

DRAFT

(May 18, 2011)

**FRANCHISE AGREEMENT
BETWEEN
COUNTY OF PLUMAS
AND
[REDACTED] DISPOSAL, INC.
FOR
COLLECTION SERVICES OF
SOLID WASTE AND
RECYCLABLE MATERIALS**

Proposed Term: _____ through December 31, 2021

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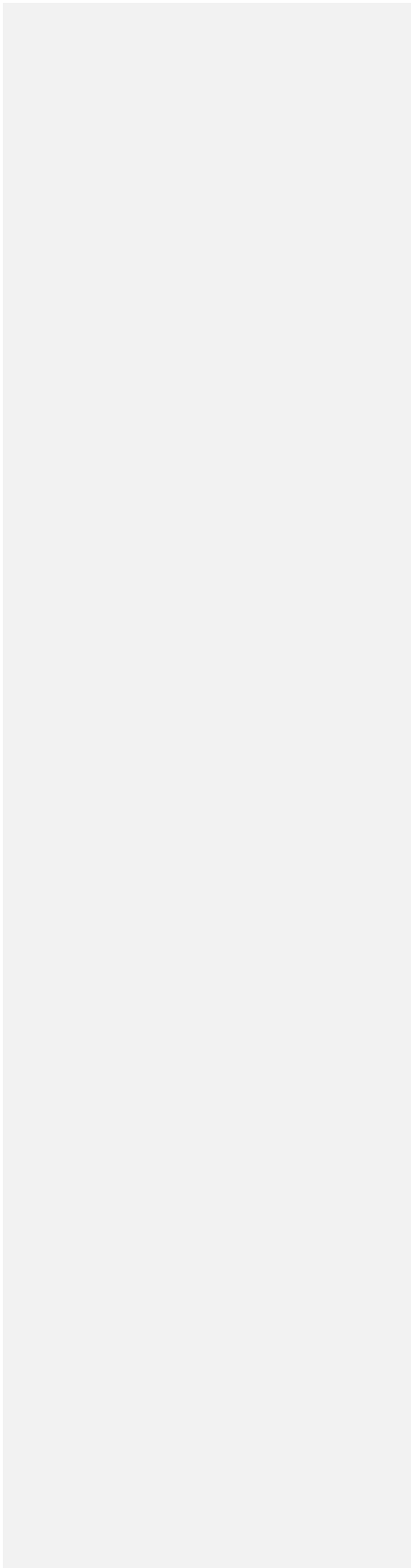
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FRANCHISE AGREEMENT
FOR
SOLID WASTE AND RECYCLABLE MATERIALS
COLLECTION SERVICES

This **FRANCHISE AGREEMENT** is made as of this []th day of [], 2011, by and between the **COUNTY OF PLUMAS, CALIFORNIA**, an incorporated, political subdivision of the State of California (hereinafter referred to as "**County**"), and [] **Disposal, Inc.**, a California corporation (hereinafter referred to as "**Contractor**").

RECITALS

1. The State of California has, through enactment of the *California Integrated Waste Management Act of 1989* ("Act"), determined each of the following:

A. That management of solid waste 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 solid waste handling services.

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 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 County Code, 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 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:

Note to County Counsel: For your easy reference, the 40000 text below is extracted from the California Public Code. It is placed here for your reference during review of the Recitals.

40000. The Legislature hereby finds and declares all of the following:

(a) In 1988, Californians disposed of over 38 million tons of solid waste, an amount that is expected to grow if existing solid waste policies are continued. This amounts to more than 1,500 pounds of waste per person living in the state, more than any other state in the country and over twice the per-capita rate of most other industrialized countries.

(b) Over 90 percent of California's solid waste currently is disposed of in landfills, some of which pose a threat to groundwater, air quality, and public health.

(c) While California will exhaust most of its remaining landfill space by the mid-1990s, there presently is no coherent state policy to ensure that the state's solid waste is managed in an effective and environmentally sound manner for the remainder of the 20th century and beyond.

(d) The amount of solid waste generated in the state coupled with diminishing landfill space and potential adverse environmental impacts from landfilling constitutes an urgent need for state and local agencies to enact and implement an aggressive new integrated waste management program.

(e) The reduction, recycling, or reuse of solid waste generated in the state will, in addition to preserving landfill capacity in California, serve to conserve water, energy, and other natural **resources** within this state, and to protect the state's environment.

40001. (a) The Legislature declares that the responsibility for solid waste management is a shared responsibility between the state and local governments. The state shall exercise its legal authority in a manner that ensures an effective and coordinated approach to the safe management of all solid waste generated within the state and shall oversee the design and implementation of local integrated waste management plans.

(b) The Legislature further declares that it is the policy of the state to assist local governments in minimizing duplication of effort, and in minimizing the costs incurred, in implementing this division through the development of regional cooperative efforts and other mechanisms which comply with this division.

(c) The Legislature further declares that market development is the key to successful and cost-effective implementation of the 25-percent and 50-percent diversion requirements required pursuant to Section 41780, and that the state must take a leadership role, pursuant to Chapter 1 (commencing with Section 42000) of Part 3, in encouraging the expansion of markets for recycled products by working cooperatively with the public, private, and nonprofit sectors.

40002. As an essential part of the state's comprehensive program for solid waste management, and for the preservation of health and safety, and the well-being of the public, the Legislature declares that it is in the public interest for the state, as sovereign, to authorize and require local agencies, as subdivisions of the state, to make adequate provision for solid waste handling, both within their respective jurisdictions and in response to regional needs consistent with the policies, standards, and requirements of this division and all regulations adopted pursuant to this division. The provisions of this division which authorize and require local agencies to provide adequate solid waste handling and services, and the actions of local agencies taken pursuant thereto, are intended to implement this state policy

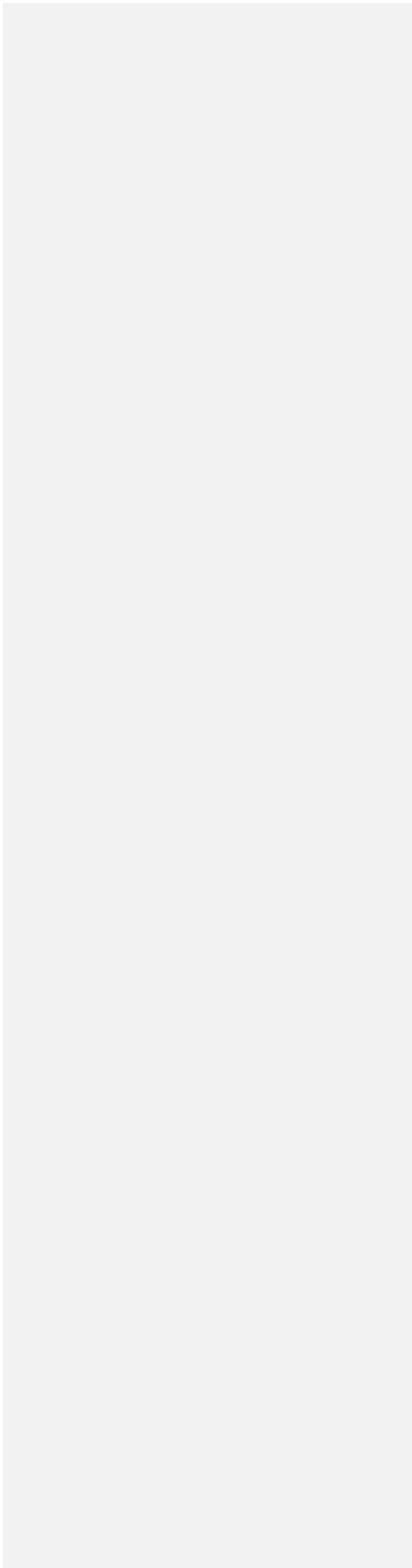
ARTICLE 1

DEFINITIONS

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ARTICLE 1
DEFINITIONS

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.

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 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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ARTICLE 2
REPRESENTATION AND WARRANTIES OF CONTRACTOR

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 California, 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 (i) conflicts with, violates or will result in a violation of any existing Applicable Law; or (ii) 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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ARTICLE 3
TERM OF AGREEMENT

3.01: EFFECTIVE DATE

The effective date of this Agreement shall be January 1, 2012.

3.02: TERM

The term of this Agreement shall begin on the effective date and shall end at midnight on December 31, 2021, unless earlier terminated, or extended as provided in Section 3.03. **Contractor's** obligation to collect solid waste, including targeted recyclable materials shall commence immediately as of the date that this contract is fully executed and shall continue for the remainder of the term.

3.03: EXTENSION OF TERM

During calendar year 2020, the Parties shall meet and confer on the possible extension of the term. [We would like to discuss an option for the Contractor to extend the term, provided the Contractor has performed well and is in compliance with all terms of the Agreement .

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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 performance bond meeting the requirements of Section 13.03.

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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ARTICLE 4
SCOPE OF AGREEMENT

4.01: SCOPE OF AGREEMENT

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

A. Solid waste generated at residential premises, commercial premises and **County** and other governmental facilities; and

B. Source separated targeted recyclable materials generated at residential and selected commercial _____ premises.

4.02: LIMITATIONS ON SCOPE

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

A. Solid waste 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 processing or 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, Section 14500 *et seq.* California Public Resources Code;

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;

H. Materials generated by governmental or institutional facilities (including public schools), provided that the generator has arranged services with the **Contractor** through a separate agreement;

I. The incidental removal of solid waste when the primary service performed is either of the following:

1. Landscaping, gardening, weed or refuse abatement, yard clean-up, or grading of a lot; or
2. Construction, remodeling, or demolition of a building or structure.

4.03: GEOGRAPHIC LIMITS ON CONTRACTOR'S OPERATIONS

A. **Contractor** shall provide solid waste services within its designated service area (see Attachment B)

IMD CONTRACT: B. **County** acknowledges that **Contractor** also provides solid waste services for the City of Portola.

FRD CONTRACT: B. **County** acknowledges that **Contractor** also provides solid waste services for the Chester Public Utilities District (CPUD) and the Quincy Community Services District (QCSD). Both **County** and **Contractor** acknowledge that **County** is pursuing discussions with the CPUD and the QCSD to transfer the solid waste authority from the respective special districts to **County**. **County** and **Contractor** acknowledge that an amendment to this Agreement and the CPUD and QCSD Agreements is required before the transfer of powers to **County** is complete.

B. **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**.

C. **County** has existing franchise contracts in place to perform the daily operations of the Solid Waste Program involving collection and processing of solid waste (MSW) and targeted recyclables. **Contractors** 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; however, accounting for such activities shall be available for review by **County**, upon request by the Solid Waste Program Administrator.

D. **County** acknowledges that a third party company, Tomra Pacific, Inc., operates a CRV recycling program in two (2) different locations within the unincorporated area of Plumas County as of the effective date of this Agreement. **Contractor** acknowledges that such operations are at the pleasure of the **County** and that the existence of such operations shall not relieve the **Contractor** of any responsibilities contained within this Agreement.

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. 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 **Contractor's** compensation, 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. Issues decided thus affecting **Contractor's** compensation will thereupon be placed into consideration for a Special Compensation Review.

4.05: ENFORCEMENT BY COUNTY

The burden of enforcement of the provisions of this Agreement, *the* applicable Sections of the Plumas County Code found in Title 6, Chapter 10, the *California Integrated Waste Management Act of 1989*, and all other pertinent local, state and federal laws pertaining to the Plumas County Solid Waste Program 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 solid waste matters concerning restaurant food wastes, biomedical wastes, 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, construction and demolition debris and all other waste not described in 4.05A.

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.

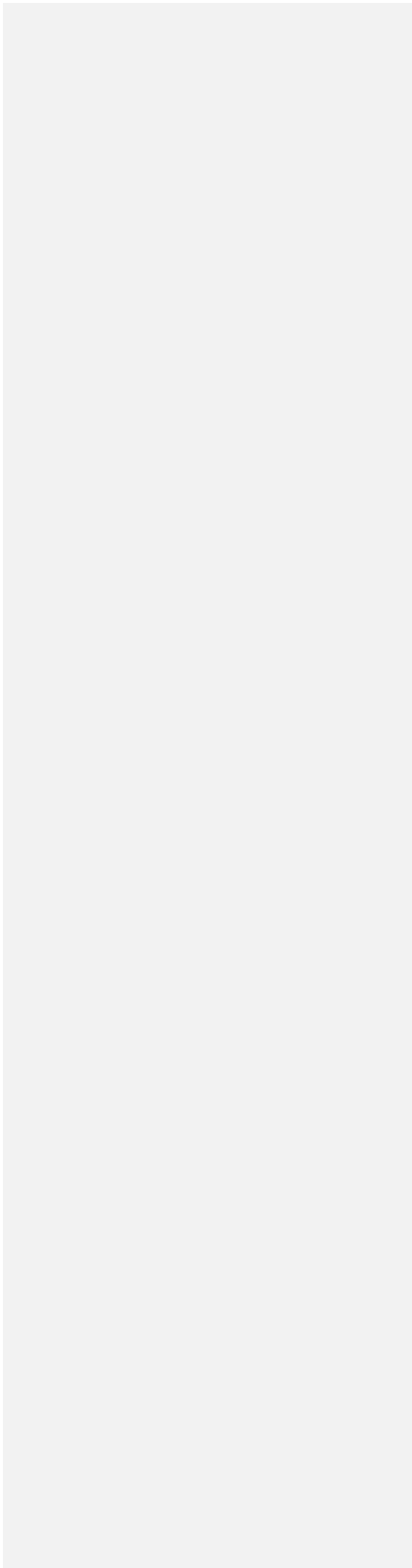
E. A complaint under this Section against **Contractor** resulting in a Determination of Violation of the terms of this Agreement shall result in a finding of default against the **Contractor**, and remedies available to **County** listed in Article 14 of this Agreement shall be enforced.

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 Plumas County Code.

G. When asked by the Contractor, the County shall use reasonable efforts to protect the exclusive rights of the Contractor under this Agreement. The Contractor may independently enforce the exclusive rights under this Contract against third party violators, including but not limited to seeking injunctive relief, and the County shall use good faith efforts to cooperate with Contractor in Contractor's actions to enforce such rights.

(Section 4.05 will necessitate changes to the Plumas County Code)

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ARTICLE 5

COLLECTION SERVICES

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ARTICLE 5
COLLECTION SERVICES

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 15.12, new programs that may impact the overall quantity or composition of solid waste to be collected by **Contractor**.

