

SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS is made by and between COUNTY SANITATION DISTRICT NO. 8 OF LOS ANGELES COUNTY (“Plaintiff” or “the District”) and DIRTMASTER, INC. (“Defendant” or “Dirtmaster”). Plaintiff and Defendant are collectively referred to herein as the “Parties.”

RECITALS

This Settlement Agreement and Release of All Claims (“Agreement”) is made in consideration of the following facts:

A. Whereas the District owns vacant land at the former Fletcher Oil and Refining Company property located at 24721 South Main Street, City of Carson, California (“Property”);

B. Whereas, on December 14, 2018, the District issued to Dirtmaster a permit (Entry Permit No. 296) to utilize up to two acres of vacant land at the Property for a period of six months for importing and crushing clean, hardened concrete debris and temporarily stockpiling crushed concrete;

C. Whereas, prior to the expiration of Entry Permit No. 296, the District issued Dirtmaster a second permit (Entry Permit No. 305) to continue to utilize up to two acres of vacant land at the Property for the above-stated purpose;

D. Whereas, Entry Permit No. 305 expired on November 30, 2019;

E. Whereas, section 6 of Entry Permit Nos. 296 and 305 require Dirtmaster to pay the District a permit fee of \$8,000 per acre per month;

F. Whereas, Dirtmaster utilized one acre of the Property from December 2018 through July 31, 2019 and paid the District a permit fee of \$8,000 per month. Starting August 1, 2019, Dirtmaster started to utilize two acres of the Property and paid the District a permit fee of \$16,000 per month in rent through January 2020;

G. Whereas, Dirtmaster has not made any permit fee payments to the District since February 2020;

H. Whereas, starting in late 2019 and into early 2020, the District repeatedly

requested that Dirtmaster remove all concrete stockpiled at the Property and vacate the Property due to the fact Entry Permit No. 305 had expired on November 30, 2019;

I. Whereas, Dirtmaster did not so comply and has not removed the concrete stockpiled at the Property, which is comprised of approximately 30,000 cubic yards of concrete debris and approximately 7,000 tons of crushed concrete aggregate;

J. Whereas, Dirtmaster has stopped paying the permit fee to the District in February 2020;

K. Whereas, Dirtmaster continued to permit third party demolition contractors to dump concrete debris at the Property, from whom Dirtmaster collected disposal fees, until May 26, 2020 when the District posted a security guard at the entrance to the Property to prevent further unpermitted dumping of concrete debris on the Property;

L. Whereas the District filed the Complaint in this action, Los Angeles Superior Court CASE NO. 20CMCV00218 (“Action”) for breach of contract and asking for a preliminary and permanent injunction ordering Dirtmaster to vacate the Property and remove all concrete debris and equipment;

M. Whereas, as of the date the Complaint was filed in the Action, Dirtmaster had not paid the District \$112,000 in permit fees from February through August 2020; and

N. Whereas, currently due to Dirtmaster’s breach of the Entry Permits, Dirtmaster does not have access to the Property,

Therefore, in consideration of the covenants and conditions set forth below, the receipt and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound hereto, agree to the following settlement terms.

SETTLEMENT TERMS

1. Dirtmaster will remove all 30,000 cubic yards of concrete debris, all 7,000 tons of crushed concrete aggregate, and any equipment from the Property by March 31, 2021.

2. Dirtmaster has represented that it has potential contracts for crushing the 30,000 cubic yards of concrete debris stockpiled at the Property and removal of same, with a company

known as Tetra Tech, or other crushing contractor(s), and if any such contract is entered into and Dirtmaster starts to substantially perform the District will extend the March 31, 2021 date in paragraph 1 to April 15, 2021, provided that (a) the contract is for the crushing of a minimum of 5,000 cubic yards of concrete debris and (b) Dirtmaster sends the District a true and correct copy of the fully-executed contract for the District's approval, which approval shall not be unreasonably withheld. The District in its sole and absolute discretion may extend the March 31, 2021 date to a date later than April 15, 2021.

3. If Dirtmaster enters into any contract(s) for the crushing of a minimum of 5,000 cubic yards of the 30,000 cubic yards of concrete debris stockpiled at the Property before March 31, 2021, the District shall grant Dirtmaster access to the Property for the limited purpose of performance of the contract(s) and removal of the concrete debris and equipment, provided Dirtmaster sends the District a true and correct copy of the fully-executed contract between Dirtmaster and the concrete crushing contractor for the District's approval, which approval shall not unreasonably be withheld.

