

**DRAFT**  
**(September, 2016)**

**FRANCHISE AGREEMENT**  
**BETWEEN**  
**COUNTY OF PLUMAS**  
**AND**  
**USA WASTE OF CALIFORNIA, INC.,**  
**A DELAWARE COMPANY**  
**DBA**  
**FEATHER RIVER DISPOSAL**  
**FOR**  
**COLLECTION & DISPOSAL SERVICES OF**  
**SOLID WASTE AND**  
**RECYCLABLE MATERIALS**

Proposed Term: to be determined by Board of Supervisors

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**FRANCHISE AGREEMENT**  
**FOR**  
**SOLID WASTE AND RECYCLABLE MATERIALS**  
**COLLECTION & DISPOSAL SERVICES**

This **FRANCHISE AGREEMENT** is made as of this       th day of                   , 2016, by and between the **County of Plumas, CALIFORNIA**, an incorporated, political subdivision of the State of California (hereinafter referred to as "County"), and **USA Waste of California, Inc., a Delaware Company, dba Feather River Disposal**, (hereinafter referred to as "Contractor").

**RECITALS**

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1. The State of California has, through enactment of the *California Integrated Waste Management Act of 1989* (**hereinafter** "Act"), determined each of the following:
  - A. That management of solid waste and recyclable materials is a shared responsibility of the State and local governments.
  - B. That it is in the public interest for local governments to be authorized and required to provide adequate handling services for solid waste and recyclable materials.
  - C. That the amount of solid waste generated in California, coupled with diminishing landfill space, potential adverse environmental impacts from burying solid waste in landfills, and the need to conserve natural resources have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program.
2. The State of California, through the Act, has directed CalRecycle (formerly the California Integrated Waste Management Board) and all local agencies to maximize the use of feasible waste reduction, recycling and composting options in order to reduce the amount of solid waste that must be disposed of in landfills.
3. Both **County** and **Contractor** are mindful of the Act and all other provisions of local, State and federal laws governing the safe collection, processing, re-use, recycling and disposal of solid waste and recyclable materials.
4. **County**, through its Board of Supervisors, recognizes that the responsibility for local solid waste management, i.e. the operation of the Plumas County solid waste program, is a "shared responsibility between the State and local governments" per Section 40001(a) of the *California Public Resources Code*.
5. **Contractor**, for a substantial period of years prior to the commencement of this agreement, has provided solid waste collection and related services to **County** under a previous contract with **County**. On the basis of the satisfactory history of **Contractor's** ability to provide these services, and in accordance with the *Plumas County Code of Ordinances*, Title 6, Chapter 10, **County** has determined that it is in the best interests of its residents to enter into this agreement with **Contractor** in order to further **County's** goal of regulatory compliance as set forth in the *Act*.

6. **County** has independently evaluated **Contractor's** past performance and has determined that **Contractor** is qualified and capable of providing solid waste handling services including the collection and processing of recyclable materials in accordance with the Plumas County solid waste plan as described in Section 6-10 of the *Plumas County Code* **of Ordinances**. Such services shall be accomplished in a manner and on terms which are in the best interests of **County**, its residents and businesses, taking into account the qualifications and experience of **Contractor** and the cost of providing such services.

7. **Contractor** has participated in the development of this agreement and is familiar with its content and preparation, and the work to be performed by **Contractor** under the agreement. This agreement accurately and fairly represents the intentions of **Contractor**, and **Contractor** enters into this agreement on the basis of its independent analysis.

**NOW, THEREFORE**, in consideration of the mutual promises contained in this agreement, and for other good and valuable consideration, **County** and **Contractor** mutually agree to the following terms and conditions:

## ARTICLE 1

## DEFINITIONS

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### **1.01: AGREEMENT DEFINITIONS**

Unless the context otherwise requires, terms used in this agreement shall have the meanings set forth in the definitions contained in Attachment A. Additional definitions used in this agreement are contained in Section 6-10.101 of the *Plumas County Code of Ordinances*. Terms defined in Attachment A (but not those defined in the *County Code*) shall begin with a capital letter in this agreement.

### **1.02: STATUTORY DEFINITIONS**

Unless a term is otherwise defined in this agreement, terms used in this agreement shall have the same meaning as the definitions of those terms contained in the *California Integrated Waste Management Act of 1989* ("Act"), or the rules promulgated thereunder. In the event of a conflict between the definition of a term in the *Act* (or its promulgated rules) and in this agreement, the definition in this agreement shall prevail.

## ARTICLE 2

# REPRESENTATION AND WARRANTIES OF CONTRACTOR

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**Contractor** represents and warrants, as of the date of this agreement, the following:

### **2.01: CORPORATE STATUS**

**Contractor** is a corporation, duly organized, validly existing and in good standing under the laws of the State of **Delaware**, and is qualified to do business in the State of California.

### **2.02: CORPORATE AUTHORIZATION**

**Contractor** has the authority to enter into and perform its obligations under this agreement. The directors (and shareholders if necessary) of **Contractor** have taken all actions required by law, the articles of incorporation and bylaws or otherwise to authorize the execution of this agreement.

### **2.03: AGREEMENT DULY EXECUTED**

The persons signing this agreement on behalf of **Contractor** have been authorized to do so and this agreement constitutes a legal, valid and binding obligation of **Contractor**.

### **2.04: NO CONFLICT WITH APPLICABLE LAW OR OTHER DOCUMENTS**

Neither the execution and delivery by **Contractor** of this agreement, nor the performance by **Contractor** of its obligations hereunder:

- A. Conflicts with, violates or will result in a violation of any existing applicable law; or
- B. Conflicts with, violates or will result in a breach or default under any term or condition of any existing judgment, order or decree of any court, administrative agency or other governmental authority, or of any existing contract or instrument to which **Contractor** is a party or by which **Contractor** is bound.

### **2.05: NO LITIGATION**

There is no action, suit, proceeding, or investigation at law or in equity, before or by any court or governmental entity, pending or threatened against **Contractor**, or otherwise affecting **Contractor**, wherein an unfavorable decision, ruling, or finding, in any single case or in the aggregate, would:

- A. Materially adversely affect **Contractor's** performance hereunder,
- B. Adversely affect the validity or enforceability of this agreement, or
- C. Have a material adverse effect on the financial condition of **Contractor** or the entity providing the guaranty of **Contractor's** performance.

### **2.06: FINANCIAL CONDITION**

**Contractor** has made available to **County** information on its financial condition. **Contractor** recognizes that **County** has relied on this information in evaluating the sufficiency of **Contractor's** financial resources to perform this agreement. To the best of **Contractor's** knowledge, this information is complete and accurate, does not contain any material

misstatement of fact and does not omit any fact necessary to prevent the information provided from being materially misleading.

**2.07: ABILITY TO PERFORM**

**Contractor** has the expertise and professional and technical capability to perform all of its obligations under this agreement. All services to be provided by **Contractor** pursuant to this agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional contractors in similar fields and circumstances in accordance with sound professional practices. **Contractor** also warrants that it is familiar with all laws that may affect its performance of this agreement and shall advise **County** of any changes in any laws that may affect **Contractor's** performance of this agreement.

## ARTICLE 3

### TERM OF AGREEMENT

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#### **3.01: EFFECTIVE DATE**

The Effective Date of this Agreement shall be **January 1, 2017**.

#### **3.02: TERM**

The term of this Agreement shall begin on the Effective Date and shall end at midnight on December 31, 20\_\_\_\_, unless earlier terminated, or extended as provided in Section 3.03. **Contractor's** obligation to collect solid waste, including targeted recyclable materials and construction and demolition debris (C&D) within a designated franchise area, and transport such solid waste, including targeted recyclable materials and C&D to a designated transfer site shall commence at 12:01 am on the Effective Date and shall continue for the remainder of the Term.

#### **3.03: EXTENSION OF TERM**

During Calendar Year 20\_\_\_\_, the Parties shall meet and confer on the possible extension of the term. **County** reserves the right to offer or reject an extension of the Term of this agreement in five (5) year increments not to exceed ten (10) years from the expiration date of this agreement, based upon **Contractor's** satisfactory performance, including adherence to those conditions set forth in Section 3.04 of this agreement.

#### **3.04: CONDITIONS AS TO EFFECTIVE DATE OF THIS AGREEMENT**

The obligation of the Parties to perform under this agreement is subject to the right of approval of this agreement by **County**, and that such right shall have become effective, pursuant to California law, on or before the Effective Date. This obligation is also subject to the terms of Section 2.05 of this agreement, e.g. that there shall be no litigation pending on the Effective Date in any court challenging the execution of this agreement or seeking to restrain or enjoin its performance.

A. ***Obligation of Contractor to perform.*** The obligation of **Contractor** to perform under this agreement is also subject to the satisfaction of the conditions set forth below:

1. ***Accuracy of representations.*** The representations and warranties made by **Contractor** in Article 2 shall be true and correct on and as of the Effective Date.
2. ***Performance bond.*** **Contractor** shall have provided a faithful performance bond meeting the requirements of Section 14.05 or alternative security meeting the requirements of Section 14.06.

B. ***Notice.*** If either Party wishes to assert that a condition for its benefit has not been satisfied and has not been waived, it must deliver written notice to that effect to the other Party on or before the Effective Date. If no such notice is received, the agreement will become effective on the Effective Date.

C. ***Good faith.*** Each Party is obligated to perform in good faith the actions, if any, which this agreement requires it to perform before the Effective Date and to cooperate towards the satisfaction of the conditions set forth above.

## ARTICLE 4

### SCOPE OF AGREEMENT

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#### **4.01: SCOPE OF AGREEMENT**

A. Through this agreement, **County** grants to **Contractor** an exclusive franchise, for only its designated franchise area(s), as shown in Attachment B, except as provided in Section 4.02, to collect and transport the following materials in their designated service area(s):

1. Solid waste generated at residential and commercial premises; and
2. Source separated or commingled targeted recyclable materials generated **at selected residential and commercial premises**, whether collected by **Contractor** or transported by a customer to a designated targeted recyclable materials drop-off location within or adjacent to a designated transfer facility.
3. C&D generated at residential and commercial premises

B. **County** has existing franchise contracts in place to perform the daily operations of the solid waste program involving collection and processing of municipal solid waste (MSW) and targeted recyclable materials. **Contractor** will clearly account for the continuing provision of such services. Subsidiary activities performed by **Contractor** that do not directly benefit the solid waste program shall not be included in financial statements pertaining to **County's** solid waste program.

#### **4.02: LIMITATIONS ON SCOPE**

**County** may permit the collection, recycling and/or disposal at any legally permitted designated transfer facility of any of the following materials by persons other than **Contractor** without seeking or securing any approval from **Contractor**:

- A. Solid waste, C&D and targeted recyclable materials which are transported personally by the owner or occupant of the premises at which they are generated (or by his or her employees) to a permitted transfer, processing and disposal facility;
- B. Targeted recyclable materials which are source separated by the generator and donated to youth, civic, or charitable organizations;
- C. Recyclable beverage containers delivered for recycling under the *California Beverage Container Recycling Litter Reduction Act, California Public Resources Code, Section 14500, et seq.*;
- D. Animal waste and remains from slaughterhouse or butcher shops, grease waste, and used cooking oil;
- E. By-products of sewage treatment including sludge, sludge ash, grit, and screenings;

- F. Hazardous waste, household hazardous waste (during household waste disposal events), and infectious waste with appropriate precautions at an approved infectious waste facility;
- G. Source separated E-waste and source separated universal waste, including household batteries, fluorescent light bulbs and mercury switches;
- H. Materials generated by governmental facilities (Including public schools which are exempt from the agreement by applicable law), provided that the generator has arranged services with the person collecting same through a separate agreement;
- I. Green waste removed from premises by a gardening, landscaping or tree trimming company, using its own equipment and employees as an incidental part of the total service offered by the company, as opposed to a hauling service.
- J. C & D, up to 500 pounds of material per week, that is incidentally removed from a single residential or commercial premises by a duly-licensed construction or demolition company, as part of the total service offered by such licensed company and where the licensed company uses its own equipment and employees.

#### **4.03: GEOGRAPHIC LIMITS ON CONTRACTOR'S OPERATIONS**

- A. **Contractor** shall provide solid waste services within service area number 1 (see Attachment B), excepting therefrom the service areas within the jurisdiction of the Chester Public Utilities District (CPUD) and the Quincy Community Services District (QCSd).
- B. **Contractor** shall offer solid waste collection services within the route subscription area of service area number 1 (see Attachment B), excepting therefrom the service areas within the jurisdiction of CPUD and QCSd.
- C. **Contractor** shall offer solid waste collection services on a seasonal basis for areas outside the weekly route subscription area of service area number 1), excepting therefrom the service areas within the jurisdiction of CPUD and QCSd.
- D. **Contractor** may perform services for other communities or special districts so long as expenses associated with their operations are not included in **Contractor's** financial statements submitted to **County**.

#### **4.04: ADMINISTRATION BY COUNTY**

The Plumas County Board of Supervisors has designated the Plumas County Director of Public Works (hereinafter "Director") to act as the contract administrator (hereinafter "administrator") for this agreement. The Director shall be **Contractor's** contact for all inquiries, complaints and other communications from **Contractor** for the Term of this agreement. All reports, financial statements, insurance information and any other correspondence required from **Contractor** by the terms of this agreement shall be provided by **Contractor** to the administrator or his or her designee. Solid waste issues that may arise during the Term of this agreement may be brought up for consideration by either of the Parties at any time. Issues of a non-administrative nature requiring further discussion and/or a decision affecting rates, methods of collection, etc., will be placed on the agenda for a hearing before the Plumas County Integrated Waste Management Task Force (PCIWMTF), an advisory committee appointed by the Plumas County Board of Supervisors to advise the Board on solid waste matters. The PCIWMTF will consider the issue

and may make a recommendation to the Plumas County Board of Supervisors, who retain the responsibility for the final decision.

#### **4.05: ENFORCEMENT BY COUNTY**

The burden of enforcement of the provisions of this agreement, found in Title 6, Chapter 10 of the *Plumas County Code of Ordinances (hereinafter "County Code")*, and of the *California Integrated Waste Management Act of 1989*, and of all other pertinent local, State and federal laws pertaining to the Plumas County Solid Waste Plan shall be borne by **County** as follows:

- A. The Plumas County Department of Environmental Health shall oversee and be responsible for the enforcement of violations on all public health and safety solid waste matters concerning restaurant food wastes, biomedical wastes, and pharmaceutical wastes including sharps, hazardous wastes, chemical wastes, radioactive wastes and all other environmental health-related waste issues. Determination as to whether a specific waste product is environmental health-related may be obtained by contacting the Director of Environmental Health.
- B. The Plumas County Department of Public Works shall oversee and be responsible for the enforcement of violations on all solid waste matters concerning municipal solid waste, recyclables, bulky waste, e-waste, universal waste, white goods, C & D and all other types of solid waste.
- C. The Plumas County Department of Public Works shall oversee and be responsible for the enforcement of all other facets of the Plumas County solid waste program, including oversight and coordination with **County's** franchise contractors and the administration of this agreement.
- D. All complaints regarding the Plumas County solid waste program, whether submitted directly to (or by) **County** or **Contractor**, or to (or by) an intermediate agency such as the Plumas County Code Enforcement Office or any other local, State or federal law enforcement office shall be administered by the Department of Public Works (administrator). The administrator shall investigate the complaint and determine the proper jurisdiction for the resolution of the complaint and forward it to the appropriate agency.
- E. A complaint under this Section against **Contractor** resulting in a determination of violation of the terms of this agreement shall result in a finding of default against the **Contractor**, and remedies available to **County** listed in Article 15 of this agreement shall be enforced.
- F. A complaint under this Section against a person resulting in a determination of violation is an infraction and shall be enforced by any peace officer, as defined in the California Penal Code, the Plumas County Code Enforcement Officer or by the Environmental Health Director, and employees designated by the Director. Such designated employees are authorized to issue citations for violations of Title 6, Chapter 10 of the *County Code*.
- G. **Contractor** has exclusive franchise rights for the collection, removal, transport, use and disposal of solid waste in **Contractor's** designated franchise area of the unincorporated portion of Plumas County per Section 6-10.201 of the *County Code*, with the exceptions noted in Sections 4.02 and 4.03 of this agreement. **County** shall use all

reasonable remedies available to it to insure that those rights are enforced, Including such enforcement measures described in Section 6-10.410 of the *County Code* and the penalties for violations described in Section 6-10.411 of the *County Code* against third party violators. **Contractor** may, after consultation with **County**, independently seek enforcement of those rights against third Party violators, including, but not limited to seeking injunctive relief. **County** shall use good faith efforts to cooperate with **Contractor** to enforce such rights.

H. Any person or entity reported to be in violation of **Contractor's** exclusive franchise rights hereunder shall be advised in writing by **County** to cease such activities immediately. If such person or entity continues to violate **Contractor's** exclusive franchise rights after notification by **County**, such person or entity shall be fined according to Section 6-10.411 of the *County Code*. Additionally, **Contractor** shall have the right to impound any **Contractor**-owned or privately-owned waste container used in violation of **Contractor's** exclusive franchise rights or any other applicable legislative requirements described in the applicable Sections of Title 6, Chapter 10 of the *County Code*, the *California Integrated Waste Management Act of 1989*, and all other pertinent local, State and federal laws pertaining to the Plumas County Solid Waste Plan.

## ARTICLE 5

# COLLECTION SERVICES

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### **5.01: GENERAL**

The work to be performed and services to be provided by **Contractor** includes the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the work and provide the services described, at the times and in the manner required by this Agreement. The enumeration of, and specification of requirements for, particular items of labor, supervision, equipment, materials or supplies shall not relieve **Contractor** of the duty to furnish all others, as may be required, whether enumerated elsewhere in the agreement or not. **Contractor** shall perform the work and provide the services pursuant to this agreement in a thorough and professional manner so that the residents and businesses within **County** are provided reliable, courteous, and high-quality service at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve **Contractor** of the duty of accomplishing all other aspects in the manner provided in this article, whether such other aspects are enumerated elsewhere in the agreement or not.

### **5.02: SOLID WASTE COLLECTION**

**Contractor** acknowledges that **County** is committed to diverting materials from disposal through the implementation of source reduction, reuse and recycling and that **County** may, at some time in the future, implement, in accordance with Section 16.10, new programs that may impact the overall quantity or composition of solid waste to be collected by **Contractor**. Before any such changes to collection that will affect the rates, **County** shall meet with **Contractor** to agree upon appropriate changes in services and rates before implementing the policy and/or strategy.

A. ***Single-Family Dwelling (SFD)***. **Contractor** shall collect refuse from SFD once per week from either customer-owned containers or **Contractor**-provided carts. **Contractor** shall collect containers curbside unless:

1. The occupant is provided a special handling service exemption; or
2. The customer has requested backyard collection service and has agreed to pay the premium service rate approved by **County**.

Regarding special handling service, **Contractor** shall collect containers or carts from and return containers or carts to the alternative service location (such as the side yard or backyard) specified by the customer. **Contractor** shall make reasonable accommodations with regard to provision and servicing of containers (e.g., container size and type, placement of containers for collection, etc.) at no additional cost to customers who meet the **County's** special handling services criteria. New service recipients shall be notified upon signing up for service of the special handling and backyard collection service options. Customers desiring special handling service will be required to submit an application, in a form approved by **County**. **Contractor** shall review applications to determine whether the customer meets **County's** eligibility criteria and shall provide a written response within five (5) Business Days after receipt of the application. Unless otherwise directed by **County**, customers are eligible if they provide:

1. Evidence of their handicapped or disabled status by the California Department of Motor Vehicles or
2. Evidence that no occupant of the residential premises is physically able to place containers or carts curbside for collection.

B. ***Multi-Family Dwellings (MFD)***. Contractor shall collect refuse from MFD as frequently as scheduled by the customer, but not less than once per week. **Contractor** shall allow MFD customers to use **Contractor**-provided carts or bins for refuse collection that is shared by the occupants of the premises. **Contractor** shall provide one (1) or more cart(s) or bin(s) to such customers as requested by customer, provided that equivalent capacity of not less than two (2) ninety-six (96) gallon containers are provided for every five (5) dwelling units in the MFD complex. **Contractor** shall service containers provided to MFD customers that are three (3) cubic yards or less in capacity, and drop-boxes stored in enclosures or on private or public property within fifty (50) feet of the public right of way, if access to the containers is paved and the slope is less than seven percent (7%). **County** will make the final determination on the slope of the access if a dispute arises between customer and **Contractor**. Containers that are four (4) cubic yards or larger must be stored within fifteen (15) feet of the curbside or brought to within fifteen (15) feet of the curbside by customer to be serviced by **Contractor**. **Contractor** shall provide service to containers that are located at distances in excess of those described in this paragraph and shall be entitled to bill customer as agreed upon prior to the beginning of service. **Contractor** shall give special consideration when determining the collection location for MFD complexes to ensure that the flow of traffic is not impeded and that it does not result in aesthetic degradation of an area. The designated collection location, if disputed by customer or **Contractor**, shall be determined by **County**. Additionally, if in the **County's** opinion the location of an existing collection location is inappropriate, **County** may require the customer or **Contractor** to relocate the collection containers.

C. ***Commercial Premises***. **Contractor** shall collect refuse from commercial premises as frequently as scheduled by the customer, but not less than once per week. **Contractor** shall service containers provided to commercial customers that are three (3) cubic yards or less in capacity, and drop-boxes stored in enclosures or on private or public property within fifty (50) feet of the public right of way, if access to the containers is paved and the slope is less than seven percent (7%). **County** will make the final determination on the slope of the access if a dispute arises between customer and **Contractor**. Containers that are four (4) cubic yards or larger must be stored within fifteen (15) feet of the curbside or brought to within fifteen (15) feet of the curbside by customer to be serviced by **Contractor**. **Contractor** shall provide service to containers that are located at distances in excess of those described in this paragraph and shall be entitled to bill customer as shown in Attachment D ("Feather River Disposal Rates"). Specifically, **Contractor** shall offer the following collection service methodologies to commercial customers:

1. ***Individual cart or bin service***. **Contractor** shall allow each commercial, premises to use carts, bins or drop boxes for refuse collection. **Contractor** shall provide each customer with a choice of one (1) or more carts or bins.
2. ***Centralized bin or cart service***. **Contractor** shall allow each commercial premises to use carts or bins for refuse collection that are shared by the

occupants of two (2) or more adjacent commercial premises. In such case, **Contractor** shall provide one or more carts or bins as requested by the customer(s) provided that no less than ninety-six (96) gallons of container capacity is provided for every four (4) commercial premises. **Contractor** shall provide each customer with a choice of one (1) or more carts or bins.

3. **Drop boxes.** **Contractor** shall allow a customer to use a drop box for refuse collection to meet the customer's disposal needs. In such case, **Contractor** shall provide customer with a choice of container capacities ranging from ten (10) to forty (40) cubic yards (or similar sizes).

D. **Public Premises.** **Contractor** shall collect refuse and recyclable materials from public litter and recycling receptacles located in public walkways on streets, in public parks and in public parking lots that are accessible for curbside collection and are set forth in Attachment C.

1. **Frequency of Collection.** The frequency of collection shall be as set forth in Attachment C.

2. **Containers.** Collections shall be made from **Contractor**- and **County**-owned containers. **Contractor**-owned containers shall be maintained in good operating condition by **Contractor**. **County**-owned containers shall be maintained in good operating condition by **County**. **Contractor** shall notify **County** within twenty-four (24) hours of observing or being notified that a **County**-owned container is inoperable. **Contractor** shall notify **County** if there are repeated instances of litter surrounding a public litter or recycling receptacle.

### **5.03: TARGETED RECYCLABLE MATERIALS COLLECTION**

A. **Self-Haul Recycling.** **Contractor** shall accept source-separated targeted recyclable materials as defined in Section 6-10.103 of the *County Code* at designated transfer facilities from all residential and commercial customers. **Contractor** shall also accept those source-separated targeted recyclable materials defined in Section 5.03(B), at designated transfer facilities from commercial customers who are designated as qualified generators, but who choose to self-haul their targeted recyclable materials. **Contractor** may reject targeted recyclable materials that contain contaminants or contaminated targeted recyclable materials that exceed ten percent (10%) by volume of the source-separated targeted recyclable materials accepted, and shall report such incidents to **County**.