A. **Single-Family Dwelling (SFD)**. **Contractor** shall collect solid waste from SFD once per week from either customer-owned containers or **Contractor**-provided carts. **Contractor** shall collect containers curbside unless: (i) the occupant is provided a special handling service exemption; or, (ii) the customer has requested backyard collection service and has agreed to pay the premium service rate approved by **County**. The rate charged by **County** shall be based on **Contractor's** cost. In such case, **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 criteria. **Contractor** will notify all residential customers annually of the special handling and backyard collection service options and submit, for approval, a draft notification to **County** thirty (30) days prior to anticipated distribution to customers. 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 (i) evidence of their "handicap status" by the California Department of Motor Vehicles or (ii) 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 Solid Waste 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 solid waste 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 no less than ninety-six (96) gallons of container capacity 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 solid waste from commercial (see "Commercial", Attachment A) 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 agreed upon prior to the beginning of service. 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 solid waste 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 solid waste 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 solid waste 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.** Public street, parks and parking lot litter and recycling receptacles. **Contractor** shall collect solid waste from public litter receptacles located on streets and in parking lots, and from public litter receptacles in parks that are accessible for curbside collection. **Contractor** shall also collect solid waste from public recycling receptacles in these locations. **Contractor** shall also collect solid waste that is contained in bags or boxes and placed adjacent to public litter receptacles. These collections will be made between one (1) and seven (7) days per week, as determined by **County**. **Contractor** is responsible for notifying **County** if a public litter receptacle is inoperable within twenty-four (24) hours of observing or being notified of the defect. **County** shall annually be allowed to increase the number of public litter receptacles provided collection service, provided that Contractor shall

~~be compensated for any such increase, up to an additional five percent (5%) of the total number of receptacles in service as of January 1 of each rate year at no additional cost.~~ The allocation of additional public litter receptacles placed in service will accrue from year to year for the term of this Agreement. **Contractor** shall provide the **County** with the collection services described above at the service locations, service levels and frequencies as required to insure that the receptacles are available for public use. **Contractor** shall provide and maintain collection containers for the **County's** use, with the exception of public litter (or solid waste) and public targeted recyclable materials receptacles, which shall be provided and maintained by the **County**. **Contractor** shall offer the type and size of collection containers that **Contractor** provides commercial customers pursuant to Section 5.02.C. **Contractor** may integrate collection of solid waste and targeted recyclable materials from public street, parks and parking lot litter and recycling receptacles with other collection services in the service area, provided that **Contractor** attributes estimated tonnage collected from Public street, parks and parking lot litter and recycling receptacles separately from other customers upon the **County's** request.

5.03: TARGETED RECYCLABLE MATERIALS COLLECTION

Contractor shall collect targeted recyclable materials from designated commercial customers 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**. Commercial customers that subscribe to solid waste collection service shall be entitled to collection of targeted recyclable materials at no additional charge, for an amount up to 150% of the customer's solid waste container capacity, and **Contractor** shall provide the level of service required by commercial customers requesting recyclable materials collection services. Addition commercial recycling amounts above the 150% threshold may be subscribed for based upon a fee determined by the customer and Contractor. 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 commercial customer. **Contractor** shall collect source separated recyclable materials generated at commercial premises at least once per week, as scheduled by the **Contractor** provided that the generator has source separated the targeted recyclable materials from solid waste and placed the materials in the appropriate **Contractor**-provided container. Contractor has the right to tag and reject loads of recyclable materials which contain excessive contamination. **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**.

A. Commercial Customers.

1. *General.* Designated commercial customers that subscribe to solid waste collection service shall be entitled to collection of targeted recyclable materials at no additional charge, subject to the limits set forth above.

2. *Collection containers.* **Contractor** shall allow designated commercial customers to choose a collection service method that best suits the needs of its premises. Specifically, **Contractor** shall offer the following choices to commercial customers:

a. *Cart service.* **Contractor** shall provide commercial customers with a choice of one (1) or more carts to use carts for targeted recyclable materials collection.

b. *Bin service.* **Contractor** shall provide commercial customers 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 commercial customers 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 at no additional cost, locks 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, County**, and the participating customers will be provided with a key to the enclosures and access to the containers. The service schedule will be prominently displayed on the enclosure and any changes in service will be displayed on the enclosure by **Contractor** within one (1) business day of making the change. If the carts or bins are left "outside" in a designated area, each container may be locked (keyed alike), and only **Contractor** staff, **County** 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 commercial customers with shared containers, respond to any questions or concerns, check the areas for contamination, litter, or damage and change the lock and distribute new "keyed alike" keys to **County** staff and customers

d. Drop boxes. **Contractor** shall provide commercial customers with a choice of container capacities to use for targeted recyclable materials.

5.04: 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 the **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 the **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 recycling plan and reporting all information required by those provisions of the law at no cost to the venue or event organizer. If the volume of materials collected by Contractor from venues and events exceeds the baseline amount collected by Contractor in 2010 by more than 10%, then Contractor may request and receive a rate adjustment for such increased costs.

5.05: ABANDONED WASTE CLEANUP COLLECTION SERVICE

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

5.06: COMMUNITY DROP-OFF EVENTS

Upon request by **County**, **Contractor** shall hold drop-off events at a location selected by the **County** to allow residential customers to drop off acceptable materials. Acceptable materials, which shall be determined by the **County**, may include one or more of the following: e-waste, universal waste, recyclable materials, household hazardous waste, and tires.

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 in a minimum of 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. If the volume of materials collected by Contractor from such drop off events exceeds the baseline amount collected by Contractor in 2010 for similar events by more than 10%, then Contractor may request and receive a rate adjustment for its increased costs.

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. **Contractor** shall not establish a limit on the volume or weight of materials that a customer may bring for collection, but 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 to ensure that diversion goals are met or exceeded. **Contractor** shall separate recyclable materials and transport such materials to the Designated Transfer and Processing 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. If these are new services, then the cost of providing them should be built into the initial rate base ...

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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 11.05. If these are new services, then the cost of providing them should be built into the initial rate base ...

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. If these are new services, then the cost of providing them should be built into the initial rate base ...

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. If these are new services, then the cost of providing them should be built into the initial rate base ...

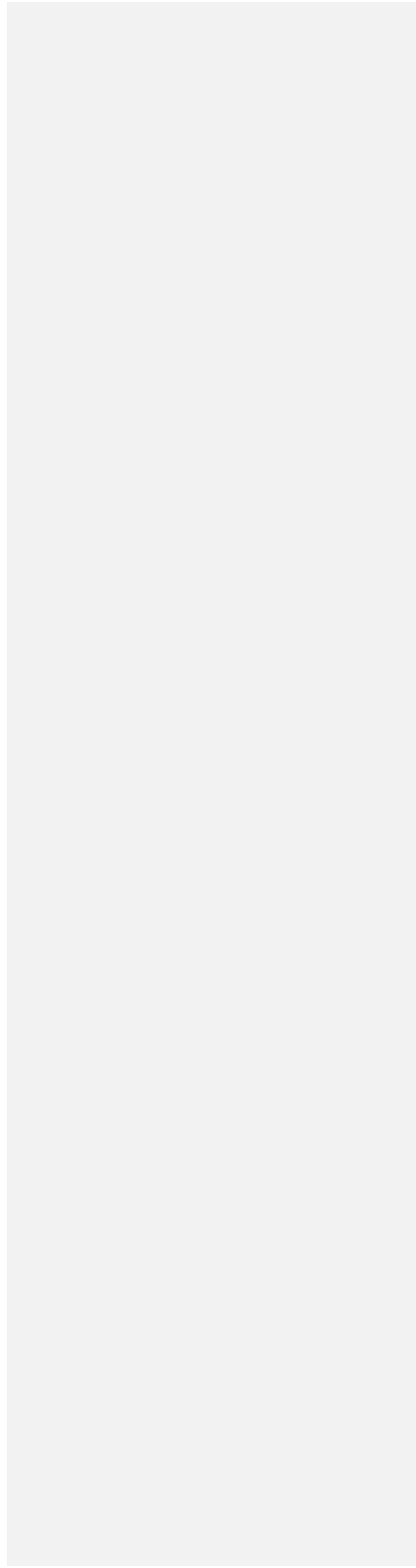
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TRANSPORTATION

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6.02 Processing of Other Materials

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ARTICLE 6
TRANSPORTATION

6.01: TRANSPORTATION OF COLLECTED MATERIALS

Contractor shall be responsible for, or shall arrange for transporting all solid waste and/or targeted recyclable materials collected under this Agreement to the Designated Transfer and Processing Facility. 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 (excluding construction and demo) collected pursuant to this Agreement.

ARTICLE 7

OTHER SERVICES

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ARTICLE 7
OTHER SERVICES

7.01: 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 amounts equal to the rate for service for a three (3) month period (i.e., using a quarterly format), unless **County** requests a more frequent billing interval, in which case **Contractor** shall be entitled to a reasonable adjustment in its compensation related to the additional costs for **County**-directed change in billing frequency. **Contractor** shall issue single-family residential bills three (3) months in advance in a manner such that one-third (1/3) of SFD customers are billed each month. **Contractor** shall bill multi-family, commercial customers monthly in arrears in the amount equal to customers' subscribed rate for service for a one (1) month period.

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 one (1) business day notice

3. *Rates.* **County** shall establish rates for the types of service provided as described in Section 11.07. **Contractor** shall bill and collect at those rates.

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) service day on a maximum of three (3) occasions each rate year. Commercial customers may suspend service for a minimum of two (2) service days on a maximum of six (6) occasions each rate year. 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 sixty (60) days after start of the quarter in which collection services are provided by **Contractor** and multi-family dwelling, commercial, governmental and institutional 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 customers bills, and at a rate not to exceed ten percent (10%) of the balance for multi-family residential, commercial customers, monthly if payment is not received by **Contractor** within thirty (30) days after the account becomes delinquent. **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.

C. **Local office.** **Contractor** shall maintain a local 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, cashier's checks, and credit cards. The local office shall be open for business from 8:00 a.m. until 5:00 p.m. Monday through Friday, exclusive of Holidays.

D. **County billing review.** **Contractor** acknowledges that **County** may perform, or cause to be performed, billing reviews periodically. **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. **Contractor's** full cooperation with these reviews includes: allowing **County** staff or consultants to ride along with drivers in collection vehicles during daily collection operations; providing for interviews of personnel at all levels, with or without management oversight; providing reporting related to franchised operations available through **Contractor's** automated systems; and adjusting routing, public information, outreach, or program availability based upon the recommendations of the audit, if approved by **County**.

E. **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 and distribution to **Contractor's** billing agent (if **Contractor** uses a related party entity or subcontractor for billing purposes).

F. **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**.

7.02: 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, 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. 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. **Contractor** will be required to track all informational requests so that appropriate public outreach materials can be designed to target commonly asked questions. **Contractor** shall be responsible for promoting use of the **Contractor's** website in order to provide answers related to common informational requests through:

(i) public education and promotion materials; and (ii) a recorded message customers will hear while on-hold with the customer service department. **Contractor** shall maintain and publicize an e-mail address whereby customers can communicate with the **Contractor's** customer service staff. **Contractor** shall monitor the email at least once per business day, and ensure that a twenty-four (24) hour response time is maintained.

B. Customer service call center and staffing. **Contractor** is required to operate a customer service call center, located within Plumas County that will serve as the primary telephone point of contact and information for all services. The customer service call center hotline is required to be staffed live during regular business hours (i.e., Monday through Friday 8:00 a.m. to 12 p.m. and 1:00 p.m. to 5:00 p.m.).

C. Website. **Contractor** shall maintain and publicize an up-to-date website whereby customers can conduct business with **Contractor**. **Contractor** is required to update the website monthly, and more frequently if 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 and Processing 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**; and

D. 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 including:
 - a. Number of units
 - b. Number, size and type of solid waste and/or targeted recyclable materials containers
 - c. Collection service day
 - d. Route number

- e. Backyard service status
- f. Special handling service status
- 9. Service issue, complaint or inquiry
- 10. Time frame stipulated for **Contractor** to resolve issue
- 11. Description of **Contractor's** resolution of service issue or complaint, or response to inquiry
- 12. Date and time that **Contractor's** resolution took place
- 13. Name of employee inputting the complaint or inquiry
- 14. Name of employee inputting the resolution

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

7.03: 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, commercial customers on the following:

- 1. The benefits of source reduction, reuse, recycling and related program opportunities;
- 2. Proper handling of hazardous and infectious Wastes;
- 3. Specific services offered by the **Contractor**; and
- 4. 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. **[If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ...]**

7.04: WASTE ENCLOSURE ASSISTANCE

A. **Enclosure specifications.** **Contractor** shall work with **County** to develop standard specifications for collection container enclosures at multi-family residential complexes, commercial premises to ensure that container enclosures have adequate space and suitable configuration to allow **Contractor** to safely and efficiently service the containers. The enclosure specifications shall require provision of adequate space for solid waste, targeted recyclable materials collection containers. **Contractor** shall provide the enclosure specifications to **County** on or before the effective date and shall update as frequently as needed or as requested by **County**.

B. **Plan review.** **Contractor** shall review plans for land use or property developments, upon request of **County**, to assess the adequacy of container enclosure space allowances for solid waste and recyclable materials, collection containers and the accessibility of containers by collection vehicles. **Contractor's** review shall be completed by **Contractor's** operations manager or route supervisor within ten (10) business days of request by **County** and receipt of the project design drawings. If site conditions warrant, **Contractor** shall conduct a site visit of the proposed property to complete its evaluation. **Contractor's** review shall be summarized in a letter report that states acceptability of the proposed enclosure arrangements or notes specific changes that are required to comply with the enclosure specification. The letter report shall be signed by the person that conducted the review on behalf of **Contractor**. This review shall include, but not be limited to: **[If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ...]**

1. Adequacy of the container enclosure space to store containers for the anticipated volume of solid waste and targeted recyclable materials generated by a development of the size and purpose contemplated;
2. Adequacy of container enclosure space to store containers for solid waste and targeted recyclable materials, in a fashion that allows for the greatest possible diversion of materials; and,
3. Adequacy and accessibility of the container enclosure space for **Contractor** to safely and efficiently service all containers in the contemplated service locations taking into account the dimensions of the enclosure space, the access road dimensions, parking arrangements, pedestrian traffic, change in elevation, other site considerations, and collection vehicle capabilities.

