

AMENDED AND RESTATED AGREEMENT

BETWEEN THE COUNTY OF NEVADA

AND

USA WASTE OF CALIFORNIA INC., dba Waste Management of Nevada County  
FOR COLLECTION, TRANSPORT, PROCESSING AND DISPOSAL OF SOLID WASTE,  
RECYCLABLES, GREEN WASTE, CONSTRUCTION AND DEMOLITION DEBRIS, AND  
HOUSEHOLD HAZARDOUS WASTE, AND OPERATION OF TRANSFER STATION FOR  
WESTERN NEVADA COUNTY

DATED: June 25, 2019

**Table of Contents**

I. DEFINITIONS..... 14

1. AB 341..... 14

2. AB 1594..... 14

3. AB 1826..... 14

4. Act or AB 939..... 15

5. Alternative Daily Cover (ADC)..... 15

6. Applicable Law..... 15

7. Bagster ®..... 15

8. BearSaver Carts..... 15

9. Bins..... 15

10. Bulky Waste..... 15

11. Buyback Center..... 16

12. Cart..... 16

13. CCR..... 16

14. Change in Law..... 16

15. Collection or Collection Service..... 17

16. Commercial Customer..... 17

17. Commercial Customer Overage..... 17

18. Commercial Premises..... 17

19. Commercial Recycling..... 17

20. Commercial Service..... 17

21. Compactor..... 17

22. Company..... 17

23. Company Service Fee..... 18

24. Composting..... 18

25. Construction and Demolition Debris or C&D..... 18

26. Construction Companies..... 18

27. Consumer Price Index (CPI-U-WST)..... 18

28. County Representative..... 18

29. CPI-U-WST- Adjustment..... 18

30.	Curb or Curbside.....	18
31.	Customer.....	18
32.	Debris Box.....	19
33.	Disabled Customer.....	19
34.	Disposal.....	19
35.	Disposal Fees.....	19
36.	Disposal Site.....	19
37.	Effective Date.....	19
38.	Electronic Waste or E-Waste.....	19
39.	Excluded Waste.....	20
40.	Fiscal Year.....	20
41.	Food Waste.....	20
42.	Franchise.....	20
43.	Franchise Diversion.....	20
44.	Franchise Fee.....	20
45.	Franchise Materials.....	20
46.	Franchise Services.....	21
47.	Generator.....	21
48.	Green Waste.....	21
49.	Gross Revenues.....	21
50.	Hazardous Waste.....	21
51.	Host Fee.....	21
52.	Household Hazardous Waste (or HHW).....	21
53.	Household Batteries.....	21
54.	Inaccessible Area.....	21
55.	McCourtney Road Transfer Station.....	21
56.	Medical and Infectious Waste.....	22
57.	Mobile Home Parks.....	22
58.	Multiple-Family Dwellings.....	22
59.	Organic Waste.....	22
60.	Organic Waste Processing Facility.....	22
61.	Parties.....	22

62.	PET (Polyethylene, Terephthalate) .....	22
63.	PRC .....	22
64.	Private Drive(s) .....	22
65.	Private Road(s).....	23
66.	Processing or Process.....	23
67.	Public Street(s).....	23
68.	Quarterly Remittance .....	23
69.	RecycleWorks .....	23
70.	“Recyclable Construction and Demolition Debris” or “Recyclable C&D” .....	23
71.	Recycle or Recycling .....	23
72.	Recycling Carts .....	23
73.	Recyclable Materials or Recyclables .....	23
74.	Recyclables Processing Facility.....	23
75.	Recycling Program.....	24
76.	Recycling Revenues.....	24
77.	Residential Customer .....	24
78.	Residential Customer Overage.....	24
79.	Residential Recycling .....	24
80.	Residential Service.....	24
81.	Residual or Residuals.....	24
82.	Satellite Transfer Stations .....	25
83.	SB 1018.....	25
84.	SB 1383.....	26
85.	Self-Haul .....	26
86.	Service Area.....	26
87.	Service Rates.....	26
88.	Signature Date.....	26
89.	Single-Family Residence(s) .....	26
90.	Solid Waste .....	26
91.	Special Services .....	27
92.	Special Waste.....	27
93.	State.....	27

94.	Tipping Fees.....	27
95.	Ton.....	27
96.	Transfer Services.....	27
97.	Transfer Station.....	27
98.	Transformation Facility.....	27
99.	Transport.....	28
100.	Uncontrollable Circumstances.....	28
101.	White Goods.....	28
II.	GRANT OF EXCLUSIVE AGREEMENT.....	28
A.	SCOPE OF EXCLUSIVE FRANCHISE.....	28
1.	Exclusive Rights.....	28
2.	Flow Control.....	28
3.	Expansion of Service Area.....	29
B.	COMPANY RESPONSIBILITY.....	29
C.	EXCEPTIONS TO FRANCHISE.....	29
1.	Compactors for Recyclables.....	29
2.	Self-Hauling.....	29
3.	Incidental Hauling.....	29
4.	Construction and Demolition Debris.....	30
5.	Recyclable C&D.....	30
6.	Residential Recyclables.....	30
7.	Commercial Recyclables.....	30
8.	Governmental Entities.....	30
D.	TERM OF AGREEMENT.....	30
E.	TITLE TO FRANCHISE MATERIALS.....	30
F.	ANTI-SCAVENGING ENFORCEMENT.....	31
III.	FRANCHISE FEE AND HOST FEE.....	31
A.	COUNTY FRANCHISE FEE.....	31
B.	COUNTY HOST FEE.....	31
C.	PAYMENT TO COUNTY.....	31
1.	Quarterly Remittance Statement.....	32
D.	AUDITS.....	32

E.	RECORDS.....	32
IV.	SERVICES OF COMPANY.....	33
A.	SERVICES PROVIDED BY COMPANY.....	33
B.	SOLID WASTE COLLECTION.....	33
1.	Bin Service.....	33
2.	Curbside Single-Family Residence.....	33
3.	Bulky Waste.....	34
4.	Hours of Collection.....	34
5.	Multiple-Family Dwellings.....	34
6.	Commercial Customers.....	34
7.	Illegally Dumped Solid Waste.....	34
8.	Cart Replacement.....	35
9.	Company Assisted Service.....	35
C.	RECYCLING.....	35
1.	Residential Recycling.....	35
2.	Residential Recycling Carts Provided.....	36
3.	Residential Recycling Carts Replaced.....	36
4.	Company Assisted Service.....	36
5.	Used Motor Oil and Battery Collection.....	36
6.	Community E-Waste Events.....	36
7.	Commercial and Multiple-Family Dwelling Recycling.....	37
8.	Food Waste Collection for Commercial Customers and Multiple-Family Dwellings.....	37
9.	Commercial Recycling Carts Provided.....	38
10.	Collection Days and Times.....	38
11.	Construction and Demolition.....	38
12.	Sustainability Team.....	38
13.	Food Waste Collection Residential Single-Family Dwellings.....	40
D.	GREEN WASTE.....	41
1.	Subscription Green Waste Program.....	41
2.	Green Waste Collection.....	41
3.	Cart Replacement.....	41
4.	Company Assisted Service.....	42

5. Christmas Trees .....	42
E. RECYCLABLE MATERIALS AND ORGANIC WASTE CONTAMINATION BY RESIDENTIAL CUSTOMERS.....	42
1. Contamination.....	42
2. Service Re-start.....	43
3. Disputes Regarding Discontinued Service.....	43
F. CONTAINER OVERAGE AND CORRECTION PROCEDURES.....	43
1. Overages .....	44
2. Prior Arrangements for Collection.....	44
3. Disputes Regarding Container Overage Charges.....	44
G. ADDITIONAL WASTE REDUCTION SERVICES.....	44
1. Disposal Vouchers.....	44
2. Green Waste Drop-off Events.....	44
3. Buyback Centers .....	45
4. Recycle Rewards.....	45
5. Bagster®.....	45
6. Bag and Tag .....	45
7. Insta-Bin Temporary Bins.....	45
8. Used Motor Oil and Household Battery Collection for Multiple-Family Dwellings.....	45
9. Multiple-Family Dwelling Toolkit.....	46
H. TRANSFER STATION OPERATIONS.....	46
1. General.....	46
2. Facility Operations; Scope of Work.....	46
3. Permits and Approvals.....	46
4. Days and Hours of Operation.....	47
5. Liability Limitations.....	47
6. Loading and Transporting Franchise Materials.....	47
7. Household Hazardous Waste.....	47
8. Approved Users.....	48
9. Personnel Qualifications and Performance.....	48
10. Signage.....	48

11.	Scales .....	48
12.	Waste from Outside Service Area.....	48
13.	On-Site Processing of Green Waste.....	49
14.	Charge Tipping Fees.....	49
I.	MODIFICATION OF MCCOURTNEY ROAD TRANSFER STATION .....	49
V.	OTHER COMPANY REQUIREMENTS .....	49
A.	GENERAL .....	49
1.	Company Provided Equipment and Vehicles.....	49
2.	Safety Equipment.....	50
3.	Vehicle Maintenance.....	50
4.	Maintenance Log.....	50
5.	Reserve Equipment.....	50
6.	Collection on Holidays.....	50
7.	Disabled Special Service.....	51
8.	Private Drives and Inaccessible Areas.....	51
9.	Employees.....	51
10.	Manner of Collection.....	51
11.	Service Schedule.....	51
12.	Inclement Weather.....	51
13.	Ordinance Revisions.....	52
14.	Service Complaints.....	52
15.	Waste Watch.....	54
16.	Clean-Up.....	54
B.	CHANGE IN OPERATIONS, ADMINISTRATION OR SCHEDULE.....	54
C.	ADDITION OF NEW NON-FRANCHISE SERVICES .....	54
D.	ACHIEVEMENT OF DIVERSION GOALS .....	54
1.	Company’s Franchise Diversion Requirements.....	54
2.	Company’s Franchise Diversion Requirements Calculation.....	55
3.	Use of Transformation Facility.....	56
4.	Use of Alternative Daily Cover (ADC).....	56
5.	Changes in the Market Conditions for Recyclable Materials.....	56
6.	Compliance With Laws.....	56



7.	Mutual Cooperation.....	57
8.	Reporting.....	57
9.	Indemnification.....	57
10.	Waste Generation/Characterization Studies.....	58
11.	Modifications and Refinements to Promote Diversion Programs.....	58
E.	EMERGENCY SERVICES .....	58
VI.	SERVICE RATES .....	59
A.	AMOUNT OF SERVICE RATES .....	59
B.	BILLING AND COLLECTION OF ACCOUNTS .....	59
1.	Residential.....	59
2.	Non-Residential. ....	59
3.	Special Services. ....	60
4.	Electronic Billing and Payment .....	60
C.	ADJUSTMENTS TO SERVICE RATES .....	60
1.	CPI-U-WST Adjustment.....	60
2.	Special Service Rate Review Request.....	61
3.	Rate Adjustment Procedure. ....	62
4.	Effective Date of CPI-U-WST Adjustments.....	62
5.	Effective Date of Discretionary Adjustments .....	62
D.	RATE ADJUSTMENT DISPUTES.....	62
VII.	REPORTS .....	62
A.	ANNUAL REPORTS.....	62
B.	MONTHLY REPORTS.....	63
C.	STUDIES.....	64
D.	ADVERSE INFORMATION.....	64
E.	PUBLIC RECORDS ACT REQUESTS .....	64
F.	CALRECYCLE REPORTS .....	64
G.	ADDITIONAL REPORTS.....	65
VIII.	INDEMNITY, INSURANCE .....	65
A.	INDEMNIFICATION OF THE COUNTY .....	65
1.	General Indemnity. ....	65
2.	Diversion Indemnity. ....	66

B.	INSURANCE SCOPE AND LIMITS .....	66
1.	Commercial General Liability. ....	66
2.	Environmental Liability Insurance.....	67
3.	Auto and Equipment Insurance.....	67
4.	Workers Compensation Insurance. ....	67
C.	PERFORMANCE BOND .....	67
1.	Performance Bond .....	67
2.	Alternative Cash Guarantee .....	67
D.	PARENT GUARANTY .....	68
E.	SURVIVAL OF OBLIGATIONS .....	68
IX.	BREACH, DEFAULT AND REMEDIES.....	68
A.	EVENTS OF DEFAULT .....	68
1.	Failure to correct breach. ....	68
2.	Company bankruptcy. ....	68
3.	Court order or decree. ....	68
4.	Fraud or Deceit. ....	69
5.	Failure to Maintain Coverage/Indemnification.....	69
6.	Violation of Regulation.....	69
7.	Failure to Perform. ....	69
8.	Attachment .....	69
9.	Failure to Provide Performance Bond or Parent Guaranty. ....	69
B.	CURE RIGHTS.....	69
1.	Health, Safety and Welfare Matters.....	69
2.	Other Matters. ....	70
C.	RIGHT TO TERMINATE UPON DEFAULT .....	70
D.	CUMULATIVE SPECIFIC PERFORMANCE .....	70
E.	EXCUSE FROM PERFORMANCE.....	70
1.	Excuse from Performance.....	70
2.	Notice.....	70
F.	QUALITY OF PERFORMANCE OF COMPANY .....	71
1.	Administrative Charges.....	71
2.	Procedure for Review of Administrative Charges. ....	72

G.	PERFORMANCE REVIEW .....	73
1.	Purpose.....	73
2.	Selection and Cost.....	73
3.	Methodology of Review.....	73
4.	Company’s Cooperation. ....	74
5.	Additional Performance Reviews. ....	74
6.	County Requested Program Review. ....	74
X.	REVOCATION OF PREVIOUS AGREEMENT .....	74
XI.	OTHER AGREEMENT OF THE PARTIES.....	75
A.	COMPLIANCE WITH APPLICABLE LAW AND COUNTY ORDINANCE.....	75
B.	DISPUTE RESOLUTION.....	75
1.	Reference of dispute.....	75
2.	Dispute Resolution Procedures.....	75
3.	Interim Measures. ....	76
4.	Costs and Attorney’s Fees.....	76
5.	Punitive Damages. ....	76
C.	INDEPENDENT COMPANY .....	76
D.	RIGHT OF ENTRY .....	76
E.	LAW TO GOVERN .....	77
F.	FEES AND GRATUITIES.....	77
G.	POSSESSORY INTERESTS TAX.....	77
XII.	MISCELLANEOUS .....	77
A.	AMENDMENT .....	77
B.	SUBCONTRACTING.....	77
C.	ASSIGNMENT .....	77
1.	Restriction on assignment .....	77
2.	Consent to assignment. ....	78
3.	Termination for unpermitted assignment.....	79
4.	Involuntary assignment.....	79
5.	Notice of proposed assignment.....	79
6.	No defaults. ....	80
7.	Assumption of obligations. ....	80