B. **Mandatory Commercial Recycling.** **Contractor** shall collect targeted recyclable materials from designated commercial, industrial, institutional and multi-family customers who are designated as qualified generators as defined in Section 6-10.103 of the *County Code* that have source separated the targeted recyclable materials from solid waste and placed these materials in the customer's recyclable materials collection container for collection by **Contractor**. Qualified generators that subscribe to solid waste collection service who have not elected to self-haul as permitted hereunder shall be entitled to the collection of targeted recyclable materials at no additional charge, and **Contractor** shall provide the level of service required by qualified generators requesting recyclable materials collection services. **Contractor** may tag and reject containers of targeted recyclable materials that contain contaminants or contaminated targeted

recyclable materials, and shall report such incidents to **County**. The level of service **Contractor** shall provide includes: Source separated collection of cardboard and mixed paper, in a manner that best suits the needs of the qualified generator. **Contractor** shall collect source separated recyclable materials generated at commercial premises based upon the collection needs of the customer, but on a bi-weekly basis at a minimum, as scheduled by the **Contractor** provided that the qualified generators has source separated the targeted recyclable materials from solid waste and placed the materials in the appropriate **Contractor**-provided container. **Contractor** shall collect targeted recyclable materials at the designated location agreed upon by **Contractor** and customer. The designated collection location, if disputed by customer or **Contractor**, shall be determined by **County**.

1. **General.** Qualified generators that subscribe to solid waste collection service shall be entitled to collection of targeted recyclable materials at no additional charge.
2. **Collection Containers.** **Contractor** shall allow qualified generators to choose a collection service method that best suits the needs of its premises. Specifically, **Contractor** shall offer the following choices to qualified generators:
  - a. **Cart service.** **Contractor** shall provide qualified generators with a choice of one (1) or more carts to use for targeted recyclable materials collection.
  - b. **Bin service.** **Contractor** shall provide qualified generators with a choice of one (1) or more bins to use for targeted recyclable materials collection.
  - c. **Shared Cart or Bin service.** **Contractor** shall provide qualified generators one (1) or more carts or bins to use for targeted recyclable materials collection that are shared by the occupants of two (2) or more commercial premises. In order to minimize the impact or occurrence of illegal dumping and theft of recyclable materials, **Contractor** will provide to customer "keyed-alike" locks for a fee shown on Attachment D for enclosures used to store containers or locks for containers and ensure the enclosures or containers are locked after providing collection service upon customer's request. Only **Contractor** and the participating customers will be provided with a key to the enclosures and access to the containers. If the carts or bins are left "outside" in a designated area, each container may be locked (keyed alike), and only **Contractor** staff and the participating customers will be provided with a key to access the containers. At least once each Calendar Year, **Contractor's** route supervisor will visit each of the participating qualified generators with shared containers, respond to any questions or concerns, and check the areas for contamination, litter, or damage.
  - d. **Drop Boxes.** **Contractor** shall provide qualified generators with a choice of container capacities to use for targeted recyclable materials.

e. **Contamination.** Contractor may discontinue collection of recyclable materials from qualified generators that have repeated instances of excessive contamination in recyclable materials containers.

C. **California Redemption Value (CRV) Recycling.** Contractor shall provide redemption services for customers who self-haul their CRV recyclable materials to a redemption facility operated by Contractor within their Service Area in the following population centers of Plumas County, where such redemption services are not offered by other recycling contractors:

1. Chester - Lake Almanor Basin
2. Greenville - Indian Valley
3. Quincy – American Valley

#### **5.04: CONSTRUCTION AND DEMOLITION DEBRIS (C&D) COLLECTION**

Contractor shall collect C&D from residential customers and commercial customers that have source separated the C&D from solid waste and placed the C&D in roll-off containers provided for collection by Contractor at the rates established in accordance with Article 12. Contractor may tag and reject containers of C&D that contain contaminants or contaminated C&D **greater than ten percent (10%) by volume**, and shall report such incidents to County as part of Contractor's Quarterly Operational Report. Contaminated material that has been rejected shall be disposed of as solid waste at the rate shown in Attachment D. Contractor shall provide collection in a manner that best suits the needs of the customer. Contractor shall collect C&D at the designated location agreed upon by Contractor and customer. The designated collection location, if disputed by customer or Contractor, shall be determined by County.

#### **5.05: COLLECTION FOR LARGE VENUES AND EVENTS**

Contractor shall provide collection services, upon request by event sponsor, to any venue and event within its service area. Specifically, Contractor shall provide, at a minimum, solid waste and/or targeted recyclable materials collection services. Contractor shall provide collection as frequently as requested by County or the event organizer. Contractor shall provide an adequate number and type of collection container(s) for the venue or event and shall coordinate its collection services with County or event organizer. Containers shall be appropriately labeled to collect solid waste and/or targeted recyclable materials per the requirements specified by County. For venues and events which are required to comply with the *Large Venues and Events Recycling Law*, codified at *Public Resources Code Section 42648 et seq.*, Contractor shall assist the venue or event organizer in preparing a *Plumas County Solid Waste Disposal and Recycling Plan* and reporting all information required by those provisions of the law at no cost to the venue or event organizer.

#### **5.06: ABANDONED WASTE CLEANUP COLLECTION SERVICE**

Under this agreement, Contractor has no responsibility to clean up abandoned waste. Local, State and federal agencies currently provide a limited amount of abandoned waste cleanup on public lands and rights of way and will continue in that role.

#### **5.07: COMMUNITY DROP-OFF EVENTS**

No more often than twice each Calendar Year, Contractor shall hold drop-off events at a location or locations selected by the County to allow residential customers to drop off acceptable materials. Acceptable materials, which shall be determined by the County **after**

**consultation with and agreement by Contractor**, may include one or more of the following: E-waste, bulky waste, universal waste, recyclable materials, household hazardous waste. Tire drop-off or “tire amnesty” events, when held, shall be sponsored, administered and held by **County** per Section 5.06(G), below.

**A. General requirements.** **Contractor** shall promote, manage, staff, and operate drop-off event(s) for residential customers scheduled for one (1) weekend day (i.e., Saturday or Sunday) or two (2) consecutive weekend days upon request from **County**. **County** shall approve the date of the drop-off event and all advertisements or public announcements related to such event. **Contractor** shall promote the event by preparing billing inserts to be included in each customer's bill and by advertising for a minimum of two (2) consecutive weeks in a local area newspaper, as approved by **County**.

**Contractor** shall manage, staff, and supervise the event. **Contractor** shall provide traffic control and signage; inspect materials delivered to the event; separate materials; document each material type and quantity; transport collected materials to reuse, processing or disposal locations; and clean up the location at the end of the event. **Contractor** shall not charge customers delivering materials to the event, unless the volume of such material exceeds three (3) cubic yards (CY), in which case the materials shall be deemed commercial and not residential, and shall not be accepted at such an event.

**B. Accepted materials.** Customers may deliver and **Contractor** shall accept household hazardous waste, major appliances, bulky items and E-waste at the drop-off events designated for those items. **Contractor** shall be allowed to reject: liquids or sludges; cement; dirt; asphalt; concrete; other hazardous wastes; or infectious waste. No commercial waste will be accepted at these events.

**C. Participants.** **Contractor** shall verify that residents live in Plumas County by reviewing a driver's license or local utility bill.

**D. Event days.** **Contractor** shall accept materials from residential customers only over one (1) weekend day (i.e., Saturday or Sunday) or two (2) consecutive weekend days.

**E. Recycling and reuse.** **Contractor** shall collect materials in a manner that maximizes reuse, recycling and diversion of materials from disposal. **Contractor** shall make reasonable efforts, **within the framework of this agreement and the rate structure contained herein**, to ensure that diversion goals are met or exceeded. **Contractor** shall transport separated recyclable materials to the designated transfer facility or an alternative processing site with advance authorization from **County**. **Contractor** shall coordinate with re-use vendor(s) where feasible to have a representative present at the drop-off event to accept reusable items. Disposal of materials shall be **Contractor's** last option.

**F. Handling Major Appliances.** Major appliances shall be reused, recycled, or disposed by **Contractor** in accordance with requirements of applicable law. Appliances shall be certified as having hazardous materials removed before they shall be accepted. Any changes to such regulations made after the Effective Date shall be addressed as though they are a change in law in accordance with Section 16.02.

**G. Tire Amnesty Events.** **County** shall promote, manage, staff, and operate annual tire amnesty events, alternating the event site from one franchise area to the next.

**County** shall accept passenger car and similar-sized tires up to a maximum of nine (9) tires per customer, removed from rims. No commercial tires will be accepted except during tire amnesty events designated for such oversized tires.

H. ***Scheduling community drop-off Events.*** Upon request from **County**, **Contractor** shall promote, manage, staff, and operate community drop-off events described in this Section. If **County** exercises such right, it shall provide written notice to **Contractor** at least three (3) months before the first Day of the requested drop-off event.

#### **5.08: GREEN WASTE COLLECTION**

**Contractor** shall accept green waste from residential customers and commercial customers that have source separated their green waste from solid waste **at location(s) specified by County and agreed to by Contractor.** Green waste may be separated as "Woody Green Waste" or "Non-Woody Green Waste" as defined in Section 6-10.103(51) of the *County Code*. Such separation shall be determined by **County**, depending upon the location of each of the green waste disposal sites. Fees for the collection of such green waste shall be as shown in Attachment D.

**Contractor** shall re-use, process, transform or make other beneficial use of collected green waste to the maximum extent financially feasible.

**Contractor** may reject source separated green waste that contains solid waste, targeted recyclable materials, painted, treated or stained lumber or other contaminants, or if the green waste is not trimmed to the size specified. Such rejected green waste shall be disposed of as solid waste at a facility designated for such disposal at the fees charged for solid waste disposal.

#### **5.09: SELF-HAUL**

Collection services shall include the acceptance of solid waste, targeted recyclable materials, universal waste, green waste and C & D at those certain designated transfer facilities described in Sections 9.03 and 9.04 of this agreement.

## ARTICLE 6

## TRANSPORTATION

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### **6.01: TRANSPORTATION OF COLLECTED MATERIALS**

**Contractor** shall be responsible for, or shall arrange for transporting all solid waste, C&D, targeted recyclable materials or other materials collected by **Contractor** pursuant to this agreement by **Contractor** to the designated transfer facility and/or the designated ultimate disposal site(s). Once placed in containers for collection, such materials shall become the property of **Contractor**.

### **6.02: TRANSPORTATION AND PROCESSING OF OTHER MATERIALS**

Upon request by **County**, **Contractor** shall be responsible for, or shall arrange for transporting, processing, recycling, and/or reuse of bulky items, major appliances, and specialty recyclable or reusable materials or other materials collected by **Contractor** pursuant to this agreement to a commodities broker/re-sale agent/recycling collection center for the purposes of selling same.

The costs for transporting materials described in this Article shall be included in the fees charged by **Contractor**, if any, upon acceptance of such materials and shall be shown in Attachment D. Transportation costs for materials accepted at no charge, such as recyclable materials, shall be borne by the balance of the solid waste program.

## ARTICLE 7

### DISPOSAL AND LANDFILLING

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#### **7.01: DISPOSAL AND LANDFILLING**

The Plumas County Board of Supervisors (Board) reserves the right to designate the ultimate disposal site(s) for the solid waste collected under this agreement. As of the Effective Date of this agreement, **County's** solid waste is currently being transported by **Contractor** to the Lockwood Landfill located at 2401 Canyon Way in Lockwood, Nevada, with whom **Contractor** and Intermountain Disposal, Inc. have an existing long-term contract, and that relationship shall continue unless modified or terminated by **Contractor** and Intermountain Disposal, Inc. on the one hand, or the owners/operators of the Lockwood Landfill, on the other. **Contractor** shall provide a copy of such contract, and any extensions or modifications thereto, to **County**, and each Party shall inform the other of any proposed changes or modifications thereto within 90 days thereof. Any change to the ultimate disposal site shall be the basis of detailed rate review per Attachment F of this agreement.

## ARTICLE 8

### OTHER SERVICES

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#### **8.01: CUSTOMER BILLING**

A. **Billing.** **Contractor** shall prepare and mail bills for services provided by **Contractor** and shall collect customer payments.

1. **Frequency.** **Contractor** shall bill single-family customers quarterly, in advance, amounts equal to the rate for service for a three (3) month period (i.e., using a quarterly format). The billing for single-family customers shall be for the three (3) month period following the billing. Multi-family and commercial customers shall be billed monthly for the one (1) month period following the billing. Commercial customers using roll-off boxes shall be billed monthly for the one (1) month period prior to the billing.
2. **Records.** **Contractor** shall maintain, for inspection by **County**, copies of customer billings and receipts, in chronological order, for a period of five (5) years after the date of service. **Contractor** shall maintain those records in electronic format. **County** staff or representatives shall be given access to such records upon **five (5)** business days' notice.
3. **Rates.** **County** shall establish rates for the types of service provided as described in Article 12. **Contractor** shall bill and collect at those rates. Under no circumstances shall **Contractor** bill for any rates or services that have not been approved by **County** and documented on **County's** approved rate schedule, Attachment D, except as noted in Section G thereof, "Fees for Extra Services".
4. **Service stops.** **Contractor** shall allow customers to suspend service and billings when the premises are unoccupied. Single-family residential customers may suspend service for a minimum of one (1) month on a maximum of two (2) occasions each Rate Year. Commercial customers may suspend service for a minimum of two (2) months on a maximum of two (2) occasions each Rate Year. Notification for service suspension shall be received by **Contractor** a minimum of ten (10) Days prior to the service suspension start date. Multi-family customers may not suspend service without prior written approval from **County**. The billings for both residential and commercial customers shall be prorated by **Contractor** in accordance with customer's requests to suspend service.

B. **Delinquent payment.** Single-family residential customers will be considered delinquent forty-five (45) days after start of the quarter in which collection services are provided by **Contractor** and multi-family dwelling, commercial customers will be considered delinquent thirty (30) days after payment is due to **Contractor**. **Contractor** may assess a late fee, at a rate not to exceed twenty-five percent (25%) of the unpaid balance of single-family residential customer's bills, and at a rate not to exceed ten percent (10%) of the balance for multi-family residential and commercial customers, monthly if payment is not received by **Contractor** within thirty (30) days after the account becomes delinquent. **Contractor** may discontinue services to customers who are 60 days delinquent. Prior to any such actions, **Contractor** must provide all delinquent accounts with written notice of its intent to assess late fees at least fifteen

(15) days prior to such assessment. **Contractor** may use any other means of collection available under law to collect delinquent accounts, including, but not limited to termination of service, and shall be entitled to recover its costs of collection. **Contractor** may discontinue services to customers who are 60 days delinquent. Prior to such action, **Contractor** must provide:

- (i) Continuing delinquent accounts with written notice of Intent to terminate service at least fifteen (15) days prior to the termination of service, and
- (ii) Notification to **County** of any delinquent accounts, including in such notification copies of the delinquency notice and the intent to terminate service notice that were sent to the customer and a proof of delivery **such as a signed postal receipt from** same, prior to the termination of customer's service.

C. **Local office.** **Contractor** shall maintain a local (within Plumas County) office within their service area for acceptance of in-person payment of bills. At the local office, **Contractor** shall accept as payment personal checks, money orders, and cashier's checks. The local office shall be open for business from 8:00 a.m. until 5:00 p.m. (except for the one-hour period between noon and 1 p.m. for lunch). Monday through Friday, exclusive of holidays. **Contractor** may establish a call center for customer inquiries received during non-office hours.

D. **County Billing review.** **Contractor** acknowledges that **County** may perform, or cause to be performed, billing reviews periodically, but no more often than once per Calendar Year. **Contractor** agrees to participate and cooperate with **County** and its agents to accomplish these reviews and conduct any data collection and report preparation that may be requested.

E. **Contractor Billing review.** **Contractor** shall review its billings to all customers within the first year of this agreement to assure that the amounts billed are consistent with the service levels provided and the approved rate schedule. The results of that review shall be presented to **County** no later than 90 Days following the end of the first year of the agreement. Thereafter, **County** may require **Contractor** to conduct periodic audits of its billings to all customers no more frequently than every two (2) Calendar Years.

F. **Privacy of Customer information.** **Contractor** shall not distribute or sell customer, owner, or occupant information such as names, addresses, and telephone numbers to other persons with the exception of distribution to the **County** or its agents for reporting and contract compliance purposes.

G. **Invoice.** **Contractor's** invoice form to all customers must include information suitable for a customer to understand that billing and/or operational complaints and shall include a reference to the Plumas County Department of Public Works as program administrator, along with the administrator's mailing address and telephone number, if such complaints are not first resolved directly with the **Contractor**.

H. **Dividing invoices.** **Contractor** shall not be responsible for dividing, splitting or otherwise proportioning invoices to commercial customers who are sharing waste containers. Only one customer shall be responsible for the payment of invoices for shared disposal facilities, and only one billing name and address shall be entered into

**Contractor's** billing records for such arrangement. **Contractor** shall, however, maintain an up-to-date record of all customers using shared disposal facilities, and shall provide such record to **County** upon request to assist **County** in ascertaining compliance with mandatory commercial collection.

#### **8.02: CUSTOMER SERVICE**

**Contractor** is responsible for ensuring that all staff and customer service representatives (CSR) maintain a professional and courteous demeanor when in contact with **County** and the public. **Contractor** shall be responsible for all employee interactions with customers and **County** staff. **Contractor** is required to ensure that its customers are consistently treated courteously and are presented with timely, responsive and thorough solutions to problems and requests for information.

A. **Local office.** **Contractor** shall operate a local administration office within Plumas County. Office hours shall be, at a minimum, from 8:00 a.m. to 5:00 p.m., Monday through Friday, (except for the one-hour period between noon until 1:00 p.m. for lunch) exclusive of holidays. **Contractor** shall be responsible for ensuring that a qualified representative is available at the local office during office hours to communicate with the public and accept bill payments from customers. During non-office hours, customer inquiries may be received at out-of-area call centers. The local office and customer service telephone number(s) shall either be a local or toll free call. **Contractor's** telephone system shall adequately handle the volume of calls typically experienced on the busiest days. **Contractor** shall have a company representative, an answering service, or voice-mail system available for calls received during non-business hours and holidays.

B. **Website.** **Contractor** shall maintain and publicize an up-to-date website whereby customers can obtain the information listed below. **Contractor** is required to update the website as necessary. **Contractor's** website shall have a link to the Department of Public Works' solid waste page on the Plumas County website. At a minimum, the website shall:

1. Provide answers to frequently asked questions including, but not limited to: proper container set-out instructions; list of acceptable recyclable materials; collection days (in response to customer input of service address); billing issues, customer service telephone and e-mail contact information; and the designated transfer station site hours, directions, and acceptable materials.
2. Provide complete list of **County**-approved rates for all customers.
3. Allow customers to file complaints and receive from **Contractor** e-mail responses to complaints.
4. Provide a link to enable customers to email **Contractor**.

C. **Customer information system requirements.** **Contractor** is required document all correspondence and conversations pertaining to the services specified herein between **Contractor**, customers, occupants, and **County**. Documented information shall include, at a minimum, the following:

1. Date and time of customer correspondence or contact with **Contractor** (e.g.,

phone call, email)

2. Date and time response was provided
3. Date and time resolution was provided
4. Customer's name and contact information (phone numbers and email addresses)
5. Account address
6. Service address
7. Occupant address
8. Service location information
9. Service issue, complaint or inquiry
10. Name of employee inputting the complaint or inquiry
11. Name of employee inputting the resolution

D. ***Meetings with County.*** If requested by **County**, **Contractor** shall meet with **County** to discuss compliance with the customer service standards specified in this Section.

#### **8.03: PUBLIC EDUCATION AND PROMOTION**

**Contractor** and **County** agree that all public education activities will be a collaborative effort between **County** and **Contractor**. **Contractor** shall be responsible for ensuring that its customers consistently receive a high level of service and responsiveness. **Contractor** acknowledges and agrees that education and public awareness are important elements of any effort to achieve diversion. **Contractor** shall submit an annual public education and promotion program to **County** prior to March 15 of each year to demonstrate their commitment to educate residential and commercial customers on the following:

- A. The benefits of source reduction, reuse, Recycling and related program opportunities
- B. Proper handling of hazardous and infectious wastes
- C. Specific services offered by **Contractor**
- D. Rates for collection services. The public education program shall include notification of the date when collection services are changed during the Term and when new collection services are implemented during the Term. In addition, the public education program shall include on-going education activities throughout the Term.

**County** shall submit **Contractor's** proposed annual public education and promotion program to the PCIWMTF prior to July 1 of each year for review and approval before such program is placed into practice for the following rate year.

#### **8.04: MANDATORY COMMERCIAL RECYCLING**

**Mandatory Commercial Recycling assistance to County.** As **County** adopts State-mandated policy and/or strategy to encourage or require recycling at commercial premises, multi-family premises and public entities, it shall meet with **Contractor** to agree upon appropriate changes in services and rates before implementing the policy and/or strategy, subject to the provisions of Section 16.10. **Contractor** shall assist **County** with collecting related data from commercial premises, Multi-family premises and public entities and facilitating outreach and education programs focusing on encouraging participation by all customers in the voluntary or mandatory recycling policy or strategy. **Contractor** shall use reasonable good faith efforts to assist **County** in ensuring that businesses generating more than four (4) cubic yards of commercial solid waste per week, multi-family residential dwelling complexes of five (5) or more units and public entities arrange for recycling services, the legislative deadline for the implementation of such practice was July 1, 2012. This provision is the result of the State passing Assembly Bill 341, which mandates that **certain** commercial premises, multi-family residential complexes and public entities implement commercial recycling programs on or after July 1, 2012. Reasonable good faith efforts shall include contacting all applicable commercial customers, multi-family customers and public entities that do not currently have recycling services within the first twelve (12) months after the Effective Date of this agreement, and attempting to arrange for those customers to retain recycling services, unless those customers have applied for or have been granted an exemption or exception to the provisions of **County's** mandatory commercial recycling program. As of April 1, 2014, AB341 also mandated that **County** shall provide a written report to the State each year, identifying all applicable commercial customers, multi-family customers and public entities who have not subscribed for recycling services, the reason for such non-subscription, the efforts undertaken by **Contractor** to arrange for recycling services, and the name, title and telephone number of the applicable contact person for each customer, therefore **Contractor** shall provide a written report to that effect to the contract administrator by April 1 of each Calendar Year, beginning with the first April 1 after the Effective Date of the Agreement. This information shall be included in **Contractor's** annual report to **County**.

#### **8.05: WASTE GENERATION/CHARACTERIZATION STUDIES**

**Contractor** acknowledges that **County** may perform solid waste generation and characterization studies periodically, but no more often than once in any five-year period, to determine the composition of collected materials. **Contractor** agrees to participate and cooperate with **County** and its agents and to accomplish studies and data collection and prepare reports, as needed, to determine weights and volumes of solid waste and/or targeted recyclable materials and characterize materials generated, disposed, transformed, diverted or otherwise handled/processed to satisfy requirements of the *Act*.

#### **8.06: PROVISION OF EMERGENCY SERVICES**

**Contractor** shall provide emergency services at **County's** request in the event of major accidents, disruptions, natural calamities or other emergencies as designated by federal, State or local authorities. Emergency services may include, but are not limited to: assistance handling, salvaging, processing, composting, or recycling materials; or disposing of solid waste following a major accident, disruption, or natural calamity. **Contractor** shall be capable of providing emergency services within twenty-four (24) hours of notification by **County** or as soon thereafter as is reasonably practical in light of the circumstances.

## ARTICLE 9

# REQUIREMENTS FOR OPERATIONS, EQUIPMENT AND PERSONNEL

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### **9.01: COLLECTION HOURS AND SCHEDULES**

#### **A. Hours of Collection.**

1. **Residential.** Residential solid waste, and targeted recyclable materials (including all such services provided to SFD and MFD premises) shall be collected on weekdays (i.e., Monday through Friday) on an established weekly pickup schedule between 6:00 a.m. and 6:00 p.m. exclusive of holidays.
2. **Commercial.** Commercial facilities' solid waste shall be collected on weekdays (i.e., Monday through Friday), on an established weekly pickup schedule between 7:00 a.m. and 6:00 p.m., exclusive of holidays. Commercial facilities targeted recyclable materials shall be collected on weekdays (i.e., Monday through Friday), on an established bi-weekly pickup schedule between 7:00 a.m. and 6:00 p.m., exclusive of holidays. **County** may restrict or require modifications to hours for collection from commercial premises to resolve noise complaints, and, in such case, the administrator may restrict the allowable operating hours.
3. **Local Noise Ordinance.** If a **County** ordinance regulating noise limits collection is more restrictive regarding collection schedule than the preceding subsections, the terms of the ordinance shall govern.
4. **Holiday.** Collection shall take place on the following Business Day, unless customers are notified otherwise in a publication of general circulation.

B. **Route schedules.** Routes over which **Contractor's** vehicles travel to affect the collection and transport of solid waste and/or targeted recyclable materials shall be selected to minimize damage to **County** and private streets and roads, and minimize inconvenience and disturbance to the public. **Contractor** shall use due care to obey all traffic laws and prevent materials being transported from being spilled or scattered during transport.