H. **Mandatory commercial recycling assistance to County.** As **County** adopts State-mandated policy or strategy to encourage or require recycling at commercial, governmental and institutional premises, **Contractor** shall implement the policy or strategy, **and the Contractor and County shall work in good faith to assess any incremental costs to Contractor in providing such services and shall adjust Contractor's rates accordingly. -at no additional cost to County.** **Contractor** shall be required to provide **County** with prompt notification of customers that do not comply with the policy or strategy based on the observations of **Contractor's** employees. **Contractor** shall **use commercially reasonable efforts to** assist the **County** with collecting related data from commercial customers and facilitating outreach and education programs focusing on encouraging participation by these customers in the voluntary or mandatory recycling policy or strategy.

7.05: WASTE GENERATION/CHARACTERIZATION STUDIES

Contractor acknowledges that **County** may perform solid waste generation and characterization studies periodically 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. **Contractor** shall also facilitate visual audits of multi-family dwelling, commercial cart and bin service accounts. The visual audits will entail tipping the contents of customers' container on the tipping floor at the Designated Transfer and Processing Facility and visually observing and

documenting the contents (without pursuing a detailed weight-based characterization study). The materials will then be processed at the Designated Transfer and Processing Facility. **[If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ...]**

7.06: PROVISION OF EMERGENCY SERVICES

Contractor shall ~~provide-use commercially reasonable efforts to 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. Emergency services ~~shall be which exceed Contractor's obligations shall be~~ compensated by the County in accordance with the rate schedule attached hereto, or upon terms as mutually agreed to by the Contractor and the County~~Article 14~~. If **Contractor** cannot provide the requested emergency services, **County** shall have the right to temporarily procure such services from other third parties or perform such services itself~~take possession of the Contractor's equipment for the purposes of providing emergency services in accordance with Article 12~~.

ARTICLE 8

REQUIREMENTS FOR OPERATIONS, EQUIPMENT, AND PERSONNEL

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ARTICLE 8
REQUIREMENTS FOR OPERATIONS, EQUIPMENT, AND PERSONNEL

8.01: 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 multi-family dwelling premises) shall be collected on weekdays (i.e., Monday through Friday) between 6:00 a.m. and 6:00 p.m. exclusive of Holidays.

2. *Commercial.* Commercial facilities solid waste and/or targeted recyclable materials shall be collected on weekdays (i.e., Monday through Friday) 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 and **County** facilities to resolve noise complaints, and, in such case, the **County** Manager may restrict the allowable operating hours.

3. *Local Noise Ordinance.* If a **County** ordinance regulating noise limits collection more restrictively than the preceding subsections, the terms of the ordinance shall govern.

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 minimize inconvenience and disturbance to the public. The route schedules and routing maps shall be subject to the approval of **County** prior to commencement of services. **Contractor** shall use due care to obey all traffic laws and prevent materials being transported from being spilled or scattered during transport. **Contractor** shall be prepared to review its operations plan outlining the collection routes, intervals of collection and collection times for all materials collected under this Agreement with the **County** or its representatives at least annually.

[Is this realistic? Does the County have the resources to perform such reviews?]
More frequent reviews may be required if operations are not satisfactory based on documented observations or reports or complaints. If the plan is determined to inadequately address the unsatisfactory performance as documented by observations and complaints, **County** may direct **Contractor** to revise the plan incorporating any changes into a revised plan and review said revised plan with **County** within thirty (30) days of the initial meeting with the **County**.

C. Contingency plan. **Contractor** is aware that unforeseen circumstances, including damage to their facility(ies), 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 maintain uninterrupted service, to the extent reasonably practical, during impairment or breakdown of **Contractor's** facility or equipment, and in case of natural disaster or other emergency, including the events described in Section 14.09.

8.02: 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 commencement date. **Contractor** shall be responsible for managing implementation of new collection services and other related services.

B. Servicing containers and missed 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. 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, and provided the customer's container was set out timely and properly. **Contractor** shall collect the solid waste and targeted recyclable materials on the day the notice is received, if possible, and in all cases shall collect the missed pick-up by 6:00 p.m. of the next business day following receipt of the missed pick-up notification.

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 and/or targeted recyclable materials containers and/or frequency of collection, **Contractor** shall deliver 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 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 Designated Transfer and Processing Facility. Solid waste and/or targeted recyclable materials collected in the county, which are combined with materials collected from other agencies, shall be allocated by **Contractor** to the **County's** collection program based on volume or tonnage using a method approved by the **County**.

E. Set out instructions to customer. **Contractor** shall instruct customers as to any preparation of solid waste 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 and/or targeted recyclable materials provided that **Contractor** leaves an adequate number of non-collection notices on the container, as determined by the **County**, indicating the reason for refusing to collect the material. Such notices shall also identify the steps generator 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 the maximum load limit specified by the cart manufacturer.
3. Container is not set out in a location accessible to **Contractor**, and there is no agreement in place for Special Handling.

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 cart to ensure that it is not inadvertently removed from cart 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 cart. **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 notice shall conform to the requirements specified in Section 6.03.A, 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 generator must take to recommence collection service. 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. **Collection of excess materials (overages).** **Contractor** shall direct its employees to collect an overage on two (2) occasions each rate year at no additional cost to customer. If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ... **Contractor** must provide a notice to customer documenting the overage in order to count the overage collection towards the allocated two (2) per rate year for each customer. Customers that place an overage for collection for a third and subsequent events may be assessed an overage fee by **Contractor** if **Contractor** documents said overage with a photograph and sends the customer a letter within two (2) business days notifying them of the overage collected. The overage fee billed by **Contractor** to customer for a third and subsequent overage event is specified in _____. **Contractor** shall provide customers the opportunity to subscribe to overage collection service, in advance, or purchase overage bag(s) from the **Contractor**. **Contractor** shall provide customers the opportunity to purchase overage bags through its customer service department or electronically via **Contractor's** website. The overage bag(s) shall have markings identifying it as **Contractor's** overage bag. **Contractor** shall mail or deliver overage bags to customers within three (3) business days of customer's request. The cost for overage bags is specified in _____ and includes all aspects of purchasing the bags,

printing and distribution (i.e., mailing or direct delivery by **Contractor**). Customers shall also be provided the opportunity to purchase overage bags at **Contractor's** local office. The quantity of overage bags per request from customer shall be limited to five (5) per request. If **County** and/or **Contractor** receive numerous complaints (as determined by **County**) from customers regarding customer dissatisfaction with the requirement to purchase overage bags, **County** reserves the right to require **Contractor** to modify its overage program to better serve its customers and/or require the customer to subscribe to additional collection service.

H. 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 (iii) 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, but not limited to, 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 8.02.H 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. Contractor may refuse to pick up materials at locations identified by Contractor and approved by the County, acting reasonably, where, because of the conditions of the streets, alleys or roads, it is impractical to operate vehicles, and may refuse to drive into private property where driveways or roads are without adequate turnarounds or have other unsafe conditions. Contractor may seek and obtain a property damage waiver from customers where private driveways are deemed unsafe by Contractor.

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I. 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 promptly 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. **Contractor** shall ensure that all liquid spills or leaked liquids fluids are cleaned up promptly on the same day that they occur. **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**.

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 a **County**-approved cover, at the collection location before transporting materials to the Designated Transfer and Processing Facility.

J. **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**.

K. **Route books and route maps.** For each collection route, **Contractor** shall maintain a route book and route map 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.

L. **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 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 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.

8.03: COUNTY-OWNED SOLID WASTE FACILITIES

County owns solid waste facilities on the following **County**-owned or **County**-leased lands:

1. *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 (C&D) by appointment only. This landfill is operated by **County** - not by a solid

waste franchise contractor, nor is it presently available for a solid waste franchise contractor's use

2. *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 transfer station 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**. This transfer station is operated by a franchise contractor. The days and hours of operation are:

3. *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 transfer station 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**.

4. *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.

5. *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 transfer station/processing 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**.

6. *East Quincy Recycling Center (part of Facility No. 32-AA-0002)*. A ___ 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 TOMRA-Pacific buy-back center for CRV recyclables.

7. *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 transfer station 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**.

8. *Graeagle Transfer Station (Facility No. 32-AA-0006)*: A 2.7 acre parcel of **County**-owned land located on County Road 521 in the northeast quarter of Section 15, Township 22 North, Range 12 East, MDM. This limited-volume transfer station 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. *Delleker Transfer Station (Facility No. 32-AA-0031)*: A 2 acre parcel of **County**-owned land located on Industrial Way in Delleker, in the northeast quarter of Section 3, Township 22 North, Range 13 East, MDM. This medium-volume transfer station is in Solid Waste Franchise Area 2, 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**. (Note: the Delleker Recycling Facility, operated and owned by InterMountain Disposal Company, Inc, is westerly of and immediately adjacent to the Delleker Transfer Station)

8.04: CONTRACTOR'S USE OF COUNTY-OWNED SOLID WASTE FACILITIES

A. **Contractor** shall have the exclusive right and duty for the term of this Agreement to use **County**-owned Designated Transfer and Processing Facility(ies) as described in Section 8.04 located on **County**-owned or **County**-leased land within its service area for the collection, sorting and handling of all targeted recyclable materials [Does the County have such a facility](#) and solid waste collected by **Contractor** in Plumas County. **Contractor** shall be required to unload at the Designated Transfer and Processing Facility all materials from its collection vehicles by its own personnel. **Contractor** shall be required to ensure that unloaded materials are properly placed in the designated areas. For example, **Contractor** shall be required to deposit at the Designated Transfer and Processing Facility 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 Designated Transfer and Processing 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 and targeted recyclable materials collection, sorting and handling purposes, all of the property, buildings and appurtenances designated by **County** as premises for its Designated Transfer and Processing Facility.

3. **County's responsibilities**. **County** shall be responsible for ordinary maintenance of property, buildings and appurtenances and repairs thereto necessitated by normal wear and tear. **County** shall not be responsible for damages or extraordinary wear to its facility 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 and solid waste collected by **Contractor**. **County** shall provide snow removal and roadway sanding within the Designated Transfer and Processing Facility 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 the Designated Transfer and Processing Facility.

b. Snow removal and/or sanding by **County** will take place within the fenced compound of the Designated Transfer and Processing Facility 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 the Designated Transfer and Processing Facility. 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 Designated Transfer and Processing Facility in a clean and workable condition at all times during the term of this Agreement. **Contractor** shall ~~not be responsible for any repairs to the keep in good repair, and to a condition the facility was in at the time of commencement of this Agreement—save normal wear and tear, all~~ 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 the Designated Transfer and Processing Facility. **Contractor** shall provide, and have complete responsibility for, all necessary vehicles, equipment and containers necessary for the collection, sorting and handling of all targeted recyclable materials and solid waste collected by **Contractor** under this Agreement

B. *Hours and Days of Operation.* **County** shall coordinate with **Contractor** to set hours and days of operation for **County**-owned 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.

C. *Use fees; rent.* **County** shall allow **Contractor** the use of its Designated Transfer and Processing Facility at no cost, use fees or rent during the term of this Agreement.

D. *Operational Meetings.* If requested by **County**, **Contractor** shall meet with the **County** periodically to discuss issues related to 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; and
7. Maintenance facilities.

8.05: 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. **Contractor** shall maintain a spare ratio of ten percent (10%) for all collection vehicles used in its service area. As of the commencement date, all residential and commercial collection vehicles shall be new; **[If new trucks are being required then the cost of providing them should be built into the initial rate base ... is this really the County's intent?]** and other vehicles such as roll-off trucks, support vehicles, and spare vehicles may be new or used. Collection vehicles whose acquisition cost is included in the calculation of **Contractor's** compensation may be used only in its service area.

B. General vehicle specifications

1. All vehicles used by **Contractor** in providing solid waste 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. **Contractor** shall be required to operate an adequate number of collection vehicles that shall be capable of servicing hard-to-service areas and accessing long driveways in the service area.
5. All collection vehicles shall be capable of unloading materials in the Designated Transfer and Processing Facility buildings taking clearance heights into consideration.
6. All collection vehicles shall use the biodiesel fuel blend formulated to contain the highest percentage of biofuel approved for use in **Contractor's** vehicles by the California Air Resources Board. Currently, the highest approved blend is B-20. **[If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ...]**
7. 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 all four (4) sides of 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, average weight of load, and average loaded axle weights.

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 weekly 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. *Repainting or Refurbishing.* **Contractor** shall repaint or refurbish to the satisfaction of the **County** all vehicles used in the collection of solid waste and targeted recyclable materials within thirty (30) business days notice from **County**, if **County** determines that their appearance warrants painting. The cost for **County**-directed repainting or refurbishing shall be incurred by **Contractor**. **[If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ...]**

4. *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.

5. *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.

6. *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.** Vehicles shall be operated in compliance with federal, State and local laws and regulations including, but not limited to, 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 13 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. **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** equipment used for solid waste 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. 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. **Contractor** shall track and make adjustments to routes to eliminate ongoing over-weights associated with individual routes.

8.06: 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; contain post-consumer content. Carts provided to customers shall have a useful life of ten (10) years as evidenced by a manufacturer's warranty or other documentation acceptable to the **County**. 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, commercial, and governmental and institutional facility customers shall be specified by Administrator.

2. *Color.* The colors of the containers provided to single-family, multi-family, commercial, governmental and institutional facility customers shall be green for solid waste and blue for recyclable materials. **[If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ...]**

3. *Loading.* Minimum allowable loading requirements for the bin and drop box contents shall be approved by Administrator prior to purchase based on the minimum manufacturer's load limits.

C. Container labeling. **Contractor** shall label each container with white, hot-stamped lettering, and in-mold or heavy duty vinyl adhesive labels with graphics, illustrations or artwork that clearly conveys the type of materials (e.g., Solid Waste, Recyclable Materials) to be placed in the container for collection. The labeling shall be positioned on each container so it is visible to the customer and collection vehicle drivers on the front side and top. The labeling shall be durable and weather resistant to outdoor conditions and have a minimum ten (10) year lifetime. All containers shall prominently display information and graphics agreed upon by **County** and **Contractor** pursuant to Article 7. Final container labeling layout, graphics and text shall be approved by the **County** prior to distribution to customers.