4. With respect to sale of the 7,000 tons of crushed concrete aggregate currently stockpiled at the Property, the District agrees to directly coordinate and grant access to the contractor(s) that Dirtmaster identifies as purchaser(s) of this material through March 31, 2021, or such later date as determined by the District in its sole and absolute discretion, provided Dirtmaster sends the District a true and correct copy of the fully-executed contract between Dirtmaster and contractor that will purchase the crushed concrete aggregate for the District's approval, which approval shall not unreasonably withheld.

5. Dirtmaster agrees to pay to the District from the proceeds of (a) any contract(s) with Tetra Tech, or any other contractors, for the crushing of the 30,000 cubic yards of concrete debris and (b) any contract(s) with contractors for the purchase of the 7,000 tons of crushed concrete aggregate and the District agrees to apply these proceeds towards the total amount of \$112,000 in back permit fees. Dirtmaster may prior to payment to the District, pay from the gross proceeds received any crushing contractors necessary to crush concrete for the Tetra Tech

contract, or any other contract to purchase the uncrushed concrete. Further, Dirtmaster agrees to execute documents, such as assignments and liens forms, as may be required by the District, to secure payment of the \$112,000 in back permit fees. Except as stated in Paragraph 9 below, any gross proceeds over the \$112,000 paid to the District may be retained by Dirtmaster. Dirtmaster has stated to the District it will arrange for any contractors to make payments directly to the District.

6. If Dirtmaster pays some of the \$112,000 in back permit fees, for example, from (a) the potential contract with Tetra Tech, or any other crushing contractor, or (b) the potential contract with a contractor to purchase the crushed concrete aggregate, then the amount owed will be reduced.

7. If Dirtmaster removes all 30,000 cubic yards of concrete debris, all 7,000 tons of crushed concrete aggregate, and any equipment from the Property by March 31, 2021 or by the April 15, 2021, or other extension date, as provided under paragraph 2, and Dirtmaster pays the \$112,000 in back permit fees to the District by March 31, 2021 or, by April 15, 2021, or other extension date, then the District agrees to waive any right to further owed permit fees and any other damages and costs related to or made necessary by Dirtmaster's occupancy of the Property;

8. If Dirtmaster does not remove all 30,000 cubic yards of concrete debris, all 7,000 tons of the crushed concrete aggregate, and any equipment from the Property by March 31, 2021, or April 15, 2021, or other extension date, as provided under paragraph 2, all concrete (all or any portion of the existing approximately 30,000 cubic yards of concrete debris and approximately 7,000 tons of crushed concrete aggregate) and any equipment on the Property shall become the property of the District, and Dirtmaster shall have no further rights to access the Property or the right to any of its property left at the Property.

9. The District agrees to use commercially reasonable efforts to sell any of the remaining 7,000 tons of crushed concrete aggregate at the Property, that becomes its property, at a price per ton that the District determines in its sole and absolute discretion, and the proceeds shall offset any amounts owed to the District under this Agreement. Regarding any uncrushed

concrete that becomes the property of the District, Dirtmaster shall have an additional 30 calendar days after the concrete debris becomes the District's property to contract with crushing contractors (subject to approval of the District whose approval shall not be unreasonably withheld) willing to crush and remove the debris in a manner that will net revenue, which will, after paying the crushing contractors, first be paid to District for any rent owed, and then to the District for its other expenses (security and storm water measures), and then any excess funds may be retained or paid to Dirtmaster. After this additional 30-day period, the District can do what it wants to remove the concrete debris from the District's property, and it doesn't have to be the most cost-effective option. The District then is entitled to payment in the amount of \$112,000, less any payments already made by Dirtmaster. The District is not obligated to crush and remove any or all of the 30,000 cubic yards of concrete debris at the Property, that becomes its property, in the most economically way possible. The District's objective is to remove the concrete debris from the Property as soon as possible in order to restore the District's ability to make productive use of the Property and to eliminate the environmental and aesthetic nuisance conditions created by the concrete debris stockpile. To the extent the District incurs damages related to the District's retention of a contractor to crush and remove any or all of the 30,000 cubic yards of concrete debris from the Property, that becomes its property, the District may pursue those damages in a separate lawsuit filed against Dirtmaster. The District reserves its rights to pursue all damages it has incurred in this matter in a separate lawsuit, including the costs incurred by the District for providing security for the Property, and maintaining storm water pollution prevention measures for the Property.