D. NOTICES ..... 80

E. SEVERABILITY ..... 80

F. GOOD FAITH AND EXERCISE OF OPTIONS ..... 80

G. MODIFICATIONS TO THIS AGREEMENT ..... 81

H. ENTIRE AGREEMENT; PRIOR AGREEMENTS; WAIVER..... 81

I. SECTION HEADINGS ..... 81

J. REFERENCES TO LAWS ..... 81

K. INTERPRETATION ..... 81

L. THIRD PARTIES..... 82

M. AUTHORITY ..... 82

## **EXHIBITS**

Exhibit 1: Recyclable Materials

Exhibit 2: Service Area

Exhibit 3: Operating Standards and Procedures

Exhibit 4: Transfer Station Service Rates

Exhibit 5: Phased Improvement of McCourtney Road Transfer Station

Exhibit 6: Service Rates

**AGREEMENT  
BETWEEN THE COUNTY OF NEVADA  
AND  
USA WASTE OF CALIFORNIA, INC.,  
DBA WASTE MANAGEMENT OF NEVADA COUNTY,  
FOR COLLECTION, TRANSPORT, PROCESSING AND DISPOSAL OF SOLID WASTE,  
RECYCLABLES, GREEN WASTE, CONSTRUCTION AND DEMOLITION DEBRIS, AND  
HOUSEHOLD HAZARDOUS WASTE, AND OPERATION OF TRANSFER STATION FOR  
WESTERN NEVADA COUNTY**

THIS FRANCHISE AGREEMENT (this “Franchise Agreement”) was made and entered into on the 24th day of January, 2012, between the County of Nevada, a political subdivision of the State of California (hereinafter the “County”), and USA Waste of California Inc., dba Waste Management of Nevada County (hereinafter “the Company”), and is hereby amended and restated as of July 1, 2019. This Franchise Agreement, as amended and restated, constitutes the entire agreement of the Parties. In consideration of the mutual covenants in this Franchise Agreement and intending to be legally bound, the parties agree as follows:

**I. DEFINITIONS**

For purposes of this Franchise Agreement the following words or phrases shall have the following meanings.

1. AB 341.

AB 341 means the State of California Assembly Bill 341, referring to recycling of commercial Solid Waste (Chapter 476, Statutes of 2006), amending Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001, adding Sections 40004, 41734.5, and 41780.01 , adding Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and adding and repealing Section 41780.02 of the Public Resources Code, relating to solid waste., et seq, as may be amended, supplemented, superseded and replaced by the California legislature from time to time, and related rules and regulations as adopted and administered by CalRecycle.

2. AB 1594.

AB 1594 means the State of California Assembly Bill 1594 (Chapter 719, Statutes of 2014) referring to the use of green material used as ADC amending Sections 40507 and 41781.3 of the California Public Resources Code, et seq, as may be amended, supplemented, superseded and replaced by the California legislature from time to time, and related rules and regulations as adopted and administered by CalRecycle.

3. AB 1826.

AB 1826 means the State of California Assembly Bill 1826 (Chapter 727, Statutes of 2014) referring to recycling of organic waste, adding Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Sections, California Public Resources Code, et seq, as may be amended, supplemented, superseded and replaced by the California legislature from time to time, and related rules and regulations as adopted and administered by CalRecycle.

4. Act or AB 939.

Act or AB 939 means the California Integrated Waste Management Act, California Public Resources Code (“PRC”) sections 40000 et seq., as amended, supplemented, superseded, and replaced by the California legislature from time to time. All state code references are to the PRC unless otherwise noted. In the event of any inconsistency between the definitions set forth below and those in the PRC or the California Code of Regulations (“CCR”) related to solid waste, the PRC and/or the CCR shall prevail.

5. Alternative Daily Cover (ADC).

Alternative Daily Cover means landfill cover material and at least six (6) inches of earthen material, placed on the surface of the active face of the refuse fill area at the end of each operating day to control vectors, fires, odor, glowing litter and scavenging, CalRecycle approved ADC material types are as defined in Title 27, Section 20690(b) of the California Code of Regulations.

6. Applicable Law.

Applicable Law means all laws, ordinances, resolutions, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the collection, handling, processing, and disposition of Franchise Materials that are in force on the Effective Date and as they may be enacted, issued or amended during the term of this Franchise Agreement. Applicable Law includes, but is not limited to AB 341, AB 939, AB 1594, SB 341, and SB 1383.

7. Bagster®.

A Bagster® is a portable dumpster made of woven material that is approximately 8' long by 4' wide by 2'6" high that will hold up to 3 cubic yards of debris, and up to 3,300 pounds.

8. BearSaver Carts.

BearSaver Carts are a bear resistant Cart designed to reduce attractants and discourage bears from disturbing the Carts.

9. Bins.

Bins shall mean those containers provided by the Company for Commercial Customers and subscribing Multiple-Family Dwellings. The Bins are of two types: (i) Bins which are picked up by trucks designed for Solid Waste, C&D and Recycling by means of front loading apparatus; ranging from one (1) to eight (8) cubic yards; and (ii) roll-off Bins (also known as a Debris Box or Drop Box) ranging from ten (10) to forty (40) cubic yards.).

10. Bulky Waste.

Bulky Waste means large items of Solid Waste such as appliances, furniture, branches, and other oversize wastes whose large size precludes or complicates their placement in

containers or handling by normal collection, processing or disposal methods, but excluding Excluded Waste, items larger than three cubic yards, and items of excessive weight, size or density, such as engine blocks, spas, boats and trailers.

11. Buyback Center.

Buyback Center means a location at which Residents may receive cash for certain Recyclables such as aluminum, glass and plastic that is part of the California Refund Value (CRV) program. Buyback Centers shall also accept non-CRV Recyclables at no cost to users.

12. Cart

Cart means an industry standard receptacle for disposal of Franchise Materials, in a range of sizes including approximately 20, 35, 64, or 96 gallons. A Cart will have wheels, a handle for ease of movement and a fitted, attached lid, and is designed to be dumped mechanically into a Solid Waste or Recycling collection vehicle.

13. CCR

CCR has the meaning provided in Section I.4.

14. Change in Law.

Change in Law means the occurrence of any event or change in Applicable Law as follows:

a) The adoption, promulgation, repeal, modification, amendment or other change in Applicable Law or change in judicial or administrative interpretation thereof occurring after the date of this Franchise Agreement, other than laws with respect to taxes based on or measured by net income or any unincorporated business, payroll, franchise taxes levied by any tax board (other than franchise fees levied by the County) or employment taxes; or

(b) Any order or judgment of any federal, state or local court, administrative agency or governmental body issued after the date of this Franchise Agreement if the order or judgment is not also the result of the willful misconduct or negligent action or inaction of the Company; or

(c) The imposition by a governmental authority or agency of any new or different material conditions in connection with the issuance, renewal, or modification of any permit after the date of this Franchise Agreement; or

(d) The failure of a governmental authority or agency to issue or renew, or delay in the issuance or renewal of, or the suspension, interruption or termination of, any permit after the date of this Franchise Agreement; provided the failure to issue or the suspension or termination of any permit is not the result of the willful misconduct or negligent action or inaction of the Company.



15. Collection or Collection Service.

Collection or Collection Service shall mean all or any part of the activities involved in the Collection of Franchise Materials specified in this Franchise Agreement and its transportation to and disposal at a Transfer Station, Disposal Site or Recycling facility.

16. Commercial Customer.

Commercial Customer is a Customer that subscribes for and receives Commercial Service including, but not limited to, those Multiple-Family Dwellings and Mobile Home Park Customers that use Bin service.

17. Commercial Customer Overage.

For purposes of Commercial Customers, "Overage" is defined as (i) Solid Waste, Recyclable Materials or Organic Waste exceeding its Container's intended capacity such that the lid is lifted by at least 10 inches (or would be lifted by at least 10 inches if there was a lid), or (ii) Solid Waste, Recyclable Materials or Organic Waste placed on top of or in the immediate vicinity of the Bin/Cart.

18. Commercial Premises.

Commercial Premises shall mean all industrial, manufacturing, warehouse, wholesale or retail stores, service establishments, professional offices, other business establishments, and government facilities and schools and construction sites, and Multiple-Family Dwellings.

19. Commercial Recycling.

Commercial Recycling means the collection, processing and marketing of those Recyclable Materials that are collected from Commercial Customers under this Franchise on an exclusive basis.

20. Commercial Service.

Commercial Service means Bin or Cart service provided under this Franchise to Commercial Premises and Bin service provided to Multiple-Family Dwellings and Mobile Home Parks.

21. Compactor.

Compactor means a compacting unit that loads a detachable or non-detachable Bin or Debris Box. The detachable or non-detachable Bin or Debris Box serves as a receptacle of Solid Waste, and has a capacity of one (1) cubic yard or larger. The Bin or Debris Box is picked up by a collection vehicle for emptying at a separate location.

22. Company.

Company means USA Waste of California Inc., dba Waste Management of Nevada County.

23. Company Service Fee.

Company Service Fee means the compensation provided to the Company for services performed pursuant to this Franchise Agreement.

24. Composting.

The controlled biological decomposition of Organic Waste into a specific mixture of decayed organic matter used for fertilizing or soil conditioning.

25. Construction and Demolition Debris or C&D.

Construction and Demolition Debris or C&D has the meaning provided in Title 14, Division 7, Section 17388(c) of the CCR or successor laws and regulations as may be amended from time to time, but not including any Excluded Waste.

26. Construction Companies.

Construction Companies is defined in Section IV.C.11.

27. Consumer Price Index (CPI-U-WST).

Consumer Price Index (CPI-U WST) means the index published by the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index series CUUR0000SEHG CPI-U Water and sewer and trash collection services, US City Average, seasonally adjusted.

28. County Representative.

County Representative means the County Executive Officer, or designee.

29. CPI-U-WST- Adjustment.

CPI-U-WST Adjustment means the annual Service Rate adjustment as specified in Section VI.C.I.

30. Curb or Curbside.

Curb or Curbside shall mean that part of the homeowner's property, within five feet of the Public Street or alley without blocking sidewalks, driveways or on-street parking. If extraordinary circumstances preclude such a location, Curbside shall be considered a placement suitable to the resident, convenient to the Company's equipment, and mutually agreed to by the homeowner and the Company.

31. Customer.

Customer means an individual or entity that subscribes for and receives Franchise Services provided by the Company. Customer shall also mean the person, organization or corporation receiving Disposal service for Franchise Materials to which billing statements are sent. Customer also means those Generators of Recyclable Materials in the

Service Area to whom the Company provides and the Customer pays for Collection Service under this Franchise Agreement.

32. Debris Box.

Debris Box means a receptacle for Solid Waste and C&D having a capacity of greater than six (8 cubic yards that is picked up in its entirety by a dedicated truck for emptying at a separate location. Also known as a roll-off box or drop box.

33. Disabled Customer.

Disabled Customer means a Residential Customer who is disabled as verified by a doctor's certification that is no more than 12 months old certifying he or she is eligible for a California Disabled Person Parking Placard or Disabled Person License Plate, and who provides a signed affidavit stating that no able-bodied person resides on the premises.

34. Disposal.

Disposal has the meaning provided in PRC Section 40120.1 or successor laws and regulations as may be amended from time to time.

35. Disposal Fees.

Disposal Fees shall mean the charges imposed by the Transfer Station or Disposal Site.

36. Disposal Site.

The Disposal Site has the meaning provided in PRC Section 40122 or successor laws and regulations as may be amended from time to time, and is a Class II or Class III landfill that Company owns, operates or to which it has secured rights of disposal by way of a contract selected by the Company that is operated and legally permitted for receiving and disposing of solid waste.

37. Effective Date.

Effective Date means July 1, 2012, the date that Franchise Services shall commence under this Franchise Agreement and July 1, 2019 for amendments in this Amended and Restated Agreement.

38. Electronic Waste or E-Waste.

Electronic Waste or E-Waste means waste containing or consisting of electronic devices and components, such as computers, monitors, terminals, computer cards and components, computer peripheral devices, main frame computers, keyboards, mice, printers and scanners, mini-systems, power supply units, servers, connectors/cables, storage discs, consumer electronics, printed circuit boards, televisions, chips and components, cellular and other phones, telecommunications equipment, and fax machines and copiers, but not including Excluded Waste.

39. Excluded Waste.

Excluded Materials means radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous or toxic substance or material, or regulated medical or hazardous waste as defined by, characterized or listed under applicable federal, state, or local laws or regulations, materials containing information (in hard copy or electronic format, or otherwise) which information is protected or regulated under any local, state or federal privacy or data security laws, including, but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended, or other regulations or ordinances

40. Fiscal Year.

Fiscal Year means each twelve (12) month period from July 1st to June 30 during the term of this Agreement.

41. Food Waste.

Food Waste has the meaning provided in Title 14, Division 7, Section 18720(a) (25) of the Code of California Regulations or successor laws and regulations as may be amended from time to time, but not including any Excluded Waste.

42. Franchise.

Franchise means the rights granted to the Company under the terms and conditions of this Franchise Agreement.

43. Franchise Diversion.

Franchise Diversion means the rate of diversion of which Company is responsible to achieve as defined and calculated to achieve in Section V.D.2.

44. Franchise Fee.

Franchise Fee means an amount paid to the County by Company for the right to provide collection Services, as further agreed in Section III.A of this Franchise Agreement.

45. Franchise Materials.

Franchise Materials means all Solid Waste, Recyclable Materials, Construction & Demolition Debris, Household Hazardous Waste, Food Waste and Green Waste generated in the Service Area and included within the Franchise. At the Company's option, "Franchise Materials" shall also include any other materials that can now or in the future be disposed of in Class III landfills. It is the intention of the Parties to maximize the scope of the Company's exclusive franchise within the Service Area by including within the definition of "Franchise Materials" those materials that can be safely Collected, Transported, Disposed of or Recycled using commercially reasonable methods.

46. Franchise Services.

Franchise Services means all of the duties and obligations of the Company hereunder as stated in this Franchise Agreement.

47. Generator.

Generator has the meaning used in the laws governing Hazardous Waste.

48. Green Waste.

Green Waste means biomass consisting of all tree and plant trimmings, grass cuttings, dead plants, weeds, leaves, branches, and similar materials that fit into a Green Waste Cart, but not including Excluded Waste or items with a diameter greater than six inches.

49. Gross Revenues.

Gross Revenues has the meaning provided in Section III.A.

