

IN RE:

CITY OF CARSON INTEGRATED SOLID
WASTE MANAGEMENT SERVICES

LEGISLATIVE SUBPOENA
(California Government Code §§ 37104 *et seq*)

Appearance Date

Date: April 17, 2018

Time: 6:00 p.m.

SUBPOENA FOR APPEARANCE AND
PRODUCTION OF BUSINESS RECORDS

Place: City of Carson City Hall
701 E. Carson Street, Carson, California
90745

TO: Sandra Ruiz, Waste Management, 9081 Tujuna Avenue, Sun Valley CA 91352

FROM: CITY OF CARSON, CALIFORNIA

1. On April 3, 2018, the Carson City Council adopted Resolution No. 18-046 authorizing the issuance of this subpoena. A copy of Resolution 18-046 is attached hereto and incorporated by this reference.

2. **YOU ARE ORDERED** by the City Council of the City of Carson to appear in person and produce Documents described in **Exhibit "1"** hereto at the Regular City Council Meeting of the City of Carson ("City") at 701 E. Carson Street, Carson, California 90745, on **April 17, 2018**, at **6:00 p.m.** or at any continued Hearing.

3. **YOU MUST APPEAR** at that time unless you make a special agreement to appear and produce true, complete, legible, and durable copies of the requested Documents described in **Exhibit "1"** at another earlier time with City Attorney Sunny K. Soltani. Early production of documents must be sent to:

Kenneth C. Farfsing
City Manager
City of Carson
701 E. Carson Street
Carson, California 90745

4. All Documents produced to the City shall be accompanied by a declaration or affidavit warranting to their authenticity and completeness sufficient to meet the requirements of California Code of Civil Procedure § 2020.430. The City will pay all reasonable documented costs associated with photocopying the requested documents. If costs exceed \$500.00 please contact City Attorney Sunny K. Soltani at (949) 250-5407 before copying.

5. This subpoena is issued pursuant to California Government Code § 37104 *et seq*.

and authorized, at a regularly noticed meeting of the City of Carson City Council.

6. Disobedience of this subpoena will be referred to the Superior Court for enforcement and is punishable as contempt pursuant to California Government Code §§ 37104 *et seq* and as otherwise provided by law. Should you have any questions regarding this subpoena please contact:

Sunny K. Soltani (SBN 209774)
City Attorney for the City of Carson
Aleshire & Wynder, LLP
18881 Von Karman Avenue , Suite 1700
Irvine, CA 92612

Date issued: April 2018

City Council, City of Carson

BY: 

Albert Robles

Mayor, City of Carson

ATTEST:

BY: 

Donesia Gause

City Clerk, City of Carson

*Under
Authority
of*

APPROVE AS TO FORM

BY:  (Sunny)

for Sunny K. Soltani

City Attorney

EXHIBIT "1"

DEFINITIONS

"DOCUMENT" or "DOCUMENTS" means all writings, originals and duplicates as defined in California Evidence Code Sections 250, 255, and 260;

"COMMUNICATIONS" as used herein means the transfer of information from one person or entity to another person or entity by any means, including, but not limited to, letter, electronic mail, or facsimile.

"AGREEMENTS" means a (1) Waste Management Commercial-Industrial Franchise Agreement, and (2) Waste Management Residential Franchise Agreement (collectively, the "Agreements") entered into by the City of Carson and USA Waste of California, Inc. which were reviewed, agreed upon, and executed by Waste's Vice President on July 17, 2003.