C. **Contingency plan.** **Contractor** is aware that unforeseen circumstances, including damage to their facilities, equipment breakdowns, weather-related emergencies and other *Force Majeur* events, may require their participation in non-scheduled operations in order to provide continuous service to the public. **Contractor** hereby acknowledges that, under this agreement, they are prepared to commit to participation in training for such emergency scenarios and to provide vehicles and personnel to minimize uninterrupted service during impairment or breakdown of **Contractor's** facilities or equipment, and in case of natural disaster or other emergency, including the events described in Articles 13 and 15.

### **9.02: COLLECTION STANDARDS**

A. **Implementation of services.** **Contractor's** implementation of the services required by this agreement shall occur in a smooth and seamless manner so that customers

and/or generators do not experience disruption in collection services when services are initiated on the Effective Date. **Contractor** shall be responsible for managing implementation of new collection services and other related services.

**B. *Servicing containers and missed or refused pick-ups***

1. **General.** **Contractor** shall collect the contents and return each container to the location where the occupant properly placed the container for collection. **Contractor** shall place the containers upright with lids properly closed and secured. **Contractor** shall use due care when handling containers. **Contractor** shall not throw, roughly handle, damage, or break containers. **Contractor** shall not be responsible for the deteriorating condition of customer-owned container(s) due to normal wear-and-tear. Upon customer request, **Contractor** shall provide special services including: unlocking and locking containers; accessing locked container enclosures (e.g., with a key or combination lock); and pulling or pushing containers to the collection vehicle. **Contractor** shall provide the special services described in this paragraph upon request from customer and **Contractor** shall be entitled to bill customer for any special services provided by **Contractor**.
2. **Missed Pick-Ups.** When notified of a Missed Pick-Up Collection Event, **Contractor** shall collect the solid waste and targeted recyclable materials **within twenty-four (24) hours from the time that** the notice is received, if possible, provided the customer's container was set out properly and in time to meet the normal collection service for that location. In all cases, **Contractor** shall collect the Missed Pick-Up by 6:00 p.m. of the next Business Day following receipt of the Missed Pick-Up notification provided the customer's container is properly set out for **Contractor** on **Contractor's** return trip. **Contractor** shall retain the right to bill customer as noted in Attachment D, Section G, "Fees for Extra Services" for returns for Missed Pick-Ups if container was not set out for collection during the normal collection hours when **Contractor's** collection vehicle ordinarily is present for collection.
3. **Refused Pick-Ups.** **Contractor** may refuse to collect customer's container under the circumstances described in Section 9.02(F).

**C. *New Customers and change in service levels.*** **Contractor** shall deliver containers and initiate collection services for a new customer within five (5) Business Days of the customer's request for service. If an existing customer requests a change in the number or size of their solid waste, C&D and/or targeted recyclable materials containers and/or frequency of collection, **Contractor** shall deliver or exchange additional containers and/or remove containers and shall initiate changes in the collection services within five (5) Business Days of the customer's request for a change in service.

**D. *Separate collection of materials and allocation of County materials.*** **Contractor** shall separately collect and segregate solid waste, C&D and targeted recyclable materials from each other and shall not commingle these materials at any time during the transportation or delivery of those materials to the ultimate disposal facility. Solid waste, C&D and/or targeted recyclable materials collected in the county, which are combined with materials collected from other agencies, shall be allocated by **Contractor**

to **County's** collection program based on volume or tonnage using a method approved by **County**.

**E. Set out instructions to Customer.** **Contractor** shall instruct customers as to any preparation of solid waste, C&D and/or targeted recyclable materials and the proper placement of containers. If customers are not adhering to **Contractor's** instructions, **Contractor** shall notify such customers in writing. In cases of extreme or repeated failure to comply with the instructions, **Contractor** may decline to pick-up the solid waste, C&D and/or targeted recyclable materials provided that **Contractor** leaves no less than three (3) non-collection notices on the container within a **twelve (12)** month period per Section 9.02(F), indicating the reason for refusing to collect the material. Such notices shall also identify the steps customer must take to recommence collection service.

**F. Non-Collection notices.** **Contractor** may choose not to collect materials for the following reasons:

1. Materials contain hazardous waste; or
2. The loaded weight of a container exceeds fifty (50) pounds, except that a **Contractor**-provided cart may exceed fifty (50) pounds but may not exceed the maximum weight recommended by the cart manufacturer; or
3. A container that is not set out in a location accessible to **Contractor**, and there is no agreement in place for special handling; or
4. The customer has been deemed delinquent due to non-payment of solid waste collection fees per Section 8.01(B).
5. For the collection of targeted recyclable materials only, contamination of such recyclable materials by municipal solid waste (MSW) or other non-recyclable materials.

In such case, **Contractor** shall issue non-collection notices stating the reason(s) the materials were not collected. The non-collection notice shall be affixed prominently onto the container to ensure that it is not inadvertently removed from the container due to weather conditions. The non-collection notices must be protected from rain, if precipitation is present or forecasted, by placing the notice in a clear plastic bag prior to affixing to the container. **Contractor** shall document the use of non-collection notices by recording the date and time of issuance, address of service recipient, reason(s) for issuance, name of employee who issued the notice, and truck and route numbers. The posting of the notice shall be at least two inches by six inches (2" x 6") in size and shall be approved by **County**. The non-collection notices must identify the steps the customer must take to recommence collection service. The customer shall be assessed a fee approved by **County** for collection of the container as solid waste by **Contractor**. This additional fee charged to customer may include:

1. A return trip charge, and
2. An extra solid waste collection charge. **Contractor** shall report monthly to **County** any non-collection notices issued. **Contractor** shall take direction from

**County** with regard to termination or reinstatement of service to a service recipient due to numerous non-collection notices issued to the same customer.

**G. Improper or Unsafe Access.** **Contractor** may refuse to collect materials at locations identified by **Contractor** and approved by **County** where vehicular access is deemed improper or unsafe due to temporary or long-standing private road or driveway conditions that would make collection activities hazardous to **Contractor's** employees or equipment, or that would result in **Contractor's** requirement of unsafe backing or turning movements in order to provide collection services. **Contractor** may seek and obtain a property damage waiver from customer where collection service is provided, but private roads or driveways are deemed inadequate in width or load-bearing capacity.

**H. Collection of excess materials (Overages).** **Contractor** shall direct its employees to collect overages, following the steps shown below:

Upon arriving at a residence that has an overage exceeding the customer's container capacity, the driver shall:

- a. Photograph and document the overage in his OBU or route log.
- b. Collect the overage.
- c. At the end of the drivers day, office staff will have a printout documenting all extras taken on his route. Office staff will then log these overages into each of the respective customer accounts to assess a fee on the customer's next invoice.

**I. Care of private property.** **Contractor** shall not damage private property. **Contractor** shall ensure that its employees:

1. Close all gates opened in making collections, unless otherwise directed by the customer,
- 2 Do not cross landscaped areas, and
3. Do not climb or jump over hedges and fences.

**County** shall refer complaints about damage to private property to **Contractor**. **Contractor** shall repair, to its previous condition, all damage to private or public property caused by its employees. **Contractor** shall endeavor to resolve all claims regarding damage to private property as soon as reasonably practicable following receipt thereof, made by owners or occupants of property served by **Contractor**, for damages to property including containers. In the event such damage shall have been caused by the negligence or intentional acts of **Contractor**, its officers, agents, or employees, **Contractor** shall promptly repair or replace such damaged property. The provisions of this Section shall not be deemed a limitation upon any other provisions of this agreement, or any rights or remedies which may accrue to **County** by reason of **Contractor's** acts or omissions to act hereunder. **Contractor** is required to repair damage and/or resolve claims regarding damage to property within thirty (30) days of receipt of the complaint.

**J. Litter abatement.**

1. **Minimization of spills.** If any solid waste and/or targeted recyclable materials are spilled or scattered during collection or transportation operations, **Contractor** shall immediately, at the time of occurrence, clean up all spilled and scattered materials. **Contractor** shall use due care to prevent vehicle oil, vehicle fuel, or other liquids from being spilled during collection or transportation operations including maintenance of the collection vehicles to minimize and correct any leaks. Equipment oil, hydraulic fluids, spilled paint or any other liquid or debris resulting from **Contractor's** collection operations or equipment repair shall be covered immediately with an absorptive material and removed from the street surface. When necessary, **Contractor** shall apply a suitable cleaning agent to the street surface to provide adequate cleaning, and shall notify the administrator and applicable hazardous materials management agencies within two (2) hours of such a spill or leak. **Contractor** shall meet or exceed National Pollutant Discharge Elimination System (NPDES) permit requirements for hazardous materials handling, cleanup and reporting.
2. **Clean-up.** During collection operations, **Contractor** shall clean-up litter in the immediate vicinity of any container storage area (Including the areas where containers are delivered for collection) if **Contractor's** actions are the cause of the litter. Each collection vehicle shall be equipped with protective gloves, a broom, and shovel at all times for cleaning up litter. Absorbent material shall be carried on each collection vehicle at all times and used by **Contractor** for cleaning up liquid spills. **Contractor** shall document and discuss instances of repeated spillage not caused by it with the customer where spillage occurs, and **Contractor** shall report such instances to **County**. If **Contractor** has attempted to have a customer stop creating spillage but is unsuccessful, **County** will attempt to rectify such situation with the customer.
3. **Covering of loads.** **Contractor** shall cover all open drop boxes with an industry-approved cover at the collection location before transporting materials to the designated transfer facility.
4. **Transferring loads.** **Contractor** shall not transfer loads from one vehicle to another on any public street unless it is necessary to do so because of mechanical failure, emergency (e.g. combustion of material in the vehicle) accidental damage to a vehicle, or unless approved by **County**,

**K. Noise.** All collection operations shall be conducted as quietly as possible and shall conform to applicable federal, State, and **County** noise level regulations. **Contractor** shall promptly resolve any complaints of noise to the satisfaction of **County**.

**L. Route books and route maps.** For each collection route, **Contractor** shall maintain a route book and route map, either hard copy or computerized, that documents each customer on the route, their service address, service level, and the order in which customers shall be serviced (e.g., the order in which routes shall be driven). **Contractor** shall distribute new route books and route maps to its collection vehicle drivers as frequently as necessary; and each driver shall note differences in the service levels shown in the route book, adding and subtracting customers and service levels, as necessary. Route supervisors shall periodically check the routes to ensure that drivers

are providing service in accordance with their route books. **Contractor** shall provide **County** with route books and maps within ten (10) Business Days of request. **Route books and maps shall be considered to be Contractor's proprietary information and shall not be distributed or used in any process that results in the award of a franchise agreement.**

M. **Change in Collection schedule.** **Contractor** shall notify **County** a minimum of sixty (60) Business Days prior to a change in the residential collection schedule and shall request approval of **Contractor's** notice to residential customers a minimum of thirty (30) business days prior to a change in service day, unless this requirement is waived in writing by **County**. **Contractor** shall notify owners and occupants of residential premises by telephone and/or newspaper or other printed medium not later than ten (10) Business Days prior to any change in residential collection operations which results in a change in the Day on which solid waste and/or targeted recyclable materials collection occurs. **Contractor** shall not permit any customer to go more than five (5) Business Days without service in connection with a collection schedule change.

#### **9.03: COUNTY-OWNED SOLID WASTE FACILITES**

**County** owns solid waste facilities on the following **County**-owned or **County**-leased lands within service area number 1:

A. **Chester Sanitary Landfill (Facility No. 32-AA-0009):** A 40 acre parcel of **County**-owned land located in the east one-half of Section 36, Township 29 North, Range 7 East, Mount Diablo Base and Meridian (MDM). This landfill is open to the public for the disposal of inert construction and demolition materials by appointment only. The landfill is operated by **County** - not by a solid waste franchise contractor, and is it presently not available for a solid waste franchise contractor's disposal/use.

B. **Chester-Lake Almanor Transfer Station (Facility No. 32-AA-0022):** A 3.75 acre parcel of **County**-owned land located on County Road 322 in the northwest one-quarter of Section 12, Township 28 North, Range 7 East, MDM. This medium-volume designated transfer facility is in solid waste franchise area 1, and is operated by a solid waste franchise contractor. All permanent structures, fences, paving and other surface improvements located on site are, and shall remain property of **County**.

C. **Greenville Transfer Station (Facility No. 32-AA-0003):** A 4.3 acre parcel of land leased from the United States Forest Service, Plumas National Forest under Special Use Permit, located on Greenville Dump Road in the north one-half of the southeast one-quarter of Section 34, Township 27 North, Range 9 East, MDM. This limited-volume designated transfer facility is in solid waste franchise area 1, and is operated by a solid waste franchise contractor. All permanent structures, fences, paving and other surface improvements located on site are, and shall remain property of **County**.

D. **Gopher Hill Sanitary Landfill (Facility No. 32-AA-0008):** A 58 acre parcel of land leased from the United States Forest Service, Plumas National Forest under Special Use Permit located on Gopher Hill Landfill Road in the southwest quarter of Section 12, Township 24 North, Range 9 East, Mount Diablo Base and Meridian (MDM). This landfill, with an actual footprint of approximately 22 acres, was closed in 2004.

E. **East Quincy Transfer Station (Facility No. 32-AA-0002):** A 0.85 acre portion of two **County**-owned parcels of land located on Abernethy Lane in East Quincy, in the

northwest quarter of Section 19, Township 24 North, Range 10 East, MDM. This large-volume designated transfer facility is in solid waste franchise area 1, and is operated by a solid waste franchise contractor. All permanent structures, fences, paving and other surface improvements located on site are, and shall remain property of **County**.

F. ***East Quincy Recycling Center (part of Facility No. 32-AA-0002):*** A one-half (1/2) acre portion of two **County**-owned parcels of land located on Abernethy Lane in East Quincy immediately west of and adjacent to the *East Quincy Transfer Station* in the northwest quarter of Section 19, Township 24 North, Range 10 East, MDM. This recycling center contains bins for commingled recycling and cardboard recycling, as well as serving as the present location of the buy-back center for CRV recyclables.

G. ***La Porte Transfer Station (Facility No. 32-AA-0009):*** A 0.13 acre portion of a 1.44 acre parcel of land leased from the United States Forest Service, Plumas National Forest under Special Use Permit, located near the center of Section 16, Township 21 North, Range 9 East, MDM. This limited-volume designated transfer facility is in solid waste franchise area 1, and is operated by a solid waste franchise contractor. All permanent structures, fences, paving and other surface improvements located on site are, and shall remain property of **County**.

#### **9.04: CONTRACTOR'S USE OF COUNTY-OWNED SOLID WASTE FACILITIES**

A. In exchange for monthly rents paid to **County** per Section 9.04(C), **Contractor** shall have the exclusive right and duty for the Term of this agreement to operate the **County**-owned facilities described in this Section. **Contractor** shall be required to unload all materials from its collection vehicles by its own personnel at such **County**-owned facilities. **Contractor** shall be required to ensure that unloaded materials are properly placed in the designated areas. For example, **Contractor** shall be required to deposit batteries and cell phones, used motor oil and used motor oil filters in the containers designated for storage of these materials.

1. ***County's rights.*** **County** shall have the right to enter and inspect the premises of any **County**-owned solid waste facility at any time, whether during normal operating hours or not, or for any other purpose required by **County**.
2. ***Contractor's rights.*** **Contractor** shall have the right to utilize, for solid waste, C&D and targeted recyclable materials collection and handling purposes, all of the property, buildings and appurtenances designated by **County** as premises for its solid waste facility.
3. ***County's responsibilities.*** **County** shall be responsible for ordinary maintenance of its solid waste facilities and repairs thereto necessitated by normal wear and tear. **County** shall not be responsible for damages or extraordinary wear to its facilities caused by **Contractor's** active negligence or intentional misconduct. **County** shall construct, where necessary, fences, walls, paving or appurtenances as may be necessary for the collection, sorting and handling of all targeted recyclable materials, C&D and solid waste collected by **Contractor**. **County** shall provide snow removal and roadway sanding within its facilities as described below:
  - a. Snow removal and/or sanding by **County** will be scheduled to coincide with regularly scheduled snow removal and/or sanding activities in the vicinity

of its facility. **Contractor** reserves the right to temporarily close or delay opening such facilities in the case of delayed snow removal during heavy snowfall events.

b. Snow removal and/or sanding by **County** will take place within the fenced compound of its facilities only if entrance and exit gates (if any) are unlocked and open at the time **County** maintenance vehicle arrives.

c. Snow removal and/or sanding by **County** will occur along the route that the public will travel to enter, access and depart from its facilities. Snow removal and/or sanding for all other locations within the compound shall be **Contractor's** responsibility.

d. **Contractor** may request additional snow removal/sanding assistance from **County** at any time that such services are deemed necessary by **Contractor**. **County** will, in turn, make a determination - after conferring with **County** maintenance resources - whether **Contractor's** request may be granted by **County** and the schedule for such additional snow removal/sanding assistance. If **County's** determination regarding such request is negative, **Contractor** may appeal such decision to the program administrator.

4. **Contractor's responsibilities.** **Contractor** shall be responsible for keeping **County**-owned solid waste facilities in a clean and workable condition at all times during the term of this agreement. **Contractor** shall not be responsible for any repairs to buildings, grounds and appurtenances on the premises during the Term of this agreement, except to the extent the damage was caused by the **Contractor's** active negligence or intentional misconduct. **Contractor** shall be responsible for the payment of all utility charges and fees connected to the operation of **County**-owned solid waste facilities. **Contractor** shall provide, and have complete responsibility for all necessary personnel, vehicles, equipment and containers necessary for the collection and handling of all targeted recyclable materials, C&D and solid waste collected by **Contractor** under this agreement. **Contractor** shall be responsible for transferring all material received at transfer stations to **County**-owned solid waste facilities. **Contractor** shall be responsible for any other intended **Contractor** requirements related to the transfer stations not specifically addressed in Section 9.04(A)(3), "**County's responsibilities.**"

B. **Hours and Days of Operation.** **County** shall coordinate with **Contractor** to set hours and days of operation for **County**-owned solid waste facilities. A list of facility hours and days of operation shall be approved by **County** and shall be posted on **County's** website and on **Contractor's** website, as well as prominently displayed on the gates to such facilities. Hours and Days of operation may vary between a winter and summer schedule, as approved by **County**.

C **Use fees; rent; property taxes.** **County** shall allow **Contractor** the use of its solid waste facilities in exchange for a rent of five hundred dollars (\$500.00) per month per facility for the East Quincy and Chester-Lake Almanor Transfer Stations and three hundred dollars (\$300.00) per month for the Greenville Transfer Station. The rent for the LaPorte Transfer Station shall be one hundred dollars (\$100.00) per month for any partial or full month that the LaPorte Transfer Station is in operation by **Contractor**.

**Contractor** shall also be responsible for the payment of annual property taxes due to a possessory interest in the property and improvements. Rents and property taxes shall be considered a Pass-Through Cost by **Contractor** and shall be construed as such in calculations within **Contractor's** Financial Statement. Facility rents and property taxes may be adjusted from time to time during the Term of this agreement. Any such changes to facility rental rates and/or property taxes that will affect **Contractor's** compensation shall also be considered a Pass-Through Cost.

**D. Operational Meetings.** If requested by **County**, **Contractor** shall meet with the **County** periodically to discuss issues related to their operations including:

1. Traffic flow
2. Hazardous waste screening and safety policies
3. Receiving hours
4. Billing and payment of gate fees for delivery of materials
5. Vehicle parking
6. Employee facilities
7. Maintenance facilities

#### **9.05: VEHICLES**

**A. General.** **Contractor** shall provide a fleet of collection vehicles sufficient in number and capacity to efficiently perform the work required by the agreement in strict accordance with its terms. **Contractor** shall have available sufficient back-up vehicles for each type of collection vehicle used (e.g., side loader, front loader, and roll-off vehicles) to respond to mechanical breakdowns, complaints, and emergencies. As of the Effective Date, all residential and commercial collection vehicles shall be in mechanically sound condition; and other vehicles such as roll-off trucks, support vehicles, and spare vehicles may also be in mechanically sound condition. Collection vehicles whose acquisition cost is included in the calculation the rates may be used only in its service area; provided, however, that an allocable share of such costs for vehicles used in other jurisdictions as well as the service area shall be included in the rates.

#### ***B. General vehicle specifications***

1. All vehicles used by **Contractor** in providing solid waste, C&D and/or targeted recyclable material services shall be registered with the California Department of Motor Vehicles.
2. All collection vehicles shall have leak-proof bodies designed to prevent leakage, spillage and/or overflow and shall be designed so that collected materials are not visible.
3. All vehicles shall comply with California Environmental Protection County (Cal/EPA) noise emission regulations and California Air Resources Board air quality regulations and other applicable pollution control regulations.

4. All collection vehicles shall be capable of unloading materials in the designated transfer facility buildings taking clearance heights into consideration.

5. All collection vehicles shall be equipped with a broom, shovel, absorbent materials, and other approved cleanup devices and materials for emergencies, or any spillage or leaks that may occur.

C. **Vehicle identification.** **Contractor's** name, local telephone number, and a unique vehicle identification number designated by **Contractor** for each vehicle shall be prominently displayed on the vehicles, in letters and numbers with a maximum five (5) digit sequence, that are no less than two and one-half (2.5) inches in height. **Contractor** shall not place any other information or logo on **Contractor** vehicles, unless approved in writing by **County**. Vehicles shall be clearly labeled to indicate the materials collected by that vehicle, specifically; "Solid Waste," "Recyclables," as directed by **County**.

D. **Inventory.** **Contractor** shall furnish **County** a written inventory of all vehicles used in providing service, and shall update the inventory annually. The inventory shall list all vehicles by manufacturer, identification number, date of acquisition, type, capacity, decibel rating, tare weight, legal load weight and legal payload weight.

E. **Cleaning and maintenance.**

1. **General.** **Contractor** shall maintain all of its properties, vehicles, facilities, and equipment used in providing service under this agreement in a good, safe, neat, clean, and operable condition at all times.

2. **Cleaning.** Vehicles used in the collection of solid waste or targeted recyclable materials shall be thoroughly washed, and thoroughly steam cleaned periodically so as to present a clean appearance. **County** may inspect vehicles at any time to determine compliance with this agreement. **Contractor** shall also make vehicles available to **County** staff for inspection, at any frequency it requests.

3. **Maintenance.** **Contractor** shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles which are not operating properly shall be removed from service until repaired and operating properly. **Contractor** shall perform all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule or in accordance with California Highway Patrol standards, whichever are more stringent. **Contractor** shall keep accurate records of all vehicle maintenance, recorded according to date and mileage and shall make such records available to **County** upon request. Hydraulic oil, engine oil, and other spills from collection vehicles in the Service area are a concern to **County**. **Contractor** shall include as part of maintenance activities a process for tracking the number and nature of automotive spills (type of fluid, amount lost, failure point) and diagnosing the cause of those spills. Based on the results of the process, **Contractor** shall implement appropriate corrective actions to address issues that are contributing factors to vehicle spills (e.g., revise specifications for specific part failures, revise preventative maintenance schedule to address timing of failures), so that each occurrence is controlled and minimized.

4. **Repair.** **Contractor** shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown, hydraulic oil or engine oil leaks, or any other cause so as to maintain all equipment in a safe and operable condition. If an item of repair is covered by a warranty, **Contractor** shall obtain warranty performance. **Contractor** shall maintain accurate records of repair, which shall include the date and mileage, nature of repair and the verification by signature of a maintenance supervisor that the repair has been properly performed.

5. **Storage.** **Contractor** shall arrange to store all vehicles and other equipment in safe and secure location(s) in accordance with all applicable zoning regulations.

#### F. Operation.

1. **General.** Vehicles shall be operated in compliance with federal, State and local laws and regulations including the *California Vehicle Code*, the regulations of the California Air Resources Board (CARB) Waste Collection Vehicle Regulations as established in the *California Code of Regulations Title 3 Section 2700 et seq.* and all applicable safety and local ordinances. Annually, **Contractor** shall provide **County** with documentation of such compliance for each vehicle. For example, with regard to CARB regulations, such documentation shall demonstrate, at a minimum, the vehicle number, make, model, year, control technology used or planned, and the year that the control technology was applied or is planned to be applied.

2. **Vehicle Weights.** **Contractor** shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by federal, State, or local weight restrictions on vehicles or roads. **Contractor** shall implement policies and procedures to track the weight of vehicles to assure that they comply with this requirement, and provide a copy of these policies and procedures to **County** prior to the Effective Date of this agreement, along with a list of vehicles, legal tare weight, legal gross weight and legal payload weight for each of those vehicles. In the event that a vehicle is overweight, **Contractor** shall take all appropriate corrective actions to correct cause of the overweight vehicle, including making adjustments to routes to eliminate ongoing overweights associated with individual routes. **Contractor** shall provide a list of all loads that exceed the manufacturer's recommendations or limitations imposed by federal, State or local weight restrictions on vehicles or roads and the total gross weight and legal gross weight of each of those loads in their quarterly reports to **County**.