50. Hazardous Waste.

Hazardous Waste has the meaning provided in PRC Section 40141 or successor laws and regulations as may be amended from time to time.

51. Host Fee.

Host Fee means an amount paid to the County by Company for the right to provide Transfer Services, as further stipulated in Section III.B of this Franchise Agreement.

52. Household Hazardous Waste (or HHW).

Household Hazardous Waste shall have the meaning set forth in California Health and Safety Code Section 25218 and in Title 14, CCR, Section 18502 or successor laws and regulations as may be amended from time to time, but not including any Excluded Waste.

53. Household Batteries.

Household Batteries has the meaning provided in PRC Section 42450(c) or successor laws and regulations as may be amended from time to time, but not including any Excluded Waste.

54. Inaccessible Area.

Inaccessible Area shall mean any road, alley or property that does not allow safe access, turn-around, or clearance for standard collection vehicles.

55. McCourtney Road Transfer Station.

The McCourtney Road Transfer Station is the Transfer Station owned by the County, located at 14741 Wolf Mountain Road, Grass Valley, California.

56. Medical and Infectious Waste.

Medical and Infectious Waste means biomedical waste generated at residences in excess of legal limits or at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities and other similar establishments.

57. Mobile Home Parks.

Mobile Home Parks means a site at which mobile home spaces are rented for residential use. Mobile Home Parks, at the Owner's request, may be provided with Residential Service using Carts or Commercial Service using Bins.

58. Multiple-Family Dwellings.

Multiple-Family Dwellings means any building or structure, or portion thereof used for residential purposes and having three (3) or more distinct living units. Multiple-Family Dwellings, at the Owner's request, may be provided with Residential Service using Carts or Commercial Service using Bins.

59. Organic Waste.

Organic Waste means Green Waste, Food Waste, or a combination of Green Waste and Food Waste.

60. Organic Waste Processing Facility.

Organic Waste Processing Facility means the facility(ies) selected by the Company operated and legally permitted for the purpose of receiving and processing or digesting Food Waste and/or Green Waste.

61. Parties.

Parties mean the County and the Company.

62. PET (Polyethylene, Terephthalate).

PET shall mean a recyclable plastic that includes 2-liter pop bottles

63. PRC.

PRC shall mean the California Public Resources Code or successor laws as may be adopted and amended by the California Legislature from time to time..

64. Private Drive(s).

Private Drive(s) shall mean a privately owned or maintained way serving less than one Residence for every 100 yards distance.

65. Private Road(s).

Private Road(s) shall mean a privately owned or maintained way that allows for access by a small wheel base service truck and which serves four or more Residences.

66. Processing or Process.

Processing or Process shall mean treatment, sorting, or other activities intended to improve the market value of a Recyclable.

67. Public Street(s).

Public Street(s) shall mean a public way used for public travel.

68. Quarterly Remittance.

Quarterly Remittance has the meaning provided in Section III.C.1.

69. RecycleWorks.

Recycle Works is the Company's Recycling center located at 12301 Loma Rica Drive in Grass Valley, California.

70. "Recyclable Construction and Demolition Debris" or "Recyclable C&D"

"Recyclable Construction and Demolition Debris" or "Recyclable C&D" means Construction and Demolition Debris or C&D that is disposed of in a Cart or Debris Box or other receptacle that contains no more than 5% non-Recyclables.

71. Recycle or Recycling.

Recycle or Recycling has the meaning provided in PRC Section 40180 or successor laws and regulations as may be amended from time to time.

72. Recycling Carts.

Recycling Carts shall mean a Recycling Cart or other wheeled Cart, front-loader bin, Commercial Cart or other Cart owned by the Company, suitable for on-site collection, storage, and set-out of Recyclables.

73. Recyclable Materials or Recyclables.

Recyclable Materials or Recyclables means those materials defined as such in Exhibit 1.

74. Recyclables Processing Facility.

Recycling Processing Facility means the facility (ies) used by the Company for handling, processing, and preparing collected Recyclable Materials for marketing.

75. Recycling Program.

Recycling Program shall mean an effort by the Company, in cooperation with the County, to offer convenient and affordable recycling opportunities to all residents of County.

76. Recycling Revenues.

Recycling Revenues means all revenues, net of transportation or processing costs, resulting from the sale of Recyclable Materials, Food Waste, and Construction and Demolition Debris and Green Waste collected through the provision of Franchise Services under this Agreement.

77. Residential Customer.

Residential Customer is a Customer that chooses to subscribe to Residential Service including those Multiple-Family Dwellings and Mobile Home Park Customers that use Solid Waste Cart Service.

78. Residential Customer Overage.

For purposes of Residential Customers, "Overage" is defined as (i) Solid Waste, Recyclable Materials or Organic Waste exceeding its Container's intended capacity such that Solid Waste, Recyclable Materials or Organic Waste (i) placed inside a Container that prevents the lid on the Container from being completely closed (i.e., lid remains or would remain open greater than 45-degrees for Recyclables) or excess materials placed on top of or around a Container and (ii) could potentially result in excess materials spilling/dislodging during collection activity by Contractor's vehicles

79. Residential Recycling

Residential Recycling means the collection, processing and marketing of those Recyclable Materials that are collected from Residential Customers under this Franchise on an exclusive basis.

80. Residential Service.

Residential Service means Collection Service for Franchise Materials normally provided under this Franchise to all Single-Family Residences and those Multiple-Family Dwellings and Mobile Home Parks that receive Solid Waste Cart Service.

81. Residual or Residuals.

Residual or Residuals means Solid Waste that is not diverted from landfill disposal after it has been delivered to an Organic Waste Processing Facility or a Recyclables Processing Facility for processing for diversion from landfill disposal. Residuals does not include Recyclable Materials or Organic Material that is processed for diversion but has no available markets. For determining the amount of Residuals in Recyclable Materials, Company shall conduct a characterization study of inbound Recyclable Materials by July 1st of each year to be used for the subsequent 12-month period.



82. Satellite Transfer Stations.

Satellite Transfer Stations means the current remote transfer stations at North San Juan and Washington in Nevada County.

83. SB 1018.

SB 1018 means the State of California Senate Bill 1018 referring to recycling of commercial Solid Waste (Chapter 39, Statutes of 2006), amending California Public Resources Code sections 17210, 19970, 100010, 100115, and 100125 of the Education Code, amending Section 5653.1, adding Section 2948, repealing Article 2 (commencing with Section 2940) of Chapter 13 of Division 3 of the Fish and Game Code, amending Sections 33222, 33223, 33225, 33251, 33252, 33253, 33257, 33291, 33292, 35221, and 35231 repealing and adding Section 33294 of, the Food and Agricultural Code, amending Section 65962.5 repealing Sections 14669.13 and 15819.05 adding Article 9.7 (commencing with Section 16428.8) to Chapter 2 of Part 2 of Division 4 of Title 2 of, adding Chapter 5 (commencing with Section 12894) to Part 2.5 of Division 3 of Title 2 of, the Government Code, amending Sections 25173.6, 25173.7, 25174, 25185.5, 25200.14, 25201.6, 25202.5, 25244.12, 25244.13, 25244.14, 25244.15, 25244.15.1, 25244.16, 25244.17, 25244.17.1, 25244.17.2, 25244.18, 25244.19, 25244.20, 25244.21, 25244.22, 25244.23, 25269.2, 25299.50.3, 25299.81, 25390.7, 25395.30, 25395.99, 25395.119, 25404, 44299.91, 44392, and 106615, amending the heading of Article 11.9 (commencing with Section 25244.12) of Chapter 6.5 of Division 20 of, to add Sections 25114.5, 25244.01, and 25244.13.1 to, to add Article 11.1 (commencing with Section 25220) to Chapter 6.5 of Division 20 of, to add Chapter 6.86 (commencing with Section 25396) to Division 20 , repealing Sections 25117.3, 25117.4, 25149.3, 25244.24, 25356.2, 25356.3, 25356.4, 25356.5, 25356.6, 25356.7, 25356.8, 25356.9, 25356.10, 57009, and 58004.5, repealing Article 11 (commencing with Section 25220) of Chapter 6.5, repealing Article 6.5 (commencing with Section 25369) of Chapter 6.8, repealing Article 8 (commencing with Section 25395.1) of Chapter 6.8, repealing Chapter 6.85 (commencing with Section 25396), repealing Chapter 6.10 (commencing with Section 25401), repealing Chapter 6.98 (commencing with Section 25570) of, Division 20 of, the Health and Safety Code, amending Sections 3258, 5096.255, 5930, 14574, 21155.1, 21159.21, 25740.5, 25744.5, 25746, 25751, 32605, 42474, 42649.2, and 71300, adding Sections 5010.6.5, and 5010.7, adding Chapter 8.1 (commencing with Section 25710) to Division 15, adding and repealing Section 5010.6 of, repealing Sections 25742, 25743, 25744, and 25748 of, the Public Resources Code, amending Section 2851, adding Section 748.5 to, the Public Utilities Code, amending Section 5155, adding Section 5161 to, the Vehicle Code, amending Sections 175.5, 13201, 13202, 13207, 13388, and 13860, adding Sections 147.5 and 11913.1 to the Water Code, amending Section 17645.40 of the 1992 School Facilities Bond Act (Section 34 of Chapter 552 of the Statutes of 1995), amending Section 17660.40 of the 1990 School Facilities Bond Act (Section 34 of Chapter 552 of the Statutes of 1995), amending Section 17698.20 of the 1988 School Facilities Bond Act (Section 34 of Chapter 552 of the Statutes of 1995), relating to public resources, et seq, as may be amended, supplemented, superseded and replaced by the California legislature from time to time, and related rules and regulations as adopted and administered by CalRecycle.

84. SB 1383.

SB 1383 means Senate Bill 1383 (Chapter 395, Statutes of 2016) referring to short-lived climate pollutants, adding Sections 39730.5 39730.6, 39730.7 and 39730.0 to the Health and Safety Code, and adding Chapter 13.1, commencing with Part 3 of Division 30 of the California Public Resources Code section, et seq, as may be amended, supplemented, superseded and replaced by the California legislature from time to time, and related rules and regulations as adopted and administered by CalRecycle.

85. Self-Haul.

Self-Haul means the transport of Franchise Materials from a residence or Commercial Premises, where the materials being generated is taken directly to an authorized landfill or transfer station. The transport must be accomplished by the resident, owner or commercial/business/industrial entity that generates the Franchise Materials and may not be transported by a company, agent or other third-party hired for such use except as provided in Section II.C. of this Franchise Agreement.

86. Service Area.

Service Area shall mean the portion of the unincorporated area of the County depicted on the map attached hereto as Exhibit 2, subject to adjustment as provided in Section II.A.3.

87. Service Rates.

Service Rates means the Company Service Fees for Franchise Service billed and collected by the Company from each Customer receiving service under this Franchise as provided in Section VI. The Service Rates include the Franchise Fee and Host Fee.

88. Signature Date.

Signature Date means the date of execution of this Franchise Agreement by both Parties.

89. Single-Family Residence(s)

Single-Family Residence(s) shall mean all one unit houses and mobile homes, any building or structure, or portion thereof, that is used for residential housing purposes and has two (2) or fewer distinct living units.

90. Solid Waste.

Solid Waste shall mean and include all Solid Waste as defined in PRC Section 40191 and regulations or successor laws and regulations as may be amended from time to time generated within the Service Area that can be disposed of in Class III landfills. Source separated material excluded from the definition of Solid Waste are Excluded Waste, Bulky Wastes, Special Wastes, Recyclable Materials, Organic Waste, Green Waste, and Construction and Demolition Debris. Notwithstanding any provision to the contrary, "Solid Waste" may include de minimis volumes or concentrations of waste of a type and amount normally found in residential solid waste after implementation of programs for the safe collection, recycling, treatment and disposal of batteries and paint in compliance with PRC Sections 41500 and 41802.

91. Special Services.

Special Services are specific service-related activities, including without limitation lock, gate, and long walk services, or other services for which no Rate is established by the County, which is provided by the Company to Customers for which the Company may charge an additional Service Fee.

92. Special Waste.

Special Wastes include flammable waste, waste transported in a bulk tanker, liquid waste, sewage sludge, pollution control process waste, residue and debris from the cleanup of a hazardous material spill or release of chemical substances, commercial products or any other Special Wastes; contaminated soil, waste, residue, debris and articles from the cleanup of a site or facility formerly used for the generation, storage, treatment, Recycling, reclamation, or Disposal of any other Special Wastes; dead animals, manure, waste water, explosive substances, and radioactive substances.

93. State.

State means the State of California.

94. Tipping Fees.

Tipping Fees means the fee established pursuant to Section IV.H.14.

95. Ton.

Ton means a “short ton” or 2,000 pounds.

96. Transfer Services.

The receipt and acceptance of all Franchise Materials delivered under the terms of this Franchise Agreement to the Transfer Station and the processing and safe and lawful transfer of such material to the Disposal Site.

97. Transfer Station.

Transfer Station means a facility designated by the Company and approved by the County for the receipt, processing, and transfer of the Franchise Materials collected by the Company pursuant to this Franchise Agreement. As of the Effective Date, the McCourtney Road Transfer Station has been designated by the Company as the Transfer Station and approved by the County pursuant to this Franchise Agreement.

98. Transformation Facility.

Transformation facility means facility whose principal function is to convert, combust, or otherwise process solid waste by incineration, pyrolysis, destructive distillation, gasification, or to chemically or biologically process solid waste for the purpose of volume reduction, synthetic fuel production, or energy recovery. Transformation facilities do not include biomass conversion or composting facilities as defined in Title 14, California Code of Regulations, section 18720).

99. Transport.

Transport means the hauling of Franchise Materials to a Disposal Site.

100. Uncontrollable Circumstances.

Uncontrollable Circumstances are any acts of God, such as landslides, lightning, fires, storms, floods, pestilence, freezing, and earthquakes; explosions, sabotage, civil disturbances, acts of a public enemy, wars, blockades, riots, labor unrest, eminent domain, condemnation or other taking, or other events of a similar nature, not caused or maintained by the County or Company, which event is not reasonably within the control of the party claiming the excuse from its obligations due to such event, to the extent such event has a material adverse effect on the ability of a Party to perform its obligations thereunder. Events which could have been prevented by reasonable precautions, including compliance with agreements and applicable laws, shall not be considered an Uncontrollable Circumstance. Labor unrest, including but not limited to strike, work stoppage or slowdown, sickout, picketing, or other concerted job action lawfully conducted by the Company's employees or lawfully directed at the Company, or a subsidiary, are not considered Uncontrollable Circumstances, but shall excuse performance to the extent provided in Section IX.E.