10. Effective upon performance of the obligations set forth in this Agreement, and except as stated in this Agreement, the Parties shall release and forever discharge each other and their assignees, transferees, affiliated entities, principals, partners, officers, directors, employees, servants, subsidiaries, parents, successors, agents, members, attorneys and representatives, from any and all claims, demands, damages, debts, liabilities, obligations, contracts, agreements, causes of action, suits and costs of whatever nature, character or description, whether known or

unknown, anticipated or unanticipated, which the Parties have or may have against each other by reason of any matter or omission raised in the Action, or which could have been raised in the Action.

11. Effective upon performance of the obligations set forth in this Agreement, the District shall dismiss with prejudice the Complaint in this Action.

12. Except as stated or referred to in the Agreement, this Agreement effects a settlement of claims that are contested and denied. Nothing in this Agreement may be construed as an admission by either Party of any liability of any kind to the other Party.

13. This Agreement contains the entire understanding and agreement between the Parties with respect to the matters referred to in the Agreement. No other representations, covenants, undertakings or other prior or contemporaneous agreements, oral or written, regarding these matters, unless specifically incorporated in this Agreement, exist or bind the Parties. This is an integrated Agreement.

14. Each person executing this Agreement in a representative capacity represents and warrants that he or she is authorized to execute this Agreement on behalf of and to bind the Party on whose behalf he or she executes the Agreement.

15. Each party will cooperate with the other party in signing such documents as may be needed to effectuate any term of this agreement, and the failure to so cooperate shall constitute an act of default.

16. This Agreement and the covenants and conditions within it apply to, are binding upon and inure to the benefit of any administrators, executors, legal representatives, assignees, successors, agents and assigns of the Parties.

17. This Agreement may not be construed against the party preparing it, but will be construed as if the Parties jointly prepared this Agreement.

18. This Agreement may not be modified by any oral representation made before or after the execution of this Agreement. All modifications must be in writing and signed by the Parties.

19. The Parties acknowledge that they have been represented by counsel of their own choice in the negotiations leading up to the execution of this Agreement and that they have read this Agreement and have had it fully explained to them by their counsel.

20. Each Party acknowledges and warrants that such Party's execution of this Agreement is free and voluntary.

21. Each party shall bear its own attorney fees and costs.

22. The court shall retain jurisdiction to enforce this Agreement pursuant to Code of Civil Procedure Section 664.6. This Agreement is entered into and will be construed and interpreted in accordance with the laws of the State of California.

23. The parties acknowledge that they are entering into this Agreement to settle a disputed debt and to avoid the time and expense of litigating the dispute. and

24. This Agreement may be executed in counterparts.

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement and Release of All Claims as of the dates set forth below.

DATED: March __, 2021

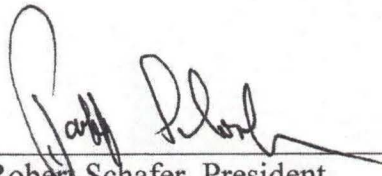
COUNTY SANITATION DISTRICT NO. 8
OF LOS ANGELES COUNTY

By: _____
Chairperson, Board of Directors

ATTEST:

By: _____
Secretary to the Board of Directors

DATED: February 17, 2021

By:  _____
Robert Schafer, President
Dirtmaster, Inc., a California Corporation

APPROVED AS TO FORM:

DATED: March ___, 2021

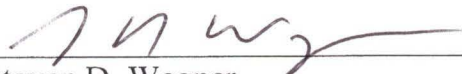
LEWIS BRISBOIS BISGAARD & SMITH
LLP

By:

Brant H. Dveirin
Attorneys for Plaintiff
COUNTY SANITATION DISTRICT NO. 8 OF
LOS ANGELES COUNTY

DATED: February 17, 2021

By:



Steven D. Wegner
Attorney for Defendant
Dirtmaster, Inc., a California Corporation