3. **Noise.** **Contractor** equipment used for solid waste, C&D and/or targeted recyclable materials services shall be registered with the California Department of Motor Vehicles. Equipment shall comply with US EPA noise emission regulations, currently codified at 40 CFR Part 205 and other applicable noise control regulations, and shall incorporate noise control features throughout the entire vehicle.

4. **Vehicle Tare Weights.** Annually, **Contractor** shall have each collection vehicle weighed to determine the unloaded weight ("tare weight") of the vehicle. Upon a major repair that could affect the collection vehicle tare weight,

**Contractor** shall have the collection vehicle reweighed to establish a new tare weight.

5. **Vehicle Backing.** Collector shall use all reasonable means to minimize or avoid backing of collection vehicles.

#### **9.06: CONTAINERS**

A. **General.** **Contractor** shall provide all carts, bins and drop boxes, as appropriate, to all customers as part of its obligations under this agreement. **Contractor**-provided containers shall be designed and constructed to be watertight and prevent the leakage of liquids. All carts shall be manufactured by injection or rotational molding methods; and contain post-consumer content. Carts provided to customers shall be maintained by **Contractor** in a safe condition. All containers with a capacity of one (1) cubic yard or more shall meet applicable federal, State, and local regulations for bin safety; shall be covered with attached lids; and shall have the capability to be locked if required or requested by customer or **County**. All containers shall be maintained in a safe, serviceable, and functional condition.

##### **B. Container Specifications**

1. Sizes. The container sizes to be provided to single-family, multi-family and commercial customers shall be as specified below:

a. Carts shall be provided per customer's request, and shall be available in three (3) sizes:

- i. Thirty-two (32) gallon.
- ii. Sixty-four (64) gallon.
- iii. Ninety-six (96) gallon.

b. Bins shall be available per customer's request, and shall be available in xx sizes:

- i. One (1) cubic yard (CY).
- ii. One and one-half (1.5) CY.
- iii. Two (2) CY.
- iv. Three (3) CY.
- v. Four (4) CY.

c. Roll-off boxes shall be provided per customer's request, and shall be available in five (5) sizes:

- i. Fifteen (15) CY.
- ii. Twenty (20) CY.

iii. Twenty-five (25) CY

iv. Thirty (30) CY.

v. Thirty-five (35) CY.

2. *Color.* The colors of the containers provided to single-family, multi-family and commercial customers shall be green for solid waste and a contrasting color, with a label for targeted recyclable materials.

3. *Loading.* Allowable loading requirements for the bin and drop box contents shall be based on the manufacturer's load limits. See Attachment D for allowable load limits.

4. *Labels.* Containers used for targeted recyclable materials shall be labelled "Recyclables Only" or "Recycle Only" or a phrase with that meaning.

**C. Cleaning and painting.**

1. *Cleaning.* Customers shall be responsible for maintaining carts in a sanitary condition. **Contractor** shall clean or replace bins as requested by customers. **Contractor** will do so at no cost to the customer once per Calendar Year; Customer shall be charged an additional fee per Attachment D for additional cleanings or replacements.

2. *Painting.* **Contractor** shall determine whether the exterior of a bin is in a condition such that it requires repainting or replacement. **Contractor** shall repaint or replace such bin no more than once in a five (5) year period at no cost to the customer. Customer shall be charged an additional fee per Attachment D for additional paintings or replacements.

**D. Repair and replacement.** **Contractor** shall repair or replace all containers damaged by collection operations (e.g., vehicle apparatus interface) within five (5) Business Days of being notified by customer or observing the damaged container. If the repair or replacement cannot be completed within five (5) Business Days, **Contractor** shall notify customer and provide a **Contractor**-owned container of the same size or larger until the original container can be replaced. The cost to repair or replace containers damaged or destroyed by **Contractor** or made unserviceable through normal wear and tear shall be borne by **Contractor**. **Contractor** shall not be responsible for the cost of repairing or replacing **Contractor**-owned containers that are lost, damaged or destroyed through customer's negligence, i.e. placed in front of, or within a snow berm during winter road maintenance operations. In such case, **Contractor** shall be entitled to bill customers for the cost of a replacement **Contractor**-owned container and its delivery per Attachment D. **Contractor** shall not be responsible for the replacement of customer-owned containers that require repair or replacement due to normal wear and tear or that are lost, damaged or destroyed through customer negligence. **Contractor** shall allow customer to exchange **Contractor**-owned containers for a **Contractor**-owned container of a different size once per Calendar Year at a fee set forth in Attachment D. **Contractor** shall exchange **Contractor**-owned containers within five (5) Business Days of customer request. The collection rate for the exchanged container shall be as shown in Attachment D. **Contractor** shall allow customers to rent additional **Contractor**-owned

carts and shall be entitled to bill customers based upon the number of containers set out for collection.

**E. Protection from Wildlife.** Customer shall take all reasonable precautions to protect container from damage or intrusion by wildlife, i.e. scavenging birds and bears. containers shall not be set out in such a fashion (i.e. missing covers or open covers) or so far in advance of collection as to invite scavenging by wildlife. If damage to containers occurs due to customer negligence in this respect, **Contractor** shall be entitled to bill customers for the cost of a replacement container and its delivery per Attachment D. **Contractor** shall make bear-resistant containers available to customers in accordance with Attachment D.

#### **9.07: PERSONNEL**

**A. General.** **Contractor** shall furnish such qualified drivers, mechanical, supervisory, customer service, clerical and other personnel as may be necessary to provide the services required by this agreement in a safe, thorough, professional and efficient manner and shall provide, at a minimum, the number and type of personnel necessary for same. All personnel furnished by **Contractor** shall be subject to the "Relationship of Parties" provisions of Section 16.01.

**B. Provision of field supervision.** **Contractor** shall designate qualified employees as supervisors of field operations. The field supervisor shall devote their time in the field supervising, managing, and monitoring collection operations for reliability, quality, efficiency, safety, and for responding to complaints.

**C. Driver qualifications.** All drivers shall be trained and qualified in the operation of collection vehicles, and must have in effect a valid license, of the appropriate class, issued by the California Department of Motor Vehicles. **Contractor** shall use the Class II California Department of Motor Vehicles employer "Pull Notice Program" to monitor its drivers for safety.

**D. Customer service representative training.** Customer service representatives shall be trained on specific **County** service requirements. A **County** information sheet shall be provided to each customer service representative for easy reference of **County** requirements and general customer needs.

**E. Safety training.** **Contractor** shall provide suitable operational and safety training for all of its employees who operate collection vehicles or equipment or who are otherwise directly involved in such collection. **Contractor** shall train its employees involved in collection to identify, and not to collect, hazardous waste or infectious waste. Upon **County's** request, **Contractor** shall provide a copy of its safety policy and safety training program, the name of its safety officer, and the frequency of its trainings.

**F. No gratuities.** **Contractor** shall not permit its employees to demand or solicit, directly or indirectly, any additional compensation or gratuity from members of the public for collection services or to accept gratuities or compensation in exchange for additional collection services.

**G. Employee conduct and courtesy.** **Contractor** shall employ only competent and qualified personnel who serve the public in a courteous, helpful, and impartial manner. **Contractor** shall use its best efforts to assure that all employees present a neat

appearance and conduct themselves in a courteous manner. **Contractor** shall regularly train its employees in customer courtesy, shall prohibit the use of loud or profane language, and shall instruct collection employees to perform the work as quietly as possible. If any employee is found not to be courteous or not to be performing services in the manner required by this agreement, **Contractor** shall take all appropriate corrective measures. **County** may require **Contractor** to reassign an employee, if the employee has conducted himself or herself inconsistently with the terms of this agreement. **Contractor** shall adopt policies and procedures consistent with State and federal law that ensure a sober and drug-free workplace. This includes strictly prohibiting unlawful manufacture, distribution, possession, or use of any controlled substance in the workplace, regardless of whether the employee is on duty at the time. Further, the policies and procedures shall prohibit an employee from operating either **County**-owned or **Contractor**-owned equipment and vehicles (whether on or off duty) while under the influence of alcohol or drugs. The purpose of these policies and procedures is to ensure workplace safety, productivity, efficiency, and the quality of **Contractor's** service to customers.

H. **Uniforms.** While performing services under this agreement, all **Contractor's** employees performing field service shall be dressed in clean uniforms and shall wear visible identification that include the employee's name and/or employee number, and **Contractor's** name. Uniform type, style, colors, and any modifications may be subject to approval by **County**.

#### **9.08: HAZARDOUS WASTE INSPECTION AND HANDLING**

A. **Inspection program and training.** **Contractor** is required to **visually check** solid waste, C&D and/or targeted recyclable material **containers** and other materials put out for collection and may reject solid waste, C&D and/or targeted recyclable materials and other materials observed to be contaminated with hazardous waste and not collect hazardous waste put out with solid waste, C&D and/or targeted recyclable materials. **Contractor** shall develop a load inspection program that includes the following components:

1. Personnel and training
2. Load checking activities
3. Management of wastes
4. Record keeping and emergency procedures

**Contractor's** load checking personnel, including its collection vehicle drivers, shall be trained in:

1. The effects of hazardous substances on human health and the environment
2. Identification of prohibited materials
3. Emergency notification and response procedures. Collection vehicle drivers shall **visually check** containers before collection when practical.

**B. Response to Hazardous Waste identified during Collection.** Under no circumstances shall **Contractor's** employees knowingly collect hazardous waste or remove unsafe or poorly containerized hazardous waste from a collection container. If **Contractor** determines that material placed in any container for collection is hazardous waste or other material that may not legally be accepted or safely processed at the designated transfer facility or presents a hazard to **Contractor's** employees, or those at the designated transfer facility, the **Contractor** shall have the right to refuse to accept such material. The customer shall be contacted by **Contractor** and requested to arrange proper disposal. If the customer cannot be reached immediately, **Contractor** shall, before leaving the premises, leave a non-collection notice, which indicates the reason for refusing to collect the material and lists the phone number for the Plumas County Household Hazardous Waste Facility, or other resources as directed by **County**. The Department of Environmental Health shall be notified to handle the issue with the customer. The **Contractor's** environmental technician shall be required to guide the customer to safely containerizing the hazardous waste and shall explain the customer's options for proper disposition of such material. In the event that **Contractor** inadvertently collects hazardous waste during collection services, and the customer or generator of such hazardous waste can be identified, the customer shall be held financially responsible for the handling and disposal of such hazardous waste. **Contractor** may seek reimbursement from the customer for any and all of **Contractor's** expenses incurred in their handling and disposal of such hazardous waste. If hazardous waste is found in a collection container or collection area that could possibly result in imminent danger to people or property, **Contractor** shall immediately notify **County's** Fire Department using the nine-one-one (911) emergency telephone number. **Contractor** shall notify **County** of any hazardous waste identified in containers or left at any premises within twenty-four (24) hours of identification of such material.

**C. Response to Hazardous Waste identified at Designated Transfer Facility.** **Contractor** shall not knowingly deliver unpermitted material to the designated transfer facility. In the event that unpermitted material is delivered to the designated transfer disposal facility, **Contractor** shall be entitled to pursue whatever remedies, if any, it may have against the customer or person(s) bringing such unpermitted material to the designated transfer facility provided that in no case shall **County** be considered the person bringing such unpermitted material to the designated transfer facility. If the unpermitted materials are delivered to the designated transfer facility by **Contractor** and unloaded at the facility before their presence is detected, and the customer cannot be identified or fails to remove the material after being requested to do so, **Contractor** shall arrange for and/or pay for its proper disposal. **Contractor** shall make reasonable efforts to identify and notify the customer. **Contractor** shall make a good faith effort to recover the cost of any transportation and disposal from the customer, and the cost of this effort, as well as the cost of disposal shall be chargeable to the customer, if appropriate documentation, as deemed necessary by the **County**, is provided to **County** within five (5) Business Days of the occurrence.

**D. Reporting, regulations, and record keeping.** **Contractor** shall comply with emergency notification procedures required by applicable laws and regulatory requirements. **Contractor** shall notify all appropriate agencies, including the California Department of Toxic Substances Control, local emergency response providers and the National Response Center of reportable quantities of hazardous waste found or observed in solid waste, targeted recyclable materials, electronic waste, universal waste, and construction and demolition debris (C&D) anywhere within its service area. In

addition to other required notifications, if **Contractor** observes any substances which it or its employees reasonably believe or suspect to contain hazardous wastes unlawfully disposed of or released on any **County** property, including storm drains, streets or other public rights of way, **Contractor** will immediately notify **County**. All records required by regulations shall be maintained at **Contractor's** facility. These records shall include: waste manifests, waste inventories, waste characterization records, inspection records, incident reports, and training records. **Contractor** shall maintain records showing the types and quantities, if any, of hazardous waste found in solid waste, C&D and/or targeted recyclable materials which were inadvertently collected from customers within its service area, but diverted from landfilling.

#### **9.09: COMMUNICATION AND COOPERATION WITH COUNTY**

**Communications.** **Contractor's** general manager shall have e-mail capabilities to enable **County** and **Contractor's** general manager to communicate via email. **Contractor's** general manager shall respond to **County** email correspondence within twenty-four (24) hours.

A. **Monthly meetings.** Upon request from administrator, **Contractor** shall meet with **County** to discuss operations issues of each active diversion program, quality and reliability of collection services, and compliance with the terms of the agreement. At each monthly meeting, **County** and **Contractor** shall have the opportunity to present and discuss proposed changes in service such as changing program requirements or modifying collection methods.

B. **Inspection by County.** **County** shall have the right, but not the obligation, to observe and inspect all of **Contractor's** operations under this agreement. In connection therewith, **County** shall have the right to enter facilities used by **Contractor** during operating hours, speak to any of **Contractor's** employees and receive cooperation from such employees in response to inquiries. In addition, upon reasonable notice and without interference with **Contractor's** operations, **County** may review and copy any of **Contractor's** operational and business records related to this agreement. If **County** so requests, **Contractor** shall make specified personnel available to accompany **County** employees on inspections and shall provide electronic copies of records stored in electronic media.

#### **9.10: BUY-RECYCLED POLICY**

**Contractor** shall comply with the purchasing requirements described in this Section, and shall document its on-going compliance with these requirements upon **County** request.

A. **Supplies.** **Contractor** shall use reasonable business effort to purchase office supplies and all paper products with post-consumer recycled content.

B. **Recycled paper.** Insofar as is possible, **Contractor** shall use recycled paper for all correspondence with customers and **County**, including invoices, bills, reports, and public education materials. **Contractor** shall state on all materials prepared with post-consumer recycled content the following: "Printed on Recycled Paper."

C. **Re-refined motor oil.** **Contractor** shall be encouraged but not required to use re-refined motor oil for its collection vehicles.

D. **Recycled plastic.** **Contractor** shall purchase carts that contain the minimum post-consumer content. All carts shall be 100% recyclable.

## **9.11: ANNUAL PERFORMANCE HEARING**

**A. Objectives.** **County** shall hold a public performance hearing in April or May of each Rate Year in a location suitable for a public meeting within **Contractor's** Service Area, at which time **Contractor** shall be present and shall participate by making a presentation and responding to questions. **County** shall convene the hearing to address the positive and negative aspects of **Contractor's** overall performance. The purpose of the hearing may also involve discussion and review of technological, economic, and regulatory changes in collection, waste reduction, recycling, processing, and disposal practices that can improve quality of service; increase waste reduction and diversion; and ensure services are being provided effectively and economically. Topics for discussion and review at the performance hearing shall include, but not be limited to: **Contractor's** accomplishments and compliance with various provisions of the agreement, services provided, feasibility of providing new services, application of new technologies, customer complaints, possible amendments to this agreement, developments in the applicable laws and regulations, new initiatives for meeting or exceeding waste reduction and recycling goals, regulatory constraints, and **Contractor** performance. **County** and **Contractor** may each select additional topics for discussion at the performance hearing.

**B. Process.** Within sixty (60) days of notification provided by **County** to **Contractor** of its intent to conduct a performance hearing, **County** will submit questions to **Contractor** pertaining to **Contractor's** performance and **Contractor** shall submit its written response within thirty (30) days. **Contractor** shall meet to discuss the questions and **Contractor's** response prior to submittal by **Contractor**, **County** and **Contractor** may request from one another information or documents related to the scheduled public hearing and **Contractor** shall provide such information promptly. In addition to **Contractor's** responses to the questions submitted by **County**, **Contractor** shall submit their annual operational report, including the following:

1. **Recommended changes or new services.** Changes and/or new services may be recommended to improve **County's** ability to meet and/or exceed **County's** waste reduction and recycling goals and those of the Act.
2. **Complaint records.** The reports required by this agreement regarding complaints shall be used as one basis for review. **Contractor** may submit other relevant performance information and reports for consideration. **County** may request **Contractor** to submit specific information for the hearing. In addition, any person may submit comments or complaints during or before the hearing, either orally or in writing, and these shall be considered.
3. **Action plan.** **Contractor** shall prepare and submit an action plan for improving and/or modifying its collection services and other services if requested. Not less than ten (10) Business Days prior to the scheduled hearing date, **County** and **Contractor** shall exchange any written reports and other documents that will be provided or presented at the hearing. Not less than five (5) Business Days before the scheduled hearing date, **County** and **Contractor** shall ensure their availability to discuss the content and underlying support for such reports. **County** and **Contractor** shall attend and participate in the performance hearing. **Contractor** may be required to present an oral report on its performance at the performance hearing. **Contractor's** failure to attend and participate in the performance hearing and provide an oral presentation upon request; provide a written response to the questions or request for a self-assessment report

submitted by **County**; or submit an action plan if requested by **County** may be sufficient cause for **County** to seek remedies as described in Article 15. Within sixty (60) days after the conclusion of each performance hearing, **County** may issue a report. As a result of the review, **County** may require **Contractor** to provide expanded or new services within a reasonable time frame and for reasonable compensation; and **County** may direct **Contractor** to take corrective actions for any performance inadequacies.

## ARTICLE 10

### RECORD KEEPING AND REPORTING

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#### **10.01: GENERAL**

##### **A. Need for Records.**

1. **Contractor** shall compile and maintain operational and financial records related to its performance as necessary to develop the reports required by this agreement, to conduct its operations, to support requests it may make to **County** for any major changes to operations or anticipated future changes to operations, to support the need for anticipated major expenses likely to be incurred in the future, and to respond to requests from **County**. **Contractor** agrees to conduct data collection, record keeping, and reporting activities that are reasonably necessary to meet the reporting and solid waste program management needs of **County**, and to comply with the Act, other applicable laws (Including those specified in Sections 17.01 & 17.14), and the requirements of this agreement.
2. Record keeping and reporting requirements specified in this agreement shall not be considered a comprehensive list of reporting requirements. In particular, Article 10 is intended to highlight the general nature of records and reports and their minimum content and is not meant to comprehensively define the scope and content of the records and reports. **Contractor** shall provide other information that is reasonably related to this agreement that may not be specifically identified in this Section if requested by **County**. **Contractor** shall maintain all records necessary to allow **County** to determine **Contractor's** compliance with the terms of the agreement and compliance with the performance standards presented in this agreement, Including those related to the quality of collection services and customer service. The records shall be maintained in a manner that allows for easy verification of **Contractor's** performance.
3. Comprehensive Environmental Response, Compensation and Liability Act of 1982 (CERCLA) defense records. **County** views the ability to defend against CERCLA and related litigation as a matter of great importance. For this reason, **County** regards the ability to prove where solid waste collected in **County** area was taken for transfer or disposal, to be matters of concern. **Contractor** shall maintain data retention and preservation systems which can establish where solid waste collected in the service area was delivered for transfer or disposal. This provision shall survive the expiration of this agreement.
4. Upon written direction or approval of **County**, the records and reports required by **Contractor** in accordance with this and other articles of the agreement shall be adjusted in number, format, or frequency.

##### **B. Inspection of records.** **County** shall have the right to inspect or review at **Contractor's** office, and with a minimum notice of 24 hours beforehand, the payroll tax reports, specific documents or records required expressly or by inference pursuant to this agreement, or any other similar records or reports of **Contractor** that **County** shall deem, in its sole discretion, reasonably necessary to evaluate annual reports, rate adjustment applications provided for in this agreement, and **Contractor's** performance

or other matters related to this agreement. **County**, its auditors and other agents selected by **County**, shall have the right, during regular business hours, to conduct on-site inspections and review of the records and accounting systems of **Contractor** and to make copies of any of **Contractor's** documents relevant to this agreement, with the exception that **County** or its representatives make not make copies of **Contractor's** proprietary information. Upon request, **Contractor** shall arrange for records of Related Party Entities to be made available to **County** and its official representatives for review, to the extent such records are reasonably necessary to evaluate annual reports, **Contractor's** performance, or other matters related to this agreement; provided, however, that no copies of Related Parties Entities' records may be made by **County** or its representatives.

**C. Retention of records.** Unless otherwise herein required, **Contractor** shall retain all records and data required to be maintained by this agreement for the Term plus at least five (5) years after expiration or early termination of the agreement. Records and data shall be in a chronological and organized form and readily and easily interpreted. At **County's** request, records and data required to be retained shall be retrieved in a timely manner (which shall not exceed more than twenty (20) Business Days unless **Contractor** obtains prior written approval from **County**) by **Contractor** and made available to **County**. **Contractor** shall maintain copies of all billings and billing collections (e.g., customer payments) records or copies of billing summary reports (that document all billings and billing collections for each customer) for five (5) years, following the date of billings, for inspection and verification by **County**. Records and data required to be maintained that are not specifically directed to be retained that are, in the sole opinion of **County**, material to the determination of the rates or to determination of **Contractor's** performance, shall be retrieved by **Contractor** and made available to **County** in a timely manner (which shall not exceed twenty (20) Business Days unless **Contractor** obtains prior written approval from **County**). When records and data are not retained or provided by the **Contractor**, **County** may make reasonable assumptions regarding what information is contained in such records and data, and such assumption(s) shall be conclusive in whatever action **County** takes. **Contractor** may, at their option, choose to provide **County** with all records and data related to this agreement at any time during the five (5) year period following its termination in lieu of retaining such records.

**D. Record security.** **Contractor** shall maintain adequate record security to preserve records from events that can be reasonably anticipated such as fire, theft, and earthquakes. Electronically-maintained data and/or records shall be protected, backed up, and stored at a separate site from the original data.

#### **10.02: OPERATIONAL RECORDS**

**A. General.** Operational records shall be maintained and retained in forms, on media, and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Operational reports are intended to compile recorded data into useful forms of information that can be used to, among other things:

1. Determine needs for adjustment to programs and cost for such changes
2. Evaluate customer service and complaints

3. Provide collected waste and recyclable tonnage amounts for **County** records and State reporting.
4. Record hazardous waste disposal or attempted disposal incidents per Section 10.02(B)(6).
5. Record contaminated loads of recyclable materials per Section 5.04.

B. **Records to be kept.** Operational records shall be maintained and retained by **Contractor** for **County** relating to:

1. Customer and billing account information including, but not limited to, the following for each customer:
  - a. Names, addresses, and phone numbers of customer, billing contact person, and, if appropriate, for property manager or on-site contact person;
  - b. Solid waste service level, C&D service level, targeted recyclable materials service level, (where service level includes the number of containers, size of each container, and the collection frequency of each container);
  - c. Number of tenants or living units at multi-family residential complexes;
  - d. Service exemptions for SFD premises (if applicable);
  - e. Special services (e.g., backyard and special handling collection for SFD premises, push/pull charges, lock/unlock charges, etc.). **Contractor's** customer and billing system shall allow for information to be compiled easily and separately for each service sector.
2. Complaints. A log of complaints and resolutions for all collection services and sectors. At a minimum, the complaint log shall include:
  - a. Customer name and/or business name;
  - b. Customer's service address;
  - c. Contact telephone number;
  - d. Date of complaint;
  - e. A description of the complaint;
  - f. A description of how the complaint was resolved;
  - g. The date of resolution, and
  - h. Any additional driver's notes or comments.