101. White Goods.

White Goods means discarded household appliances such as washers, dryers, refrigerators, stoves, water heaters, freezers, small air conditioning units, and other similar items.

**II. GRANT OF EXCLUSIVE AGREEMENT**

**A. SCOPE OF EXCLUSIVE FRANCHISE**

1. Exclusive Rights.

County hereby grants to Company, for the term hereinafter set forth, the exclusive right and privilege:

a) To collect and transport to the Transfer Station, a Satellite Station, RecycleWorks or any legally authorized Disposal Site all Franchise Materials and, to the extent permitted by applicable law, Commercial Recycling generated, kept and/or accumulated within the Service Area, unless otherwise exempt from Collection pursuant to the terms and conditions of this Franchise Agreement.

b) To perform Franchise Materials Transfer Services pursuant to the terms and conditions of this Franchise Agreement.

2. Flow Control

The Company shall, to the extent permitted by law, cause all Franchise Materials originating in the Service Area to be delivered to the Transfer Station.

3. Expansion of Service Area.

As set forth in Exhibit 2 and as mutually agreed by the Company and the County, the Company shall conduct a survey in areas within Nevada County that are not within the Service Area to determine the interest of individuals and entities there in being added to the Service Area at the Service Rates that would be required to provide Franchise Services in those areas. The Company and the County shall review the survey results and mutually determine whether the Service Area should be expanded and, if so, shall mutually agree on adjustments to Service Rates, Tipping Fees and Host Fee, if appropriate. Any adjustments to Service Rates, Tipping Fees and Host Fees shall be reflected in a subsequent written amendment to this Agreement and approved by County's Board of Supervisors.

**B. COMPANY RESPONSIBILITY**

The Company hereby accepts and assumes responsibility to perform and fulfill all the terms, covenants, conditions, and obligations required under this Franchise Agreement. Company agrees to perform all of its obligations under this Franchise Agreement for the term hereof. Company shall furnish all the labor and equipment necessary for the Collection, Processing, Transport and Disposal of all Franchise Materials, subject to the terms, conditions and provisions of this Franchise Agreement.

**C. EXCEPTIONS TO FRANCHISE**

The following services and materials are expressly excluded from this Franchise Agreement. However, the granting of this Franchise shall not preclude an Customer from contracting for the categories of services and materials described below to be delivered to, collected and/or transported by the Company or others, provided that nothing in this Franchise is intended to or shall be construed to excuse any person from any authorization from the County which is otherwise required by law.

1. Compactors for Recyclables.

Rental, lease or sale of Compactors, provided that the Company shall have the exclusive right to provide hauling services for Compactors unless used exclusively for the collection of Recyclable Materials, including Recyclable C&D, in which at least ninety-five percent (95%) of each load is actually Recycled and for which the Generator receives payment.

2. Self-Hauling.

Self-Haul materials, which are delivered by a person or entity directly to a disposal facility. Persons or entities cannot subcontract any portion of the Self-Haul to any entity other than the Company. This provision does not allow persons or entities to purchase, borrow or rent Bins or Carts or other containers and have them collected by a third-party.

3. Incidental Hauling.

Materials which would otherwise constitute Franchise Materials that are removed from a premise by a company as an incidental part of a gardening, landscaping, tree trimming, cleaning, maintenance, construction or similar service offered by that company rather

than as a waste hauling service. This provision does not allow the hauling of materials by any business hired solely for the purposes of hauling and/or removal of debris.

4. Construction and Demolition Debris.

Construction and Demolition Debris materials removed from a work or construction/demolition site by a company or business generating the C&D and Self Hauled or incidentally hauled as provided in Section II.C.3.

5. Recyclable C&D.

Recyclable C&D, in which at least ninety-five percent (95%) of each load is actually recycled and for which the Generator receives payment.

6. Residential Recyclables.

Recyclable Materials donated or sold by Residential Customers from Single-Family Residences or Multiple-Family Dwellings, or from Mobile Home Parks, to any party of their choice, in which at least ninety-five percent (95%) of each load is actually Recycled and that the Generator donated or for which the Generator receives payment.

7. Commercial Recyclables.

Commercial Recyclable Materials, in which at least ninety-five percent (95%) of each load is actually recycled, and not disposed of. Participation by Commercial businesses in Recyclables Collection is currently voluntary, in which at least ninety-five percent (95%) of each load is actually recycled and for which the Generator receives payment.

8. Governmental Entities.

The Company's exclusive Franchise in this Franchise Agreement shall not include governmental entities if and to the extent the County has no legal power to include them in the exclusive Franchise.

**D. TERM OF AGREEMENT**

The term of this Franchise Agreement shall be for the period commencing on July 1, 2012, and ending on June 30, 2032.

**E. TITLE TO FRANCHISE MATERIALS**

It is expressly understood that all Franchise Materials collected under this Franchise shall remain the property of the resident or commercial Customer until such time as it is collected for Disposal. That ownership shall transfer to Company once the Franchise Materials are collected. The Company is hereby granted the right to retain, dispose of, and otherwise use such Franchise Materials, or any part thereof, in any fashion or for any lawful purpose desired by the Company, and to retain any benefit or profit resulting therefrom. Franchise Materials that are disposed of at a Transfer Station, Satellite Transfer Station, Recycle Works or Disposal Site shall become the property of the owner (but not including the County as an owner) or operator of the Transfer Station, Satellite Transfer Station, Recycle Works or Disposal Site once deposited there by Company. The Company shall indemnify the County against claims and losses concerning any

hazardous substance or Hazardous Waste at any place where the Company transports or disposes of Franchise Materials pursuant to this Franchise Agreement, unless said claim or loss is solely caused by the County's willful misconduct or gross negligence.

#### **F. ANTI-SCAVENGING ENFORCEMENT**

The County will cooperate with the Company in the Company's enforcement of, the exclusive rights granted to the Company in this Franchise Agreement and anti-scavenging laws, including without limitation the institution of civil actions against a person or entity alleged to have violated the exclusive rights created in Section IV.A of this Franchise Agreement or the anti-scavenging provisions of PRC Section 41950 (which provides for treble damages, as measured by the value of the material removed, or a civil penalty of not more than \$1,000.00, whichever is greater, for each unauthorized removal, in accordance with PRC Section 41953). If County is required to take administrative, law enforcement, or other legal action against any person who infringes on the Company's exclusive rights, the Company shall reimburse the County for all reasonable costs, staff time and legal costs related to any such action. Nothing herein precludes the Company from taking such legal action against third parties as it deems appropriate to protect the exclusive nature of its franchise.

### **III. FRANCHISE FEE AND HOST FEE**

#### **A. COUNTY FRANCHISE FEE**

As of the Effective Date of this Franchise Agreement, twelve percent (12%) of all revenues collected by the Company resulting from the full amount of the Service Rates for the exclusive Collection Services provided by the Company on or after the Effective Date of this Franchise Agreement within Nevada County, but excluding revenue for services provided by the Company prior to the Effective Date and from services other than Collection Services, non-exclusive or excepted services, exempt materials, or sales of Recycled Materials (collectively, "Gross Revenues"), shall be paid by the Company to the County as a Franchise Fee; provided, however, that all revenues received by the Company for Collection Services more than 90 days after the Effective Date will be subject to the 12% Franchise Fee, regardless of whether they were received for services provided before or after the Effective Date.

#### **B. COUNTY HOST FEE**

As of the Effective Date of this Franchise Agreement, the Company shall pay a Host Fee to the County with respect to Transfer Services (excluding Transfer Services with respect to Recyclables and Organic Waste) in the amounts as follows: \$20.00 per ton for Solid Waste and \$10.50 per ton for C&D Materials. Company shall pay a Host Fee on all Solid Waste and C&D received or processed at the Transfer Station or Satellite Transfer Stations, without duplication of the Host Fee for Franchise Materials received or processed at more than one such location.

#### **C. PAYMENT TO COUNTY**

The Franchise Fee shall be computed and paid on the basis of the Company's cash receipts from Gross Revenues after the Effective Date of this Franchise Agreement. Company shall make payments to County on a quarterly basis within 30 days following the completion of each calendar quarter ("Quarterly Remittance"). The Company shall remit the Franchise Fee and Host Fee as part of the Quarterly Remittance.

1. Quarterly Remittance Statement.

The Quarterly Remittance shall include the following information and calculations:

(a) County Revenues. All Revenues, whether resulting from all Services, whether exclusive or not, received on a cash basis from Customers for each month during that quarter for current and past due accounts are to be reported as County Revenues. Documentation shall be provided to support the County Revenues.

(b) Franchise Fee and Host Fee. The Company shall present the Franchise Fee and Host Fee calculations for each month in the quarter and the quarterly amount of the Franchise Fee and Host Fee obligation.

2. Under and Over Payments

If the Company fails to pay the entire amount of compensation due the County through error or otherwise, the difference due the County shall be paid by the Company within thirty (30) days from discovery of the error or determination of the correct amount. Any overpayment to the County through error or otherwise shall be offset against the next payment due from the Company. If all or any portion of the Franchise Fee or Host Fee is not paid on or before the due date more than once during any consecutive 12 month period, the Company shall pay to the County a late charge in an amount equal to five percent (5%) of the amount past due. The Company shall pay an additional 5% late charge on any unpaid balance for each additional 30-day period during which the Franchise Fee or Host Fee, or any portion thereof, remains unpaid. The Company agrees that the late charges reasonably reflect the costs to County for processing all delinquency notices, calculating and tracking late payments and monitoring the Company's payments under this Franchise Agreement.

**D. AUDITS**

At the County's sole discretion, the County can order an audit of the Franchise Fee and Host Fee calculation. The costs associated with conducting the audit shall be the responsibility of the County; provided, however, that if the audit shows the calculations by the Company to be incorrect by 3% or greater, the costs of the audit will be the responsibility of the Company. Should any examination or audit of Company's records reveal an underpayment of any fee required under this Franchise Agreement, Company shall pay such underpayment (together with applicable late charges as set forth in Section III.C above, but only if the underpayment was due to the willful misconduct or gross negligence of the Company), not later than thirty (30) days after written notice of such underpayment is sent to the Company by County.

**E. RECORDS**

Company shall maintain such account, statistical, and other records related to its performance under this Franchise Agreement as shall be necessary to develop the invoices, statements and other reports required by this Franchise Agreement. Company agrees to conduct data collection information and record keeping and reporting activities in accordance with all applicable laws and regulations and as needed to meet the reporting requirements as provided by this Franchise Agreement. Such records shall be maintained for the Service Area segregated from other areas served by Company.



Upon reasonable request by the County Executive Officer, Company shall provide access to all records of the Company and any subcontractors related to the Franchise Services to be provided under this Franchise Agreement. County shall, at all times during the term of this Franchise Agreement, have the right to inspect or review all documents or records necessary or required expressly or by inference, to determine compliance with the terms of the Franchise Agreement, and any records or reports of Company that the County shall deem, in its reasonable discretion, necessary to evaluate reports, invoices, and other statements. Company shall maintain all such records, together with all records relating to its operations under this Franchise Agreement, for a minimum of 6 years or such longer record retention period as may be required by law.

#### **IV. SERVICES OF COMPANY**

##### **A. SERVICES PROVIDED BY COMPANY**

The Company shall, in accordance with the terms of this Franchise Agreement, Applicable Law and best industry practices of solid waste collection, transfer, processing and/or disposal companies operating in California, provide all labor, materials, facilities, services and equipment necessary to Collect, process, Recycle or Dispose of (as appropriate), market and transport all set out Franchise Materials.

##### **B. SOLID WASTE COLLECTION**

###### **1. Bin Service.**

Company shall furnish or provide Carts to all Residences and Bins or Carts for collection use, as appropriate, to all Multiple-Family Dwellings that subscribe to Bin service and Commercial Premises that generate Solid Waste within County. The size of the Bins and the frequency of their collection (which shall not be less than once a week) shall be determined between the Customer and Company. Bins shall be placed on hard surface locations which are accessible to Company and consistent with applicable County ordinances and development approvals. Bins supplied by Company shall, at all times, be maintained by Company in a well-kept appearance. Front load bins must be maintained with lids. Customers shall be responsible for sanitation and deodorizing of such Bins; provided, however, Company shall provide in its Bin rental contracts for a Bin cleaning service to be performed at the request of the Customer for a fee specified in such contract. The initial delivery of such Bins and Carts shall occur as provided in accordance with the implementation schedule agreed upon by the Parties.

###### **2. Curbside Single-Family Residence.**

Company shall, once per week, collect the Solid Waste that has been placed, kept or accumulated in a Cart (other than a Bin) at Single-Family Residences within the Service Area and placed at curbside or roadside prior to Company's normal weekly collection time, provided that in no event shall Company be required to collect any additional Solid Waste placed at curbside which is not placed in the Cart unless the resident uses a tag provided as part of the "Bag and Tag" service. Solid Waste Carts shall be collected using an automated collection system. The standard service level for a Single-Family Residence shall be a 35-gallon Cart. For the Service Rate in Exhibit 6(as adjusted in accordance with this Franchise Agreement), the Company shall provide a 20-gallon Cart if requested by Customer. For an additional service charge, the Company shall provide a 64-gallon or

96-gallon Cart upon request. For an additional charge at the retail price, the Company shall provide a 64-gallon or 96-gallon Cart or a BearSaver Cart upon request.

3. Bulky Waste.

In January of each calendar year, the Company will provide to Residential Customers who subscribe for Collection Services one annual transfer station voucher for 2-cubic yards of free disposal of Bulky Waste at the Transfer Station. The Company will provide curbside collection of Bulky Waste to Residential Customers who subscribe for Collection Services for an additional charge.

4. Hours of Collection.

Collection Service of all Bins and Carts shall not start before 5:00 a.m. for commercial and 6:00 a.m. for residential or continue after 6:00 p.m., subject to change with the approval of the County.

5. Multiple-Family Dwellings.

Multiple-Family Dwellings, at the owner or property manager's request, may be provided with Solid Waste Service as frequently as negotiated with the Customer but in no event less than once per week, to collect the Solid Waste that has been placed, kept or accumulated in Bins. Waste Management will work with each complex to customize the appropriate level of service. Multiple-Family Dwellings will have the option to select the appropriate cart size or 2, 3, 4, 6 and 8-cubic yard bins for Solid Waste collection. The 6 and 8-cubic yard bins will not have wheels.