D. Cleaning and painting. **[If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ...]** **Contractor** shall be responsible for steam cleaning and repainting all containers, except carts, to present an aesthetically pleasing clean appearance and to ensure this equipment is safely maintained and operationally sound. **Contractor** shall repaint all used containers within eighteen (18) months of the commencement date and thereafter on an as needed basis. Upon customer's request, **Contractor** shall steam clean all solid waste and recyclable materials containers (or exchange existing containers with clean containers) twice annually, except carts provided to residential premises, which **Contractor** is not obligated to clean or exchange. **Contractor** shall offer additional cleaning (or clean container exchange) to customers requesting such service and shall be entitled to bill customers for such cleaning (or container exchange). **Contractor** shall be responsible for cleaning containers at no additional charge to customer to ensure that nuisance or public health concerns associated with vectors are addressed within two (2) business days after receipt of notification of said condition. If any container is impacted by graffiti, **Contractor** shall remedy the situation within forty-eight (48) hours of being notified.

E. Repair and replacement. **[If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ...]** **Contractor** shall repair or replace all containers damaged by collection operations (e.g., vehicle apparatus interface) within three (3) business days of being notified by customer or observing the damaged container. If the repair or replacement cannot be completed within three (3) business days, **Contractor** shall notify customer and provide a container of the same size or larger until the original container can be replaced. At no additional cost, **Contractor** shall replace customer carts that have been stolen, lost, damaged or destroyed within five (5) business days. **Contractor** shall allow customer to exchange

containers for a container of a different size at no additional cost and shall replace containers within five (5) business days of customer request. Upon written approval from **County**, **Contractor** shall allow customers to rent or purchase additional carts and shall be entitled to bill customers.

F. **County's rights to containers.** If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ... All carts, bins and drop boxes purchased or leased by **Contractor** and put into service at customers' premises before the first anniversary of the commencement date shall become property of **County** upon expiration or early termination of this Agreement. All carts, bins, containers, and drop boxes purchased or leased and put into service at customers' premises on or after the first anniversary of the commencement date that have not been fully depreciated shall be available to **County**, at **County's** option, at their net book value. At its sole discretion, **County** may elect not to exercise its rights under this subsection. In such case, the containers shall remain the property of **Contractor** upon the expiration or earlier termination of this Agreement. In such case, **Contractor** shall be responsible for removing all containers in service from premises within ten (10) business days.

8.07: 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 15.01.

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 minimum of once per quarter. A **County** information sheet shall be provided to each customer service representative for easy reference of **County** requirements and general customer needs. **Contractor** shall provide the information sheet, training agenda, and associated documentation within five (5) business days of request from **County**.

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 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** or **Contractor** 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**.

8.08: HAZARDOUS WASTE INSPECTION AND HANDLING

A. **Inspection program and training.** **Contractor** is required to inspect solid waste and/or targeted recyclable materials and other materials put out for collection and may reject solid waste 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 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; and (iv) 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; and
3. Emergency notification and response procedures. Collection vehicle drivers shall inspect 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 and Processing Facility or presents a hazard to **Contractor's** employees, or those at the Designated Transfer and Processing Facility, the **Contractor** shall have the right to refuse to accept such material. The generator shall be contacted by **Contractor** and requested to arrange proper disposal. If the generator 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 generator. In the event Contractor inadvertently collects hazardous waste, the generator of such waste (if identifiable) shall remain responsible for its handling and disposal and Contractor may seek recourse against such generator. The **Contractor's** environmental technician shall be required to guide the generator to safely containerizing the hazardous waste and shall explain the generator's options for proper disposition of such material. 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. The **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 and processing facility. **Contractor** shall not knowingly deliver unpermitted material to the Designated Transfer and Processing Facility. In the event that unpermitted material is delivered to the Designated Transfer and Processing Facility, **Contractor** shall be entitled to pursue whatever remedies, if any, it may have against the generator or person(s) bringing such unpermitted material to the Designated Transfer and Processing Facility provided that in no case shall **County** be considered the person bringing such unpermitted material to the Designated Transfer and Processing Facility. If the unpermitted materials are delivered to the Designated Transfer and Processing Facility by **Contractor** and unloaded at the facility before their presence is detected, and the generator 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 generator. **Contractor** shall make a good faith effort to recover the cost of any transportation and disposal from the generator, and the cost of this effort, as well as the cost of disposal shall be chargeable to the generator, 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 and 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 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 and/or targeted recyclable materials which were inadvertently collected from customers within its service area, but diverted from landfilling.

8.09: COMMUNICATION AND COOPERATION WITH COUNTY

A. **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.

B. **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.

C. **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.

8.10: 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. **Recycled paper.** **Contractor** shall use recycled paper for invoices, bills, reports, and public education materials. The recycled paper shall have at least thirty percent (30%) post-consumer recycled content for uncoated paper and ten percent (10%) post-consumer recycled content for coated paper based on federal standards. **Contractor** shall state on all materials prepared with post-consumer recycled content the following: "Printed on Recycled Paper."

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

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

8.11: ANNUAL PERFORMANCE HEARING

A. **Objectives.** **County** may hold a public performance hearing in April or May of each rate year, 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** may be required to submit a self-assessment report of **Contractor's** performance and information pertaining to the following:

1. *Recommended changes or new services.* Changes and/or new services 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 seek remedies as described in Article 14 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 9

RECORD KEEPING AND REPORTING

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ARTICLE 9
RECORD KEEPING AND REPORTING

9.01: GENERAL

Contractor shall compile and maintain records related to its performance as necessary to develop the reports required by this Agreement. **Contractor** agrees to conduct data collection, record keeping, and reporting activities 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 Section 15.14), and the requirements of this Agreement. Record keeping and reporting requirements specified in this Agreement shall not be considered a comprehensive list of reporting requirements. In particular, Article 9 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. 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. **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, but not limited to, 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.

9.02: GENERAL RECORD KEEPING PROVISIONS

A. **General.** **Contractor** shall maintain records required 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**. All records shall be maintained for five (5) years after the expiration or early termination of this Agreement. In order to set **Contractor's** compensation pursuant to Article 11, 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, and in accordance with reporting requirements specified in this Article.

B. **Inspection of records.** **County** shall have the right to inspect or review 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, compensation 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 unannounced 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. 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, compensation applications, **Contractor's** performance, or other matters related to this Agreement.

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 ten (10) 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 **Contractor's** compensation or 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 ten (10) 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.

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

9.03: RECORD KEEPING REQUIREMENTS

A. Maintenance of financial and operational records.

1. *General.* In order to effectuate **Contractor's** compensation pursuant to Article 11, 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.

2. *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 Financial Statement**. This report, prepared at **Contractor's** cost by a Certified Public Accountant, shall:

- a. Clearly identify the methods used to allocate revenue and expense line items among the **County** franchise and the company's other divisions.
- b. Illustrate the methodologies used to allocate revenues and expenses among related parties.
- c. Report any changes to the methodologies used to allocate revenues and expenses in the allocation percentages from the prior year.

d. 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.

e. Provide a rate-of-return calculation with any adjustments against contractual limitations. This rate-of-return calculation will be used in determining Contractor's compensation for the following year.

f. Provide a variance analysis between the current year and prior year revenues and expenses, along with an explanation for any significant variances.

B. Collection service records. Records shall be maintained and retained by Contractor for County relating to:

1. Customer and billing 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, 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. Weight and volume of material collected by type (e.g., solid waste and/or targeted recyclable materials). Where possible, information shall be provided separately for each service sector.

3. Route sheets and route maps identifying the accounts serviced by each collection vehicle on a daily basis.

4. Facilities, equipment and personnel used.

5. Facilities and equipment operations, maintenance and repair.

6. Tonnage of solid waste, targeted recyclable materials, and universal waste, listed separately by materials type and service sector and the facility where materials were delivered (e.g., Designated Transfer and Processing Facility).

7. Monthly overall diversion level, monthly SFD diversion level, and the monthly commercial diversion level (each stated as a percentage).

8. Targeted recyclable materials collection participation and set-out rates.

9. Tonnage of materials collected from on-call bulky item collection services and community collection events, reported separately by material type collected and listing destination where materials were delivered (e.g., Goodwill Industries, Designated Transfer and Processing Facility, etc.).

10. Tonnage of solid waste and/or targeted recyclable materials collected from venues and events reported separately by material type collected and reported separately for each venue and event as the total tonnage of each material type for each venue or event monthly.

11. Volume of used motor oil and number of used motor oil filters collected by **Contractor** reported separately for each facility where materials were delivered.

C. Other programs records. Records for other programs shall be tailored to specific needs. In general, **Contractor** shall maintain and retain the following records:

1. Plans, tasks, and milestones; and

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

D. Customer service records. Daily logs of all complaints and Inquiries shall be retained for a minimum of thirty-six (36) months. **Contractor** shall maintain and retain customer service center records which include, but are not limited to the following statistics:

1. Number of calls received on a monthly basis;

2. Number of calls answered on a monthly basis;

3. Number of e-mail responses sent from the customer service department to customers on a monthly basis;

4. Names of all customer service representatives employed.

E. 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.

F. Compilation of information for state law purposes. **Contractor** shall compile information on amounts of solid waste delivered to the Designated Transfer and Processing Facility and to other locations, as well as other information which the **County**

may reasonably request. **Contractor** shall maintain these records for a minimum of ten (10) years after expiration or earlier termination of the Agreement. **Contractor** shall provide these records to **County** (upon request or at the end of the record retention period) in an organized and indexed manner rather than destroying or disposing of them.

9.04: GENERAL REPORTING REQUIREMENTS

A. **Purpose.** 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. Reports are intended to compile recorded data into useful forms of information that can be used to, among other things:

1. Evaluate diversion performance
2. Evaluate **Contractor's** performance
3. Monitor customer participation in targeted recyclable materials collection programs
and in other programs using several different performance measures.
4. Monitor changes in the number of customers and customers' service levels.
5. Determine needs for adjustment to programs and cost for such changes.
6. Evaluate customer service and complaints.
7. Determine and set **Contractor's** compensation and rates

B. **Report format.** **Contractor** may propose report formats that are responsive to the objectives and audiences for each report. The format of each report shall be approved by **County**. **County** may review and request changes to **Contractor's** report formats and content and **Contractor** shall not unreasonably deny such requests. **Contractor** agrees to mail a copy of all reports to **County**, and submit all reports by e-mail in a format compatible with **County's** software and computers so **County** can sort and analyze data. **Contractor** shall provide a certification statement, under penalty of perjury by the responsible **Contractor** official, that the report being submitted is true and correct to the best knowledge of such official after their reasonable inquiry.

C. **Submittal schedule and instructions.** **Contractor** shall submit quarterly reports within thirty (30) days after the end of the reporting quarter. **Contractor** shall submit annual reports within forty-five (45) days after the end of each rate year. **Contractor** shall submit (via mail and e-mail) all reports to the person(s) designated by **County**.

D. **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 14.01 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.

E. **Accuracy of reports.** The failure of **Contractor** to file accurate and timely 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 14.01 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

9.05: QUARTERLY REPORTS

Quarterly reports shall present the information described in this Section. Each quarterly report shall present the information below for the reporting months of that quarter.

A. **Tonnage information.** Contractor shall provide the tonnage information requested below by service sector on a monthly and year-to-date basis.

1. *Solid waste.* Total solid waste tonnage collected and disposed by service sector.
2. *Targeted recyclable materials services.* Total targeted recyclable materials tonnage collected and delivered for processing by service sector listed separately by material type collected (e.g., targeted recyclable materials, source separated cardboard, source separated paper, used motor oil, used motor oil filters, etc.).

B. **Diversion level.** Contractor shall provide the quarterly and year-to-date overall diversion level, (stated as a percentage). In addition, Contractor shall present the calculations used to determine the diversion levels.

C. **Complaint, inquiry and service requests data.** Contractor shall provide the number of complaints, inquiries and service requests received from customers, generators, or other person by category (e.g., missed pickups, noise complaints, overages, billing concerns, property damage claims, requests for information, etc.). complaint summary, for each month and cumulative for rate year to date, summarized by nature of complaints on a compatible computer disc or other memory device approved by County.

D. **Hazardous waste records.** Contractor shall provide a summary or copy of the hazardous waste records required under Section 8.07.D.

E. **Other information.** Contractor shall provide other information or reports that County may reasonably request or require be added to quarterly reporting. These requests may include, but shall not be limited to, information regarding on-call collection programs, used motor oil and used motor oil filter collection, and large events and venues collection.

9.06: ANNUAL REPORTS

Annual reports shall present the information described in this Section in addition to the information required for quarterly reports pursuant to Section 9.05.

A. **Operational information** [this is a substantial amount of reporting ... much of it is not relevant to whether Contractor is in compliance with the Agreement, and some of it is proprietary information of Contractor. Does the County have the resources to monitor all this information in such level of detail? This section needs to be re-drafted ...]

1. Routes by service sector
 - a. Number of routes per day
 - b. Types of vehicles
 - c. Crew size per route
 - e. Number of full-time equivalent routes

- f. Number of accounts per route
- g. Total hours per service sector per day and per year
- h. Average cost per route [proprietary info]
- i. Route sheets and maps

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- 2. Personnel [not relevant for compliance],
 - 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.)
 - c. Annual wages by job classification including benefits

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- 3. Productivity Statistics [proprietary info ...]
 - a. Number of accounts per service sector
 - b. Number of set-outs per service sector
 - c. Tons per route per day by service sector

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- 4. Operational Changes
 - a. Number of routes
 - b. Staffing
 - c. Supervision
 - d. Collection services

5. Equipment - An inventory of equipment in accordance with Section 8.04.D.

6. Billing - Billing review report in accordance with Section 7.01.F.

B. Customer account information. As part of the annual reporting requirement, **Contractor** shall make available to **County** detailed customer account information in tabular format and in electronic format (in computer software format that is compatible with **County's**) that includes, at a minimum, the following information for each customer: account number; service address; customer's name, address, and phone number; billing contact name, billing address, and phone number; solid waste and targeted recyclable materials collection service level (i.e., number of containers, size of containers, frequency of collection, and day(s) of collection), and rate charged. For multi-family customers, the customer account information shall also include the number of dwelling units at each multi-family residential complex.

C. Customer service operations. **Contractor** shall annually prepare and submit, to **County** a Customer Service Operations Plan that shall include, at a minimum, the following sections: [If these are new or enhanced services, then the cost of providing them should be built into the initial rate base. Also, does the County have the resources to monitor all this information?]