3. Waste Volumes, including, but not limited to:
  - a. Weight and volume of material collected by type (e.g., solid waste, C&D and/or targeted recyclable materials) and the facility where materials were delivered (e.g., designated transfer facility). Where possible, information shall be provided separately for each service sector.
  - b. Tonnage of solid waste and/or targeted recyclable materials collected from venues and events per Section 10.06, reported separately by material type collected and reported separately for each venue and event.
  - c. Volume of used motor oil and number of used motor oil filters collected by **Contractor** reported separately for each facility where materials were delivered.
3. Total C&D tonnage collected and disposed. C&D tonnages may be combined with solid waste tonnages unless source-separated. C&D collected by **Contractor** as well as C&D self-hauled to designated transfer facilities shall be allocated by **Contractor** to its correct jurisdiction/contract
4. Operations, including, but not limited to:
  - a. Facilities, equipment and personnel used for operations.
  - b. Maintenance and repairs of facilities and/or equipment used for operations.
  - c. Vehicle accidents and/or infractions involving **Contractor's** vehicles used for operations.
  - d. Overweight vehicles. A list of all overweight vehicles, whether discovered at the disposal site tipping scales or as a result of an infraction given at a public truck scales, the actual payload of such vehicle and the amount overweight.
  - e. A description of any activities affecting the provision of services.
5. Mandatory Commercial Recycling. Per Section 8.04, **Contractor** shall also provide a written report to **County** by April 1 of each year identifying all qualified generators who have not subscribed for commercial recycling services, the reason for such non-subscription, the efforts undertaken by **Contractor** to arrange for recycling services, and the name, title and telephone number of the applicable contact person for each such customer.
6. Hazardous Waste. **Contractor** shall provide a summary or copy of any hazardous waste records as required under Section 9.08 D.
7. Other programs. Records for other programs shall be tailored to specific needs. In general, **Contractor** shall maintain and retain the following records:

a. Plans, tasks, and milestones; and

b. Accomplishments Including activities conducted, dates, quantities of products used, produced or distributed, and numbers of participants and responses.

C. **Failure to report.** The refusal or failure of **Contractor** to file any required reports, or to provide required information to **County**, or the inclusion of any materially false or misleading statement or representation by **Contractor** in such report shall be deemed a **Contractor** default as described in Section 15.02, subject to the notice and cure provisions of that Section. Violation thereof shall subject **Contractor** to all remedies which are available to **County** under the agreement or otherwise.

D. **Accuracy of reports.** The failure of **Contractor** to file accurate and timely operational reports, proposal(s), information or correspondence to **County**, or the inclusion of any inaccurate or misleading data, statement or representation by **Contractor** in such report(s), proposal(s), information or correspondence to **County** shall be deemed a **Contractor** default as described in Section 15.02 subject to the notice and cure provisions of that Section and shall subject **Contractor** to all remedies which are available to **County** under the agreement or otherwise. Any and all inaccuracies, errors or omissions discovered by **County** or **Contractor** in such reports shall be disclosed to the other Party upon discovery and shall be corrected at **Contractor's** cost within fifteen (15) Days of such notification.

#### **10.03: ANNUAL DISPOSAL AND OPERATIONAL REPORT**

A. **General.** **Contractor's** annual operational report shall include, but not be limited to:

1. An annual summary of waste volumes;
2. An annual summary of diverted wastes including recyclable materials;
3. The previous year's diversion ratio and a five-year trend of such diversion;
4. Operational challenges and how they were (or are being) met during the past year;
5. Accomplishments and measures taken to resolve problems in the past year;
6. Activities undertaken to increase participation in diversion programs in the past year, including customer education.
7. An annual summary of mandatory commercial recycling records.
8. An annual summary of hazardous waste records.

The annual report will, along with **County's** response, form the basis for the annual performance review.

B. **Submittal schedule and instructions.** **Contractor** shall submit the annual operational report within thirty (30) days after the end of the reporting year. **Contractor**

shall submit (via mail and/or e-mail) the annual operational report to the person(s) designated by **County**.

**10.04: QUARTERLY DISPOSAL AND OPERATIONAL REPORTS**

A. **General.** **Contractor's** quarterly **disposal** reports shall be submitted to **County** on the Disposal Reporting System spreadsheet format provided by CalRecycle DRS. **The quarterly DRS Report** shall include:

1. The previous quarter (3 month period) summary of waste volumes, **apportioned by contributing jurisdiction and showing disposal destination(s);**
2. The previous quarter (3 month period) summary of diverted wastes including recyclable materials;

B. **Contractor's** quarterly operational reports shall include:

1. A quarterly summary of mandatory commercial recycling records.
2. A quarterly summary of hazardous waste records.
3. A quarterly summary of Daily Log of Special Occurrences for each facility.

B. **Submittal schedule and instructions.** **Contractor** shall submit quarterly **disposal and** operational reports within thirty (30) days after the end of the reporting quarter. **Contractor** shall submit (via mail and/or e-mail) quarterly operational reports to the person(s) designated by **County**.

**10.05: FINANCIAL REPORTING REQUIREMENTS**

A. **General.** In order to set the rates pursuant to Article 12, it is necessary for **Contractor** to maintain accurate, detailed financial and operational information in a consistent format and to make such information available to **County** in a timely fashion. This information, along with any other known factors currently used or proposed to be used as the basis for allocating revenues and expenses, will be utilized to support **Contractor's** requests for any proposed changes to the methodologies involved in allocating future revenues and expenses.

B. **Contractor's accounting records.** **Contractor** shall maintain accurate and complete accounting records containing the underlying financial and operating data relating to, and showing the basis for computation of, all costs associated with providing services under this agreement. The accounting records shall be prepared in accordance with *Generally Accepted Accounting Principles (GAAP)* consistently applied. Chief among these accounting records shall be the **Contractor's Annual Compiled Financial Statement** and **Triennial Audited Financial Statement**. These reports, prepared at **Contractor's** cost by a third-party accountancy firm, shall:

1. Clearly identify the methods used to allocate revenue and expense line items among the **County** franchise and the company's other divisions.
2. Illustrate the methodologies used to allocate revenues and expenses among Related Party Entities.

3. Report any changes to the methodologies used to allocate revenues and expenses in the allocation percentages from the prior year.
4. Track and report the costs associated with each expense item that has contractual limitation and provide an accounting of those expenses against their contractual limitation.
5. Provide an operating ratio calculation with any adjustments against contractual limitations. This operating ratio calculation will be used in identifying potential adjustments to the rate for the following year.
6. Provide a variance analysis between the current year and prior year revenues and expenses, along with an explanation for any significant variances.

**C. Annual Compiled Financial Statement.**

**Contractor** shall submit a financial statement prior to April 15 of each year containing, at a minimum, the following financial information:

**1. Contractor's Personnel.**

- a. Organizational chart
- b. Job classifications and number of full-time equivalent positions for each (e.g. administrative, customer service representatives, drivers, supervisors, educational staff, etc.)

**2. Related party entities.** **Contractor** agrees that all financial transactions with all Related Party Entities shall be approved in advance in writing and disclosed annually (coinciding with **Contractor's** Annual Compiled Financial Statements and/or Triennial Audited Financial Statements referred to in this Section to **County** in a separate disclosure letter to **County**. This letter shall include a general description of the nature of each transaction, or type of transaction, as applicable. Such description shall include for each transaction:

- a. Amount, specific to each Related Party Entity
- b. Basis of amount (how amount was determined and comparable quoted rates, including rental amounts, from non-Related Parties to be used as comparison).
- c. Description of the allocation methodology used to allocate any common costs.

Amounts shall be reconciled to the Related Party Entity disclosures made in **Contractor's** annual financial statements referred to in this Section, and any adjustments made to related party expenses, including overhead charges shall be disclosed, along with the basis of any such adjustments. At **County's** request, **Contractor** shall provide **County** with copies of working papers or other documentation deemed relevant by **County** relating to information shown in the annual disclosure letter. The annual disclosure letter shall be provided to **County** within sixty (60) Business Days of **Contractor's** Fiscal Year end.

3. Revenues from all contract-related sources;
4. Expenses for all contract-related operations

5. **Non-allowable expenses.** Certain contract-related expenses shall be deemed as non-allowable, and shall be designated as such in both the Annual Compiled Financial Statement and the Triennial Audited Financial Report. **County** may adjust the actual costs in two ways: (1) by excluding any non-allowable costs, as set out below, and (2) by excluding and/or reducing any costs that were not reasonably or necessarily incurred in the performance of the services provided in accordance with the agreement, as determined by **County**. Expenses that may be deemed non-allowable include:

- a. Administrative Fees for corporate administration in excess of 6.2% of Gross Revenue, plus \$2,500 per month (monthly fee only to be adjusted by the CPI<sup>1</sup>).
- b. Promotional, business development, and business-related travel expenses in excess of \$5,000.00 aggregate per Calendar Year, as adjusted annually per the CPI.
- c. Payments to repair damage to property of **County** or other parties, including **Contractor**, for which **Contractor** is legally liable.
- d. Fines or penalties of any nature, including any liquidated damages that may be assessed under this agreement, but only those for which **Contractor** is legally liable.
- e. Charitable donations and/or goodwill **in excess of Two Thousand, five hundred dollars (\$2,500.00) per calendar year.**
- f. Political donations.
- g. Any amount of rental or lease charges for leasing vehicles longer than six months that is greater than the cost of acquisition, plus interest costs, of the vehicles depreciated over seven (7) years.
- h. State or federal income taxes.
- i. Attorneys' fees and other expenses incurred by **Contractor** in any court or adversarial proceeding in which **Contractor** and **County** are adverse Parties, unless **Contractor** is the prevailing Party in such proceeding and **Contractor** fails to recover such fees as a result of that litigation.
- j. Attorney's fees and other expenses incurred by **Contractor** in any court proceeding in which **Contractor's** own negligence, violation of law or regulation, or other wrongdoing, are in issue and occasions in part the attorney's fees and expenses claimed. Such attorney's fees, however, will be allowed to the extent **Contractor** can demonstrate they were a reasonable and necessary cost of doing business, and were not the result of any intentional or willful misconduct by **Contractor** or its employees.

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<sup>1</sup> Series ID: currx400sa0 Consumer Price Index, All Urban Consumers, All Items; West – Size Class B/C. Base Year = 2006

Also non-allowable are any attorney's fees and expenses incurred by **Contractor** in a court proceeding in which the legal theory or statute providing a basis of liability against **Contractor** also provides for separate strict liability for **County** arising from the action of its citizens or ratepayers (such as in a CERCLA lawsuit).

k. Payments to Related Party Entities for products or services, in excess of the fair market value for those products or services.

6. **RRI Financial Information.** For ease of calculation of the annual Refuse Rate Index (See Attachment E), expenditures shall also be grouped into the following categories:

- a. Labor (all costs)
- b. Diesel fuel
- c. Vehicle replacement
- d. Vehicle maintenance (all costs, including parts, maintenance, tires, etc)
- e. All other costs
- f. Disposal (or tipping) fees

**D. Triennial Audited Financial Report.** In addition to the information presented in the Annual Financial Statement, **Contractor** shall present the following financial information in an audited financial report to be submitted prior to April 15, 2019, and on a triennial basis (every three (3) years) thereafter:

1. Contract-Related Assets:
2. Contract-Related Liabilities
3. Cash Flow Statement
4. Non-Cash Investing and Financing

#### **10.06: EVENT-SPECIFIC REPORTING**

Event-specific reports for disposal events such as an HHW disposal event shall be submitted to **County** electronically on CalRecycle's Form 303 within ninety (90) Calendar Days of the last day of such event. Event-specific reports for non-disposal events such as a festival or similar venue shall be submitted to **County** by the responsible party listed on **County's Event Disposal Form**, and shall not be **Contractor's** responsibility unless **Contractor** is listed as the responsible party on such form.

#### **10.07: OTHER REPORTS**

A. **Report of accumulated Solid Waste; unauthorized dumping.** **Contractor** shall report:

1. The addresses of any premises at which the driver observes that solid waste,

C&D or targeted recyclable materials is accumulating.

2. The address, or other location description, at which solid waste, C&D or targeted recyclable materials has been dumped in an apparently unauthorized manner.

The report shall be delivered to **County** within five (5) Business Days of such observation.

**B. Hazardous waste.** As required by Section 9.08(D), **Contractor** shall notify **County** and the Department of Environmental Health of any hazardous waste identified in containers or left at any premises within twenty-four (24) hours of identification of such material.

**C. Reporting adverse information.** **Contractor** shall provide **County** two (2) copies (one (1) to the administrator, one (1) to the County Counsel) of all reports, pleadings, applications, notifications, Notices of Violation, communications or other material relating specifically to **Contractor's** performance of services pursuant to this agreement, submitted by **Contractor** to, or received by **Contractor** from, the United States or California Environmental Protection Agency, CalRecycle, the Securities and Exchange Commission or any other federal, State, County, or local County, Including any federal or State court. Copies shall be submitted to **County** simultaneously with **Contractor's** filing or submission of such matters with said agencies. **Contractor's** routine correspondence to said agencies need not be submitted to **County**, but shall be made available to **County** promptly upon **County's** written request.

#### **10.07 UPON-REQUEST REPORTING**

**County** reserves the right to request additional reports from **Contractor**, and **Contractor** shall deliver such reports within twenty-five (25) Business Days of such request provided that such information is similar in nature to the required elements of the quarterly or annual reporting requirements described in this Section, or is otherwise required by **County** to effectively administer the provisions of this agreement or comply with applicable law or other regulation.

## ARTICLE 11

### FRANCHISE FEE

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#### **11.01 GENERAL**

In consideration of the exclusive franchise granted to **Contractor** by this agreement, and to reimburse **County** for costs incurred in administering this agreement, **Contractor** shall pay to **County** a franchise fee, based on a fixed percentage of Gross Receipts. This fee shall be set by the Board of Supervisors and may be adjusted from time to time during the Term of this agreement. Any adjustment to the franchise fee shall be **timed to occur on or around July 1 of the Rate Year to coincide with the RRI adjustment, and shall be** considered a pass-through adjustment, and as such shall be recoverable to **Contractor** through an adjustment to the rates.

#### **11.02: TIME AND METHOD OF PAYMENT**

On or before the twentieth (20th) Business Day after the end of March, June, September and December, **Contractor** shall pay to **County** the amount of the franchise fees due on Gross Receipts during the immediate previous quarter. **Contractor** shall provide, concurrently with the payment of **the franchise** fee, a statement showing the calculation of each fee, including the Gross Receipts from customers. The statement shall be in a format, and contain the level of detail, specified by **County**. Payments from **Contractor** to **County** shall be made by method authorized by **County**. If **the franchise** fee is not paid on time, **Contractor** shall pay a late payment charge equal to **six percent (6%)** of the **portion of the franchise** fee due for that quarter. In addition, **Contractor** shall pay an additional **six percent (6%)** on any unpaid balance for each ninety (90) Day period **the portion of the franchise** fee due remains unpaid. Such "late fee" shall not be recovered through the **rates**.

## ARTICLE 12

### THE RATES

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#### **12.01: GENERAL**

Setting of and adjustment to the rates provided for in this Article shall be the full, entire, and complete compensation due to **Contractor** for all labor, equipment, materials, and supplies, taxes, insurance, bonds, overhead, disposal, profit, and all other things necessary to perform all the services required by this agreement in the manner and at the times prescribed. **Contractor** will not look to **County** for payment of any sums under this agreement. **Contractor** will perform the responsibilities and duties described in this agreement in consideration of the right to charge and collect from customers for services rendered at rates fixed by **County** from time to time.

#### **12.02: INITIAL RATES**

The rates that are in place as of the Effective Date of this agreement are the initial rates that will be used as the base rates for year one.

#### **12.03: REFUSE RATE INDEX - ADJUSTMENTS TO THE RATES**

A. ***Adjustments to the Rates Using the Refuse Rate Index (RRI).*** Beginning on July 1, 2017, and annually thereafter, **Contractor** shall, subject to compliance with all provisions of this Article, receive an annual adjustment in of the rates as set forth in Attachment D of this agreement. **If the Operating Ratio for the previous 12 month period falls within the range of values defined in Attachment A, no RRI adjustment will be made. In addition, no RRI increase shall be given that exceeds five percent (5.00%) unless the provisions of Proposition 218 are satisfied.** Beginning on July 1, 2017, and annually thereafter during the Term of this agreement, the rates then in effect shall be adjusted by the RRI adjustment set forth below. In any year that the calculation of the RRI results in a negative number, there shall be no adjustment in the rates, unless the negative RRI adjustment exceeds two percent (2.00%). Instead, the negative RRI number shall be added to the result of the subsequent years RRI calculation and the result shall be the RRI adjustment for that subsequent year.

B. ***12-Month Annual Average.*** The RRI adjustment shall be the sum of the weighted percentage change in the 12-month annual average of each RRI index number between the base year, which shall be the prior preceding Calendar Year ending December 31<sup>st</sup> and the preceding Calendar Year ending December 31<sup>st</sup> as contained in the most recent release of the source documents listed in Attachment E, ("Refuse Rate Index") which is attached to and included in this agreement. Therefore, the first rate adjustment under this Section will be based on the percentage changes between the 12-month annual average of the RRI indices for the Calendar Year 2015 and the annual average of the RRI indices for the Calendar Year ending 2016. The RRI shall be calculated using the RRI methodology included in Attachment E.

C. ***RRI Financial Information.*** On or before April 15, 2017, and annually thereafter during the Term of this agreement, **Contractor** shall deliver to **County** compiled or audited financial information per Section 10.05 for the specific services performed under this agreement for the preceding Calendar Year. Such financial information shall be in the format as set forth in Attachment E, or as may be further revised by agreement of the

Parties. If **Contractor** fails to submit the financial information in the required format by April 15th, it is agreed that **Contractor** shall be deemed to have waived the RRI adjustment for that year. **Contractor**'s failure to provide the financial information by April 15th shall not preclude **County** from applying the RRI using the prior year's financial data, or pro forma data if no prior year financial data is available, if that Application would result in a negative RRI.

1. Annual adjustments shall be made only in units of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making adjustments. The indices shall be truncated at four (4) decimal places for the adjustment calculations.
2. If **Contractor**'s failure to submit the required financial information by April 15th is the result of extraordinary or unusual circumstances as demonstrated by **Contractor** to the satisfaction of **County**, **County** at its sole discretion, may extend its review period to consider the request for the annual RRI rate adjustment.
3. As of May 15, 2016, and annual thereafter during the Term of this agreement, **County** shall notify **Contractor** of the RRI adjustment to the affected rates to take place on July 1st of that year.

#### **12.04: COUNTY OR CONTRACTOR REQUESTED DETAILED RATE REVIEW**

Notwithstanding the rate adjustment described in Section 12.03 above, **County** or **Contractor** may request a detailed rate review to be conducted following the procedures as specified in Attachment F to this agreement. However, a detailed rate review shall not be conducted more than once every three (3) Calendar Years. A request for a detailed rate review shall be made in writing at least four (4) months prior to the beginning of the Fiscal Year in which the results for the detailed rate review are to be applied. **Contractor** shall pay all reasonable costs for each detailed rate review whether incurred by **Contractor** or **County**, and the cost of such a detailed rate review shall be an allowable Pass-Through Cost.

#### **12.05: COUNTY OR CONTRACTOR REQUESTED SPECIAL RATE REVIEW**

Notwithstanding Sections 12.03 and 12.04 above, either **Contractor** or **County** may request consideration of a special rate review to be conducted following the procedures as specified in Attachment G to this agreement, if costs of providing service hereunder result in an increase or decrease to **the operating ratio** by two percent (2%) or more for the then-current rate year.

##### **A. Eligible items.**

1. Flood, fire, earthquake, or other similar catastrophic event affecting **County** which is beyond the control of and not the fault of **Contractor**, and that requires the provision of emergency services by **Contractor** per Section 8.06.
2. Change in applicable law or regulation occurring after the Effective Date.
3. Unforeseen changes in disposal or tipping fees, including the addition of, or change to a designated disposal site.

4. Migration of customers from services for which **Contractor** charges hereunder to services for which **Contractor** does not charge, or charges less, hereunder.
5. Changes in any allowable Pass-Through Costs as defined in Attachment A to this agreement.

B. **Ineligible items.** A special rate review may not be initiated due to growth or decline in the number of customers.

C. **Review of costs.** **County** shall have the right to review any and all contract-related financial and operating records of **Contractor**. **County** will take into account the net overall impact of the eligible event on **Contractor's** costs and Gross Receipts, including reductions in cost resulting from curtailments in service levels or other factors.

D. **Submittal of request.** Either Party must submit its request for a special rate review in a form and manner specified by **County**, together with required cost and operational data. **County**, acting reasonably, will review the request and determine the amount owed, if any, to **Contractor** and the time period to be covered by special circumstances.

E. **Burden of justification.** In a special rate review under this Section, the Party requesting the special rate review shall bear the burden of justifying, by substantial evidence, its request for an adjustment in the rate. If **County**, acting reasonably, determines that **Contractor** has not met its burden, it shall notify **Contractor** that it is prepared to deny **Contractor's** request for an increase in the rates, **or to proceed with a reduction in the rates**. Within ten (10) days after such notice, **Contractor** may request a hearing before **County's** governing body to produce additional evidence. Upon such request, **County** shall provide a hearing before **County's** governing body.

F. **Hearing.** Based on evidence presented to it, including that submitted by **Contractor**, **County's** governing body may grant some, all, or none of the requested increase in, or **may reduce, the rates**. In the event **County** denies **Contractor's** requested increase in whole or in part, **Contractor** shall have the right to present its claim to a court of competent jurisdiction.

The Party requesting the special rate review shall bear all reasonable costs incurred by the other Party, including labor and materials, of a special rate review which it has requested up to a maximum of twenty-five thousand dollars (\$25,000). A request for a special rate review shall be made in writing at least four (4) months prior to the beginning of the Fiscal Year in which the results for the special rate review are to be applied. Costs of a special rate review requested by **Contractor** may neither be included in the rates nor charged to **County** or customers, and the cost of such a special rate review shall not be an allowable Pass-Through Cost.

#### **12.06: CHANGES IN SERVICES AND SERVICE LEVELS**

Notwithstanding Sections 12.03 and 12.04 above, either **Contractor** or **County** may request consideration of an adjustment in the rates if **County** requests **Contractor** to **cease performing one or more types of service described in Articles 5, 6 or 7**, requests **Contractor** to modify the scope of one or more such services, requests **Contractor** to perform additional solid waste, C&D and/or targeted recyclable materials handling services, or requests **Contractor** to modify

its performance under any other Section of this agreement. Such rate modification shall coincide with the date of the service modification.

#### **12.07: RATE-SETTING PROCESS**

A. **General.** **County** shall be solely responsible for establishing and adjusting rates as described in this Article. Rates shall be adjusted only after joint discussions and agreement between **County** and **Contractor**, completion of the rate adjustment process described in Sections 12.03, 12.04, 12.05 or 12.06, a review by the administrator and the PCIWMTF, and approval of the Board.

B. **Annual review process.** The rates shall be reviewed annually by **County**, commencing with Rate Year one (2016) and continuing through the remaining Term Including any extension periods.

C. **Rate structure.** **County**, through its Board of Supervisors, and after joint discussions and agreement between **County** and **Contractor** shall have right to change the relationship of individual rates in comparison with other rates and to allocate total costs among service sectors and lines of business. If at any time **Contractor** believes that a rate not included in the **County**-approved rate schedule (included herewith as Attachment D) would be necessary or useful, **Contractor** shall notify **County** and recommend establishment of such rate.

#### **12.08: NOTICE OF RATE ADJUSTMENTS**

If requested by **County**, **Contractor** shall provide **County** with a complete and current list of its customer addresses within ten (10) Business Days of the request. In addition, if requested by **County**, **Contractor** shall arrange for the mailing of notices of rate adjustment (to be prepared by **County**). The cost of mailing such notices shall be considered a pass-through cost in the annual and triennial financial reports.

#### **12.09: POTENTIAL RATE CONSTRAINTS**

The Parties recognize that, as of the date this agreement is entered into, there is no authoritative judicial determination of whether Articles 13C and D (Proposition 218) of the *California Constitution* apply to charges imposed by private enterprises for solid waste handling and recycling services when those charges are regulated by a local government. Until such authoritative judicial guidance is available, **County** intends to provide notice of proposed rate increases, and an opportunity for public hearing and protest as required by Article 13D, except as specifically exempted under Article 13D. **County** will not be in default of this agreement if:

- A. A majority protest **through the Proposition 218 election process** prevents a proposed rate increase from being adopted, **or**
- B. A court rules that rates adopted by **County** are not consistent with Article 13D,

## ARTICLE 13

### INTERRUPTION OF SERVICES

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#### **13.01: PURPOSE**

The Parties recognize:

- A. That frequent and continuous collection of solid waste and/or targeted recyclable materials is an essential public service and an important element of public health in Plumas County, and
- B. That even a temporary interruption in the collection and transport services entrusted to **Contractor** may threaten the public health and safety, as well as cause serious financial harm to business operations in Plumas County. The purpose of this Article is to provide **County** with the ability to respond to such threats to the public health, safety and welfare by either using its own personnel and equipment or authorizing another collection and transport contractor, either within Plumas County or outside, to perform such collection and transport services until such time as **Contractor** is able to resume services. This Article applies to any interruption of services, regardless of whether or not **Contractor's** failure to perform is excused under Section 15.10, and
- C. That an interruption of services may occur in either of Plumas County's two solid waste franchise areas, and that past practices under the previous franchise agreement between **Contractor** and **County** dated February 21, 1995 to maintain continuous collection and transport services have involved the use of the other in-County franchise contractor's personnel and/or equipment to fulfill **Contractor's** obligations under **Article 18. Franchisee Default** of that agreement. This Article is intended to extend and include that previous mutual aid clause within this agreement, limiting, however, the fulfillment of **Contractor's** obligations under the mutual aid clause to such collection and transport services as **Contractor** is reasonably able to provide.