6. Commercial Customers.

Commercial Customers, on request, may be provided with Solid Waste Service as frequently as negotiated with the Commercial Customer but in no event less than once per week, to collect the Solid Waste that has been placed, kept or accumulated in Bins. Waste Management will work with each Commercial Customer to customize the appropriate level of service. Commercial Customers will have the option to select the appropriate cart size or 2, 3, 4, 6 and 8-cubic yard bins for Solid Waste collection. The 6 and 8-cubic yard bins will not have wheels.

7. Illegally Dumped Solid Waste.

The Company will provide an illegal dumping pick-up program coordinated between County and the Company. The Company will provide up to \$7,500 in labor and disposal costs (tracked and documented in a manner mutually agreeable to the Parties) related to illegal dump collections during each calendar year. Each collection will be limited to five (5) cubic yards. If the County pays or passes through to the Company grant or other funds to finance the illegal dumping pick-up program, the number of illegal dump collections will be increased to the extent they are financed by such funds. The illegal dumping service will be provided for areas that no more than 30 feet from the center line of a Public Street, provided the materials are not in an unsafe locations (cliffs, steep embankments, etc.) and are on reasonably accessible portions of public property. The County will notify the Company of the illegal dump location. The Company will be required to collect item(s) within five (5) business days of notification. The Company

will not be required to pick-up Excluded Waste or items that the Company has a reasonable basis to believe is Excluded Waste. If there is a reasonable basis on which to identify the person(s) or entity (ies) responsible for the illegal dumping, the County will cooperate with Company's efforts to take appropriate enforcement actions and obtain reasonable recovery of Company's costs. The County shall cooperate with the Company to verify the identity of persons responsible. For illegal dump collections in excess of the limitations described above, the County will pay Company for such services at the disposal cost per ton and established hourly rate then in effect for each fully-crewed vehicle employed in providing such service from the time the vehicle leaves the Company's facility until the time it returns there, as measured from the Company facility with appropriate equipment located nearest to the illegal dump site.

8. Cart Replacement.

The Company, without expense to the County or Customer, and within seventy-two hours after notice, shall provide one free replacement every four years of Solid Waste Carts that are lost, stolen or damaged (regardless of cause). The Company may charge for additional replacement Solid Waste Carts based on the actual cost of the Carts and their delivery. In addition, the Company will replace Solid Waste Carts damaged due to normal wear and tear and provide one free replacement per year for graffiti on Solid Waste Carts without charge within 14 days of the Customer's or County's request. Customers will be able to make a change in Cart size or number of Carts once every twelve months at no additional cost. The Company, without expense to the County or the Customer, and within five working days after notice, shall provide a Solid Waste Cart to a new Residential Customer that has no such Cart or to a new Multi-Family Customer who elects Cart service. The Company shall own and maintain all Solid Waste Carts at its expense, except as provided in this paragraph.

Company must comply with CalRecycle container requirements as they may apply during the term of this Agreement. If Calrecycle adopts new regulations that require the company to replace containers before they have been fully depreciated, or otherwise cause the Company to incur additional costs to comply with Calrecycle regulations directly related to containers, Company may be eligible for additional compensation in accordance with Section VI.C.2.

9. Company Assisted Service.

For a Disabled Customer who subscribes for Collection Services, the Company will provide backyard service at the existing Cart service rate. The Company will have no obligation to provide service for a drive way that is longer than 50 feet or for more than a single Cart.

**C. RECYCLING**

1. Residential Recycling.

The Company shall, once every other week, Collect, Process, Recycle, and Transport all Recyclables from all Residential Customers. Recycling Carts shall be collected using an automated collection system. The Company will only provide Recycling services to Residential Customers that subscribe and pay for Solid Waste services.

2. Residential Recycling Carts Provided.

Company shall provide Residential Customers with Carts and promotional information within fourteen (14) days of notice of, or request for, Solid Waste service. The Company shall provide and distribute to each Residential Customer one (1) such Cart, but, upon request of the Customer and as needed, will provide no more than one additional such Cart at no additional charge. The standard service level for a Single-Family Residence shall be a 96-gallon Cart. For an additional charge at the retail price, the Company shall provide a BearSaver Cart upon request. The initial delivery of such Carts pursuant to this Franchise Agreement shall commence by July 1, 2012, and be completed by September 30, 2012.

3. Residential Recycling Carts Replaced.

The Company, without expense to the County or the Customer, and within seventy-two hours after notice, shall provide one free replacement every four years of Recycling Carts that are lost, stolen or damaged (regardless of cause). The Company may charge for additional replacement Recycling Carts based on the actual cost of the Carts and their delivery. In addition, the Company will replace Recycling Carts damaged due to normal wear and tear and provide one free replacement per year for graffiti on Recycling Carts without charge within 14 days of a valid request. The Company, without expense to the County or Customer, and within five working days after notice from the County or the Customer, shall provide a Recycling Cart to a new Residential Customer that has no such Cart. The Company shall own and maintain all Recycling Carts at its expense, except as provided in this paragraph.

4. Company Assisted Service.

For a Disabled Customer who subscribes for Collection Services, the Company will provide backyard Recycling service at the existing Cart service rate. The Company will have no obligation to provide Recycling service for a drive way that is longer than 50 feet or for more than a single Recycling Cart.

5. Used Motor Oil and Battery Collection.

The Company will collect used motor oil from Single-Family Residences, at no additional cost to the customers if placed at the curb on the assigned collection day for Recyclables. The Company will provide Single-Family Residences with oil collection containers. The Company will collect Household Batteries from Single-Family Residences if placed in zip-lock bags on top of their Recycling Carts for collection and Recycling on the assigned collection day for Recyclables. The Company will only provide such services to Residential Customers that elect and pay for Solid Waste services.

6. Community E-Waste Events.

The Company shall host two free annual community E-Waste collection events. The Company shall advertise the events through newspaper and radio advertisements, the Company's and the County's website and articles, flyers, and bill inserts. These events will be located at a site determined by the County to achieve the most participation.

7. Commercial and Multiple-Family Dwelling Recycling.

The Company shall Collect Process, and Transport all Recyclables from all Commercial Premises in which the Customer or property manager and the Company have agreed to participate. Recycling collection will be at no additional charge for Commercial Customers subscribing to Solid Waste collection from the Company; provided, however, that in the event any Recycling Cart contains more than 5% non-recyclables, the Cart will be treated as containing Solid Waste and the Customer will be charged at the applicable rate for Solid Waste. The Commercial Premises on-site Recycling Program will be available to Multiple-Family Dwellings with five (5) units or more. Servicing Commercial Premises will be dependent upon the Customer or property manager's willingness to participate, and upon provision of a proper site to locate Recycling Carts. The Company shall notify County of locations where Recycling services are not selected by customer or not possible to provide. Multiple-Family Dwellings will have the option at varying Service Rates to select the appropriate cart size or 2, 3, 4, and 6-cubic yard bins for recycling collection. The 6-cubic yard bins will not have wheels. AB 341 provides for recycling program for multi-family with five (5) or more units. The Company will only provide Recycling services to Commercial Customers and Multiple-Family Dwellings that elect and pay for Solid Waste services. The Parties acknowledge that AB 341, adopted in 2011 by the California Assembly, requires Commercial Customers generating more than 4 cubic yards of Solid Waste and Multiple-Family Dwellings to recycle; however, the County has not yet developed or adopted an implementing ordinance to address this requirement. Company and County will cooperate in developing measures related to implementation of AB 341 and agree to modify these Commercial and Multi-Family Recycling requirements as necessary to assure successful implementation of AB 341 in a manner consistent with the provisions of Section V.D.

8. Food Waste Collection for Commercial Customers and Multiple-Family Dwellings.

Beginning July 1, 2019, the Company shall offer a Food Waste program to Commercial and Multiple-Family Dwellings in accordance with the requirements of Applicable Law and the Company may charge for this service as listed in Exhibit 6. Food Waste shall be collected in a separate 64-gallon Cart, or an appropriately sized Bin mutually agree on between the Company and Customer. The Company may vary the Cart and Bin size as appropriate to accommodate service by specialized vehicles used to provide Food Waste collection. The Company shall only be required to provide Food Waste Collection to Commercial Customers and Multiple-Family Dwellings which subscribe to and pay for Organic Waste Collection Service.

If the Company is unable to deliver Food Waste at an Organic Waste Processing Facility located equal to or less than seventy-five (75) miles from the McCourtney Road Transfer Station or the Food Waste tipping fee is more than seventy-five dollars (\$75.00) per ton as adjusted annually by the CPI-U-WST Adjustment, and no other Organic Waste Processing Facility(ies) are available within the same seventy-five (75) mile range or at the same or lower per ton tipping fee, the Company may be entitled to receive additional compensation in accordance with Section VI.C.2 to recover the incremental costs for a change in travel distance or tipping fee if, and only if, such increased compensation in addition to the normal adjustments of Service Rates results in Service Rates being above the rate limitations as set in Section VI.C.1. the County will not unreasonably withhold a

total adjustment as set in Section VI.C.7., provided the Company provide the County with a regional cost analysis showing available Organic Waste Processing Facility options and rates clearly demonstrating the need for said adjustment.

9. Commercial Recycling Carts Provided.

The Company shall provide Recycling Carts to each participating Commercial Premises. Carts shall be provided within fifteen (15) working days of sign-up and Customer or property manager's permission and provision of a proper site. Carts shall be sited in accordance with all policies and regulations of the County.

10. Collection Days and Times.

To the maximum extent possible, Collection of Recyclables from all Residential Customers shall be made on a regular schedule on the same day as Solid Waste collection. Collection from Commercial Premises shall be made on a regular schedule.

11. Construction and Demolition.

The Company shall encourage builders and demolition companies ("Construction Companies") to source-separate their C&D for future recycling, educate Construction Companies regarding their obligations to Recycle pursuant to California Green Building Standards Code and shall make Bins and Carts available to Construction Companies in sizes appropriate for source-separation. Prior to disposal, Company shall have the right to salvage C&D collected pursuant to this Franchise Agreement and to retain funds derived there from.

12. Sustainability Team.

The Company will collaborate with County staff to make available reasonable use of the Company's Sustainability Team. The Company, in coordination with County staff, will develop an annual Waste Diversion and Sustainability Work Plan to help guide the Company's sustainability support staff's work efforts. The Company will complete each annual Work Plan by October 1. Beginning with the Fiscal Year commencing July 1, 2019, Company will expend up to \$20,000 per year for the obligations described in this Section 12; provided however, that the Company's annual maximum expenditure obligation shall be adjusted annually by the CPI-U-WST Adjustment as of July 1 of each Fiscal Year thereafter.

a) On an annual basis the Company will work in coordination with the County to provide education and outreach programs to support recycling and organic waste diversion programs for Residential and Commercial Customers, in conformance with Applicable Laws. These programs will consist of the following:

i. Company will utilize "Recycle Often. Recycle Right" education programs and materials (or an equivalent program) to educate on proper Recycling. RORR (Recycle Often Recycle Right or RORR.com) is an online resource center designed to offer a number of educational tools assisting with proper Recycling. Educational information includes

brochures, school recycling curriculums, kid's activity flyers, posters, myth busters, and recycling art activities.

- ii. Company shall attend at least two (2) public events and host booths and or visit at least three (3) schools to promote Recycling education and awareness. Company will work with County to identify which special events will be attended.
  - iii. Company shall distribute educational material to customers on an annual basis. Examples include recycling tips, battery and bulb education, proper cart placement, resource information, and HHW education. This material will be mailed to customers.
  - iv. Company shall distribute annual Calendars via the mail, which outline recycling tips, and other educational information to customers on an annual basis by December 1.
  - v. Customers shall have access to Company's local website to find information specific to the County's programs. The Company will ensure that information provided on the website is maintained and up-to-date. This content will include proper container set out, educational materials, newsletters and program descriptions. Customers will also have the ability to use WM's web based service request system.
  - vi. Company shall work with local media to ensure information is communicated to community (new programs, events, recycling information, etc.)
  - vii. Company to use options, such as; local paper, news and websites.
- b) As required in Section VII, Company shall assist the County in completing the Recycling and Customer C&D diversion reports to satisfy the State diversion reporting requirements.
  - c) Support Food Waste and Green Waste diversion surveys and programs.
  - d) Complete Recycling and Solid Waste audits for Commercial Customers and provide recommendations to Commercial Customers on how to improve overall resource efficiency.
  - e) Provide additional public outreach services and programs if requested by County at a cost to be mutually agreed upon between the Company and the County Representative pursuant to a separate Agreement. In the event the Company and County Representative cannot agree upon the cost for such additional services or programs, County shall have the right to procure the service of other vendors or contractors to provide public outreach services. These services may include, but are not limited to specific grant funded programs, e.g. used oil and oil filter collection events, household hazardous

waste collection events and or programs, tire amnesty events, etc. Services and programs covered under this section are outside of the normal

f) Notify the County Representative by facsimile, e-mail or phone of all requests for news media interviews related to the services covered under this Franchise Agreement within twenty-four (24) hours of Company's receipt of a request. When practicable, and before responding to any inquiries involving controversial issues or issues likely to affect participation or customer's perception of services, Company will discuss Company's proposed response with the County Representative.

g) The Company will make an individual available as needed to implement, in cooperation with the County, Recycling programs in the Service Area on an average of approximately two days a week. The Company will maintain a website that describes and promotes the use of the available Recycling services. The Company will consult, collaborate and coordinate its activities with the County regarding Recycling programs so that the County is fully informed and provided as opportunity for input to the Company's Recycling programs.

13. Food Waste Collection Residential Single-Family Dwellings.

On or before January 1, 2022, the Company will begin offering Food Waste as part of the Organic Waste Collection Services to Residential Single Family Dwelling Customers that subscribe to and pay for Organic Waste Collection Services. The Residential Organic Waste program will be incorporated into the Subscription Green Waste Program as described in Section IV.D.2 below. Collected Organic Waste shall be processed at a properly permitted Organic Waste Processing Facility. The Service Rates as listed in Exhibit 6, and as may be adjusted in accordance with Section VI.C.1, shall apply to the January 1, 2022 Residential Organic Waste Program.

Company must comply with CalRecycle collection frequency requirements as they may apply during the term of this Agreement. If any such changes to collection frequency are adopted after the Effective Date of the Amended and Restated Agreement, that results in Company being required to change to weekly collection of Organic Waste containers, or otherwise cause Company to incur additional collection costs, and as additional collection costs may be off-set by, for example, a reduction in garbage collection frequency to every other week, increased route collection efficiency, or the use of split-body collection containers and split body collection vehicles, Company may be entitled to receive additional compensation in accordance with Section VI.C.2 to recover the incremental costs changes to collection frequency, and only if such increased compensation in addition to the normal adjustments of Service Rates results in Service Rates being above the rate limitations as set in Section VI.C.1, the County will not unreasonably withhold a total adjustment as set in Section VI.C.7.