- 1. Customer Service Call Center:
 - a. Provide the number of CSR supervisory staff and describe their responsibilities.
- 3. Customer Information System:
 - a. Status of any changes or upgrades made to system software

b. Description of proposed changes to system software

4. Staffing

D. **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 audited financial statements referred to in this Section 9.07) to County in a separate disclosure letter to County. This letter shall include the following information: a general description of the nature of each transaction, or type of (for many similar) transaction, as applicable. Such description shall include for each (or similar) transaction, amounts, specific related party entity, basis of amount (how amount was determined and comparable quoted rates from non-related parties to be used as comparison), and 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 audited financial statements **[If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ...]** 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.

E. **Contractor's review of billings.** Pursuant to the requirements described in Section 7.01.F, Contractor shall submit a report on its review of billings.

9.07: EVENT-SPECIFIC REPORTING

Event-specific reports shall be submitted following the occurrence of the event as described in this Section.

A. **Report of accumulated solid waste; unauthorized dumping.** As required by Section 7.07, Contractor shall report: (i) the addresses of any premises at which the driver observes that solid waste or targeted recyclable materials is accumulating; and (ii) the address, or other location description, at which solid waste or targeted recyclable materials has been dumped in an apparently unauthorized manner. The report shall be delivered to County within one (1) business day of such observation.

B. **Hazardous waste.** As required by Section 4.05, 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.

9.08 UPON-REQUEST REPORTING

A. **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 monthly, quarterly or annual reporting requirements described in Sections 9.05, 9.06, and 9.07. If the information requested by **County** is not typically part of **Contractor's** reporting requirements described in Sections 9.05, 9.06, and 9.07, **Contractor** shall provide such information if the **Contractor** is required to maintain the information under the record-keeping requirements described in Sections 9.01, 9.02, and 9.03. **[If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ...]**

ARTICLE 10

FRANCHISE FEE AND OTHER FEES

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ARTICLE 10
FRANCHISE FEE AND OTHER FEES

10.01 GENERAL

The fees described in this Article shall be treated as pass-through costs for the purposes of determining **Contractor's** compensation and shall be recoverable through the rates that **Contractor** charges to customers. **Contractor** shall separately identify any of the fees established under this Article on customer bills if directed to do so by **County**.

10.02 FRANCHISE FEE

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 of 9.5% of gross revenues.

10.03: TIME AND METHOD OF PAYMENT

On or before the twentieth (20th) day after the end of March, June, September and December, **Contractor** shall pay to **County** (i) the amount of the Franchise Fees due on gross revenues billed during the immediate previous month, (ii) one-fourth of any other fee established by **County**. **Contractor** shall provide, concurrently with the payment of fees, a statement showing the calculation of each fee, including the gross revenues billed from customers in each service sector for that month. 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 a fee is not paid on time, **Contractor** shall pay a late payment charge equal to six percent (6%) of the fees due for that quarter. In addition, **Contractor** shall pay an additional six percent (6%) on any unpaid balance for each ninety (90) day period a portion of the fee due remains unpaid. Late payment charges are not included in **Contractor's** compensation and may not be recovered through rates. Changes to **Contractor's** compensation to reflect increases or decreases in fees, or the addition of new fees, are not subject to the special compensation review provisions in Section 11.05.

10.04: ADJUSTMENTS TO FEES; ADDITIONAL FEES

County may from time to time adjust the amount of the fees described in this Article and may establish other fees. Changes in the total amount of fees to be collected by **Contractor** and remitted to **County** shall be reflected in an adjustment to **Contractor's** compensation and rates.

ARTICLE 11

CONTRACTOR'S COMPENSATION, PASS-THROUGH COSTS, AND RATES

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ARTICLE 11
CONTRACTOR'S COMPENSATION, PASS-THROUGH COSTS, AND RATES

11.01: Overview [General comment: the rate setting methodology in Article 11 is needlessly complex, confusing and administratively burdensome. It appears to have been drafted by a consultant and can only be administered by a consultant. We would recommend re-drafting Article 11 with a more simple and straightforward rate setting methodology. We would be happy to discuss proposed alternatives with the County...]

A. **Contractor's** compensation includes three components:

1. *Annual cost of operations.*

a. Ordinary costs. These include the cost of labor, equipment, materials and supplies, fuel, insurance, bonds, taxes, overhead and all other costs necessary to perform all the services required, in the manner required, by this Agreement, with the exception of costs identified in subsection A.3. Allowable Costs and Expenses. Certain costs and expenses must meet the definitions contained herein as "reasonable and necessary" in order to be applied against **Contractor's** compensation to determine net revenues. Reasonable and necessary costs and expenses are set forth below and may be adjusted annually for inflation according to the Refuse Rate Index (RRI) for Plumas County, as established by the RRI indexing formula and procedure adopted by **County**. [the figures below are arbitrary. The term "reasonable and necessary" needs to be evaluated in context, not in a vacuum.]

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- a. Travel: \$12,000
- b. Attorney's fees: \$35,000
- c. Business development: \$3,200
- d. Chief Executive Officer (CEO) salary: \$75,000

No annual increase in any of these costs and expenses shall exceed 8%. No inflationary increase shall be granted to **Contractor** for costs and expenses that would cause **Contractor's** profit to exceed the amount determined in subsection A. 2. Increases in operating expenses due to inflation shall be calculated using the Refuse Rate Index [why not CPI?] as determined for Plumas County for the preceding year, from January 1 to December 31 of that year.

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b. Extraordinary increases or decreases in costs. These include, but are not limited to unexpected and significant changes in tipping costs, changes in law, disposal methods, **Contractor's** insurance rates and/or fuel prices. If these costs vary unexpectedly from historical figures to an extent that **Contractor's** profit will be expected to rise or fall by 50% [this is an unreasonably high threshold ... actual costs should be allowable as long as they're reasonable and necessary for Contractor's performance under the contract], **County** will initiate or accept a request for Special Compensation Review to adjust **Contractor** revenues to meet profit goals as described in subsection A.2. Special Compensation as described in Section 11.05, 4 & 5.

2. **Targeted Profit.** **Contractor's** targeted profit is determined by applying the operating ratio of ninety and one-half percent (90.5%) to annual costs of operation described in subsection A.1. [how was this derived?]

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3. **Contractor pass-through costs.** These consist of costs which **Contractor** is obligated to pay but on which **Contractor** does not earn a profit and currently consist of:

- a. Interest paid
- b. **County** franchise fees and any other fees paid to County
- c. Rent payments paid to County
- d. Tipping fees

B. **Contractor's** compensation for rate year one will be determined by applying the targeted rate of return to Contractor's most recent allowable annual expenditures (actual cost of operation), less pass-through costs. [Important note: this would imply cost data from the period prior to implementation of the new contract. But the new contract is adding a significant range of new services and new compliance requirements which will increase Contractor's costs. If a new baseline rate review is to be performed, then it should be performed after the Contractor has implemented the new contract terms for one year . . .] Annually thereafter, **Contractor's** compensation will be adjusted as provided in Section 11.02.

C. After the conclusion of each rate year, **County** will conduct a revenue reconciliation process as provided in Section 11.03. The purpose of this procedure is to reconcile net revenues billed by **Contractor** for a rate year with the approved **Contractor's** compensation. Adjustments to **Contractor's** compensation will be made in a subsequent year to recover any excess revenue from **Contractor** or to compensate **Contractor** for a revenue shortfall.

E. However, no adjustments to **Contractor's** compensation will be made for differences between costs of operation or pass-through costs as calculated and as actually incurred, with the exception of cost differences due to changes in scope of services (Section 11.06) or as authorized by a special compensation review (Section 11.05). If **Contractor's** actual costs of operation are more or less than the amounts included in the annual calculation of **Contractor's** compensation, **Contractor** is neither entitled to an increase in compensation, nor subject to a reduction in compensation, in future rate years. [why? This does not make sense ...]

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11.02: DETERMINATION OF CONTRACTOR'S COMPENSATION

Contractor's compensation may be adjusted annually, commencing with the determination of **Contractor's** compensation for rate year one (2012) and continuing through the remaining term including any extension periods, to reflect inflation as determined by application of the RRI for the previous calendar year. [The RRI is not defined. Why not simply use CPI?]

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11.03: ANNUAL REVENUE RECONCILIATION PROCESS

After completion of each rate year, a revenue reconciliation process will be implemented as provided in this section. The purpose of this process is to determine the difference between the actual net revenues billed by **Contractor** for the preceding rate year and **Contractor's** compensation approved for that rate year. [how would these differ? It's unclear why a reconciliation process is necessary ...] **Contractor** shall submit a report to **County** on or before March 15 of each rate year, commencing March 15, 2012. The report shall include the

gross revenue billed is the total amount billed by **Contractor** to customers for all services attributable to the rate year in question.

11.04: APPLICATION PROCESS FOR CONTRACTOR'S COMPENSATION

A. **Application date and content.** **Contractor** shall prepare and submit to **County** by March 15 of each year, beginning on March 15, 2012, an application for determination of **Contractor's** compensation for the next rate year be used for determining **Contractor's** compensation during its review of the Application.

B. **Review of application.** The application shall be reviewed by **County** for accuracy and consistency with the procedures for determining **Contractor's** compensation specified in this Agreement. **County** shall share with **Contractor** any factual or calculation errors identified in the application and **Contractor** shall have the opportunity to revise its application.

C. **County report on application.** **County** staff shall distribute, on or before July 1 of each year, a Preliminary Compensation Report form which

1. Identifies the amount of **Contractor's** compensation and pass-through costs allocable to **County** for the following rate year, and
2. Provides an overall percentage increase or decrease in **County's** collection rates which **County** calculates will generate customer revenues sufficient to cover **Contractor's** compensation and pass-through costs.

Based upon comments received, **County** shall prepare a Draft Compensation Report, which shall be presented to the Plumas County Integrated Waste Management Task Force (PCIWMTF) on or before September 1 each year so that the PCIWMTF has an opportunity to consider the report and submit its advice to the Plumas County Board of Supervisors on or before October 1 of each year. The determination of **Contractor's** compensation for the following calendar year and the estimation of pass-through costs contained in the Final Compensation Report as approved by said Board shall be binding on **Contractor** and **County**.

11.05: SPECIAL COMPENSATION REVIEW

A. **Eligible items.** **Contractor** may apply to **County** for consideration of a special review of **Contractor's** compensation, and **County** may initiate such a review, acting reasonably, if one or more of the following occur and cause an increase in or decrease to **Contractor's** compensation ~~by two percent (2%) or more~~ for the then-current rate year:

1. Provision of emergency services pursuant to Section 7.08.
2. Flood, fire, earthquake, or other similar catastrophic event affecting **County** which
Is beyond the control of and not the fault of **Contractor**.
3. Change in law occurring after the effective date.
4. Unforeseen change in tipping rates ~~exceeding 10%~~.
5. Unforeseen change in fuel prices exceeding 10% from the same date in the previous year.

B. **Ineligible items.** A special review of **Contractor's** compensation may not be initiated due to growth or decline in the number of customers or their service levels, with the exception of adjustments made when determining **Contractor's** compensation.

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

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

E. **Burden of justification.** In a special compensation review under this section, **Contractor** shall bear the burden of justifying to **County** by substantial evidence its entitlement to continuation of current, as well as any increases in, **Contractor's** compensation. 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 compensation, or to proceed with a reduction in compensation. 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** governing body.

F. **Hearing.** Based on evidence presented to it, including, that submitted by **Contractor**, **County** governing body may grant some, all, or none of the requested increase in, or may reduce, **Contractor's** compensation. 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.

G. **Cost of review.** **Contractor** shall bear all reasonable costs incurred by **County**, including labor and materials, of a special review which it has requested up to a maximum of fifty-thousand dollars (\$50,000). Costs of a review requested by **Contractor** may ~~not~~ be included in **Contractor's** compensation, charged to **County** or customers, ~~nor included in the calculation used as rationale to initiate a special compensation review.~~

11.06 COMPENSATION ADJUSTMENTS FOR CHANGES IN SCOPE OF SERVICES OR SERVICE LEVELS

In the event **County** directs a change in accordance with Section 15.12 of this Agreement, an equitable adjustment in **Contractor's** compensation will be made, effective with the commencement of the change, to reflect increases or decreases, if any, in **Contractor's** costs. The adjustment in compensation will also reflect the corresponding change in profit. The change in **Contractor's** compensation will therefore consist of the sum of (i) the incremental change to costs, and (ii) profit adjustment at the allowed operating ratio of ninety and one-half percent (90.5%). Within forty-five (45) days of a request by **County** to initiate a change in service, **Contractor** shall present a proposal to **County** containing a complete description of the following, if and to the extent applicable:

1. Collection methodology to be employed.

2. Equipment to be utilized (number of vehicles, types, capacity, age, etc.).
3. Labor requirements (number of employees by classification).
4. Type of containers to be used.
5. Description of program publicity/education/marketing materials to be developed.
6. Estimated tonnage to be diverted and the methodology for determining that diverted tonnage.
7. Description of end uses of collected material.
8. Three (3) year projection of the financial impact of the program's operations in a balance sheet and operating statement format including documentation of the key assumptions underlying the projections and the support for those assumptions, giving full effect to the savings or costs to existing services and the rate impact to affected customers.
9. Monitoring tools and quantitative measures including: cost per ton; annual diversion; and pre-implementation as well as expected post-implementation route information including cost per route and accounts or lifts per route per day.

11.07: RATE-SETTING PROCESS

A. **General.** County shall be solely responsible for establishing and adjusting rates as described in this Article, acting reasonably.

B. **Annual review process.** The rates shall be reviewed annually by County, commencing with rate year one (2012) and continuing through the remaining term including any extension periods. County shall adjust rates as necessary to generate annual gross revenues billed equal to Contractor's compensation approved for the rate year and approved pass-through costs. If County elects to set rates that are below those recommended in County's rate report, (or delays acting to revise rates such that the recommended rates do not go into effect until after January 1), and the revenue reconciliation process conducted by County for that rate year demonstrates that net revenues billed were less than the approved Contractor's compensation contained in County's report, County shall owe interest on the difference. Interest shall apply (i) to one hundred fifty percent (~~100~~50%) of the difference during the rate year in which the shortfall in revenue occurred [why should the County get an interest-free loan from the Contractor?], and (ii) one-hundred percent (100%) of the difference during the immediately following rate year. The interest rate applied to both years shall be the prime rate in effect when County issued the report for that rate year plus ~~two~~one percent (~~2~~4%).