#### **13.02: CONDITIONS AUTHORIZING COUNTY'S RIGHT TO COLLECT AND TRANSPORT**

If **Contractor**, for any reason, fails, refuses or is unable to collect solid waste and/or targeted recyclable materials at the times and in the manner required by this agreement, and transport them to a solid waste or recycling facility, for more than five (5) Business Days, **County**, at its sole discretion, may invoke any of the provisions of Section 15.06.

#### **13.03: NOTICE TO CONTRACTOR**

In the event that **County** invokes its right to perform collection and transport services with its own personnel or authorize a third Party to do so pursuant to Section 15.06, **County** shall deliver written notice to **Contractor** of its determination to exercise its right to provide collection services. **Contractor** shall cooperate in any reasonable way to assist **County** in providing collection services on a temporary basis.

#### **13.04: RIGHTS AND RESPONSIBILITIES OF PARTIES**

In the event that **County** invokes its right to perform collection and transport services and authorize a third Party to do so pursuant to Section 15.06, **County** shall compensate such third Party under the terms of the agreement with **Contractor**, and the third Party shall otherwise carry out **Contractor's** contract obligations as if the third Party were the original contracting Party. If both franchise contractors within Plumas County are unable to meet their respective

contractual obligations, and if **County** is unable to retain another solid waste collection and transport contractor to meet such obligations, **County** shall then, and only under those circumstances, have the right to utilize **Contractor's** collection and transporting equipment to collect and transport solid waste and targeted recyclable materials. If at the end of ninety (90) Days, **Contractor** is unable to resume collection and transport operations, **County** shall have the right to terminate this agreement and retain another solid waste franchise contractor to perform such services.

## ARTICLE 14

# INDEMNITY, INSURANCE, BOND

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### **14.01: INDEMNIFICATION**

**Contractor** shall indemnify, defend and hold harmless **County**, its officers, employees and agents (collectively, the "indemnitees"), from and against:

- A. Any and all liability, penalty, claim, demand, action, proceeding or suit, of any and every kind and description, whether judicial, quasi-judicial or administrative in nature,
- B. Any and all loss including injury to and death of any person and damage to property and
- C. Contribution or indemnity demanded by third Parties (collectively, the "claims"), in each case to the extent arising out of or occasioned in any way by, directly or indirectly, **Contractor's** performance of, or its failure to perform, its obligations under this agreement.

The foregoing indemnity shall not apply to the extent that a claim is caused **solely** by the negligence, breach, violation of law or intentional misconduct of the indemnitees.

Upon the occurrence of any claim, **Contractor** shall defend (with attorneys reasonably acceptable to **County**) the indemnitees. **Contractor's** duty to defend and indemnify shall survive the expiration or earlier termination of this agreement.

### **14.02 HAZARDOUS WASTE INDEMNIFICATION**

**Contractor** shall indemnify, defend and hold harmless the indemnitees against all claims, of any kind whatsoever paid, incurred or suffered by, or asserted against indemnitees arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous wastes released, spilled or disposed of by **Contractor** pursuant to this agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of the *Comprehensive Environmental Response, Compensation and Liability Act*, ("CERCLA"), 42 U.S.C. Section 9607(e), and *California Health and Safety Code Section 25364*, to defend, protect, hold harmless and indemnify indemnitees from liability and shall survive the expiration or earlier termination of this agreement. Notwithstanding the foregoing, **Contractor** is not required to indemnify the indemnitees against claims arising from **Contractor's** delivery of solid waste, refuse, C&D and/or targeted recyclable materials to a solid waste disposal facility, or their subsequent delivery to other processing locations or the ultimate disposal site, unless such claims are due to **Contractor's** negligence or willful misconduct. **Contractor's** obligations under this Section shall not apply with regard to hazardous wastes or other unacceptable materials placed in containers without **Contractor's** knowledge and written approval.

### **14.03: CALIFORNIA INTEGRATED WASTE MANAGEMENT ACT INDEMNIFICATION**

**Contractor** agrees to indemnify and hold harmless the indemnitees against all fines and/or penalties imposed by CalRecycle or the **County** Local Enforcement Administrator (LEA) based on **Contractor's** failure to comply with laws, regulations or permits issued or enforced by CalRecycle or the LEA or caused or contributed to by **Contractor's** failure to perform

obligations under this agreement. This indemnity obligation is subject to the limitations and conditions in **California** Public Resource Code Section 40059.1 but is enforceable to the maximum extent allowable by that Section. This indemnity shall survive the termination or earlier expiration of this agreement.

#### **14.04: INSURANCE**

A. **Types and amounts of coverage.** **Contractor** shall procure from an insurance company or companies admitted to do business in the State of California, and shall maintain in force at all times during the Term, the following types and amounts of insurance:

1. **Workers' Compensation and Employer's Liability.** **Contractor** shall maintain Workers' Compensation insurance covering its employees in statutory amounts and otherwise in compliance with the laws of the State of California. **Contractor** shall maintain employer's liability insurance in an amount not less than one million dollars (\$1,000,000) per accident or disease. **Contractor** shall not be obligated to carry Workers Compensation insurance if

- a. It qualifies under California law and continuously complies with all statutory obligations to self-insure against such risks;
- b. It furnishes a certificate of permission to self-insure issued by the Department of Industrial Relations; and
- c. It furnishes updated certificates of permission to self-insure periodically to evidence continuous self-insurance.

2. **Commercial General Liability.** **Contractor** shall maintain commercial general liability insurance with a combined single limit of not less than two million dollars (\$2,000,000) per occurrence covering all claims and all legal liability for personal injury, bodily injury, death, and property damage, including the loss of use thereof, arising out of, or occasioned in any way by, directly or indirectly, **Contractor's** performance of services under this agreement. The insurance required by this subsection shall include:

- a. Premises operations (including use of owned and non-owned equipment);
- b. Personal injury liability with employment exclusion deleted;
- c. Coverage for insured contracts with no exclusions for bodily injury, personal injury or property damage (including coverage for the indemnity obligations contained herein);
- d. Broad-form property damage.

The commercial general liability insurance shall be written on an "occurrence" basis (rather than a "claims made" basis) in a form at least as broad as the most current version of the Insurance Service Office commercial general liability occurrence policy form (CG0001). If occurrence coverage is not obtainable, **Contractor** must arrange for "tail coverage" on a claims-made policy to protect **County** from claims filed within four (4) years after the expiration or earlier

termination of this agreement relating to incidents that occurred prior to such expiration or termination.

3. **Automobile Liability.** **Contractor** shall maintain automobile liability insurance covering all vehicles used in performing service under this Agreement with a combined single limit of not less than two million dollars (\$ 2,000,000) per occurrence for bodily injury and property damage.

4. **Pollution (Environmental Impairment) Liability.** **Contractor** shall maintain pollution liability insurance coverage of not less than two million dollars (\$2,000,000) per occurrence covering claims for on-site, under-site, or off-site bodily injury and property damage as a result of pollution conditions arising out of its operations under this agreement.

B. **Acceptability of insureds.** The insurance policies required by this Section shall be issued by an insurance company or companies admitted to do business in the State of California, subject to the jurisdiction of the California Insurance Commissioner, and with a rating in the most recent edition of Best's Insurance Reports of size category XV or larger and a rating classification of A+ or better.

C. **Required endorsements.** Without limiting the generality of Sections 14.04(A) and (B), the policies shall contain endorsements in substantially the following form:

1. **Commercial General and Automobile Liability Policy.**

Thirty (30) Days prior written notice shall be given to **County** in the event of cancellation or non-renewal of this policy. Such notice shall be sent to:

**County of Plumas**  
**1834 East Main Street**  
**Quincy, CA 95971**  
**Attention: Director of Public Works**

2. **Worker's Compensation and Employers Liability Policy.**

Insurer waives all right of subrogation against **County** and its officers and employees for injuries or illnesses arising from work performed for County of Plumas.

3. **Commercial General Liability Policy; Automobile Liability Policy; Pollution Liability Policy; and Hazardous Materials Policy.**

a. Thirty (30) Days prior written notice shall be given to the County of Plumas in the event of cancellation, **change of coverage**, or non-renewal of this policy. Such notice shall be sent to:

**County of Plumas**  
**1834 East Main Street**  
**Quincy, CA 95971**  
**Attention: Director of Public Works**

b. **County**, its officers, employees, and agents shall be additional insureds on this policy.

c. This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by **County**, Including any self-insured retention or program of self-insurance, and any other such insurance shall be considered excess insurance only.

d. Inclusion of **County** as an insured shall not affect the **County's** rights as respects any claim, demand, suit or judgment brought or recovered against **Contractor**. This policy shall protect **Contractor** and **County** in the same manner as though a separate policy had been issued to each, but this shall not operate to increase the company's liability as set forth in the policy beyond the amount shown or to which the company would have been liable if only one Party had been named as an insured.

**D. Deductibles and self-insured retentions.** Any deductibles or self-insured retentions contained in the liability policies described above shall be borne entirely by **Contractor**. **Contractor** remains responsible for the payment of all losses and investigation, claim administration and defense expenses, Including those of **County**.

**E. Delivery of proof of coverage.** Prior to the commencement of operations, and in the event of any change in the coverage, **Contractor** shall furnish **County** one or more certificates of insurance on a standard ACORD form substantiating that each of the coverages required hereunder is in force, in form and substance satisfactory to **County**. Such certificates shall show the type and amount of coverage, Effective Dates and dates of expiration of policies and shall be accompanied by all required endorsements. **Contractor** shall furnish renewal certificates to **County** to demonstrate maintenance of the required coverages throughout the Term.

**F. Other insurance requirements.**

1. In the event performance of any services is delegated to a subcontractor, **Contractor** shall require such subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for all of the subcontractor's employees engaged in the work. The liability insurance required by Section 14.02(A)(2) and the automobile liability policy required by Section 14.02(A)(3) shall cover all subcontractors or the subcontractor must furnish evidence of insurance provided by it meeting all of the requirements of this Section.

2. **Contractor** shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve **Contractor** from any obligation under this agreement, Including those imposed by Section 14.01. If any claim is made by any third person against **Contractor** or any subcontractor on account of any occurrence related to this agreement, other than claims by employees for work-related incidents, **Contractor** shall promptly report the facts in writing to the insurance carrier and to **County**.

3. If **Contractor** fails to procure and maintain any insurance required by this agreement, **County** may take out and maintain such insurance as it may deem proper and may require **Contractor** to reimburse it for the cost incurred within thirty (30) Days and/or deduct the cost from any monies due **Contractor**. **County** may also treat the failure as a **Contractor** default.

4. **County** is not responsible for payment of premiums for or deductibles under any required insurance coverages.

5. Any excess or umbrella policies shall be written on a "following form" basis.

#### **14.05: FAITHFUL PERFORMANCE BOND**

On or before the Effective Date, **Contractor** shall file with **County** a bond securing the **Contractor's** faithful performance of its obligations under this agreement. The principal sum of the bond shall be no less than Two Hundred Thousand Dollars (\$200,000.00). The form of the bond shall be approved as to form by the Plumas County Counsel. The bond shall be executed as surety by a corporation admitted to issue surety bonds in the State of California, regulated by the California Insurance Commissioner, and with a financial condition and record of service satisfactory to **County**. The Term of the initial faithful performance bond shall be sixty (60) months. The initial bond shall be replaced by a new bond in the principal sum of Two Hundred and Fifty Thousand Dollars (\$250,000.00) for the same Term (i.e., sixty (60) months) and in the same form, each sixty month period thereafter. Not less than ninety (90) Days before the expiration of the initial, or any subsequent, bond, **Contractor** shall furnish either a replacement bond or a continuation certificate substantially in a form approved by County Counsel, executed by the surety. It is the intention of this Section that there be in full force and effect at all times a bond securing **Contractor's** faithful performance of the agreement, throughout its Term.

#### **14.06: ALTERNATIVE SECURITY**

**County** may, in its sole discretion, allow **Contractor** to provide alternative security to the faithful performance bond described above in the amount set forth in Section 14.05, in the form of:

(a) A prepaid irrevocable standby letter of credit in form and substance satisfactory to **County**, approved by the County Counsel and issued by a financial institution acceptable to **County**, or

(b) A certificate of deposit in the name of **County** and in a form and with a Term satisfactory to **County**, accompanied by an agreement giving **County** the right to draw on the funds deposited satisfactory to **County** and with a financial institution acceptable to **County**. Interest on the certificate of deposit will be payable to **Contractor**.

## ARTICLE 15

### DEFICIENCY, DEFAULT AND REMEDIES

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#### **15.01: EVENTS OF DEFICIENCY.**

A. ***Events of deficiency.*** Each of the following shall constitute an event of deficiency ("Contractor deficiency"):

1. **Contractor** fails to perform its obligations under Section 9.05(F)(2), "Vehicle Weight" of this agreement and is cited by a law enforcement agency as overweight more than once in any three-month period of any year.
2. **Contractor** fails to perform its obligations under Article 10 of this agreement by failing to submit reports as required in Article 10.
3. **Contractor** fails to perform its obligations under Article 8 of this agreement by failing to resolve a customer complaint in a timely manner. **Contractor's** failure to resolve a customer complaint in a timely manner shall only constitute a deficiency if the complaint results in a material failure to provide service in accordance with the terms of this agreement

B. ***Liquidated damages.***

1. Unexcused deficiencies shall be subject to liquidated damages as set forth below:

a. The first event of an unexcused deficiency as defined above in a Calendar Year shall result in liquidated damages of Two Hundred and Fifty dollars and no cents (\$250.00) to be paid by **Contractor** to **County**. Such liquidated damages are to be considered neither Pass-Through Costs nor business expenses, and may not be recovered through the rates.

b.. The second event of an unexcused deficiency as defined above in a Calendar Year shall result in liquidated damages of Five Hundred dollars and no cents (\$500.00) to be paid by **Contractor** to **County**. Such liquidated damages are to be considered neither Pass-Through Costs nor business expenses, and may not be recovered through the rates.

c. The third event of an unexcused deficiency as defined above in a Calendar Year shall be considered as an event of default. **Contractor** shall be subject to **County's** remedies in the case of default as described in Sections 15.03 through 15.07, below.

2. Liquidated damages shall be assessed only after **Contractor** has been given the opportunity to rectify the deficiencies of which it has been notified, but has failed to do so within a reasonable period of time. **County** shall notify **Contractor** in writing of its intention to levy liquidated damages no less than thirty (30) days prior to doing so. The notice shall include a description of the incident(s) or

event(s) of non-performance. **Contractor** may review and make copies (at its own expense) of all non-confidential information in **County's** possession relating to the incident(s) or event(s) of non-performance. **Contractor** may, within ten (10) days of receiving the notice, request a meeting with **County** in which **Contractor** may present evidence in writing and through testimony of its employees and others relevant to the incident(s) or event(s) of non-performance. **County** shall provide **Contractor** with a written explanation of the determination on each incident or event of non-performance prior to authorizing the assessment of liquidated damages.

**15.02: EVENTS OF DEFAULT.**

Each of the following shall constitute an event of default ("**Contractor** default"):

- A. **Contractor** fails to perform its obligations under Articles 5 through 8 of this agreement and its failure to perform is not cured within thirty (30) Business Days after written notice from **County** specifically describing such failure.
- B. **Contractor** fails to perform its obligations under any other Article of this agreement and its failure to perform is not cured within thirty (30) Business Days after written notice from **County** specifically describing such failure, provided that if the nature of the failure is such that it will reasonably require more than thirty (30) Business Days to cure, **Contractor** shall not be in default so long as it promptly commences the cure and diligently proceeds to completion of the cure, and provided further that neither notice nor opportunity to cure applies to events described in the following subsections C through I.
- C. **Contractor** ceases to provide collection and transportation services for a period of five (5) Business Days for any reason within **Contractor's** control. **For purposes of clarity, a Force Majeure event is not within Contractor's control.**
- D. **Contractor** files a voluntary petition for relief under any bankruptcy, insolvency or similar law.
- E. An involuntary petition is brought against **Contractor** under any bankruptcy, insolvency or similar law which remains un-dismissed or un-stayed for ninety (90) Days.
- F. **Contractor** fails to furnish a replacement bond or a continuation certificate of the existing bond not less than ten (10) days before expiration of the performance bond, as required by Section 14.05 or fails to maintain all required insurance coverage as required by Section 14.04 in force, and **Contractor** fails to cure such failure within five (5) Business Days after receiving notice from **County**.
- G. **Contractor** fails to provide reasonable assurance of performance when required under Section 15.11.
- H. A representation or warranty contained in Article 2 proves to be false or misleading in a material respect as of the date such representation or warranty was made, and **Contractor** fails to cure such misrepresentation within five (5) Business Days after receiving notice from **County**.
- I. Repeated unexcused deficiencies exceeding limits set forth in Section 15.01(B)(1)(c).

#### **15.03: CONTRACTOR'S RIGHT TO HEARING**

No deficiency or default shall be deemed unexcused unless the administrator reasonably so determines after giving **Contractor** the right to be heard and to present exculpatory evidence. **Contractor** may also ask for a hearing before the Board of Supervisors, which request shall not be unreasonably denied.

#### **15.04: RIGHT TO SUSPEND OR TERMINATE UPON DEFAULT.**

A. Upon any **Contractor** default, and subject to **Contractor's** cure rights set forth above, **County** may terminate this agreement or suspend it, in whole or in part. Such suspension or termination shall be effective thirty (30) days after **County** has given notice of suspension or termination to **Contractor**, except that such notice may be effective in a shorter period of time, or immediately, if **Contractor** default is one which endangers the health, welfare or safety of the public, such as the failure to collect solid waste, C&D and/or targeted recyclable materials for the period of time specified in Section 15.02(C). Notice shall be given in writing and shall specifically describe the grounds for termination or suspension. **Contractor** shall continue to perform the portions of the agreement, if any, that are not suspended in full conformity with its terms.

B. **County** may also suspend or terminate this agreement, upon the same notice provisions, if **Contractor's** ability to perform is prevented or materially interfered with by a cause which excuses nonperformance under Section 15.10 for a period of 180 Calendar Days or more, despite the fact that nonperformance in such a case is neither a breach nor a **Contractor** default.

#### **15.05: SPECIFIC PERFORMANCE**

By virtue of the nature of this agreement, the urgency of timely, continuous and high quality service, the lead time required to effect alternative service, and the rights granted by **County** to **Contractor**, the remedy of damages for a breach hereof by **Contractor** is inadequate and **County** shall be entitled to injunctive relief.

#### **15.06: RIGHT TO PERFORM; USE OF CONTRACTOR PROPERTY**

A. If this agreement is suspended and/or terminated due to a **Contractor** default, or, for any reason whatsoever, **Contractor** fails, refuses or is unable to collect, transport or dispose of any or all solid waste, targeted recyclables, C&D or other discarded materials which are required by this agreement, at the time and in the manner provided in this agreement for a period of more than five (5) days, and if, as a result thereof, solid waste, targeted recyclables, C&D or other discarded materials should accumulate in the **County** to such an extent and in such a manner, or for such a time that **County** should find that such an accumulation endangers or menaces the public health, safety or welfare, **County** shall have the right, even if **Contractor** is not in breach of this agreement, to perform, with its own forces or by contract, or to assign to another franchise contractor within the county the work herein or such part thereof as it may deem necessary upon twenty-four (24) hours prior written notice to **Contractor**.

B. If such work is assigned to another franchise contractor within the county, that contractor shall fulfill **Contractor's** obligations under this agreement as if that contractor were the original contracting Party until such time as **Contractor** is able to resume its contractual obligations, or until such time that **County** has made other arrangements for the provision of such services. Likewise, if the other franchise contractor within the

county fails, refuses or is unable to collect, transport or dispose of any or all solid waste, targeted recyclables, C&D or other discarded materials which are required by their agreement with **County**, **Contractor** shall be obligated to fulfill the terms of their agreement as if **Contractor** were the original contracting Party until such time as the other franchise contractor is able to resume their contractual obligations, or until such time that **County** has made other arrangements for the provision of such services, limiting, however, the fulfillment of **Contractor's** obligations under the mutual aid clause to such collection and transport services as **Contractor** is reasonably able to provide.

C. **County** shall provide **Contractor** written notice that it intends to consider invoking this Article at a public meeting of its governing body, to be held two (2) or more Business Days from the date of the notice. At the meeting, the governing body may invoke its rights under this Article if it determines that there has been an interruption in collection service and that such interruption may continue, thereby threatening the public health, safety and welfare. If the governing body makes that determination, it may also determine to exercise **County's** right to perform collection and transport services with its own personnel or authorize a third Party to do so, after having invoked this right under its franchise agreement with **Contractor**.

D. Such failure to act by **Contractor** shall be deemed by **County** as a public health emergency, and shall empower the **County**, per Article 13 of this agreement, to perform, or cause to be performed, such services itself with its own or other personnel and its own or other equipment, including, but not limited to **Contractor's** equipment.. In such an event, **Contractor** shall immediately make **Contractor's** collection equipment and a listing and description, including street names and addresses of all of **Contractor's** service collection routes within **Contractor's** franchise service area available to **County**. **County** shall have the right to continue to perform such services until other suitable arrangements can be made for the provision of such services, which may include the award of a contract to another service provider.

E. The period of time that **County** shall have the right to use **Contractor's** equipment for the collection, transport or disposal of solid waste, targeted recyclables, C&D or other discarded materials in such an event shall not exceed ninety (90) days. **Contractor** shall be reimbursed for the use of such equipment at **Contractor's** actual cost for such equipment for the period of time that such use occurs.

#### **15.07: DAMAGES**

**Contractor** shall be liable to **County** for all direct damages arising out of **Contractor's** deficiency or default, but shall not be responsible for special or consequential damages.

#### **15.08: COUNTY'S REMEDIES CUMULATIVE**

**County's** rights to suspend or terminate the agreement under Section 15.04, to obtain specific performance under Section 15.05 and to perform under Section 15.06 are not exclusive, and **County's** exercise of one such right shall not constitute an election of remedies. Instead, they shall be in addition to any and all other legal and equitable rights and remedies that **County** may have, Including a legal action for damages under Section 15.07.

#### **15.09: COUNTY DEFAULT**

**County** shall be in default under this agreement ("**County** default") in the event **County** commits a material breach of the agreement and fails to cure such breach within thirty (30) days after receiving notice from **Contractor** specifying the breach, provided that if the nature of the

breach is such that it will reasonably require more than thirty (30) days to cure, **County** shall not be in default so long as **County** promptly commences the cure and diligently proceeds to completion of the cure. In the event of an asserted **County** default, **Contractor** shall continue to perform all of its obligations hereunder until a court of competent jurisdiction has issued a final judgment declaring that **County** is in default.

#### **15.10: EXCUSE FROM PERFORMANCE**

A. **Force Majeure.** Provided that the requirements of this Section are met, **Contractor** shall be excused from performance and shall not be liable for failure to perform under this agreement if **Contractor's** performance is prevented or delayed by a *Force Majeure* event. If, as a result of a *Force Majeure* event, **Contractor** is unable to wholly or partially meet its obligations under this agreement, it shall give **County** prompt written notice of the *Force Majeure* event, describing it in full detail, and describing the effect(s) of the *Force Majeure* event upon **Contractor's** performance of its obligations. **Contractor's** obligations, whether in full or in part, shall be suspended, but only with respect to that particular component affected by the *Force Majeure* and only for the period of time which the *force majeure* exists. **Contractor** shall endeavor to fully restore its ability to perform its obligations under this agreement as quickly as possible.