REQUESTED DOCUMENTS

1. Produce any and all DOCUMENTS, including but not limited to, requisitions, COMMUNICATIONS, memos, emails, books, text messages, records, invoices, cover sheets and electronic fund wiring confirmations related to the pending change in control from USA Waste of California, Inc. to Waste Resources, Inc. for collection of commercial and residential solid waste and recyclable materials in the City of Carson including, but not limited to:
 - ◆ a list of all residential and commercial accounts pertaining to the Agreements; and
 - ◆ a description of service levels and specifications for all residential and commercial accounts pertaining to the Agreements; and
 - ◆ a list of all route schedules for both residential and commercial services pertaining to the Agreements; and
 - ◆ a description of all route schedules for both residential and commercial services pertaining to the Agreements; and
 - ◆ a Transition Plan regarding "cart-and-bin pickup"; and
 - ◆ confirmation USA Waste of California, Inc. has finalized all outstanding refunds for residential and commercial customers; and
 - ◆ any outstanding final reports (i.e. quarterly reports); and
 - ◆ confirmation USA Waste of California, Inc. will complete, print, and distribute (including postage and mailing fees) a Spring newsletter notifying impacted City of Carson residents June 30, 2018 will be USA Waste of California, Inc.'s last

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pickup date; and

- ◆ confirmation USA Waste of California, Inc. will participate in a scheduled May 10, 2018 Cal Recycle Meeting conference call and complete all required information requests from the Cal Recycle Attachment USA Waste of California, Inc. regarding AB 341 and AB 1826; and
 - ◆ a list of events and workshops held by the City of Carson and USA Waste of California, Inc.; and
 - ◆ confirmation USA Waste of California, Inc.'s Customer Service will inform the City of Carson's residents and businesses about the USA Waste of California, Inc. and Waste Resources, Inc. transition process
2. Produce any and all DOCUMENTS relating in any way to Article 12, Sections 12.8 and 12.16 of the July 15, 2003 Franchise Agreement between the City of Carson and USA Waste of California, Inc. for Integrated Residential Waste Management Services
 3. Produce any and all DOCUMENTS relating in any way to Article 12, Sections 12.8 and 12.16 of the July 15, 2003 Franchise Agreement between the City of Carson and USA Waste of California, Inc. for Integrated Commercial and Industrial Waste Management Services.
 4. Produce any and all DOCUMENTS relating in any way to Carson Municipal Code section 5229.2 "Seamless Service Requirements" and current employment retention.
 5. Produce any and all Documents evidencing or relating in any way to including, but not limited to current DOCUMENTS related to the Agreements with regard to the following information:

Residential Customer Name:

Billing Address:

Unit Number

Zip Code:

Service Address:

Unit Number:

Zip Code:

Contact Name:

Contact Number:

Contact Email:

Senior Citizen (Yes or No) : or provide list of senior citizen services

Disabled Citizen or Special Needs List

Valet Service

Gate Access (locks/keys/codes)

Cart Information: Quantity and size of Trash Carts

Quantity and size of Recycle Carts

Quantity and size of Green Waste Carts and identify communities that do not have Green Waste Services

6. Produce any and all Documents evidencing or relating in any way to including, but not limited to current DOCUMENTS related to the Agreements with regard to the

following information:

Commercial Customer Name:

Billing Address:

Unit Number

Zip Code:

Service Address:

Unit Number:

Zip Code:

Contact Name:

Contact Number:

Contact Email:

Scout Service

Gate Access (locks/keys/codes)

Bin and Cart Data: Quantity, size and current day(s) of service of **Trash** Bins and/or
Carts

Quantity, size and current day(s) of service of **Organic** Bins
and/or Carts

Quantity, size and current day(s) of service of **Recyclable** Bins
and/or Carts

Bin Compactors: Quantity, size and current day(s) of service of **compactor** Bins

7. Produce any and all Documents evidencing or relating in any way to including, but not limited to current DOCUMENTS related to the Agreements with regard to the following information:

Roll Offs:

Customer Name:

Billing Address:

Unit Number

Zip Code:

Service Address:

Unit Number:

Zip Code:

Contact Name:

Contact Number:

Contact Email:

Gate Access (locks/keys/codes)

Roll Off Box Data: Quantity, size and current day(s) of service of **Trash** Roll Offs

Quantity, size and current day(s) of service of **Organic** Roll
Offs

Quantity, size and current day(s) of service of **Recyclables**

Roll Offs

Quantity, size and current day(s) of service of **C&D** Roll Offs

Roll Off Compactors: Quantity, size and current day(s) of service of Roll Off

compactor Boxes and ownership of compactor units and compactor boxes.