C. **Rate structure.** County, through its Board of Supervisors, shall have the sole and exclusive 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 a change in the rates charged for backyard collection service or curbside collection service causes a customer migration from one to the other which in turn increases or decreases Contractor's annual cost of operation by two percent (2%), or more, either party may

initiate a special compensation review as specified in Section 11.05. If at any time **Contractor** believes that a rate not included in the **County**-approved rate schedule would be necessary or useful, **Contractor** shall notify **County** and recommend establishment of such rate.

11.08: 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) 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**).

11.09: 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 13.C and D 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 13.D. **County** will not be in default of this Agreement if:

- A. A majority protest prevents a proposed rate increase from being adopted,
- B. A court rules that rates adopted by **County** are not consistent with Article 13.D, or
- C. An initiative reduces rates from those in effect. After any such event, the Parties shall promptly meet and confer in good faith to consider modifications to service levels commensurate with the rates that **Contractor** may legally charge, so that Contractor remains whole and is not penalized. The cost of such Prop 218 related notices and procedures shall be borne solely by the County.

ARTICLE 12

COUNTY RIGHT TO USE EQUIPMENT AND FACILITIES

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ARTICLE 12
COUNTY RIGHT TO USE EQUIPMENT AND FACILITIES

12.01: 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 causing serious financial harm to business operations in Plumas County. The purpose of this Article is to provide **County** the ability to respond to such threats to the public health, safety and welfare by making use of **Contractor's** facilities and equipment when deemed necessary by the Plumas County Board of Supervisors. This Article applies to any interruption of services, regardless of whether or not **Contractor's** failure to perform is excused under Section 14.09.

12.02: CONDITIONS AUTHORIZING COUNTY'S RIGHT TO USE OF FACILITIES AND EQUIPMENT

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 the Designated Transfer and Processing Facility, for more than ~~three two (32)~~ business days, **County** may invoke this Article. **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:

- A. Perform collection and transport services with its own personnel after having invoked this right under its Franchise Agreement—with **Contractor** or authorize a third party to do so, and
- B. Take possession of any of **Contractor's** property, including vehicles and other equipment used or useful in providing such services or in the billing and collection of fees for such services (collectively "properties").

12.03: NOTICE TO CONTRACTOR

If **County** invokes its right to use **Contractor's** facilities and equipment pursuant to Section 12.02, **County** shall deliver written notice to **Contractor** of its determination to exercise its right to provide collection services and to make use of **Contractor's** properties to do so. Upon receipt of the notice, **Contractor** shall immediately take all steps necessary to make available to **County** any of its vehicles and equipment that are requested by **County**. **Contractor** shall also cooperate in any other way requested by **County** to assist **County** in providing collection services on a temporary basis.

12.04: RIGHTS AND RESPONSIBILITIES OF PARTIES

County will be responsible for the proper use and operation of **Contractor's** properties, including maintenance and repair of vehicles and equipment. **County** will defend, indemnify and hold **Contractor** harmless from claims by third parties that are due solely to **County's** negligence in operating **Contractor's** vehicles or equipment, and not due in whole or in part to defects in the design or manufacture of the vehicles or equipment or to **Contractor's** failure to maintain them in good and safe operating condition. If the interruption in service is excused under Section 14.09, **County** will pay **Contractor** ~~rent based upon fair market value as one hundred dollars (\$100) per business day per vehicle, which will constitute full~~ compensation for use of all properties. If the interruption in service constitutes a breach of contract or default, no payment is required. Revenue received from customers that is attributable to the period of time during which **County** provides temporary collection service shall accrue to **County** rather than **Contractor**. **County** may delegate the use and operation of any or all of **Contractor's** properties to a third party.

12.05: DURATION OF COUNTY'S RIGHT TO POSSESSION AND USE OF VEHICLES/EQUIPMENT

County may retain possession of **Contractor's** properties and provide collection services until **Contractor** demonstrates to **County's** satisfaction that it is ready, willing and able to resume providing such services, or one hundred eighty (180) days from the notice given under Section 12.03, whichever occurs first. **County** has no obligation to exercise its rights under this Article or, having done so, to continue to provide collection services. It may at any time, in its sole discretion, relinquish possession of **Contractor's** properties to **Contractor**. **Contractor's** properties shall be returned to **Contractor** in a condition substantially the same as that which existed at the time **County** took possession of them, ordinary wear and tear excepted.

12.06: GENERAL

County's exercise of its rights under this Article, (i) does not constitute taking or damaging of property for which compensation (other than as provided in this Article) must be paid, (ii) does not exempt **Contractor** from its indemnity obligations under Article 13, which are meant to extend to circumstances arising under this Article, provided that **Contractor** is not required to indemnify **County** against claims arising from the sole negligence of **County's** employees or agents in the operation and use of **Contractor's** properties during the time **County** has sole possession of them. **County's** exercise of its rights under this Article does not limit its ability to seek any of the remedies available to it under Article 14. **County's** rights under this Article do not preclude its permanent acquisition of **Contractor's** vehicles and equipment used in providing service to **County** through the exercise of eminent domain.

ARTICLE 13

INDEMNITY, INSURANCE, BOND, GUARANTY

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ARTICLE 13
INDEMNITY, INSURANCE, BOND, GUARANTY

13.01: INDEMNIFICATION

Contractor shall indemnify, defend and hold harmless **County**, its officers, employees and agents (collectively, the "indemnitees"), from and against (i) 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, (ii) any and all loss including, but not limited to, injury to and death of any person and damage to property, and (iii) contribution or indemnity demanded by third parties (collectively, the "claims"), 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 active negligence or intentional misconduct of the Indemnitees, but shall apply if the claim is caused by the joint negligence of **Contractor** and other Persons, including an indemnitee. 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.

13.02: 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. Comprehensive General Liability. **Contractor** shall maintain comprehensive general liability insurance with a combined single limit of not less than ten million dollars (\$10,000,000) 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, or its failure to perform, 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. Broad form blanket contractual with no exclusions for bodily injury, personal injury or property damage (including coverage for the indemnity obligations contained herein);
- d. Owned, non-owned, and hired motor vehicles;
- e. Broad form property damage.

The comprehensive 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 ten million dollars (\$10,000,000) per occurrence for bodily injury and property damage.

4. Pollution (Environmental Impairment) Liability. **Contractor** shall maintain pollution liability insurance coverage of not less than ten million dollars (\$10,000,000) 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 13.02.A and B, the policies shall contain endorsements in substantially the following form:

- 1. Workers' Compensation and Employers' Liability Policy.
 - a. "Thirty (30) Days prior written notice shall be given to the County of Plumas 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

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

2. Comprehensive 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, reduction 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. "The County of Plumas, its officers, employees, and agents are additional insureds on this policy."

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

d. "Inclusion of the County of Plumas as an insured shall not affect the County of Plumas' rights as respects any claim, demand, suit or judgment brought or recovered against the Contractor. This policy shall protect **Contractor** and the County of Plumas 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. The liability policies described in Sections 13.02.A(2) and (3) may contain a deductible or self-insured retention not to exceed \$500,000 per occurrence. This amount may not be increased without **County's** prior written consent. **Contractor** remains responsible for the payment of all losses and investigation, claim administration and defense expenses, including those of **County**. need to check whether this is feasible . . . might result in increased costs

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E. Delivery of proof of coverage. No later than ninety (90) Days before the commencement of operations, **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. If **County** requests, copies of each policy, together with all endorsements, shall also be promptly delivered to **County**. **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 Subsection A.2 and the automobile liability policy required by subsection 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 13.02.

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 13.01. 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.

13.03: 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 ten percent (10%) of the amount of the 2010 annual revenue Requirement for **County**. If these are new or enhanced services, then the cost of providing them should be built into the initial rate base ... 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 bond shall be twenty-four (24) months. The bond shall be extended, or replaced by a new bond in the same principal sum (adjusted by the percentage change in the Consumer Price Index), for the same term (i.e., twenty-four (24) months) and in the same form, bi-annually 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.

13.04: ALTERNATIVE SECURITY

County may, in its sole discretion, allow **Contractor** to provide alternative security in the amount set forth in Section 13.03, 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**.

13.05 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 and/or recyclable materials to the Designated Transfer and Processing 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.

13.06: 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 Local Enforcement County (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 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.

13.07: GUARANTY

Concurrently with execution of this Agreement, **Contractor** shall furnish a guaranty of its performance under this Agreement, properly executed by [REDACTED] which owns all of the issues and outstanding common stock of **Contractor**.

ARTICLE 14

DEFAULT AND REMEDIES

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ARTICLE 14
DEFAULT AND REMEDIES

14.01: EVENTS OF DEFAULT.

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

A. **Contractor** fails to perform its obligations under Article 5, 6 or 7 of this Agreement and its failure to perform is not cured within ~~thirtyten (30+0)~~ **business** days after written notice from **County**; specifically describing the failure.

B. **Contractor** fails to perform its obligations under any other Article of this Agreement and its failure to perform is not cured within ~~thirtyten (340)~~ days after written notice from **County** specifically describing the failure, provided that if the nature of the failure is such that it will reasonably require more than ~~thirtyten (340)~~ 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 subsections C through H.

C. **Contractor** ceases to provide collection and transportation services for a period of ~~threewe (32)~~ business days for any reason within **Contractor's** control; ~~including labor unrest such as strike, work stoppage or slowdown, sickout, picketing, or other concerted job action by Contractor's employees.~~

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 13.03 or fails to maintain all required insurance coverage in force.

G. **Contractor** fails to provide reasonable assurance of performance when required under Section 14.10.

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.

14.02: 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 and/or recyclable materials for the period of time specified in Section 14.01.C. Notice shall be given in writing and shall specifically describe the grounds for termination or suspension may be given orally in person or by telephone by **County**, either through ~~the County Counsel or the program Administrator, to the representative of Contractor~~

~~designated in or under Section 15.10 (or, if he/she is unavailable, to a responsible employee of Contractor) and shall be effective immediately. Written confirmation of such oral notice of suspension or termination shall be sent by personal delivery, facsimile, or other expedited means of delivery to Contractor within twenty-four (24) hours of the oral notification at the address shown in Section 15.09. Contractor shall continue to perform the portions of the Agreement, if any, 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 14.09 for a period of more than six months, despite the fact that nonperformance in such a case is neither a breach nor a **Contractor** default.

14.03: 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.

14.04: RIGHT TO PERFORM; USE OF CONTRACTOR PROPERTY

If this Agreement is suspended and/or terminated due to a **Contractor** default, **County** shall have the right to perform, by contract, the work herein or such part thereof as it may deem necessary. ~~In the event of Contractor's default, County shall have the right to use any of Contractor's equipment, facilities and other property reasonably necessary for the provision of services hereunder and for the billing and collection of fees for those services, upon the terms provided in Article 12. County shall have the right to continue use of such property 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.~~

14.05: DAMAGES

Contractor shall be liable to **County** for all direct, ~~indirect, special and consequential~~ damages arising out of **Contractor's** default, but shall not be liable for special or consequential damages. ~~This section is intended to be declarative of existing California law.~~

14.06: COUNTY'S REMEDIES CUMULATIVE

County's rights to suspend or terminate the Agreement under Section 14.02, to obtain specific performance under Section 14.03 and to perform under Section 14.04 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 14.05.

14.07: 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.

14.08: EXCUSE FROM PERFORMANCE

A. **Force majeure.** Neither Party shall be in default of its obligations under this Agreement in the event, and for so long as, it is impossible or extremely impracticable for it to perform its obligations due to an "act of God" (including, but not limited to, flood, earthquake or other catastrophic events), war, insurrection, riot, labor unrest of other than the Party's employees (including strike, work stoppage, slowdown, sick out, picketing, or other concerted job action), or other similar cause not the fault of, and beyond the reasonable control of, the Party claiming excuse. A Party claiming excuse under this Section must:

1. Have taken reasonable precautions, if possible, to avoid being affected by the cause, and
2. Have notified the other party in writing as provided in Subsection C.

B. **Obligation to restore ability to perform.** Any suspension of performance by a Party pursuant to this Section shall be only to the extent, and for a period of no longer duration than, required by the nature of the event, and the Party claiming excuse shall use its best efforts to remedy its inability to perform as quickly as possible and to mitigate damages that may occur as result of the event.

C. **Notice.** The Party claiming excuse shall deliver to the other Party a written notice of intent to claim excuse from performance under this Agreement by reason of an event of *Force Majeure*. Notice required by this Section shall be given promptly in light of the circumstances, but in any event not later than five (5) days after the occurrence of the event of *Force Majeure*. Such notice shall describe in detail the event of *Force Majeure* claimed, the services impacted by the claimed event of *Force Majeure*, the expected length of time that the party expects to be prevented from performing, the steps which the party intends to take to restore its ability to perform, and such other information as the other party reasonably requests.

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 12 in the event of non-performance for more than three (3) days excused by *force majeure*;
2. If **Contractor's** failure to perform by reason of *force majeure* continues for a period of ~~thirty-six months (30) days~~ or more, **County** shall have the right to immediately terminate this Agreement;
3. If **Contractor** is unable to collect and transport solid waste as required by this Agreement for a period of ~~threetwo (32)~~ or more consecutive business days ~~or for any three (3) business days in a seven (7) day period~~ as a result of *force majeure*, **County** shall have the right to make use of **Contractor's** property in

accordance with Article 12, ~~and (iv) if Contractor's inability to collect and transport solid waste continues for two (2) days or more from the date by which Contractor gave or should have given notice under Subsection C, County may terminate this Agreement.~~

14.09: 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, 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 15

OTHER AGREEMENTS OF THE PARTIES

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ARTICLE 15
OTHER AGREEMENTS OF THE PARTIES

15.01: 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 or joint-venturer 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 the 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 and 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**.

15.02: 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. **Contractor** shall

15.03: ASSIGNMENT

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 (i) **Contractor's** experience, skill and reputation for conducting its operations in a safe, effective and responsible fashion, and (ii) **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.

A. **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**. Any such assignment made without the consent of **County** shall be void and the attempted assignment shall constitute a **Contractor** default. Assignment of this Contract to another corporate subsidiary or affiliate of Contractor shall not require consent.

B. **Assignment defined.** For the purpose of this Section, "assignment" shall include, but not be limited to, (i) a sale, exchange or other transfer to a third party of substantially all of **Contractor's** assets dedicated to service under this Agreement; (ii) 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**; (iii) 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 of ownership or control of **Contractor**, other than an internal corporate re-organization where Contractor's stock is merged with an affiliate; (iv) 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 (v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership, or change of control of **Contractor**.