D. **County's rights in the event of Force Majeure.** The partial or complete interruption or discontinuance of **Contractor's** services caused by an event of *Force Majeure* shall not constitute a **Contractor** default. Notwithstanding the foregoing:

1. **County** shall have the right to make use of **Contractor's** facilities and equipment in accordance with Article 13 in the event of non-performance for more than five (5) Business Days excused by *Force Majeure*;
2. If **Contractor's** failure to perform by reason of *Force Majeure* continues for a period of one hundred and eighty (180) days or more, **County** shall have the right to immediately terminate this agreement for convenience;

#### **15.11: ASSURANCE OF PERFORMANCE**

If **Contractor**:

- A. Is the subject of any labor unrest including work stoppage or slowdown, sickout, picketing or other concerted job action;
- B. Appears in the reasonable judgment of **County** to be unable to regularly pay its bills as they become due;
- C. Is the subject of a civil or criminal proceeding brought by a federal, State, regional or local **County** for violation of an environmental law in the performance of this agreement, the result of which is reasonably likely to materially impede **Contractor's** ability to perform its obligations under this agreement, or
- D. Performs in a manner that causes **County** to be uncertain about **Contractor's** ability and intention to comply with this agreement,

**County** may, at its option and in addition to all other remedies it may have, demand from **Contractor** reasonable assurances of timely and proper performance of this agreement, in such form and substance as **County** may reasonably require.

## ARTICLE 16

### OTHER AGREEMENTS OF THE PARTIES

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#### **16.01: RELATIONSHIP OF PARTIES**

The Parties intend that **Contractor** shall perform the services required by this agreement as an independent contractor engaged by **County**, and not as an officer or employee of **County**, nor as a partner of or joint-venture with **County**. No employee or agent of **Contractor** shall be deemed to be an employee or agent of **County**. Except as expressly provided herein, **Contractor** shall have exclusive control over the manner and means of conducting the services performed under this agreement, and over all persons performing such services. **Contractor** shall be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents. Neither **Contractor** nor its officers, employees, subcontractors nor agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to **County** employees by virtue of their employment with **County**.

#### **16.02: COMPLIANCE WITH LAW**

In providing the services required under this Agreement, **Contractor** shall at all times comply with all applicable laws of the United States, the State and **County**, with all applicable regulations promulgated by federal, State, regional or local administrative and regulatory agencies, and by **County**, now in force and as they may be enacted, issued or amended during the Term, and with all permits affecting the services to be provided.

#### **16.03: ASSIGNMENT**

A. **Qualifications.** **Contractor** acknowledges that this agreement involves rendering a vital service to **County's** residents and businesses, and that **County** has selected **Contractor** to perform the services specified herein based on:

1. **Contractor's** experience, skill and reputation for conducting its operations in a safe, effective and responsible fashion, and
2. **Contractor's** and the Guarantor's financial resources to maintain the required equipment and to support its indemnity obligations to **County** under this agreement.

**County** has relied on each of these factors, among others, in choosing **Contractor** to perform the services to be rendered by **Contractor** under this agreement.

B. **County consent required.** **Contractor** shall not assign its rights or delegate or otherwise transfer its obligations under this agreement to any other person without the prior written consent of **County**, aside from the purchase of ancillary goods or services provided by third parties. Any such assignment made without the consent of **County** shall be void and the attempted assignment shall constitute a **Contractor** default. Assignment of this agreement to another corporate subsidiary or affiliate of **Contractor**, where there is no change in ownership or control shall not require **County's** consent.

C. **Assignment defined.**

1. For the purpose of this Section, "assignment" shall include, but not be limited to:

- a. A sale, exchange or other transfer to a third Party of substantially all of **Contractor's** assets dedicated to service under this agreement
- b. A sale, exchange or other transfer of outstanding common stock of **Contractor** to a person who is not a shareholder as of the Effective Date which results in a change in control of **Contractor**
- c. Any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or reissuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which results in a change in control of **Contractor**;
- d. Any assignment by operation of law, including insolvency or bankruptcy, an assignment for the benefit of creditors, a writ of attachment for an execution being levied against this agreement, appointment of a receiver taking possession of **Contractor's** property, or transfer occurring in the event of a probate proceeding; and
- e. Any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change in control of **Contractor**.

2. "Change in control of **Contractor**" for purposes of this Section shall mean a change in the ownership or control of more than fifty percent (50%) of the voting stock of **Contractor** (excluding transfers to revocable trusts for estate-planning purposes).
3. An "assignment" shall not include a transaction(s) with an affiliate of **Contractor**.

D. **Consent requirements.** If **Contractor** requests **County's** consideration of and consent to an assignment, **County** shall not unreasonably deny such request. No request by **Contractor** for consent to an assignment need be considered by **County** unless and until **Contractor** has met the following requirements:

1. **Contractor** shall pay **County** its reasonable expenses for attorneys' fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment;
2. **Contractor** shall furnish **County** with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years;
3. **Contractor** shall furnish **County** with satisfactory proof:
  - a. That the proposed assignee has at least ten (10) years of solid waste/recycling management experience on a scale equal to or exceeding the scale of operations conducted by **Contractor** under this agreement.

- b. That in the last five (5) years, the proposed assignee has not been the subject of any administrative or judicial proceedings initiated by a federal, State or local County having jurisdiction over its operations due to an alleged failure to comply with federal, State or local laws or, if such proceeding(s) have occurred, that such proceeding(s) have not materially impacted the assignee's ability to perform its obligations under an agreement for services similar to this agreement.
- c. That the proposed assignee conducts its operations in a safe and environmentally conscientious manner, in accordance with sound solid waste management practices in full compliance with all federal, State and local laws regulating the collection and disposal of solid waste and all environmental laws.
- d. Of any other information required by **County** to ensure the proposed assignee can fulfill the terms of this agreement in a timely, safe and effective manner.

E. **No obligation to consider.** **County** will not be obligated to consider a proposed assignment if **Contractor** is in default.

#### **16.04: SUBCONTRACTING**

**Contractor** shall not engage any subcontractors to perform any of the services required of it by Articles 5 or 6 of this agreement without the prior written consent of **County**. **Contractor** shall notify **County** no later than ninety (90) days prior to the date on which it proposes to enter into a subcontract. **County** may approve or deny any such request at its sole discretion.

#### **16.05: AFFILIATED ENTITY**

If **Contractor** enters into any financial transactions with an affiliate for the provision of labor, equipment, supplies, services, or capital related to the furnishing of service under this agreement, that relationship shall be disclosed to **County**, and in the financial reports submitted to **County**. In such event, **County's** rights to inspect records and obtain financial data shall extend to records and data of such affiliate that are relevant to those specific financial transactions.

#### **16.06: CONTRACTOR'S INVESTIGATION**

**Contractor** acknowledges that this agreement replaces an existing franchise agreement that was executed on February 21, 1995, and amended on April 6, 2006, and that this agreement is dissimilar to the agreement it is replacing in many respects. **Contractor**, after making an independent investigation, is satisfied with the conditions and circumstances surrounding this agreement and the work to be performed by **Contractor**, and, after taking all such matters into consideration, agrees to provide the services required by this agreement, for the compensation delineated within.

#### **16.07: NOTICE**

A. All notices, demands, requests, proposals, approvals, consents and other communications which this agreement requires, authorizes or contemplates shall be in writing and shall either be personally delivered to a representative of the Parties at the address below or be deposited in the United States mail, first class postage prepaid, addressed as follows:

If to County:

**Plumas County Department of Public Works**  
**Attention: Director of Public Works**  
**1834 East Main Street**  
**Quincy, CA 95971**

If to Contractor:

**Feather River Disposal Co.**  
**Attention: District Manager**  
**1166 Industrial Way**  
**Quincy, CA 95971**

Copy to:

**Waste Management**  
**Attention: Legal Department**  
**222 South Mill Avenue #333**  
**Tempe, AZ 85281**

B. All such notices, demands, requests, proposals, approvals, consents and other communications shall be effective when received if personally delivered or three (3) days after mailed as aforesaid. **Contractor** shall promptly provide **County** the name and contact information for the above employees if there is a change during the Term.

**16.08: REPRESENTATIVES OF THE PARTIES.**

A. **Representatives of County.** References within this agreement to "**County**" shall mean the Plumas County Board of Supervisors (See Attachment A, "Definitions"). All policy-related actions to be taken by **County** shall be taken by the Board of Supervisors except as provided below. The Board of Supervisors may delegate authority to the Director of Public Works, and/or to other **County** officials regarding operational decisions and may permit such officials, in turn, to delegate in writing some or all of such authority to subordinate officers. **Contractor** may rely upon actions taken by such delegates if they are within the scope of the authority properly delegated to them.

B. **Representative of Contractor.** **Contractor** shall, by the Effective Date, designate in writing a responsible official who shall serve as the representative of **Contractor** in all matters related to the agreement and shall inform **County** in writing of such designation and of any limitations upon his or her authority to bind **Contractor**. **County** may rely upon action taken by such designated representative as actions of **Contractor** unless they are outside the scope of the authority delegated to him/her by **Contractor** as communicated to **County**.

**16.09: DUTY OF CONTRACTOR NOT TO DISCRIMINATE**

In the performance of this agreement **Contractor** shall not discriminate, nor permit any subcontractor to discriminate, against any employee, applicant for employment, or customer on account of race, color, national origin, ancestry, religion, sex, age, physical disability, medical condition, sexual orientation, marital status, or other characteristic, in violation of any applicable law.

**16.10: RIGHT OF COUNTY TO MAKE CHANGES IN SERVICES AND SERVICE LEVELS**

**County** may, without amending this agreement, request **Contractor** to cease performing one or more types of service described in Articles 5, 6 or 7, may request **Contractor** to modify the scope of one or more such services, may request **Contractor** to perform additional solid waste, C&D and/or targeted recyclable materials handling services, or may otherwise request **Contractor** to modify its performance under any other Section of this agreement. **Contractor** shall promptly and cooperatively comply with such request, provided:

A. It is commercially feasible to implement such request, and

B. That if such changes cause an increase or decrease in **Contractor's** cost of performing the services, an equitable adjustment in the rates shall be agreed to by the parties pursuant to Section 12.06, **to be implemented at such time that such changes take effect.**

#### **16.11: TRANSITION TO NEXT SERVICE PROVIDER**

At the expiration of the Term or the earlier proper termination of the agreement, or upon **County's** approval of a proposed assignment, **Contractor** shall cooperate fully with **County** to ensure an orderly transition to any and all new service providers. **Contractor** shall provide, within ten (10) Business Days of a written request by **County**, then-current route lists, which identify each customer on the route, its service level (number of containers, container sizes, frequency of collection, scheduled collection day), any special collection notes, and detailed then-current customer account and Billing information. **Contractor** may, but is not required to, sell collection vehicles and containers to the next service provider. **Contractor** shall direct route supervisors to provide "ride-alongs" so that the new service provider's employees may ride with drivers **at the new service provider's expense** in collection vehicles during collection operations. **Contractor** will direct its drivers and other employees to provide accurate information to the new provider about routing and customers.

#### **16.12: REPORTS AS PUBLIC RECORDS**

Unless an exemption applies, the reports, records and other information submitted or required to be submitted by **Contractor** to **County** (and documents copied pursuant to Section 10.02) are public records within the meaning of that term in the *California Public Records Act, Government Code Section 6250 et seq.* Unless a particular record is exempted from disclosure by the *California Public Records Act*, it must be disclosed to the public by **County** upon request. **Contractor** will not object to **County** making available to the public any information submitted by the **Contractor**, or required to be submitted in connection with the rates, including records described in Article 12. **County** shall notify **Contractor** of any and all such public records requests, and shall provide **Contractor** with reasonable amount of time to seek a protective order to protect such records from disclosure in the event **Contractor** has reason to believe that the disclosure contains proprietary information or is otherwise exempt under the **California Public Records Act**.

#### **16.13: PLAN OF OPERATIONS FOR COUNTY-OWNED SOLID WASTE FACILITIES**

**Contractor** agrees to maintain at least one (1) copy of the most current **County**-produced **Plan of Operations** in **Contractor's** local office for each solid waste facility within **Contractor's** franchise area. In addition, **Contractor** shall maintain at least one (1) copy of the most current **Plan of Operations** for each solid waste facility within **Contractor's** franchise area in **Contractor's** local office. **Contractor** shall use the **Plan of Operations** as a reference for questions that might arise concerning the day-to-day operations of the designated transfer facility. Issues and concerns for which answers cannot be readily obtained from the **Plan of Operations** shall be addressed to the **County's** administrator.

#### **16.14: REPORT OF STATION INFORMATION FOR COUNTY-OWNED SOLID WASTE FACILITIES**

**County** agrees to maintain, in **County** offices, a current *Report of Station Information (RSI)* for each **County**-owned solid waste facility as required under *Title 14 of the California Code of Regulations* and pursuant to the format outlined in the California Integrated Waste Management Board (CIWMB), now CalRecycle, dated July, 1992. The *RSI* shall be available to **Contractor** upon request.

## ARTICLE 17

### MISCELLANEOUS PROVISIONS

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#### **17.01: GOVERNING LAW**

This agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

#### **17.02: JURISDICTION**

Any lawsuits between the Parties arising out of this agreement shall be brought and concluded in the courts of the State of California, which shall have exclusive jurisdiction over such lawsuits. With respect to **venue**, the Parties agree that this agreement is made in and will be performed in Plumas County.

#### **17.03: BINDING ON SUCCESSORS**

The provisions of this agreement shall inure to the benefit of and be binding on the successors and permitted assigns of the Parties.

#### **17.04: PARTIES IN INTEREST**

Nothing in this agreement is intended to confer any rights on any persons other than the Parties to it and their permitted successors and assigns.

#### **17.05: WAIVER**

The waiver by either Party of any breach or violation of any provisions of this agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach or violation of the same or any other provision.

#### **17.06: ATTACHMENTS**

Each of the attachments, identified as Attachments "A" through "**G**" is attached hereto and incorporated herein and made a part hereof by this reference.

#### **17.07: ENTIRE AGREEMENT**

This agreement, Including the attachments, represents the full and entire agreement between the Parties with respect to the matters covered herein and supersedes all prior negotiations and agreements, either written or oral.

#### **17.08: SECTION HEADINGS**

The Article headings and Section headings in this agreement are for convenience of reference only and are not intended to be used in the construction of this agreement nor to alter or affect any of its provisions.

#### **17.09: INTERPRETATION**

This agreement shall be interpreted and construed reasonably and neither for nor against either Party, regardless of the degree to which either Party participated in its drafting.

#### **17.10: AMENDMENT**

This agreement may not be modified or amended in any respect except by a writing signed by the Parties.

**17.11: SEVERABILITY**

If a court of competent jurisdiction holds any non-material provision of this agreement to be invalid and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this agreement which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

**17.12: COSTS AND ATTORNEYS' FEES**

The prevailing Party in any action brought to enforce the terms of this agreement or arising out of this agreement may recover its reasonable costs expended in connection with such an action from the other Party, including its own attorneys' fees.

**17.13: NO DAMAGES FOR INVALIDATION OF AGREEMENT**

If a final judgment of a court of competent jurisdiction determines that this agreement is illegal or was unlawfully entered into by **County** due to circumstances beyond **County's** control, neither Party shall have any claim against the other for damages of any kind (Including loss of profits) on any theory.

**17.14: REFERENCES TO LAWS**

All references in this agreement to laws and regulations shall be understood to include such laws and regulations as they may be subsequently amended or re-codified, unless otherwise specifically provided. In addition, references to specific governmental agencies shall be understood to include agencies that succeed to or assume the functions they are currently performing.

## ATTACHMENT A

### DEFINITIONS

*Unless the context otherwise requires, terms used in this agreement will have the meanings specified in this attachment, and shall have the first letter(s) capitalized as shown below.*

#### **Affiliate**

"Affiliate" means a person who is related to **Contractor** by virtue of direct or indirect ownership interest or common management. An Affiliate includes a person in which **Contractor** owns a direct or indirect ownership interest, a person which has a direct or indirect ownership interest in **Contractor** and/or a person which is also owned, controlled or managed by any person or individual which has a direct or indirect ownership interest in **Contractor**.

#### **Annual Compiled Financial Statement**

"Annual Compiled Financial Statement" means a financial statement conforming to Section 9.05(A) of this agreement that is prepared by **Contractor's** auditor and submitted to **County** on or before April 15 each year.

#### **Application**

"Application" means the application prepared and submitted by **Contractor** for determination of potential adjustments to the rate for the following Rate Year.

#### **Business Days**

"Business Days" means days (i.e., Monday through Friday) during which **Contractor's** office is open to do business with the public.

#### **Calendar Year**

"Calendar Year" means the 12 month period beginning on January 1<sup>st</sup> and ending on December 31<sup>st</sup>.

#### **CAO**

"CAO" means the County Administrative Officer for Plumas County, California.

#### **Change in Law**

"Change in Law" means any of the following events or conditions which has a material and adverse effect on the performance by the Parties of their respective obligations under this Agreement:

(a) The enactment, adoption, promulgation, issuance, modification, or written change in administrative or judicial interpretation on or after the **date first above written** of any applicable law; or

(b) The order or judgment of any governmental body, on or after the **date first above written**, to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of **County**, or of **Contractor**, whichever is asserting the occurrence of a Change In Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute such a willful or negligent action, error or omission or lack of reasonable diligence.

**Collection Costs**

"Collection Costs" means all of **Contractor's** costs to provide collection services as described in the agreement, including fuel costs, labor costs, vehicle and vehicle-related costs, maintenance, insurance, overhead and transportation costs, but excluding Pass-Through Costs (See "Pass-Through Costs") and Profit (See "Profit").

**Contractor Pass-Through Costs**

"**Contractor** Pass-Through Costs" means the costs to which no element of overhead, administrative expense, or Profit, is added, such that the specific amount of such cost is included without modification in the calculations or reports prepared in implementing this agreement.

**Day**

"Day" means Calendar Day unless otherwise specified.

**Determination of Violation**

"Determination of Violation" means a determination by the Director under Section 4.05 of the agreement, in response to a complaint against **Contractor**, that **Contractor** has violated the terms of the agreement, or in response to a complaint against **Contractor** or another person, that **Contractor** or such person is guilty of an infraction under California or local law, in each case after **Contractor** or such person has been afforded due process and an opportunity to be heard and to confront the complainant.

**Disposal Costs**

"Disposal Costs" means **Contractor's** costs to deposit solid waste collected under this agreement at the designated disposal site.

**Effective Date**

"Effective Date" means the date identified in Section 3.01.

**Fiscal Year**

"Fiscal Year" means the period commencing July 1<sup>st</sup> through June 30<sup>th</sup> each year.

**Force Majeure**

"Force Majeure" means acts of terrorism, acts of God, landslides, lightning, forest fires, severe storms, typhoons, hurricanes, severe weather, extreme freezing temperatures, earthquakes, volcanic eruptions, other natural disasters, or the imminent threat of such natural disasters, pandemics, quarantines, civil disturbances, acts of the public enemy, wars, blockades, public riots, strikes, lockouts, or other labor disturbances, acts of government or governmental restraint or other causes, whether of the kind enumerated or otherwise, and whether foreseeable or unforeseeable, that are not reasonably within the control of **Contractor**.

**Fuel Costs**

"Fuel costs" means **Contractor's** costs for diesel, gasoline and other fuels used in providing the services described in this agreement.

**Gross Receipts**

"Gross Receipts" means the total revenue actually received in cash by **Contractor** for all services provided to customers during the Rate Year in question. Revenues are billed by the **Contractor** to customers. Gross Receipts also include any revenue received by **Contractor** from the sale of targeted recyclable materials, C&D or other recyclable materials

**Gross Revenue Billed**

“Gross Revenue Billed” means the **total revenue recognized** by generally accepted accounting principles by **Contractor** for all services provided to customers during the rate year in question.

**Includes (or Including)**

“Includes” or “Including” means “includes, but is not limited to,”

**Inquiry**

“Inquiry” means a written or orally communicated request for information, request for collection services, or request for change in service level made by members of the public, customers, owners, or occupants of properties served by **Contractor**, or by officers, employees or agents of **County**.

**Line of Business**

“Line of Business” means the individual types of collection service provided by **Contractor** to each service sector, including recyclable materials collection service and solid waste collection service.

**Missed Pick-Up Collection Event**

“Missed Pick-Up Collection Event” means events whereby **Contractor** failed to collect solid waste or targeted recyclable materials on or before the Business Day following **Contractor’s** receipt of the Missed Pick-Up initial complaint. The only exceptions to this definition include: Missed Pick-Up Initial Complaints for which **Contractor**:

- (a) Documented in its customer service system the customer’s failure to properly set out container or that the containers were blocked for collection based on the route driver’s report; and,
- (b) **Received a** call for a re-collection request or courtesy pick-up prior to receiving a Missed Pick-Up Initial Complaint.

**Missed Pick-Up Initial Complaint**

“Missed Pick-Up Initial Complaint” means complaints received by **Contractor** or **County** for missed pick-up of solid waste or targeted recyclable materials with the exception of Missed Pick-Up Initial Complaints for which **Contractor**:

- (a) Documented in its customer service system the customer’s failure to properly set out container or that the containers were blocked for collection based on the route driver’s report; and,
- (b) **Received a** call for a re-collection request or courtesy pick-up prior to receiving a Missed Pick-Up Initial Complaint on that same day.

**Non-Allowable Cost(s)**

“Non-Allowable Costs” means those contract-related costs deemed non-allowable in Section 10.05(A)(5) of this agreement.

**On-Call Service**

“On-Call Service” means collection service provided by **Contractor** that is not regularly scheduled or is scheduled more than twenty-four (24) hours in advance. On-Call Service is

initiated by customer by calling, emailing, or requesting the service in person at **Contractor's** office.

#### **Operating Cost**

"Operating Cost" or "Cost of Operations" means those costs actually incurred by **Contractor**, reasonably necessary to perform under this agreement, and not otherwise specifically excluded in this agreement.

#### **Operating Ratio**

"Operating Ratio" means the ratio, expressed as a percentage, of the net operating costs actually incurred by **Contractor**, exclusive of Pass-Through Costs and Non-Allowable Costs, divided by **Contractor's** net income, as produced by the rates that are applied to the services provided under this agreement. The Operating Ratio for this agreement shall range from 88.00% to 92.00%, and the rates shall be adjusted as necessary through the RRI, Special Rate Review, Detailed Rate Review or Change in Service Rate Review to maintain an Operating Ratio within that range.

#### **Party or Parties**

"Party or Parties" refers to the **County** and **Contractor**, individually or together.

#### **Pass-Through Cost (or Costs)**

"Pass-Through Cost" (or Costs) means a cost to which no element of overhead, administrative expense, or Profit is added, such that the specific amount of such cost is included without modification in the calculations or reports prepared in implementing this agreement, including, without limitation, tipping fees, assessments and other charges at any designated transfer facility or disposal site, franchise fees, other fees payable by **Contractor** to **County** or any other government agency on the services, including rent payments and property taxes paid for the use of **County**-owned facilities.

#### **Processing Costs**

"Processing Costs" means **Contractor's** costs to process recyclables collected under this agreement at the designated transfer facility or facilities.

#### **Profit**

"Profit" means **Contractor's** Profit for providing services described in this agreement.

#### **Public Records**

"Public Records" means reports, records and other information submitted by **Contractor** to **County**.

#### **Rate Year**

"Rate Year" means the twelve-month period, commencing July 1 of one Calendar Year and concluding June 30 of the next Calendar Year, for which the rates are calculated.

#### **Regulatory Costs**

"Regulatory Costs" means all regulatory and other governmental fees and charges incurred by **Contractor** in connection with providing the services described in this agreement, including franchise fees payable to **County**.

**Related Party Entity**

"Related Party Entity" means any affiliate which has financial transactions with **Contractor** pertaining to this agreement.

**Service Opportunity**

"Service Opportunity" means each individual opportunity **Contractor** has to collect solid waste and targeted recyclable materials from a customer's container which is equivalent to the required single-family, multi-family and commercial lifts.

**Term**

"Term" means the term of this agreement.

**Triennial Audited Financial Statement**

"Triennial Audited Financial Statement" means an audited financial statement conforming to Section 10.05(B) of this agreement that is prepared by **Contractor's** auditor and submitted to **County** on or before April 15 on a triennial basis (every third year).