If the Company is unable to deliver Food Waste to an Organic Waste Processing Facility located equal to or less than seventy five (75) miles from the McCourtney Road Transfer Station or the tipping fee is more than sixty-dollars (\$60.00) per ton as adjusted annually by the CPI-U-WST Adjustment, and no other Organic Waste Processing Facility (ies) are available within the same seventy-five (75) mile range or at the same or lower per ton tipping fee, the Company may be entitled to receive additional compensation in accordance with Section VI.C.2 to recover the incremental costs for a change in travel



distance or tipping fee if, and only if, such increased compensation in addition to the normal adjustments of Service Rates results in Service Rates being above the rate limitations as set in Section VI.C.1, the County will not unreasonably withhold a total adjustment as set in Section VI.C.7., provided the Company provide the County with a regional cost analysis showing available Organic Waste Processing Facility options and rates clearly demonstrating the need for said adjustment.

#### **D. GREEN WASTE**

##### **1. Subscription Green Waste Program.**

Residential Customers and Commercial Customers will be able to voluntarily subscribe to a Green Waste Program. For Commercial and Multi-Family Customers, the Company shall replace the Green Waste Program with the Commercial and Multi-Family Organic Waste Collection Services program no later than July 1, 2019. For Residential Customers, the Company shall replace the Green Waste Program with the Residential Single Family Dwelling Customers Organic Waste Collection Services no later than January 1, 2022. Company may charge for Organic Waste Collection Services as listed in Exhibit 6.

##### **2. Green Waste Collection.**

For subscribing Customers, Company shall, once every other week, Collect, Transport and Recycle Green Waste set out in Carts. Company shall notify the County within twenty-four (24) hours when Green Waste Services have been delayed. Green Waste Carts shall be collected using an automated collection system. The standard service level for a Single-Family Residence shall be a 96-gallon Cart. For an additional charge at the retail price, the Company shall provide a BearSaver Cart upon request. The initial delivery of such Carts shall commence by July 1, 2012, and be completed by September 30, 2012.

##### **3. Cart Replacement.**

The Company, without expense to the County or Customer, and within seventy-two hours after notice, shall provide one free replacement every four years of Green Waste Carts that are lost, stolen or damaged (regardless of cause). The Company may charge for additional replacement Green Waste Carts based on the actual cost of the Carts and their delivery. In addition, the Company will replace Green Waste Carts damaged due to normal wear and tear and provide one free replacement per year for graffiti on Green Waste Carts without charge to the County or Customer within 14 days of request by the County or the Customer. Customers will be able to make a change in Cart size or number of Carts once every twelve months at no additional cost. The Company, without expense to the County or the Customer, and within five working days after notice, shall provide a Green Waste Cart to a new Residential Customer that has no such Cart. The Company shall own and maintain all Green Waste Carts at its expense, except as provided in this paragraph.

4. Company Assisted Service.

For a Disabled Customer who subscribes for Collection Services, the Company will provide backyard Green Waste service at the existing Cart service rate. The Company will have no obligation to provide Green Waste service for a drive way that is longer than 50 feet or for more than a single Green Waste Cart.

5. Christmas Trees.

Company shall collect un-flocked Christmas trees at the curbside cut up and placed in their Green Waste cart on the regular day of Collection Service on a schedule mutually agreed upon with the County. Customers will also have the option to drop off trees at a central location at no cost to the County or Customers on a schedule mutually agreed upon with the County.

**E. RECYCLABLE MATERIALS AND ORGANIC WASTE CONTAMINATION BY RESIDENTIAL CUSTOMERS**

Company shall offer Residential Customers the correct combination of Cart sizes, to match the customers unique service needs, to assist in the reduction of contamination within Recyclable Materials and Organic Waste. To support the County' diversion goals and Company's Diversion Requirements as set forth in Section V.D of this Agreement, Company shall only be required to collect Recyclable Materials if they have been separated by the Service Recipient from Garbage and Organic Waste and shall only be required to collect Organic Waste if it has been separated by the Customer from Garbage and Recyclable Materials unless the Company demonstrates, to the County's reasonable satisfaction, that these Franchise Materials have not been properly separated as set forth below.

As part of Company's Public Outreach Services under Section IV.B.12 of this Agreement, Company agrees to provide outreach to Customers. Recyclable Materials or Organic Waste are deemed to be contaminated, if, by visual or digital inspection, Recyclable Materials are commingled with ten percent (10%) by weight or volume of Garbage or Organic Waste, or if, by visual inspection, Organic Waste is commingled with three percent (3%) by weight or volume of Garbage or Recyclable Materials. The Company may take the following steps to address contamination:

1. Contamination

a) For the first two occurrences (if within 12 months of the first) of contamination (i.e., Recyclable Materials or Organic Waste), Company shall collect the contaminated container and shall provide instructions to the Customer (written or electronic, or voice) on the proper procedures for sorting Recyclable Materials or Organic Waste and inform the customer that Recycling/Organic Waste service may be discontinued if contamination continues. The Company must retain digital/visual evidence of contamination and the date and method of communication with the customer for each occurrence.

b) Third occurrence, (within 12 months of the first) of contamination (i.e., Recyclable Materials or Organic Waste), after contacting the customer (written, electronic, or voice), and providing digital/visual documentation that clearly demonstrates on-going contamination issues and the Company's prior attempts to

address contamination with the customer, the Company may discontinue providing the Recyclable Materials or Organic Waste Collection Services for a period not to exceed one (1) year. The Customer will be presented with two options to remedy the contamination issue:

- i. The Customer may choose to upsize to larger Garbage container, utilizing rates as listed in Exhibit 6, and Company will not remove the Recyclable Materials or Organic Waste container. However, if the contamination continues, the Recyclable Materials or Organic Waste container will be removed, and Company may apply a fee for removing the contaminated Recyclable Materials or Organic Waste container, as listed in Exhibit 6.
- ii. If the Customer chooses not to upsize to larger Garbage container, Company may apply a fee for removing the contaminated Recyclable Materials or Organic Waste container, as listed in Exhibit 6.

2. Service Re-start.

After one (1) year, the Customer may request the Company to reinstate the discontinued service, and Company may charge a container delivery fee as specified in Exhibit 6 for restarting the Recyclable Materials or Organic Waste Collection Service.

3. Disputes Regarding Discontinued Service

Within thirty (30) calendar days of a dispute regarding Company's decision to discontinue service, the Company shall provide the County with digital/visual documentation that clearly demonstrates on-going contamination issues and documentation that the appropriate notifications were made as outlined in Section IV.E.1, (a) and (b), above. If digital/visual documentation does not clearly demonstrate contamination or if proper notifications were not made in a timely manner, the customer's recycling and or organic services shall be immediately reinstated, and any fees associated with the dispute will be credited to the Customer's account.

**F. CONTAINER OVERAGE AND CORRECTION PROCEDURES.**

Company has an obligation to offer the Customer the correct combination of container sizes and collection frequency that matches each Customer's unique service needs to enable clean, efficient, and cost-effective collection of Garbage, Recyclable Materials, and Organic Waste. The County and Company agree that Overages in Garbage/Recyclables/Organics containers may negatively impact public health and safety. Company has agreed to conduct Recycling audits and provide outreach and support to Customer accounts to verify that they are using correctly sized containers and are receiving the correct level of service. In the event that a Commercial or Residential Customer is found to habitually maintain Overage in their Garbage, Recycle and/or Organic Container(s), as defined in Section I.18 and I.78, the Company may take the following steps to address container Overages.

1. Overages

a) Overage incidents will result in the Customer receiving a courtesy notice along with a picture of the Overage, including the date, time and collection vehicle and/or route identifying information.

b) On the second occasion, the customer will receive a warning, along with a picture as set forth in subsection 1(a) above. In addition, the Company shall contact the Customer to ensure that customer has the appropriate level of collection service and provide a warning that future Overage may result in an Overage charge.

c) Beginning on the third occurrence the Company may charge for Overage charge as set forth in Exhibit 6.

2. Prior Arrangements for Collection.

If the Customer has made prior arrangements with Company for collection of a container Overage, Company shall collect such Overage as previously arranged, and may charge the Customer the Container overflow charge at the rate set forth in Exhibit 6.

3. Disputes Regarding Container Overage Charges.

Within thirty (30) calendar days of a dispute the Company shall provide the County with documentation (pictures) that clearly demonstrates all Overage incidents in question and documentation that the appropriate notifications were made as outlined in Section IV.F.1, (a), (b) and (c) above. If documentation (pictures) do not clearly demonstrate three (3) separate Overage events or if proper notifications were not made in a timely manner, any fees associated with the dispute will be credited to the customer's account.

**G. ADDITIONAL WASTE REDUCTION SERVICES**

1. Disposal Vouchers.

The Company will provide Single-Family Residences that subscribe to Collection Services with one free disposal voucher each year for up to 2-cubic yards of Solid Waste (other than Excluded Waste) at the Transfer Station. The Company shall mail vouchers annually in December of each calendar year (for the following year) along with guidelines and instructions about the program.

2. Green Waste Drop-off Events.

The Company shall host two free annual community Green Waste collection events. The Company shall advertise the events through newspaper and radio advertisements, the Company's and the County's websites and articles, flyers, and bill inserts. The Company shall provide all necessary equipment and staff for the Green Waste Drop-off Events, and shall collect; transfer and deliver all collected Green Waste to an Organic Waste Processing Facility. These events will be located at a site(s) determined by the County to achieve the highest levels of participation by County residents. County and Company shall mutually agree on the specific dates and hours of the Green Waste Drop-off Events.

3. Buyback Centers

The Company will operate buyback events from 8:00 am to 3:00 pm once a month (or such other schedule as may be agreed to by the County and the Company, or as allowable by the Company's site permit) at a portable Buyback Center in North San Juan (to be operated at the North San Juan transfer station or another mutually acceptable location), subject to rescheduling for weather conditions. The Buyback Center will maintain regular hours of operation each month. Additionally, the Company will continue to operate the McCourtney Road Transfer Station Buyback Center, during the Transfer Station's regular operating hours, for purposes of Collecting Recyclables.

4 Recycle Rewards

The Company will offer a Recycle Rewards Program to Commercial Customers in which the Company will review the contents of the Customer's Solid Waste Cart for Recyclable items. If no acceptable Recyclable items are found, the Company will award the Customer a cash prize. The length and frequency of this program will be as mutually agreed upon by the County and the Company.

5. Bagster®.

For an additional charge to be agreed upon by the Company and a Customer, the Company will collect a Bagster® from the Customer by appointment. The Customer will need to purchase a Bagster® for an additional charge.

6. Bag and Tag.

In December of each calendar year, the Company will mail 12 Bag and Tag tags to each Single-Family Residence that subscribes to Collection Services, along with a program description. The Bag and Tags shall be valid without expiration. Customers may affix the tags to extra bags of waste, and leave the bags at the curb on their regular service day for collection. The Company will collect the bags at no additional charge. Single-Family Residences may purchase from the Company additional Bag and Tag tags.

7. Insta-Bin Temporary Bins.

The Company will provide compact front-loading Insta-Bins in 2, 3, 4, or 6-cubic yard sizes for small residential or commercial projects for an additional charge.

8. Used Motor Oil and Household Battery Collection for Multiple-Family Dwellings.

The Company will collect used motor oil from Multiple-Family Dwellings, at no additional cost to the Customers if placed at the curb on the assigned collection day for Recyclables. The Company will provide Multiple-Family Dwellings with oil collection containers. The Company will collect Household Batteries from Multiple-Family Dwellings if placed in zip-lock bags on top of their Recycling Carts for Collection and Recycling on the assigned Collection day for Recyclables.

9. Multiple-Family Dwelling Toolkit.

The Company will provide public education for a Multiple-Family Dwelling Recycling program, including bilingual educational and outreach materials for building and homeowner association managers and residents with information on the program and recycling. The materials will include recycling baskets for each unit in a Multiple-Family Dwelling, a recycling brochure, posters, flyers, color-coded enclosure signs for Solid Waste and Recycling areas, mailers, door hangers, property manager guides, newsletters, bin labels and Recycling decals, and workshops.

**H. TRANSFER STATION OPERATIONS**

1. General

The County owns the McCourtney Road Transfer Station and certain equipment, materials and supplies (collectively the “Transfer Station Facility” or “Facility”) used in connection with the operations of the Transfer Station. The County agrees to and shall indemnify, defend, and hold harmless the Company, its officers, officials, employees, volunteers, agents and assigns from and against any and all damages, loss or liability of every kind and description arising or resulting from or in any way connected with the County’s ownership and Recology’s operation of the Transfer Station Facility prior to the Effective Date; provided, however, that Company shall indemnify, defend and hold County harmless for such damages, losses or liabilities arising out of the Company’s negligence or willful misconduct or the Company’s operation, under its prior franchise agreement with the County, or Recycling buyback activities for Green Waste and White Goods conducted at the Transfer Station Facility, or any actions undertaken by Company to transfer Facility operations in accordance with this Franchise Agreement.

2. Facility Operations; Scope of Work.

Effective July 1, 2012, the Company shall assume all responsibilities for the operation, repair and maintenance of the Facility pursuant to this Franchise Agreement. Operating Standards and Procedures for the Facility are set forth in Exhibit 3, which is attached hereto and incorporated herein by reference. The scope of work performed by the Company under this Franchise Agreement at Company’s sole cost, includes: (a) loading, transportation and disposal of Solid Waste and C&D from the Transfer Station; (b) assuming all responsibility for the operation, supervision, and oversight of the Transfer Station; and (c) all repair and maintenance of all buildings, utilities and utility lines, and equipment associated with the Transfer Station Facility, and provision of all supplies necessary to maintain and operate the Transfer Station Facility, subject to and as provided in Exhibit 3.

3. Permits and Approvals.

The Company is responsible for securing and maintaining all necessary permits required for Transfer Station Facility maintenance and operations. The Company shall conduct Transfer Station Facility maintenance and operations in compliance with all such permits. In the event of a conflict or inconsistency between this Franchise Agreement (including Exhibit 3) and the terms and conditions of such permits, the terms and conditions of the permits shall prevail. On or before July 1, 2012, the Company shall ensure that Company has obtained any and all agreements and permits necessary to operate and maintain the

Transfer Station Facility in accordance with all terms and conditions of this Franchise Agreement.