On Call or Scheduled Services

8. Produce any and all Documents evidencing or relating in any way to including, but not limited to current DOCUMENTS related to the Agreements with regard to the following information:

City of Carson Services:

Services provided by USA Waste of California, Inc. and/or Waste Management, Inc. to City facilities and parks including, but not limited to, bus stops, parks, and recreational buildings. This request includes all relevant container data (size type, etc..) and service frequency.

RESOLUTION 18-046

A RESOLUTION OF THE COUNCIL OF THE CITY OF CARSON, CALIFORNIA, AUTHORIZING AND DIRECTING THE ISSUANCE OF SUBPOENAS COMPELLING THE PRODUCTION OF DOCUMENTS AND OTHER INFORMATION INCLUDING THE APPEARANCE OF INDIVIDUALS SANDRA RUIZ, DARRELL KATO, BILL HIGGINBOTHAM, AND DOUG CORCORAN FROM USA WASTE OF CALIFORNIA, INC. AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

WHEREAS, Government Code §§ 37104 *et seq.* authorize the City Council to issue legislative subpoenas "requiring attendance of witnesses or production of books or other documents for evidence or testimony in any action or proceeding pending before it"; and

WHEREAS, the City issued a "Request for Proposals for Integrated Solid Waste Management Services (RFP P171-19)" on July 20, 2017 ("RFP"); and

WHEREAS, on July 18, 2017, the City issued a notice that the City of Carson would receive proposals in response of the City's RFP; and

WHEREAS, the City received multiple proposals from competing waste haulers in response to the RFP; and

WHEREAS, on December 5, 2017, the City Council awarded an exclusive franchise to Waste Resources, Inc. ("WRI") to provide integrated solid waste management services to the City; and

WHEREAS, the City and USA Waste of California, Inc. ("Waste") entered into a (1) Waste Management Commercial-Industrial Franchise Agreement, and (2) Waste Management Residential Franchise Agreement (collectively, the "Agreements"). The Agreements and their terms were reviewed, agreed upon, and executed by Waste's Vice President on July 17, 2003; and

WHEREAS, in accordance with the July 15, 2003 Franchise Agreement between the City and Waste for Integrated Residential Waste Management Services, Article 12, Section 12.8, Waste must cooperate with the City in the event of a "Transition to the Next Company":

If the transition of services to another company occurs by reason of the expiration of the term, default, termination, or otherwise, [Waste] shall cooperate with the City and any subsequent solid waste enterprise to assist in the orderly transition that will include, but not limited to, [Waste] providing route lists and billing information

WHEREAS, in accordance with the July 15, 2003 Franchise Agreement between the City and Waste for Integrated Residential Waste Management Services, Article 12, Section 12.16, Waste must cooperate with the City in the event of a "Compliance with Municipal Code":

[Waste] must comply with all applicable provisions of the Municipal Code of the City, and with all amendments to those provisions during the term of this Agreement

WHEREAS, in accordance with the July 15, 2003 Franchise Agreement between the City and Waste for Integrated Commercial and Industrial Waste Management Services, Article 12, Section 12.15, Waste must cooperate with the City in the event of a "Compliance with Municipal Code":

[Waste] must comply with all applicable provisions of the Municipal Code of the City, and with all amendments to those provisions during the term of this Agreement

WHEREAS, Carson Municipal Code § 5229.2 sets forth “Seamless Service Requirements” for any change in control of the City’s collection of solid waste and recyclable materials; and

WHEREAS, on March 26, 2018, the City facilitated a meeting (the “Meeting”) between City Staff, WRI, and Waste to transfer documents, records, and information required for the pending change in control from Waste to WRI for collection of commercial and residential solid waste and recyclable materials in the City; and

WHEREAS, at the Meeting, and in violation of the Agreements, Waste refused to provide documents, records, and information required for the pending change in control from Waste to WRI for collection of commercial and residential solid waste and recyclable materials in the City; and

WHEREAS, the issuance of a legislative subpoena pursuant to Government Code § 37104 is proper where (i) it is authorized by ordinance, resolution, or similar enactment, (ii) it serves a valid legislative purpose, and (iii) the witness or material subpoenaed is pertinent to the subject matter pending before the City ; and

WHEREAS, pursuant to Government Code § 37105, legislative subpoenas must be signed by the Mayor and attested to by the City Clerk; and

WHEREAS, the appearances and materials subpoenaed under the authority of this Resolution are pertinent to facilitate the seamless transition of franchisees because the documents, records, and other information being subpoenaed from Waste to WRI for collection of commercial and residential solid waste and recyclable materials in the City are necessary to enable WRI, the new franchisee, to commence services to the City.