C. **Consent requirements.** If **Contractor** requests **County's** consideration of and consent to an assignment, **County** may deny or approve such request in its ~~reasonable~~ complete discretion. 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: (i) 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; (ii) 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 that the proposed assignee has provided **County** with a complete list of such proceedings and their status; (iii) 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; (iv) 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.

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

15.04: 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.

15.05: AFFILIATED ENTITY

Contractor will not form or use any affiliate to perform any of the services or activities which **Contractor** is required or allowed to perform under this Agreement, other than as a subcontractor approved by **County** under Section 15.04. 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.

15.06: CONTRACTOR'S INVESTIGATION

Contractor acknowledges that this Agreement replaces an existing Franchise Agreement that was executed on _____, 1995, 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. *[...some of this text is already in the Recitals.]*

15.07: NOTICE

All notices, demands, requests, proposals, approvals, consents and other communications which this Agreement requires, authorizes or contemplates shall, except as provided in Article 14, 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:

Attention: _____

Contractor shall promptly provide **County** the name and contact information for the above employees if there is a change during the Term.

15.08: 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 officer 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**.

15.09: 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.

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

A. **County** may, through an amendment to this Agreement and subject to the adjustment of Contractor's compensation, without amending this Agreement, request direct Contractor to cease performing one or more types of service described in Articles 5 or 6, may request direct Contractor to modify the scope of one or more such services, may request direct Contractor to perform additional solid waste and/or targeted recyclable materials handling services, or may otherwise request direct Contractor to modify its performance under any other Section of this Agreement. **Contractor** shall use commercially reasonable efforts to promptly and cooperatively comply with such requests direction.

B. If such changes cause an increase or decrease in the cost of performing the services, an equitable adjustment in **Contractor's** compensation shall be made pursuant to Article 11. **Contractor** will continue to perform the new or changed service while the appropriate adjustment in compensation is being determined.

~~C. Notwithstanding franchise rights set forth in Section 4.03, above, **County** shall have the right to terminate a program if, in its sole discretion, **Contractor** is not cost-effectively achieving the program's goals and objectives. Thereafter, **County** may utilize a third party to perform these services if **County** reasonably believes the third party can improve on **Contractor's** performance and cost effectiveness. Notwithstanding these changes, **Contractor** shall continue the program during the meet and confer period and, thereafter, until the third party takes over the program. This subsection C applies to programs initiated at **County's** direction after the Commencement Date that are beyond the basic scope of services described in Section 4.01.A.~~

15.11: TRANSITION TO NEXT SERVICE PROVIDER

At the expiration of the Term or the earlier 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) 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, upon **County** request, at least one-hundred-eighty (180) Days prior to the transition of services, attend meetings with the next service provider and with **County** staff and consultants to plan the recovery of **Contractor's** containers and placement of the new containers. **Contractor** shall perform in accordance with such plan and direct route supervisors to provide "ride-alongs" so that the new service provider's employees may ride with drivers 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.

15.12: REPORTS AS PUBLIC RECORDS

The reports, records and other information submitted or required to be submitted by **Contractor** to **County** (and documents copied pursuant to Section 9.02) 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 **Contractor's** compensation, including but not limited to records described in Article 11. County will notify the Contractor of all such public records requests and shall provide Contractor with a reasonable amount of time to seek a protective order in the event Contractor believes the disclosure contains proprietary information or is otherwise exempt under the Public Records Acts.

15.13: 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 Designated Transfer and Processing Facility within **Contractor's** Solid Waste Franchise Area. In addition, **Contractor** shall maintain at least one (1) copy of the most current Plan of Operations for each Designated Transfer and Processing Facility within **Contractor's** Solid Waste 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 and Processing Facility. Issues and concerns for which answers cannot be readily obtained from the Plan of Operations shall be addressed to the **County's** Administrator.

15.14: 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 Designated Transfer and Processing 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 16

MISCELLANEOUS PROVISIONS

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ARTICLE 16
MISCELLANEOUS PROVISIONS

16.01: GOVERNING LAW

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

16.02: 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.

16.03: 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.

16.04: 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.

16.05: 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.

16.06: ATTACHMENTS

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

16.07: 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.

16.08: 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.

16.09: 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.

16.10: AMENDMENT

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

16.11: 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.

16.12: 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. However, each Party shall bear its own attorneys' fees.

16.13: 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**, neither party shall have any claim against the other for damages of any kind (including but not limited to loss of profits) on any theory.

16.14: 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.

~~16.15: INDEMNITY AGAINST CHALLENGES TO AGREEMENT~~

~~Contractor shall indemnify, defend and hold harmless County, and its and their officers, employees and agents (collectively, the "Indemnitees") from and against any and all liability, claim, demand, action, proceeding or suit of any and every kind and description brought by a third party challenging the process by which proposals were solicited and evaluated, or this Agreement was negotiated or awarded to the extent that such liability, claim, demand, action, proceeding or suit was caused by Contractor's failure to comply with applicable law or the instructions of any indemnitee with respect to such process.~~

EXECUTION:

IN WITNESS WHEREOF, County and Contractor have executed this Contract as of the day and year first above written.

COUNTY OF PLUMAS

_____ **DISPOSAL, INC.**

By: _____
Lori Simpson
Chair, Board of Supervisors
Plumas County, California

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Taxpayer's ID No. _____

ATTEST:

Nancy DaForno
Clerk of the Board of Supervisors
Plumas County, California

APPROVED AS TO CONTENT:

Jack Ingstad, County Administrative Officer
Plumas County, California

APPROVED AS TO FORM:

Craig Settlemire, County Counsel
Plumas County, California

ATTACHMENT A

DEFINITIONS

Unless the context otherwise requires, terms used in this Agreement will have the meanings specified in this Article.

Act

"Act" means the California Integrated Waste Management Act of 1989 (AB 939) Public Resources Code, Section 40000 et seq. as currently in force or as hereafter amended.

Administrator

"Administrator" means the **County** employee who manages this contract and superintends the Solid Waste Program. The Director of Public Works of the Department of Public Works is the **County's** designated Administrator, however the Administrator may appoint, in writing, a Solid Waste Manager to assist in the management of the **County's** Solid Waste Program.

Affiliate

"Affiliate" means a person (See "Person") which 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**.

Approved Disposal Site

"Approved Disposal Site" means any designated disposal site in the State of California or Nevada holding a valid permit to permanently deposit municipal solid waste (see "MSW"), hazardous waste, or infectious waste in accordance with all applicable laws and regulations of the United States and the State of California or the State of Nevada and all federal, state and local agencies having lawful jurisdiction.

Agreement

"Agreement" means this Agreement, including the attachments.

Applicable Law

"Applicable Law" means all federal, State, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental **County** having jurisdiction over the collection, transportation, processing, and disposal of solid waste, targeted recyclable materials and other materials collected pursuant to this Agreement that are in force on the effective date and as they may be enacted, issued or amended during the term.

Application

"Application" means the application prepared and submitted by **Contractor** for determination of **Contractor's** compensation for the following rate year.

Backyard Collection Service

"Backyard Collection Service" means the provision of collection service to a SFD in the rear or side premises.

Billings

"Billings" means statements of charges for services rendered by **Contractor**, to owners or occupants of property, including residential and commercial premises, for the collection of solid waste, targeted recyclable materials and other materials collected pursuant to this Agreement.

Bin

"Bin" means a metal container with capacity of approximately one (1) to eight (8) cubic yards, with a hinged lid, and with wheels, typically serviced by a front-loading collection vehicle.

Board of Supervisors

"Board of Supervisors" means the Board of Supervisors of Plumas County, California

Bulky Items (or Bulky Waste)

"Bulky Items" or "Bulky Waste" means large items including, but not limited to major appliances which have had CFCs and/or mercury switches removed by a certified technician, furniture, tires (with rims removed), carpets, mattresses, and other oversize materials whose large size precludes or complicates their handling by normal collection. Bulky items or bulky waste does not include abandoned automobiles, large auto parts, or trees.

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 1st and ending on December 31st.

CAO

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

CalRecycle (formerly known as the California Integrated Waste Management Board)

"CalRecycle" means the department within the State of California primarily responsible for administering the "Act." Per their website, "CalRecycle is the state's leading authority on recycling, waste reduction, and product reuse. Officially known as the Department of Resources Recycling and Recovery, CalRecycle plays an important role in the stewardship of California's vast resources and promotes innovation in technology to encourage economic and environmental sustainability."

C & D

"C & D" means construction and demolition debris. See "Construction and Demolition Debris".

Cart

"Cart" means a plastic container with a hinged lid and two wheels that is serviced by an automated or semi-automated collection vehicle. A cart has capacity of 20, 30, 60, or 90 gallons (or similar volumes).

Cell Phones

"Cell Phones" means all telephones used for mobile or cellular communications including batteries used to power cell phones.

CERCLA

"CERCLA", also known as "Superfund", means the ***Comprehensive Environmental Response, Compensation and Liability Act of 1980***.

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 effective date of any applicable law; or
- b. The order or judgment of any governmental body, on or after the effective date, 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.

Collect/Collection

"Collect" or "Collection" means to take physical possession, transport, and remove solid waste, targeted recyclable materials or other materials pursuant to this Agreement within and from **County**.

Collection Container

"Collection Container" means any container provided by **Contractor** to store and collect solid waste, targeted recyclable materials or any other material targeted for collection by **Contractor** or subcontractor of **Contractor**.

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").

Commencement Date

"Commencement Date" means the date specified in Section 3.02 when the **Contractor** is to begin providing services required by this Agreement.

Commercial

"Commercial" means a business activity including, but not limited to, retail sales, wholesale sales, services, research and development, government, education, non-profit, hospital, manufacturing, institutional and industrial operations, but excluding businesses conducted upon residential Property which are permitted under applicable zoning regulations and are not the primary use of the property. Commercial collection includes service provided to multi-family dwelling customers and **County** facilities.

Commercial Diversion Level

"Commercial Diversion Level" means the sum of all commercial recyclable materials collected by **Contractor** divided by the sum of all commercial materials collected by **Contractor**.

Commingle

"Commingle" means to mix, mingle, or combine targeted recyclable materials in a collection container. See "Single-Stream Targeted Recyclable Materials".

Complaint

"Complaint" means written or orally communicated statements made by members of the public, customers, owners, or occupants of properties served by **Contractor**, by officers, employees or agents of **County** alleging non-performance of, or deficiencies in **Contractor's** performance of, its duties under this Agreement, or a violation by **Contractor** of this Agreement.

Construction and Demolition Debris or C&D

"Construction and Demolition Debris" and "C&D" means materials resulting from construction, renovation, remodeling, repair, or demolition operations on any residential, commercial or other structure or pavement.

Container

"Container" means any receptacle used for storage of solid waste, targeted recyclable materials and other materials collected pursuant to this Agreement including, but not limited to, metal or plastic cans, carts, bins, tubs, and drop boxes.

Contractor

FRD CONTRACT: "Contractor" means Feather River Disposal, Inc.

IMD CONTRACT: "Contractor" means InterMountain Disposal, Inc.

Contractor's Compensation

"**Contractor's** Compensation" means the monetary compensation owed to **Contractor** in return for providing services in accordance with this Agreement as described in Article 11.

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.

County

"**County**" means County of Plumas, California.

County Manager

"County Manager" means the Administrator or his designee (see "Administrator", above),

CRV

"CRV" means California Redemption Value, which is a regulatory fee collected for the purpose of assuring the return for recycling of a greater percentage of the beverage containers sold in California.

CRV PROGRAM

"CRV Program" means the California Beverage Container Recycling and Litter Reduction Act (AB 2020) and the program elements established by the **County** in response thereto. The "CRV Program" is an integral component of **County's** solid waste program.

Curbside

"Curbside" means the location for collection, where collection containers or loose materials are placed on the street or alley against the face of the curb, or, where no curb exists, placed not more than five (5) feet from the outside edge of the street or alley.

Customer

"Customer" means the person to whom **Contractor** (or **County** if **County** bills directly) submits billing invoices for collection services provided to a premises. The customer may be the occupant or owner of the premises provided that the owner of the premises shall be responsible for payment of collection services if an occupant of the premises fails to make such payment.

Day

"Day" means calendar day unless otherwise specified.

Designated Transfer and Processing Facility

"Designated Transfer and Processing Facility" means the _____ Recycling and Disposal Centers at _____, California, which is owned by **County**.

Designated Waste

"Designated Waste" means non-hazardous waste which may pose special disposal problems because of its potential to contaminate the environment and which may be disposed of only in Class II Disposal Sites or Class III Disposal Sites pursuant to a variance issued by the California Department of Health Services. Designated waste consists of those substances classified as Designated Waste in California Code of Regulations Title 23, Section 2522.

Director of Public Works

"Director" or "Director of Public Works" means the Director of the Plumas County Department of Public Works. See "Administrator".

Discarded Material

"Discarded Material" means solid waste and/or targeted recyclable materials placed by a generator in a container and/or at a location that is designated for collection pursuant to the **County's** Code. Discarded material shall become the property of **Contractor** pursuant to California Public Resources Code Section 41950 until delivery to the Designated Transfer and Processing Facility.

Disposal

"Disposal" means the ultimate disposition of solid waste collected by **Contractor** at a disposal site.

Disposal Costs

"Disposal Costs" means **Contractor's** costs to deposit solid waste collected under this Agreement at the designated disposal site. See also "Tipping Fee".

Disposal Site

"Disposal Site" means the facility or facilities utilized for the landfill disposal of solid waste collected under the terms of this Agreement.

Drop Box

"Drop Box" means an open-top container with a typical capacity of ten (10) to fifty (50) cubic yards that is serviced by a drop box or roll-off collection vehicle.

Effective Date

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

Electronic Waste (or E-Scrap)

"Electronic Waste" or "E-Scrap" means "Covered Electronic Wastes" as defined in the Act (Section 42463 of Public Resources Code) in addition to discarded electronic equipment such as, but not limited to, television sets, computer monitors, central processing units (CPUs), laptop computers, and peripherals (e.g., external computer hard drives, computer keyboards, computer mice, and computer printers). E-scrap does not include those items defined herein as targeted recyclable materials.

Environmental Laws

"Environmental Laws" means all federal and State statutes and **County** ordinances concerning public health, safety and the environment including, by way of example and not limitation, the Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.; the Resource Conservation and Recovery Act, 42 USC §6902 et seq.; the Federal Clean Water Act, 33 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §1601 et seq.; the Occupational Safety and Health Act, 29 USC §651 et 23 seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the California Toxic Substances Control Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code 25249.5 et seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

Event

"Event" includes but is not limited to "large events" as defined in the Act (Public Resources Code Section 42648), any Event that serves an average of at least 2,000 attendees and workers per day, and **County**-sponsored community events. A list of Events currently held in the County is included as Attachment C.