4. Days and Hours of Operation.

The Company shall operate the Transfer Station Facility for the receipt of Franchise Materials in accordance with the days and hours of operation as set forth in all permits and will coordinate any changes with the County. The Company shall not be required to accept Franchise Materials at the Transfer Station Facility on New Year's Day, Labor Day, Thanksgiving Day and Christmas Day.

5. Liability Limitations.

Notwithstanding any other provision of this Franchise Agreement to the contrary, under no circumstances shall the Company be liable or responsible for, and the County shall indemnify, defend and hold harmless the Company from and against the negligent actions or omissions or willful misconduct of the County; and (b) any and all claims, liability, losses, damages, and expenses arising from repairs, clean-up, and removal, or other costs including response costs, arising from or relating to Hazardous Waste at or released from the McCourtney Road landfill; provided, however, that Company shall indemnify, defend and hold harmless the County as and to the extent required by Section VIII.A.

6. Loading and Transporting Franchise Materials.

The Company shall provide for the disposal or processing of Franchise Materials received at the Transfer Station, Satellite Transfer Stations or RecycleWorks (until it is relocated to the McCourtney Road Transfer Station by Company). The Company shall provide suitable containers at the Transfer Station in sufficient number to allow for immediate loading of all Solid Waste. Household Hazardous Waste, Recyclables, Green Waste and C&D shall be stored and transported as needed or desired by Company. Company shall also provide personnel to load the Solid Waste, Household Hazardous Waste, Recyclables, Green Waste and C&D and the Company shall seal each container upon completion of loading and take all necessary steps to ensure that Solid Waste, Household Hazardous Waste, Recyclables, Green Waste, and C&D does not leak or spill from the container. Company shall transport Solid Waste on a daily basis to the Disposal Site, provided, however, that the Parties recognize and agree that Solid Waste will accumulate throughout the day causing some Solid Waste to be held beyond the end of the day in suitable containers. To the extent that Solid Waste is held beyond the end of the day, Company shall ensure that such waste will not be a nuisance to surrounding properties and compliance with applicable site permits. Household Hazardous Waste, Recyclables, Green Waste and C&D shall be transported as needed to processing facilities appropriate or permitted for such materials. The Company shall be responsible for all facets of transporting the Solid Waste, Household Hazardous Waste, Recyclables, Green Waste and C&D both interstate or intrastate (including but not limited to generation of manifests, bills of lading and/or other documents).

7. Household Hazardous Waste.

Unless otherwise agreed by the Company and the County, the Company's obligation to Collect Household Hazardous Waste shall be limited to accepting Household Hazardous Waste for disposal at the Transfer Station. The Company shall accept Household

Hazardous Waste at the Transfer Station for no less than eight hours per day on Wednesday, Thursday, Friday, Saturday and Sunday during each week.

8. Approved Users.

Only approved users shall be allowed to utilize the facility. Approved users must not be operating in violation of the Company's exclusive rights as granted in Article II of this Franchise Agreement. The County will cooperate with the Company in identifying unapproved users. Franchise Materials may only be accepted to the extent authorized by the Facility's permits.

9. Personnel Qualifications and Performance.

The Company shall engage and train qualified and competent employees, including managerial, supervisory, clerical, maintenance, and operating personnel, in numbers and at skill levels necessary and sufficient for Facility operation and to perform the Company's obligations under this Franchise Agreement. Every employee shall have minimum training and experience to perform their respective duties as required by State law and Company policy, including without limitation, 40-hour Hazwoper training where appropriate. The Company shall notify the County Solid Waste Supervisor, the County Sheriff, and the Environmental Health Department in writing of the name, address and telephone number of the Company's staff person responsible for the operation of the Facility. A contact and phone number available after hours, seven days a week and covering any alarms shall also be provided.

10. Signage.

The Company shall maintain easily-readable signs at the entrance to the Facility, detailing the regulations that must be followed by vehicles entering the site; indicating the Facility receiving hours; the types of Franchise Materials accepted at the Facility; rates charged to Self-Haulers; and a local telephone number to call for information and assistance in case of emergency.

11. Scales.

The Company shall maintain state certified motor vehicle scales in accordance with applicable law and permits. To the extent practicable, if any scales are inoperable, being tested or otherwise unavailable, all such vehicles shall be weighed on the remaining operating scales. To the extent that all the scales are inoperable, being tested, or otherwise unavailable, Company shall substitute portable scales until the permanent scales are replaced or repaired. The Company shall test and calibrate all scales in accordance with applicable law and permits. The Company shall provide the County with copies of test results annually within thirty (30) days after the scales have been duly tested and calibrated, and within five working days after County request.

12. Waste from Outside Service Area.

The Company may accept on an occasional basis Solid Waste, Recyclables, Construction and Demolition Debris, Food Waste, and Green Waste (other than Excluded Waste) from outside the Service Area without the consent of the County unless directed otherwise as provided herein. County may, in its sole discretion and at any time upon reasonable



notice, modify or terminate Company's right to accept Franchise Materials from outside the Service Area at the Transfer Station Facility.

13. On-Site Processing of Green Waste.

Company shall not engage in any composting, chipping, mulching or similar activities at the Transfer Station without prior approval by the County.

14. Charge Tipping Fees.

The Company shall charge Tipping Fees for Transfer Station Services provided under this Franchise Agreement as established by resolution of the Board of Supervisors. As of the Effective Date, Tipping Fees shall be as provided in Exhibit 4. Each of the Tipping Fees for the various categories included on Exhibit 4 shall be adjusted in the same manner and at the same times as provided for the adjustment of Service Rates in Section substituting "Tipping Fees" for "Service Rates" therein.

**I. MODIFICATION OF MCCOURTNEY ROAD TRANSFER STATION**

The Transfer Station is currently undersized for the number of Self-Haulers arriving at the site, creating inefficient vehicle access to the site, and longer entry and turnaround times to unload and exit the site. Other challenges at the site include controlling odor, dust and noise. In an effort to address these issues and alleviate community concerns, the County and the Company have committed to implementing modifications to the McCourtney Road Transfer Station. Accordingly, the County and the Company have evaluated options to improve the operations at McCourtney Road Transfer Station which provide the best benefit to the County and its ratepayers, and provide operational efficiencies to Company subject to the terms and conditions described in Exhibit 5.

Until such time as the modifications to the Transfer Station are substantially completed in accordance with Exhibit 5, the Company will continue current operations of the Transfer Station, including consolidation and transferring of Franchise Materials, Collection and Recycling of White Goods, E-Waste, HHW and Bulky Waste, and Collection of Green Waste and Recyclable C&D materials. Processing for Green Waste and C&D will remain offsite from the facility. The Company will maintain the current Satellite Transfer Stations and continue to operate the existing buyback Centers at the McCourtney Road and North San Juan Transfer Stations for purposes of collecting Recyclable Materials.

**V. OTHER COMPANY REQUIREMENTS**

**A. GENERAL**

1. Company Provided Equipment and Vehicles.

Company shall provide an adequate number of vehicles and equipment for the Collection, Disposal and Transportation services for which it is responsible under this Franchise Agreement. All vehicles used by Company under this Franchise Agreement shall be registered with the Department of Motor Vehicles of the State of California, shall be kept clean and in good repair, shall be, uniformly painted and shall be washed at least once every seven (7) calendar days during good weather. Company's name, phone number and

vehicle number shall be prominently displayed on its vehicles. Company shall furnish a listing of equipment utilized to perform all services included in this Franchise Agreement upon request by County. The Company shall, within two to three years of the Effective Date, replace its entire fleet of vehicles, except as provided below. As early as September 30, 2012, but no later than June 30, 2015, the Company will convert its fleet to use compressed natural gas, provided, however, that the replacement and conversion requirement shall not apply to trucks used on a part-time basis and specialty trucks that are not readily available in these fuel-types.

2. Safety Equipment.

All equipment used by Company shall have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights, clearance lights, and warning flags. All such safety markings shall be subject to the approval of the County (if different from the markings commonly used by Company) and shall be in accordance with the requirements of the California Vehicle Code, as may be amended from time to time. All vehicles shall be equipped with audible back-up warning devices and visual back-up warning devices

3. Vehicle Maintenance.

Company shall maintain vehicles in a clean condition and in good repair at all times and ensure that no collected materials, oil, grease, or other substances will blow, fall out, escape or leak out of the vehicle, with the exceptions of vehicle emission. All parts and systems of the collection vehicles shall operate properly and be maintained in a condition reasonably satisfactory to County. Company shall wash all collection vehicles in a frequency to maintain a clean appearance.

4. Maintenance Log.

Company shall maintain a maintenance log for all collection vehicles. The log shall at all times be accessible to County by physical inspection upon request of the County, and shall show, at a minimum, each vehicles' Company assigned identification number, date purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

5. Reserve Equipment.

Company shall have available to it, at all times, reserve collection and transfer equipment consistent with industry standards for private solid waste service providers. Such reserve equipment shall have adequate capacity to perform the contractual duties under this Agreement.

6. Collection on Holidays.

If the day of Collection on any given route falls on a holiday observed by the Transfer Station or Disposal Site to which the County's Franchise Materials are disposed, Company shall provide Collection Service for such route on the next workday following such holiday, thereby adjusting subsequent workdays that week.

7. Disabled Special Service.

At no additional cost, the Company shall provide special service to Disabled Customers. Collection shall be from the back porch, carport, or other outside storage location. The Company shall screen applicants (must be name shown on bill or rental agreement) and provide service only in cases of legitimate need. Eligibility for this Special Service shall be on an annual basis.

8. Private Drives and Inaccessible Areas.

For Residential Customers on Private Drives or inaccessible areas, the Company shall Collect Solid Waste, Green Waste, Organic Waste and Recyclables on the nearest Public Street or Private Road connecting to the Private Drive or inaccessible area.

9. Employees.

Company shall exercise reasonable care to hire responsible Employees, to supervise the work of such Employees, and to discipline and, if necessary and consistent with Company's legal and contractual obligations, discharge an Employee failing to meet reasonable standards for performance of work under this Franchise Agreement. Company shall comply with applicable state and federal law pertaining to employment including, but not limited to, applicable equal opportunity employment and affirmative action requirements. Every employee shall have minimum training and experience to perform their respective duties as required by State law and Company policy, including without limitation, 40-hour Hazwoper training where appropriate. Company shall notify the County in writing at least forty-five (45) days in advance of any planned change, re-assignment, or replacement of the Company's key employees including, but not limited to, the Regional Manager, General Manager, Route Manager, or Sustainability Team Leader. The County may request the transfer of any employee of the Company who materially violates any provision of this Agreement, or who is wanton, negligent, or discourteous in the performance of his or her duties.

10. Manner of Collection.

The Company shall perform all Collection Services in a quiet and courteous manner and ensure that all Carts and Bins are placed on the premises from which they were removed in an upright position, with lids closed, and within five (5) feet of where they were originally placed before collection.

11. Service Schedule.

In January of each calendar year, the Company shall provide calendars (which may be in "pdf" or other similar format) identifying the schedule for Solid Waste, Recyclables, and Green Waste Collection for that calendar year. The calendar shall provide adequate detail for customers to identify specific service days for specific service areas. Hard copies of the calendars shall be made available to Customers upon request.

12. Inclement Weather.

In the event of inclement or severe weather (e.g. snow, ice, landslides, flooding) that makes it unsafe for Collection vehicles or personnel to perform Collection Services, the

Company will be excused from performing services in accordance with the normal Collection schedule and will make commercially reasonable efforts to provide Collection Services within a one-week time period (or earlier if reasonably practicable) provided the roads are safely accessible and may double-up on Collections at no additional charge. The Company will provide a notice on its website and telephone answering service of all changes in the Company's regular Collection schedule. The following delayed service contingency plan will be implemented in the event inclement weather impacts Company's service.

a) Scenario A:

This scenario is utilized when uncontrollable conditions prevent Company from servicing 500 customers or less for one day. In this situation, all affected customers, would have their service delayed for no more than 2 days. For example, if an area is affected by snow on Tuesday and WM is unable to service Customers in that area, affected Customers shall be serviced the next day (Wednesday); if conditions are still not safe on Wednesday, these customers would be serviced on Thursday.

b) Scenario B:

This scenario is utilized when uncontrollable conditions delay service to a certain community; (i.e. more than 500 customers), for one or more days. All affected customers shall be serviced no more than 4 days later (i.e. Tuesday customers would be serviced on Saturday). If possible, WM will place roll off containers in different areas of the affected community so customers have a place to unload their waste & recycling material if needed.

c) Scenario C:

This scenario is utilized when uncontrollable conditions delay service for one week for the entire County. This scenario would occur because of a natural disaster, inclement weather or some unforeseen circumstance that prevents us from servicing the entire area. In this situation, all routes would be delayed one week and all affected customers would be serviced the following week, on their original weekly service day. Extras (equivalent to the customer's garbage container) will be taken free of charge, when service resumes during the following week.

13. Ordinance Revisions.

The County shall use reasonable efforts to update the County Code to be consistent with the terms of this Franchise Agreement and to reflect new program requirements if requested by the Company.

14. Service Complaints.

All service complaints shall be directed to Company. Company shall record all complaints duly received and Company agrees to use its best efforts to resolve all such complaints within the two (2) business days next following the date on which such complaint is received.

a) Complaint Log.

The Company agrees to maintain a written log of all oral and written service complaints registered with the Company from Customers, service recipients, or the public within Franchise area (“Complaint Log”). The Company shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all complaints. Complaints that cannot be reasonably resolved may be appealed to the County Executive Officer or designee for final resolution. The Company shall record in the Complaint Log all written and oral complaints, noting the name and address of complainant, date and time of complaint, nature of complaint, and nature and date of resolution. Such log shall be kept so that representatives of the County, upon request, may conveniently inspect it.

b) Complaint Response.

The Company shall respond to all complaints, other than missed pickups, within twenty-four (24) hours if the complaint is received during a weekday or by the next business day if the complaint is received on a Saturday, Sunday or a holiday.

c) Missed Pickups.

In the event of a missed pickup, the Company shall complete the pickup the same day if the complaint is received by 12:00 p.m. or by 12:00 p.m. the following day if the complaint is received after 12:00 p.m.

d) Telephone.

The Company shall maintain a toll-free telephone System during office hours, which will have available service representatives sufficient to handle the volume of calls typically experienced by the Company. Customers must be able, with reasonable convenience, to reach the Company’s office by phone during office hours. The Company shall also maintain an after-hours toll-free telephone number for use during other than normal business hours. The Company shall have a representative, answering service or voicemail system available at said after-hours toll-free telephone number during all hours other than normal office hours. Any recording shall advise callers to call 911 in the event of an emergency. The Company shall provide the County the means to contact the Company directly by telephone on a 24-hour basis in the event of an emergency. The Company will arrange for calls to the County’s existing toll-free number to be forwarded to the Company’s call center.

e) Website.