NOW, THEREFORE, BE IT RESOLVED, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY:

SECTION 1. Find and determine that the foregoing recitals are true and correct and adopt the recitals as findings in support of the actions taken herein.

SECTION 2. Issue legislative subpoenas to USA Waste of California, Inc. and their officers, agents and employees, including Sandra Ruiz, Darrell Kato, Bill Higginbotham, and Dough Corcoran compelling the subpoenaed parties to appear and produce documents and evidence to aid the City Council in its ongoing investigation and enforcement of the Agreement to facilitate the pending change in control from USA Waste of California, Inc. to Waste Resources, Inc. for collection of commercial and residential solid waste and recyclable materials in the City.

SECTION 3. Order that the legislative subpoenas issued by this Resolution shall be in a form provided by the City Attorney that is substantially similar to the proposed form that is attached to this Resolution as Exhibit A. The legislative subpoenas shall be signed by the Mayor and certified by the City Clerk. A copy of this Resolution shall be attached to the subpoenas and shall be incorporated by reference into the subpoenas. The subpoenas shall be served upon the subpoenaed parties in the same manner as subpoenas are served in a civil action.

SECTION 4. Declare that failure to comply with the subpoenas issued pursuant to this Resolution shall subject the subpoenaed parties to the remedies set forth in Government Code §§ 37104 *et seq.* or such other remedies as is provided by law.


SECTION 5. Authorize the Mayor, City Manager, City Clerk and the City Attorney to take all

actions necessary to issue, serve and enforce subpoenas authorized pursuant to this Resolution. Said authority includes the issuance of further subpoenas to the subpoenaed parties and their officers, employees and agents in furtherance of obtaining appearances, documents, testimony and/or information that will assist the City, its staff, and attorneys in their efforts to investigate and enforce the Agreements. Should a witness fail to appear and/or produce the subpoenaed documents and/or evidence, the Mayor is authorized to report the witnesses' failure to abide by the subpoena to the Superior Court and seek any and all lawful remedies including a ruling holding the subpoenaed witness in contempt.


SECTION 6. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions. This Resolution shall be effective immediately upon passage and adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Carson, California, at a regular meeting held on the 3rd day of APRIL 2018.

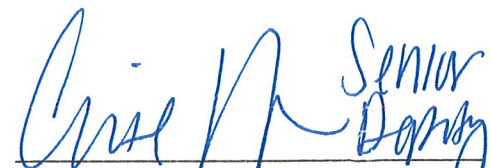
APPROVED AS TO FORM:


Sunny K. Soltani, City Attorney

CITY OF CARSON:


Albert Robles, Mayor

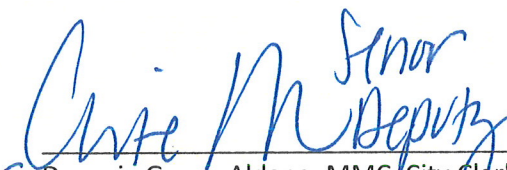
ATTEST:


For Donesia Gause-Aldana, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CARSON)

I, Donesia Gause-Aldana, City Clerk of the City of Carson, California, hereby attest to and certify that the foregoing resolution, being Resolution No. 18-046, adopted by the City of Carson City Council at its meeting held on April 3, 2018, by the following vote:

AYES:	COUNCIL MEMBERS:	Robles, Hilton, Santarina, Hicks, Davis-Holmes
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None


For Donesia Gause-Aldana, MMC, City Clerk

RESOLUTION NO. 18-046

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EXHIBIT 4

IN RE:

CITY OF CARSON INTEGRATED SOLID
WASTE MANAGEMENT SERVICES

LEGISLATIVE SUBPOENA
(California Government Code §§ 37104 *et seq*)

Production Date

Date: April 16, 2018

Time: 1:00 p.m.