Facility/Facilities

"Facility/Facilities" means any plant or site, owned or leased and maintained, operated or used by **Contractor** for purposes of performing **Contractor's** obligations under this Agreement (e.g., facilities for parking and maintaining vehicles, administration offices, and customer service offices, etc.).

Fiscal Year

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

Franchise Fee

"Franchise Fee" means the fee paid by **Contractor** to **County** pursuant to Section 10.02.

Fuel Costs

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

Generator

"Generator" means any person whose act or process produces solid waste, targeted recyclable materials or whose act first causes solid waste to become subject to regulation.

Gross Revenue Billed

"Gross Revenue Billed" means the total revenue recognized per generally accepted accounting principles by the **Contractor** for all services provided to customers during the rate year in question, excluding Franchise Fees and taxes. Revenues may be billed by the **Contractor** to customers or may be billed by **County** to customers.

Green Waste

"Green Waste" is biodegradable waste that can be comprised of landscaping waste from gardens, lawns or parks, including grass clippings, flower or plant cuttings and hedge trimmings.

Guarantor

"Guarantor" means [REDACTED].

Guaranty

"Guaranty" means the agreement to be executed by the guarantor.

Hazardous Substance

"Hazardous Substance" shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.(CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated there under to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable Federal, State or local Environmental Laws currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products.

Hazardous Waste

"Hazardous Waste" means all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste by the State in Health and Safety Code §25110.02, §25115, and §25117 or in any future amendments to or recodifications of such statutes or identified and listed as hazardous waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

Holidays

"Holidays" means New Year's Day, Thanksgiving Day, and Christmas Day.

Holiday Schedule

"Holiday Schedule" means the modified service schedule for the days following a Holiday. If a Holiday falls on Monday, Tuesday, Wednesday, Thursday or Friday, the service is provided the immediately following day.

Household Batteries

"Household Batteries" means disposable or rechargeable dry cells (e.g., A, AA, AAA, B, C, D, 9-volt, button-type) commonly used as power sources for household or consumer products including, but not limited to, nickel-cadmium, nickel metal hydride, alkaline, mercury, mercuric oxide, silver oxide, zinc oxide, nickel-zinc, nickel iron, lithium, lithium ion, magnesium, manganese, and carbon-zinc batteries, but excluding automotive lead acid batteries.

Household Hazardous Waste

"Household Hazardous Waste" means hazardous waste generated at residential premises. Household hazardous waste does not include those items defined as targeted recyclable materials.

Includes

"Includes" means "includes, but is not limited to,".

Including

"Including" means "including, but not limited to,".

Infectious Waste

"Infectious Waste" means biomedical waste generated at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities, and other similar establishments that are identified in State Health and Safety Code Section 25117.5.

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.

LEA

"LEA" means the Local Enforcement Agency of CalRecycle. LEA responsibilities include oversight (inspection) of the operation of solid waste facilities, storage and transportation of solid wastes by Contractor.

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 collection service and solid waste collection service.

Major Appliances

"Major Appliances" means any device including, but not limited to, washing machines, clothes dryer, hot water heaters, dehumidifiers, conventional ovens, microwave ovens, stoves, refrigerators, freezers, air-conditioners, trash compactors, and residential furnaces discarded by customers. Major appliances are commonly referred to as White Goods.

Materials Recovery Facility (MRF)

"Materials Recovery Facility" means a permitted facility where solid waste, targeted recyclable materials, and other materials are processed, sorted or separated for the purposes of recovering reusable or targeted recyclable materials.

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**: (i) 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, (ii) coded the call for a recollection request or courtesy pick-up prior to receiving a missed pick-up initial complaint; (iii) missed pick-ups due to inclement weather or a Force Majeure event.

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 complaints for which **Contractor**: (i) 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, (ii) coded the call for a recollection request or courtesy pick-up prior to receiving a missed pick-up complaint on that same day.

Multi-Family Dwelling

"Multi-Family," "Multi-Family Dwelling" or "MFD" means an individual residential premises in a building that contains five (5) or more individual residential premises.

Multi-Family Residential Complex

"Multi-Family Residential Complex" means the building(s) containing three (3) or more individual residential premises. Such premises normally have centralized solid waste and targeted recyclable materials collection service for all units in the building and are billed to one address (typically the owner or property manager).

Municipal Solid Waste

"Municipal Solid Waste" (MSW), commonly known as trash or garbage, is a broad waste type includes predominantly household waste (domestic waste) and organic materials, in either solid or semisolid form. The Federal and/or State governments regulate items that are to be excluded from the MSW stream.

MSW

"MSW" means municipal solid waste.

Occupant

"Occupant" means a person who occupies a premise.

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 a factor used in the calculation of profit. **Contractor's** profit is determined by applying the operating ratio of ninety and one-half percent (90.5%) to total annual costs of operation.

Operator

"Operator" means "**Contractor**."

Other Recyclable Material

"Other Recyclable Material" means a subset of recyclable materials that are collected which include, but are not limited to: household batteries, cell phones, used motor oil, used motor oil filters, bulky items that are recycled, major appliances, E-scrap, and U-waste. The purpose of differentiating other recyclable material is to describe a category used to calculate the overall diversion level.

Overage

"Overage" means the amount of solid waste placed in or adjacent to a collection container that is in excess of the container capacity.

Overall Diversion Level

"Overall Diversion Level" means the sum of all recyclable materials collected by **Contractor** divided by the sum of all materials collected by **Contractor** in a rate year.

Owner

"Owner" means the person holding legal title to the real property constituting the premises to which solid waste and/or targeted recyclable materials collection service is provided.

Party or Parties

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

Pass-Through Cost

"Pass-Through Cost" 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, i.e. tipping fees, franchise fees, and rent payments for **County**-owned facilities.

Person

"Person" means any individual, firm, company, association, organization, partnership, corporation, trust, joint venture, the United States, the State, the **County**, towns, cities, or special purpose districts.

Plumas County Integrated Waste Management Task Force

"Plumas County Integrated Waste Management Task Force" or "PCIWMTF" means an advisory committee appointed by the Plumas County Board of Supervisors to advise them on solid waste management matters.

Premise

"Premise" means any land, or building where solid waste, recyclable materials is generated or accumulated.

Processing Costs

"Processing Costs" means **Contractor's** costs to process recyclables collected under this Agreement at the designated transfer and processing 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**.

Rates

"Rates" means the monetary amounts to be charged a customer by **Contractor** for providing collection of solid waste, recyclable materials and other materials.

Rate Year

"Rate Year" means the twelve-month period, commencing January 1 of one year and concluding December 31 of the same year, for which **Contractor's** compensation is calculated.

Recycling

"Recycling" means the process of sorting, cleansing, treating and reconstituting materials that would otherwise be disposed of at a landfill for the purpose of returning such materials to the economy in the form of raw materials for new, reused or reconstituted products.

Recyclable Containers

"Recyclable Containers" means food and beverage packaging receptacles including but not limited to packaging that has California Redemption Value.

Recyclable Materials

"Recyclable Materials" means discarded materials that can be re-used, remanufactured, reconstituted, or recycled.

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.

Residential

"Residential" means of, from, or pertaining to single-family dwellings, and multi-family residential complexes, including single-family homes, apartments, condominiums, townhouse complexes,

mobile home parks, cooperative apartments, and yacht harbors and marinas where residents live aboard boats.

Residential Diversion Level

"Residential Diversion Level" means the sum of all residential recyclable materials collected by **Contractor** divided by the sum of all residential materials collected by **Contractor**.

Residential Premise

"Residential Premises" means individual dwelling units such as single-family dwelling units, multi-family dwelling units (such as townhouses, apartments, and condominiums), mobile home park dwelling units, cooperative apartments, and dwelling units at yacht harbors and marinas where residents live aboard boats.

Residential Property

"Residential Property" means property used for residential purposes.

Residential Recyclable Materials

"Residential Recyclable Materials" means targeted recyclable materials collected from both single-family dwelling customers and multi-family residential complexes.

Revenue Requirement

"Revenue Requirement" means the total projected amount of revenue that must be included in **County's** rates charged to customers to cover all costs associated with **Contractor's** compensation, **Contractor** pass-through costs and pass-through costs for a rate year.

Service Area

"Service Area" means the area within, and, if applicable, outside **County's** jurisdictional boundaries with respect to which County exercises franchising authority for the collection of solid waste, targeted recyclable materials or other materials pursuant to this Agreement.

Service Day

"Service Day" means Monday through Sunday excluding Holidays.

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.

Service Sector

"Service Sector" means collection services for each of the following types of services: single-family; multi-family; commercial; governmental and institutional facilities.

Single-Family

"Single-Family," "Single-Family Dwelling," or "SFD" means a premises used as a residential dwelling and includes each unit of a duplex, at which there are no more than two dwelling units where individual solid waste and targeted recyclable materials collection is provided separately to each dwelling unit.

Single-Stream Targeted Recyclable Materials

"Single-Stream Targeted Recyclable Materials" means targeted recyclable materials which have been commingled by the generator and placed in a container for the purposes of collection.

Solid Waste

"Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, as defined in California Public Resources Code Section 40191. For the purposes of this Agreement, "Solid Waste" does not include abandoned vehicles and parts thereof, hazardous waste, infectious waste or low-level radioactive waste, medical waste, source separated targeted recyclable materials.

Source Separated

"Source Separated" means materials which otherwise would become solid waste, but have been segregated by the generator, such as Targeted Recyclable Materials, for the purpose of reuse, recycling, or composting, to be collected by **Contractor** or others.

Special Handling Service

"Special Handling Service" means the provision of collection service to a SFD in the rear or side premises. Customers eligible for this service include only those that submit documentation (e.g., a form signed by a doctor) of their inability to perform the generally applicable curbside collection set-out requirements.

Specialty Recyclable or Reusable Material

"Specialty Recyclable or Reusable Material" means recyclable materials that are not targeted recyclable materials but that may be collected for purposes of recycling by any person operating in accordance with the **County** Code. Such specialty recyclable or reusable materials include, but are not limited to, scrap metal weighing more than ten (10) pounds, construction and demolition debris, pallets, plastic film, and reusable furniture.

State

"State" means the State of California.

Subcontractor

"Subcontractor" means a person which has entered into a contract with the **Contractor** for the performance of work that is necessary for the **Contractor's** fulfillment of its obligations under this Agreement.

Targeted Recyclable Materials

"Targeted Recyclable Materials" means a subset of Recyclable Materials that includes: newspaper (including inserts, coupons, and store advertisements); mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, paperboard, paper egg cartons, telephone books, books, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, cereal and other similar food boxes); chipboard; corrugated cardboard; paper milk cartons; glass containers of any color (including brown, blue, clear, and green); aluminum (including food and beverage containers, foil, small pieces of scrap metal); small pieces of scrap metal weighing less than ten (10) pounds and fitting into the Targeted Recyclable Materials Collection Container (excluding chain, cable, wire, banding, hand tools, and automotive parts); steel, tin or bi-metal containers; plastic containers (i.e., all plastic containers stamped with the Society for the Plastics Industry (SPI) code #1 through #7; and plastic containers that are not stamped but clearly can be identified as PET, HDPE, polypropylene). For Single-Family and Multi-Family Premises, Targeted Recyclable Materials also include Used Motor Oil, Used Motor Oil Filters, Household Batteries, and Cell Phones.

Term

"Term" means the term of this Agreement.

Tire Amnesty Program

"Tire Amnesty Program" is the periodic tire collection program funded by CalRecycle and administered by **County**.

Ton (or Tonnage)

"Ton (or Tonnage)" means a unit of measure for weight equivalent to 2,000 pounds where each pound contains 16 ounces.

Transfer Station

"Transfer Station" means a facility primarily used for the purpose of transferring solid waste from collection vehicles to transfer vehicles (but which may include recovery operations) to more efficiently transport solid waste to the disposal site. For the purposes of this Agreement, **County** has designated the _____, as its designated Transfer Station(s). See "Designated Transfer and Processing Station".

Spills of Discarded Materials

"Spills of Discarded Materials" means any solid waste or targeted recyclable materials spilled or left at established collection sites by **Contractor** after collection, other than small particles of grass clippings and leaves of the size and volume that may be collected by regular street sweeping operations which may be left behind.

Universal Waste (or U-Waste)

"Universal Waste," or "U-Waste," means all wastes defined by Title 22, Subsections 66273.1 through 66273.9 of the California Code of Regulations. These include, but are not limited to, batteries, fluorescent light bulbs, mercury switches, and electronic waste. U-waste does not include those items defined herein as targeted recyclable materials.

Unpermitted Materials

"Unpermitted Materials" mean wastes or other materials that the Designated Transfer and Processing Facility is not permitted to receive, including hazardous waste, infectious waste and hazardous substances.

Used Motor Oil

"Used Motor Oil" means used motor oil from automobiles and other light duty vehicles intended for personal use which is removed from cars at a residential premises and not as a part of a for-profit or other business activity.

Used Motor Oil Filter

"Used Motor Oil Filter" means a used motor oil filter from automobiles and other light duty vehicles intended for personal use which is removed from the vehicle at a residential premises and not as a part of a for-profit or other business activity.

Venue

"Venue" means a permanent facility that during any year seats or serves an average of more than 2,000 individuals per day of operation. Both people attending the event and those working at it, including volunteers, are included in this number.

Waste Type

“Waste Type” means listings (categories of waste) that are created by Federal and State agencies, but for purposes of this Agreement, the Plumas County Solid Waste Plan identifies the following Waste Types:

- Municipal Solid Waste
- Tire Waste
- White Goods
- Building and Demolition Debris (see “C and D”)
- Medical Waste
- e-Waste
- Household Hazardous Waste
- Bulky Waste
- Commercial Waste
- Pharmaceutical Waste
- Green Waste
- Universal Waste

Weekly Collection Service

“Weekly Collection Service” means collection service that is scheduled in advance from Monday through Friday and provided once-per-week on the same day or days each week.

White Goods

“White Goods” means “Major Appliances.”

ATTACHMENT C
COMMUNITY EVENTS

[Does Plumas County have any events in which solid waste pickup is subsidized by the franchise contractors? If yes, list them here, to be part of the contract. Text in Section 5.08 need to be revised.]