the proceeding any contribution, as defined by Government Code section 84308(a)(6), of more than \$250 that the party or their agent has made within the prior 12 months, and (2) prohibit a party to a proceeding involving a contract from making a contribution, as defined by Government Code section 84308(a)(6), of more than \$250 to any County officer during the proceeding and for 12 months following the final decision in the proceeding. Disclosures pursuant to the Levine Act must be submitted online at the Office of the Clerk of the Board of Supervisors website at <http://www.sccgov.org/levineact>.

- d. Section 55, is hereby deleted in its entirety and replaced with the following:

**55. SURVIVAL**

All representations, warranties, and covenants contained in this Agreement, or in any instrument, certificate, exhibit, or other writing intended by the parties to survive this Agreement, shall survive the termination or expiration of this Agreement, including but not limited to all terms (1) providing for indemnification of County; (2) relating to the California Public Records Act; (3) relating to County Data; and (4) relating to Contractor’s obligations upon termination or expiration of this Agreement, including but not limited to those listed in the “Disentanglement” Section.

All other terms and conditions of the Agreement remain in full force and effect. In the event of a conflict between the original Agreement and this Amendment, this Amendment controls.

Prepared by Ralph J. Murrieta, Jr., Buyer I at (408) 491-7489 or [ralph.murrietajr@prc.sccgov.org](mailto:ralph.murrietajr@prc.sccgov.org). Administered by Samuel Hirsch, Procurement Contracts Specialist at (408) 491-7485 or [samuel.hirsch@prc.sccgov.org](mailto:samuel.hirsch@prc.sccgov.org).

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The Agreement as amended constitutes the entire agreement of the parties concerning the subject matter herein and supersedes all prior oral and written agreements, representations and understandings concerning such subject matter.

By signing below, signatory warrants and represents that they executed this Amendment in their authorized capacity, that they have the authority to bind the entity listed below to contractual obligations and that by their signature on this Amendment, the entity on behalf of which they acted, executed this Amendment.

**COUNTY OF SANTA CLARA**

DocuSigned by:  
*Caroline Kho* 10/16/2023  
2B882DFCD86B4D2...  
For **Matthew Hada** \_\_\_\_\_  
Director of Procurement **Date**

**CONTRACTOR**

DocuSigned by:  
*Robin Jackson*  
By: \_\_\_\_\_  
92CB77D58FC94D6...  
Print: **Robin Jackson** \_\_\_\_\_  
Title: **Director of Sales** \_\_\_\_\_  
Date: **10/16/2023** \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY**

DocuSigned by:  
*Robert Nakamae* 10/13/2023  
797E74E07E8345C...  
**Robert Nakamae** \_\_\_\_\_  
Deputy County Counsel **Date**