Place: City of Carson City Hall

701 E. Carson Street, Carson, California
90745

SUBPOENA FOR
PRODUCTION OF BUSINESS RECORDS

TO: USA Waste of California, Inc.

FROM: CITY OF CARSON, CALIFORNIA

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3. **You are not required to appear in person and produce the requested Documents IF, by 1:00 p.m. on April 16, 2018, you deliver true, complete, legible, and durable copies of the requested Documents described in Exhibit "1" to:**

Kenneth C. Farfsing
City Manager
City of Carson
701 E. Carson Street
Carson, California 90745

4. All Documents produced to the City shall be accompanied by a declaration or affidavit warranting to their authenticity and completeness sufficient to meet the requirements of California Code of Civil Procedure § 2020.430. The City will pay all reasonable documented costs associated with photocopying the requested documents. If costs exceed \$500.00 please contact City Attorney Sunny K. Soltani at (949) 250-5407 before copying.

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Sunny K. Soltani (SBN 209774)
City Attorney for the City of Carson
Aleshire & Wynder, LLP
18881 Von Karman Avenue , Suite 1700
Irvine, CA 92612

Date issued: April __, 2018

City Council, City of Carson

BY: _____

Albert Robles
Mayor, City of Carson

ATTEST: _____

BY: _____

Donesia Gause
City Clerk, City of Carson

APPROVE AS TO FORM

BY: _____

Sunny K. Soltani
City Attorney

EXHIBIT "1"

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 - ◆ a description of service levels and specifications for all residential and commercial accounts pertaining to the Agreements; and
 - ◆ a list of all route schedules for both residential and commercial services pertaining to the Agreements; and
 - ◆ a description of all route schedules for both residential and commercial services pertaining to the Agreements; and
 - ◆ a Transition Plan regarding "cart-and-bin pickup"; and
 - ◆ confirmation USA Waste of California, Inc. has finalized all outstanding refunds for residential and commercial customers; and
 - ◆ any outstanding final reports (i.e. quarterly reports); and
 - ◆ confirmation USA Waste of California, Inc. will complete, print, and distribute (including postage and mailing fees) a Spring newsletter notifying impacted City of Carson residents June 30, 2018 will be USA Waste of California, Inc.'s last

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pickup date; and

- ◆ confirmation USA Waste of California, Inc. will participate in a scheduled May 10, 2018 Cal Recycle Meeting conference call and complete all required information requests from the Cal Recycle Attachment USA Waste of California, Inc. regarding AB 341 and AB 1826; and
 - ◆ a list of events and workshops held by the City of Carson and USA Waste of California, Inc.; and
 - ◆ confirmation USA Waste of California, Inc.'s Customer Service will inform the City of Carson's residents and businesses about the USA Waste of California, Inc. and Waste Resources, Inc. transition process
2. Produce any and all DOCUMENTS relating in any way to Article 12, Sections 12.8 and 12.16 of the July 15, 2003 Franchise Agreement between the City of Carson and USA Waste of California, Inc. for Integrated Residential Waste Management Services
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 5. Produce any and all Documents evidencing or relating in any way to including, but not limited to current DOCUMENTS related to the Agreements with regard to the following information:

Residential Customer Name:

Billing Address:

Unit Number

Zip Code:

Service Address:

Unit Number:

Zip Code:

Contact Name:

Contact Number:

Contact Email:

Senior Citizen (Yes or No) : or provide list of senior citizen services

Disabled Citizen or Special Needs List

Valet Service

Gate Access (locks/keys/codes)

Cart Information: Quantity and size of Trash Carts

Quantity and size of Recycle Carts

Quantity and size of Green Waste Carts and identify communities that do not have Green Waste Services

6. Produce any and all Documents evidencing or relating in any way to including, but not limited to current DOCUMENTS related to the Agreements with regard to the following information:

Commercial Customer Name:

Billing Address:

Unit Number

Zip Code:

Service Address:

Unit Number:

Zip Code:

Contact Name:

Contact Number:

Contact Email:

Scout Service

Gate Access (locks/keys/codes)

Bin and Cart ID Data: Quantity, size and current day(s) of service of **Trash** Bins and/or Carts

Quantity, size and current day(s) of service of **Organic** Bins

and/or Carts

Quantity, size and current day(s) of service of **Recyclable** Bins

and/or Carts

Bin Compactors: Quantity, size and current day(s) of service of **compactor** Bins

7. Produce any and all Documents evidencing or relating in any way to including, but not limited to current DOCUMENTS related to the Agreements with regard to the following information:

Roll Offs:

Customer Name:

Billing Address:

Unit Number

Zip Code:

Service Address:

Unit Number:

Zip Code:

Contact Name:

Contact Number:

Contact Email:

Gate Access (locks/keys/codes)

Roll Off Box Data: Quantity, size and current day(s) of service of **Trash** Roll Offs

Quantity, size and current day(s) of service of **Organic** Roll

Offs

Quantity, size and current day(s) of service of **Recyclables**

Roll Offs

Quantity, size and current day(s) of service of **C&D** Roll Offs

Roll Off Compactors: Quantity, size and current day(s) of service of Roll Off **compactor** Boxes and ownership of compactor units and compactor boxes.

On Call or Scheduled Services

8. Produce any and all Documents evidencing or relating in any way to including, but not limited to current DOCUMENTS related to the Agreements with regard to the following information:

City of Carson Services:

What services does WM currently provide to the city facilities and parks including bus stops. Looking especially for container data inclusive of size type and service frequency.

Attorney or Party Without Attorney (Name and Address) KABIR S. CHOPRA ALESHIRE & WYNDER, LLP. 2361 ROSECRANS AVENUE STE 475 EL SEGUNDO CA 90245 310/527-6660 Attorney For (Name): PLAINTIFF		Telephone No. 310/527-6660 Ref. No. or File No. B48607/01007.0557	FOR COURT USE ONLY	
Insert name of court and name of judicial district and branch court, if any.				
Short Title of Case: IN RE: CITY OF CARSON INTEGRATED SOLID WASTE MGT SER. VS				
Invoice No.: 701528	Date: 04/17/18	Time: 06:00 PM	Dep./Div.:	Case Number:

PROOF OF SERVICE

1. AT THE TIME OF SERVICE I WAS AT LEAST 18 YEARS OF AGE AND NOT A PARTY TO THIS ACTION, AND I SERVED COPIES OF THE:

SUBPOENA FOR APPEARANCE AND PRODUCTION OF BUSINESS RECORDS

2. a. PARTY SERVED: SANDRA RUIZ, IN HER OFFICIAL CAPACITY AS AN EMPLOYEE AND AGENT OF USA WASTE OF CALIFORNIA, INC BY SERVING THE AGENT FOR SERVICE OF PROCESS, CT CORPORATION SYSTEM

- b. PERSON SERVED: GABRIELA SANCHEZ

RELATIONSHIP: PROCESS SPECIALIST

818 W. 7TH ST.
 STE 930
 LOS ANGELES CA 90017

3. I SERVED THE PARTY NAMED IN ITEM 2
 a. BY PERSONALLY DELIVERING THE COPIES ON 04/06/18 AT 02:55 PM

6. PERSON SERVING: MICHAEL J. RENK FEE FOR SERVICE: \$ 72.00
 CONFORMS TO JUDICIAL COUNSEL FROM #982 (a) (23)

SIGNAL ATTORNEY SERVICE, INC.
 P.O. Box 91985
 Long Beach CA 90809
 (562)595-1337 FAX(562)595-6294

- d. Registered California process server
 (1) ☒ Employee or ☐ Independent Contractor
 (2) Registration No. 4943
 (3) County: LOS ANGELES
 (4) Expiration: 12/15/19

I declare under penalty of perjury, under the laws of the State of California and of the United States of America that the foregoing is true and correct
 DATE: 04/10/18

SIGNATURE