## ATTACHMENT B



**CHESTER TRANSFER STATION**

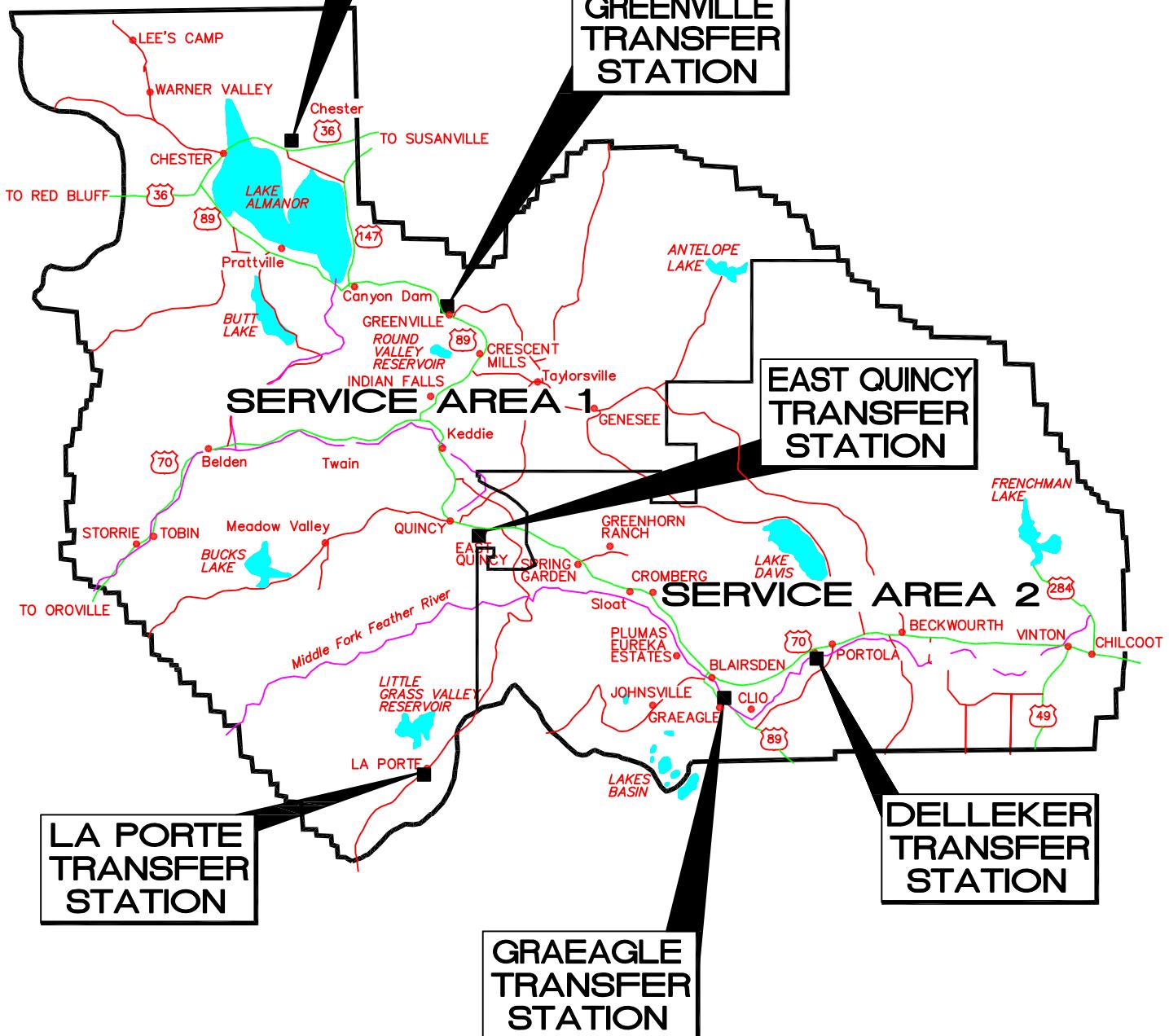
**GREENVILLE TRANSFER STATION**

**EAST QUINCY TRANSFER STATION**

**LA PORTE TRANSFER STATION**

**GRAEAGLE TRANSFER STATION**

**DELLEKER TRANSFER STATION**



**PLUMAS COUNTY MAP SHOWING  
SOLID WASTE FRANCHISE SERVICE AREAS  
AND CURRENT TRANSFER STATIONS**

**ATTACHMENT C**  
**LIST OF PUBLIC PREMISES LOCATIONS**

Chester Park	_ Containers
Greenville Park	_ Containers
Dame Shirley Plaza	_ Containers
Pioneer Park	_ Containers
Main Street Quincy	_ Containers

## ATTACHMENT D FEATHER RIVER DISPOSAL RATES

**A. Collection Fees.** The base rate for collection shall cover door-to-door collection, transfer, hauling, and ultimate disposal activities: Upon any rate adjustment, the new rates shall be rounded to the nearest \$0.01 per item.

**1. Residential Base Rate.** The monthly charge for:

- a. One (1) can per week shall be \$18.08.
- b. Two (2) cans per week shall be \$25.14.
- c. Three (3) cans per week shall be \$32.06.
- d. Four (4) cans per week shall be \$39.12.
- e. A 32-gallon waste-wheeler shall be \$18.08 for one collection per week
- f. A 64-gallon waste-wheeler shall be \$24.71 for one collection per week.
- g. A 96- (or 100-) gallon waste-wheeler shall be \$32.06 for one collection per week.

**2. Residential Large Items.**

- a. Each washer, dryer, standard-size refrigerator, single-bed mattress, and similar-size object shall be charged the following:
  - i. Twin/Full mattresses and small appliances shall be \$14.01 each.
  - ii. King/Queen mattresses and large appliances shall be \$25.34 each..
- b. Each deep freezer, double-bed mattress, and similar-size object shall be charged a maximum of \$35.24 each per collection.
- c. Each tire shall be charged per collection:
  - i. \$3.11 - sixteen (16") inches or less.
  - ii. \$6.27 - more than sixteen (16") inches but less than twenty (20") inches.
  - iii. \$13.91 - more than twenty (20") inches.

**3. Residential Billing.** Each new residential collection account shall be charged a \$7.54 start-up fee to cover the administrative costs of arranging for new and/or seasonal service and a \$10.54 fee for delivery of a container, if customer chooses to use a rented waste-wheeler. The residential base rate may be billed to the customer three (3) months in advance of the service to be performed. **No account shall be considered delinquent by the franchisee if customer's payment for service is received by the fifteenth day of the month that payment is due.** A fee of \$25.00 plus bank charges shall be charged for returned (NSF) checks.

**4. Commercial Base Rate.**

- a. A one cubic-yard (1 CY) Bin shall be charged a monthly fee of:
  - i. \$75.45 for one collection per week.
  - ii. \$150.66 for two (2) collections per week
  - iii. \$226.48 for three (3) collections per week.
  - iv. \$302.06 for four (4) collections per week
  - v. \$377.50 for five (5) collections per week.
- b. A one and a half cubic-yard (1.5 CY) bin shall be charged a monthly fee of:
  - i. \$113.18 for one collection per week.
  - ii. \$226.00 for two (2) collections per week
  - iii. \$339.72 for three (3) collections per week.
  - iv. \$452.71 for four (4) collections per week
  - v. \$565.00 for five (5) collections per week.
- c. A two cubic-yard (2 CY) bin shall be charged a monthly fee of:
  - i. \$150.91 for one collection per week.
  - ii. \$301.33 for two (2) collections per week
  - iii. \$451.99 for three (3) collections per week.
  - iv. \$604.10 for four (4) collections per week
  - v. \$755.71 for five (5) collections per week.
- d. A three cubic-yard (3 CY) bin shall be charged a monthly fee of:
  - i. \$226.00 for one collection per week.
  - ii. \$451.99 for two (2) collections per week
  - iii. \$677.99 for three (3) collections per week.
  - iv. \$904.00 for four (4) collections per week
  - v. \$1130.00 for five (5) collections per week.
- e. A four cubic-yard (4 CY) bin shall be charged a monthly fee of:
  - i. \$301.81 for one collection per week.

- ii. \$602.66 for two (2) collections per week
- iii. \$905.92 for three (3) collections per week.
- iv. \$1208.00 for four (4) collections per week
- v. \$1510.00 for five (5) collections per week.

Each additional cubic yard per collection shall be charged \$20.31, including any fraction of a cubic yard such as when waste is heaped above the top of a bin.

- b. Commercial can service shall be charged a monthly fee of:
  - i. \$23.14 for one can collected per week
  - ii. \$28.54 for two (2) cans collected per week
  - iii. \$33.75 for three (3) cans collected per week
  - iv. \$39.06 for four (4) cans collected per week
- c. The monthly charge for one (1) commercial 32-gallon waste wheeler collected per week is \$20.80.
- d. The monthly charge for one (1) commercial 64-gallon waste wheeler collected per week is \$24.71.
- e. The monthly charge for one (1) commercial 96- (or 100-) gallon waste wheeler collected per week is \$39.06.
- f. Commercial can/waste-wheeler service rates shall be double the above if collection is twice per week.
- g. Roll-off box charges shall be:
  - i. A 15 CY roll-off box service shall be charged at a monthly rate of \$304.74.
  - ii. A 20 CY roll-off box service shall be charged at a monthly rate of \$400.82.
  - iii. A 25 CY roll-off box service shall be charged at a monthly rate of \$473.08
  - iv. A 30 CY roll-off box service shall be charged at a monthly rate of \$522.50
  - v. A 35 CY roll-off box service shall be charged at a monthly rate of \$602.42

Commercial customers shall be charged \$50.31 for the delivery of a roll-off box, and a trip charge of \$38.00 per trip (one way only) shall be added to roll-off box services.

- 5. Commercial Large Items.** The same rates as for residential large items shown in Subsection 2 above shall apply.

**B. Commercial Billing.** The commercial base rate shall be billed to the customer one month in advance of service for cans, waste-wheelers or bins, but shall be billed one month in arrears for roll-

off boxes or guaranteed by an equivalent sum in the form of a security deposit or letter of credit. A fee of \$25.00 plus bank charges shall be charged for returned (NSF) checks.

**C. Special Travel Charge for Collection.** In addition to the residential and commercial base rates, special travel shall be charged to the customer by the franchisee in the following manner: If the service requested does not fall on a regular service day for that service area, or that service area has no regular service day, the reasonable time and mileage costs of **Contractor** shall be charged to all customers served during the special travel. Time and mileage costs shall be based on the distance from the last regular customer in the area, or if none, from **Contractor's** yard. The costs, not to exceed \$81.71 per hour, shall be divided among the customers served during the special travel in proportion to the volume of waste collected from each customer. "Regular service" is defined as year-around service on at least a weekly basis.

**D. Bin Delivery Charge.** In addition to the residential and commercial base rates, Bin delivery shall be charged to the customer in the following manner. For each bin a delivery fee of \$50.31 shall be charged to cover the round trip cost of delivery and eventual removal of the bin by **Contractor**. This charge may be made payable in advance of delivery. This charge may be increased by any special travel charge applicable to the customer's request for delivery.

**E. Fees for Unloading at Transfer Sites.** The following fees shall be collected from the public for unloading at transfer sites, and such fees shall cover the handling, transfer, hauling, and ultimate disposal activities.

**1. Minimum Fee.** The minimum fee for unloading at transfer sites shall be:

- a. \$3.90 for the equivalent of one (1) can or standard container
- b. \$7.53 for the equivalent of two (2) cans or standard containers.
- c. \$11.96 for the equivalent of three (3) cans.
- d. \$15.70 for the equivalent of four (4) cans.

**2. Vehicle Unloading Fee.** When waste is unloaded from vehicles and such waste exceeds in volume the equivalent of four (4) cans or standard containers, then the following charges shall apply on the basis of vehicle size:

- a. Station wagon: \$16.28.
- b. Compact pickup truck: \$20.23.
- c. Compact pickup truck with sideboards: \$25.87.
- d. Standard-sized pickup truck: \$24.71.
- e. Standard-sized pickup truck with sideboards: \$30.92.
- f. Larger trucks: \$17.44 per cubic yard maximum.

**3. Fee for Unloading Large and Restricted Items.** Unusually large items increase the time and effort of Disposal, and the following charges shall apply:

- a. A washer or dryer, standard-sized refrigerator, single bed mattress, or similar sized object: \$14.01.
- b. A standard-sized deep freezer, double-bed mattress, or similar sized object: \$25.34 maximum
- c. Tires (dismounted from rims), each (by rim diameter):
  - i. Sixteen (16") inches or less: \$3.11.
  - ii. Seventeen (17") inches to twenty (20") inches: \$6.27.
  - iii. More than twenty (20") inches: \$13.91.
- d. Cathode ray tubes, computer monitors and televisions: No charge.
- f. Other large items not included here shall be charged pursuant to Subsection F of this Section.

**4. Compacted Loads.** Compacted loads shall be permitted only at transfer sites, and only if the hauler weighs the truck before and after tipping at the site. Compacted loads shall be charged at the rate of \$81.50 per ton.

**5. Prohibited Items.** None of the following items shall be permitted by the franchisee to be unloaded: dead animals; car bodies; tree stumps; explosives; toxic chemicals or any hazardous waste materials; except that steel items and car bodies will be accepted free of charge at the Greenville Transfer Site.

**F. Fee for Unloading Green Waste.** Source-separated woody green waste, as defined in Attachment A, is accepted at the Chester Landfill and at the County's air curtain burn facility in Quincy at the rate of \$5.00 per cubic yard during the hours and days designated for such disposal. Source separated non-woody green waste, as defined in Attachment A, is accepted at the Chester-Lake Almanor Transfer Station, the Greenville Transfer Station and the East Quincy Transfer Station during the hours and days designated for such disposal at the rate of \$5.00 per cubic yard. Such non-woody green waste must be source separated and not mixed with other solid waste to be eligible for this rate. Alternatively, woody and/or non-woody green waste mixed with municipal solid waste (MSW) or dropped off at a transfer station on a day not designated for green waste disposal shall be charged the same rate as MSW.

**G. Fee for Extra Services.** Services for which no fee is specified in this Section shall be considered extra services by the franchisee, and the charges for such services shall be negotiated by the franchisee and customer, subject to being fair and equitable as provided in Subsection A of this attachment.

#### **H. Fee for Overages.**

**1. Residential Overage Collections.** As defined in Section 8.02G, overages for residential customers shall be charged out at the rate of \$4.17 for each 32-gallon bag or (up to) 33-gallon container, and \$18.00 for each 64 gallon bag or 64-gallon container, and \$25.00 for each 96- or 100-gallon container, except that no overage containers will be collected over 33 gallons unless they are **Contractor**-owned waste-wheelers.

**2. Commercial Overage Collections.** As defined in Section 8.02G, overages for commercial customers shall be charged out at the rate of \$4.17 for each 32-gallon bag or (up to) 33-

gallon container, and \$18.00 for each 64 gallon bag or 64-gallon container, and \$25.00 for each 96- or 100-gallon container, except that no overage Containers will be Collected over 33 gallons unless they are **Contractor**-owned waste-wheelers.

**Rate Change Notice:** Collection rates are subject to change. From time to time rates will be adjusted to conform to changes in the Refuse Rate Index or the scope of services offered to customers, or as a result of a Special Rate Review or Detailed Rate Review. All solid waste rate changes are subject to approval by the Plumas County Board of Supervisors. As rates are adjusted, the most current rates shall be adopted as Attachment D and shall become part of this agreement.

## ATTACHMENT E REFUSE RATE INDEX

The Refuse Rate Index (RRI) adjustment shall be calculated in the following manner:

1. The expenses for the required franchised services for the designated fiscal period (January – December) shall be prepared in the format set forth in the “Operating Cost Statement” below.
2. The expenses for the required franchised services shall be broken down into the following six (6) cost categories: Labor; Diesel Fuel; Vehicle Replacement; Vehicle Maintenance, All Other, and Disposal. Each cost category is assigned a weighted percentage factor based on that cost category's proportionate share of the total of the costs shown for all cost categories.
3. The following five (5) indices published by the United States Department of Labor, Bureau of Labor Statistics (BLS), and the actual change in the disposal site tip fee are used to calculate the adjustment for each cost category. The change in each index and the tip fees is calculated on a twelve-month fiscal period in accordance with the terms of the agreement. In the event any index is discontinued, a successor index shall be selected by **County**. Successor indices shall be those indices that are most closely equivalent to the discontinued indices as recommended by the BLS.

<b><u>Cost Category</u></b>	<b><u>Index</u></b>
Labor	Series ID: ceu6056210008 Professional and business services – waste collection.
Diesel Fuel	California No 2 Diesel Ultra Low Sulfur (0-15 ppm) <a href="http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp">http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp</a>
Vehicle Maintenance	Vehicle Replacement Series ID: pcu336211336211 Motor vehicle body manufacturing.
All Other	Series ID: cuusx400sa0 Consumer Price Index, All Urban Consumers, All Items; West – Size Class B/C.
Disposal	The actual tip fee charged to <b>Contractor</b> by the disposal site.

The percentage weight for each cost category is multiplied by the change in each appropriate index to calculate a weighted percentage for each cost category. The weighted percentage changes for each of the six (6) cost categories are then added together to calculate the RRI.

### **Operating Cost Statement – Description**

**Labor:** List all administrative, officer, operation and maintenance salary and benefit accounts.  
List payroll tax accounts directly related to the above salary accounts.  
List employee group medical and life accounts directly related to the above salary accounts.  
List employee retirement or profit sharing contributions accounts directly related to the above salary accounts.  
List Workers Compensation accounts directly related to the above salary accounts.  
List contract labor accounts directly related to the above salary accounts.  
List other employee costs (i.e. safety gear, boot allowance, etc.) directly related to the above salary accounts.

**Diesel Fuel:** List all diesel fuel accounts.

**Vehicle Replacement:**

List all collection and collection-related vehicle depreciation accounts.

List all vehicle lease or rental accounts related to collection or collection-related vehicles.

**Vehicle Maintenance:**

List all collection or collection-related vehicle parts accounts.

**All Other:** List all other expense accounts related to the services provided under this agreement. This category includes all insurance including general liability, fire, truck damage, and extended coverage; rent on property, truck licenses and permits; real and personal property taxes; telephone and other utilities; employee uniforms; safety equipment; general yard repairs and maintenance; non-diesel fuel; office supplies; postage; trade association dues and subscription; advertising; and miscellaneous other expenses.

**Disposal:** List all disposal costs related to the provision of collection services.

**Note:** *The enactment, or application, of the Refuse Rate Index does not require the “targeted profit amount” to be addressed.*

**An Example RRI Calculation:**

In this example, the Refuse Rate Index is +2.54% (i.e., rates would be increased by 2.54%)

Item #	Category	Data Source	Percent Change <sup>(1)</sup>	Category Weight <sup>(2)</sup>	Weighted Percentage Change <sup>(3)</sup>
1	Labor	Series ID: ceu6056210008 Professional and business services – waste collection	2.19%	39.05%	+0.85%
2	Diesel Fuel	California No 2 Diesel Ultra Low Sulfur (0-15 ppm) <a href="http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp">http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp</a>	4.74%	13.15%	+0.62%
3	Vehicle Replacement	Series ID: pcu336211336211 Motor vehicle body manufacturing	6.79%	2.57%	+0.17%
4	Vehicle Maintenance	Series ID: pcu333924333924 Industrial truck, trailer and stacker mfg.	0.16%	13.46%	-0.02%
5	All Other	Series ID: cuusx400sa0 Consumer Price Index, All Urban Consumers, All Items; West – Size Class B/C	1.70%	18.75%	+0.32%
6	Disposal	Average of Change in Disposal Facility Tip Fees	4.60%	13.02%	+0.60%
<b>Example RRI</b>				100%	+2.54%

<sup>(1)</sup> The percentage change in the indices from year to year.

<sup>(2)</sup> Each category's percentage of the **Contractor's** total operating costs.

<sup>(3)</sup> The product of percentage change x category weight.

## ATTACHMENT F **DETAILED RATE REVIEW METHODOLOGY**

### **General**

In the event that either **County** or **Contractor** requests a Detailed Rate Review, as provided for in Section 12.04, the Detailed Rate Review shall be based on evidence or data presented by **County** or **Contractor** contained within the compiled or audited financial statements for the preceding complete Calendar Year for the required franchise services. The Party that requests the Detailed Rate Review shall be responsible for both its and the other Party's reasonable associated costs required to conduct the Detailed Rate Review.

### **Overview of Detailed Rate Application Process**

The Detailed Rate Review process is as follows:

1. Identify the reason(s) for the Detailed Rate Review request;
2. Establish the actual financial results for the prior Calendar Year, which shall consist of all franchised revenues and expenses as reported in **Contractor's** Annual Audited Financial Statements or Triennial Audited Financial Statement. It is expected that any revenues and/or expenses attributed to non-franchised services shall be clearly reported in the Annual Audited Financial Statements or Triennial Audited Financial Statement, along with the basis used to assign or allocate such revenues and expenses;
3. Make any appropriate adjustments to the actual costs to account for established non-allowable costs and/or to exclude or reduce any costs that were not reasonably and necessarily incurred in the performance of the services provided in accordance with the agreement;
4. Calculate the rate adjustment required to achieve a revenue that will, in turn, result in a 90% (ninety percent) targeted Operating Ratio.
5. Complete and submit a Detailed Rate Review application to the other Party.
6. Confer with the other Party to determine whether the requested rate modification is in conformance with the provisions of Section 12.04; and
7. Jointly approve and sign the Application and submit the Application to the PCIWMTF for concurrence and recommendation to the Board of Supervisors.

### **Detailed Rate Review Application**

In support of a Detailed Rate Review, **County** or **Contractor** shall prepare a Detailed Rate Review application (hereinafter "Application") that shall be submitted to the other Party no later than April 1<sup>st</sup>. The Application shall include:

1. The reason(s) for the Application;
2. Line item revenue and expenses for the franchised services as reported in **Contractor's** Annual Audited Financial Statements or Triennial Audited Financial Statement;
3. Variance analyses of revenues and expenses for the prior five years, along with explanations for significant variances;
4. Calculated revenue requirement based upon the current Operating Ratio;

5. Requested rate adjustment required to achieve a revenue that will, in turn, result in a 90% (ninety percent) targeted Operating Ratio, and
6. Signed letter(s) from **County's** administrator and **Contractor's** management stating that they have reviewed the Application and attest to the accuracy and completeness of the Application.

### **Operating Ratio**

Per Attachment A, "Operating Ratio" means the ratio, expressed as a percentage, of the net operating costs actually incurred by **Contractor**, exclusive of Pass-Through Costs and Non-Allowable Costs, divided by **Contractor's** net income, as produced by the rates that are applied to the services provided under this agreement. The Operating Ratio for this agreement shall range from 88.00% to 92.00%, and the rates shall be adjusted as necessary through the RRI, Special Rate Review, Detailed Rate Review or Service Level Change per Article 12 to maintain an Operating Ratio within that range.

### **Pass-Through Costs**<sup>3</sup>

Pass-Through Costs shall include:

- Governmental fees and charges;
- Franchise fees;
- Rent and property taxes for use of **County**-owned facility(ies); and
- All processing and disposal (tip fees) costs incurred at a processing facility, transfer station or disposal facility.

Pass-Through Costs will be included as an element of costs for setting the Rates, however these expenses shall not be included in any costs used as a basis for calculating or determining **Operating Ratio**.

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<sup>3</sup> "Pass-Through Cost" means a cost to which no element of overhead, administrative expense, or profit is added, as defined in Attachment A.

## ATTACHMENT G

### SPECIAL RATE REVIEW METHODOLOGY

#### **General**

In the event that either **County** or **Contractor** requests a Special Rate Review, as provided for in Section 12.06, the Special Rate Review shall be based on evidence or data presented by **County** or **Contractor** that a singular and/or unexpected occurrence has occurred within the past 12 months that has effected and will continue to have a significant<sup>1</sup> financial effect on **Contractor's** revenues and/or expenses and that **Contractor's** costs for the required franchise services have undergone and will continue to undergo a significant increase or decrease due to this occurrence. The Party that requests the Special Rate Review shall be responsible for both its and the other Party's reasonable associated costs to complete the Special Rate Review.

#### **Overview of Special Rate Application Process**

**County** and/or **Contractor** shall:

1. Identify the occurrence which has significantly affected **Contractor's** revenues and/or expenses.
2. Review supporting evidence or data supporting the request for a rate modification.
3. Calculate a revenue requirement needed to achieve a 90% (ninety percent) targeted Operating Ratio.
4. Calculate the rate adjustment required to achieve calculated revenue requirement that will, in turn, result in a 90% (ninety percent) targeted Operating Ratio.
5. Complete and submit a Special Rate Review Application to the other Party.
6. Confer with the other Party to determine whether the requested rate modification is in conformance with the provisions of Section 12.06; and
7. Jointly approve and sign the Application and submit the Application to the PCIWMTF for concurrence and recommendation to the Board of Supervisors.

#### **Special Rate Review Application**

In support of a Special Rate Review, **County** and/or **Contractor** shall prepare a Special Rate Review application (hereinafter "Application") that shall be submitted to the other Party. The Application shall include:

1. The occurrence that has been identified as the cause for the Special Rate Review.
2. The financial impact of the identified occurrence.
3. The evidence or data supporting the request for a rate modification.
4. Calculated revenue requirement based upon the current targeted Operating Ratio;
5. Requested rate adjustment required to achieve calculated revenue requirement; and

6. Signed letters from **County's** Administrator and **Contractor's** management stating that they have reviewed the Application and that they attest to the accuracy and completeness of the Application.

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<sup>1</sup>For this Section, "significant" shall be defined as an occurrence having a material effect totaling 2.00% (two percent) or more annually on the total annual costs for the then-current rate period.