The Company will arrange for the County’s website to include a link connected to the Company’s website for matters related to the Franchise Services.

15. Waste Watch.

The Company will coordinate and cooperate with the County Sheriff, fire, Environmental Health and emergency service teams by training its Collection personnel to observe react appropriately to and report unusual activity while performing their Collection Services.

16. Clean-Up.

Company shall be responsible for clean-up of any Franchise Materials dropped or spilled by its employees or agents during Collection or Transport.

**B. CHANGE IN OPERATIONS, ADMINISTRATION OR SCHEDULE**

The Company shall provide a route map with pick up schedules and notify the County in writing of any material changes in, or to the operation to provide Franchise Services (e.g. vehicle routes, equipment type, crew size), administration (e.g., management), and schedule five (5) days in advance of the time such material change is implemented. Any changes to the Company's Collections operation shall meet the service requirements and performance standards and all other terms of this Franchise Agreement. In the case of changes to the Collection schedule the Company must notify all affected Customers at least (14) days prior to any change in the Collection day. The Company shall not permit any Customer to go more than seven (7) days without Solid Waste Collection Service in connection with a Collection schedule change other than in the event of an Uncontrollable Circumstance.

**C. ADDITION OF NEW NON-FRANCHISE SERVICES**

Upon receiving a written request from the County, the Company shall provide any other exclusive or non-exclusive services not covered by this Franchise, and that it is qualified to provide, including, but not limited to, assistance to the County in the event of natural disasters, subject to establishment of appropriate and mutually agreed upon compensation for providing the service.

**D. ACHIEVEMENT OF DIVERSION GOALS**

The Company and the County agree that a material objective in entering into this Franchise Agreement is the achievement of the waste diversion mandates and objectives specified in the Act. As more specifically provided in PRC Section 41780, the County is subject to a diversion mandate that at least 50% of the total Solid Waste generated (as defined in the PRC) is diverted from disposal (i.e., the Act's diversion requirements). In addition, Company will work with County to continue to achieve the current State target, which is calculated by a per resident/employee disposal rate. Current per resident disposal rate is 3.6 (2016 Cal Recycle reported) with a target of 3.0; and the per employee disposal rate is 26.2 (2016 Cal Recycle reported), with the target of 22.7.

1. Company's Franchise Diversion Requirements.

Company shall fully implement Company's required Recyclable Materials and Organic Waste diversion programs to meet a minimum amount of Franchise Material diverted from landfill disposal as listed below:

- a) Forty percent (40%) of all Franchise Material collected by Company in each calendar year beginning July 1, 2019.
- b) Forty-five percent (45%) of all Franchise Material collected by Company in each calendar year beginning July 1, 2021.
- c) Fifty percent (50%) of all Franchise Material collected by Company in each calendar year beginning July 1, 2025.

2. Company's Franchise Diversion Requirements Calculation.

For purposes of determining if Company achieves the Franchise Diversion requirements, the Parties agree the Company's Franchise Diversion shall be measured on an annual basis and will be calculated using the following formula:

*“the tons of materials managed by Company from the provision of Franchise Services in County that delivered to a Recyclables Processing Facility, Organic Waste Processing Facility, or any other permitted processing facility used by Company, or that are otherwise handled in a manner that counts as diversion under applicable CalRecycle regulations (not net of residue processing for purposes of this calculation) divided by the total tons of materials collected in the Service Area by Company from the provision of Franchise Services in each calendar year.”*

As part of the Quarterly Reports submitted in accordance with Section VII, Company shall provide documentation to the County stating and supporting each calendar quarter's diversion rate. Diversion from other sources other than Company's diversion shall not be counted as diversion achieved by Company.

When measuring Company's Franchise Diversion the County shall take into consideration the Company's good faith efforts to achieve the diversion requirements by (i) implementing public education efforts as outlined in Section IV.C.12, (ii) delivering all Recyclable Materials collected hereunder to a legally permitted Materials Recovery Facility, and (iii) delivering all Organic Waste collected hereunder to a legally permitted Organic Waste Processing Facility. County shall also take into account Company's other good faith efforts, changes in recyclable materials markets, documented third party diversion, availability of Organic Waste Processing Facilities, and documented changes in waste characterization, lack of participation of residential and commercial customers in Recyclable Materials and Organic Waste diversion as compared to other jurisdictions with similar diversion requirements and programs.

Company may request waiver or revision of diversion requirements, in which case the Parties agree to meet and confer, and negotiate in good faith, regarding adjustments to the minimum diversion requirement, based on the factors described in the preceding paragraph as well as waste characterization data provided by Company, trends in source reduction, the availability of permitted facilities that are capable of processing material to achieve the required levels of diversion, the availability of commercially viable markets for Recyclable Materials or Organic Waste, transportation constraints, embargoes, and the impact of scavenging. County may not unreasonably withhold approval of the waiver or revision provided that Company has presented sufficient documentation for its request.

If County fails to comply with CalRecycle diversion requirements due to Company's failure to implement the diversion and public education programs provided for in this Agreement and Company's failure to achieve a minimum annual diversion rate as described in above, then Company shall submit a Corrective Action Plan ("CAP") to assist County to comply with PRC Section 41780 and other Applicable Laws/ Company shall submit the CAP by March 15th following the calendar year during which the diversion requirements were not met. Company's CAP shall be subject to approval by the County Representative. County Representative shall only approve said CAP if s/he determines, in his or her reasonable discretion, that the CAP constitutes a good faith CAP which will allow County to comply with Public Resources Code section 41780 and other Applicable Laws. Company shall implement the CAP at Company's sole cost and expense if the failure to comply with CalRecycle diversion requirement is directly attributable to Company's failure to implement the diversion and public education programs provided for in this Agreement. If Company fails to submit a timely CAP in a form reasonably acceptable to the County, Company may be subject to Administrative Charges as specified in Section IX.F.

3. Use of Transformation Facility.

Company may direct up to ten percent (10%) of the County's total waste stream to a Transformation Facility for diversion purposes provided that such diversion is allowable and deemed to be diversion by CalRecycle. Company is not entitled to any additional compensation associated with use of any Transformation Facility.

4. Use of Alternative Daily Cover (ADC)

Company may utilize C&D or Organic Waste as Alternative Daily Cover (ADC) only if a higher use of C&D or Organic Waste is not feasible. However, any tons of materials Collected by Company that are used as ADC may only be counted as diversion under this Section V.D if such use is deemed to be diversion by CalRecycle. Company shall at all times conform to AB 1594 requirements and restrictions as it relates to the County receiving diversion credits from CalRecycle for C&D and Organics Waste.

5. Changes in the Market Conditions for Recyclable Materials.

With prior written approval by County, Company may include additional materials beyond those listed in Exhibit 1, if Company determines that they are capable of being recycled at Company's facilities in or near the Service Area.

If Company provides reasonable documentation to the County, which the County shall have the right to review and confirm, Company has the right to temporarily discontinue acceptance or dispose of any category of Recyclable Materials for such period of time that they have a negative net value (i.e., (commodity value – processing, transportation and marketing costs) is a negative number). Discontinued acceptance or disposal of Recyclable Materials shall be reviewed by the Company and County on an annual basis.

6. Compliance With Laws.

Company's diversion programs set forth herein shall be implemented in a manner consistent with the Applicable Laws, and Company shall implement its diversion programs set forth herein without charging any costs or fees other than those set forth in



Exhibits 4 and 5 and except as otherwise provided herein, as adjusted in accordance with the provisions of this Agreement

7. Mutual Cooperation.

Company and County shall reasonably cooperate in good faith with all efforts by each other to meet County's diversion and other compliance requirements imposed by AB 939 and other Applicable Laws. In this regard, County's obligations shall include, without limitation, making such petitions and applications as may be reasonably requested by Company for time extensions in meeting diversion goals, or other exceptions from the terms of Applicable Laws, and agreeing to authorize such changes to Company's Recycling or Solid Waste programs as may be reasonably requested by Company in order to achieve the diversion requirements set forth herein. Company shall provide such assistance as may reasonably be requested by County in preparing such petitions and applications. In addition, Company shall provide such assistance as may reasonably be requested by County in preparing for or participating in any hearing conducted by CalRecycle or any other regulatory agency relating to County's failure to comply with the Act or Applicable Law, or any rules and regulations thereunder, regardless if such failure results from Company's failure to preform its obligations under this agreement, or if such failure results from County actions.

8. Reporting.

As may reasonably be requested by the County, Company shall provide data and information to County to assist County with the preparation of all reports and other information as may be required by CalRecycle or any other regulatory agency, in order to comply with AB 939 and other Applicable Laws, and to assist County in responding to inquiries from CalRecycle or any other regulatory agency, in so much as such data and information directly relates to portions of services under the terms of this Agreement.

9. Indemnification.

Company agrees that it will carry out its obligations specifically required under this Agreement in a manner consistent with the Act and Applicable Laws, to the extent they apply to County. Company agrees that it will, in addition to any other requirements contained herein, at its sole cost and expense, to the extent legally permitted, defend, with counsel reasonably acceptable to County, indemnify, and hold harmless County and County's officials, employees, and agents from and against all fines and/or penalties which may be imposed on County by CalRecycle or any other regulatory agency, to the extent such fines and/or penalties result from Company's failure or refusal to timely provide information relating to its operations which is required pursuant to this Agreement or the Applicable Laws, and such failure or refusal prevents or delays County from submitting reports required by the Applicable Laws including AB 939, AB 341, AB 1594, AB 1826, and SB 1383 in a timely manner. The indemnity in this Section V.D.9 is in addition to the indemnity set forth in Section VIII.A.2 relating to County's failure to meet state-mandated diversion goals and any other indemnity provisions contained in this Agreement. This Subparagraph V.D.9. shall survive the termination of this Agreement.

10. Waste Generation/Characterization Studies.

Company acknowledges that County may perform Solid Waste generation and disposal characterization studies periodically to comply with the requirements of the Act and Applicable Laws. As may reasonably be requested by County, Company agrees to participate and cooperate with County and its agents and to accomplish studies, provided that such participation and cooperation can be accomplished without substantial additional cost to Company and without substantially interfering with Company's operations.

11. Modifications and Refinements to Promote Diversion Programs.

In recognition that achievement of the requirements of the Act and the Company's Franchise Diversion Requirements may require adjustments to and modifications and refinements of the Franchise Services (in addition to the commercially reasonable efforts of both the Company and the County in implementing them), the Company and the County agree to:

- a) Monitor changes over time in waste diversion within the Service Area.
- b) If the Franchise Services are unsuccessful in achieving the diversion requirements of the Act or the Company's Franchise Diversion Requirements within ninety (90) days of notification by the County of non-compliance, Company must consider modifications to or the addition of new services designed to facilitate compliance with the diversion requirements, and, if the Parties decide to adopt such changes, they shall negotiate in good faith an adjustment to the Service Rates for such services and such other contract amendments as may be necessary to assist the County in meeting said diversion goals.
- c) If: (i) the Parties are unable to agree on a course of action regarding achievement of the County's diversion goals, or (ii) a Party contends that the diversion goals have not been achieved because the other Party is in material breach of its obligations under this Franchise Agreement, then the disagreement shall be resolved in accordance with the dispute resolution procedures in Section XII.B.

**E. EMERGENCY SERVICES**

In the event of a natural disaster (e.g. tornado, major storm, earthquake, fire) or other similar emergency event, exceeding the scope covered in Section V.A.12, the County Executive Officer may grant the Company a variance from regular Franchise Services and schedules and direct Company to provide Emergency collection services. If the Emergency reasonably results in the Company's inability to provide, or a significant interruption in normal Franchise Service to an area of the County, then the Company shall immediately advise the County of the same, identify the affected area(s) and, as soon as practicable after such event, the Company shall advise the County when it is anticipated that normal Franchise Service and schedules can be resumed. The Company shall make an effort through the local news media to inform the public when regular services may be resumed.

In the event that County requests Company to provide non normal Franchise Services to assist in cleanup during or after an emergency the Company may rent additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the event. The Company shall receive additional compensation, above the normal compensation contained in this Agreement, at its normal market rates related to the provision of emergency services for rental equipment, additional personnel, overtime hours and other documented expenses based on the service rates agreed to between the Count and the Company, provided the Company has first secured written authorization and approval from the County through the County Executive Officer.

## **VI. SERVICE RATES**

### **A. AMOUNT OF SERVICE RATES**

The Company shall bill each Customer at up to the maximum Service Rates provided in Exhibit 6 to this Amendment and as adjusted from time to time pursuant to this Franchise Agreement. All maximum Service Rates, fees and other charges contemplated by this Franchise Agreement shall be subject to approval by the County's Board of Supervisors, except to the extent they may be adjusted automatically by formula for a CPI-U-WST Adjustment o pursuant to this Franchise Agreement. The Company may establish Service Rates for Franchise Services that are not specified in Exhibit 6, subject to the approval of the County's Board of Supervisors, which approval shall not be unreasonably withheld, denied or delayed.

### **B. BILLING AND COLLECTION OF ACCOUNTS**

Company shall bill Customers for all Collection Services (including Disposal) for Franchise Materials as part of a single all-inclusive Service Rate. Collection billing shall be itemized separately from Recycling/Green Waste Services, but shall not separately state the amount of the Franchise Fee; provided, however, that Company shall not add to the Service Rates any additional charge for overhead or administrative costs attributable to the Franchise Fee (except to the extent that overhead and administrative costs are included in the Service Rates). Such billings may cover the periods and be collected by the methods hereinafter set forth.

#### **1. Residential.**

Single-Family Residence and Multiple-Family Dwellings Customers may be billed for up to two (2) months in advance or based on arrears/advanced billing combinations implemented at the discretion of the Company. Payment shall be due within 30-days of the billing date. If not paid when due, the bill may thereafter bear a late charge to be determined by Company (subject to approval by County's Board of Supervisors) which shall be collectible along with the charge for service. If the bill is not within 60-days of billing, and after notice of delinquency has been sent to the Customer by Company, the Company may discontinue service, charge interest not to exceed the interest rate for judgments in California for such time as the bill remains unpaid after the due date, and recover from Customer, Company's costs related to collection of the delinquency including actual court cost.

#### **2. Non-Residential.**

All non-residential Customers shall be billed monthly in advance. Payment with respect to each such bill shall be due on or before the 30th day following the end of the service

period for which the bill is rendered; thereafter the bill shall be considered delinquent, and the Company may discontinue service, charge interest not to exceed the interest rate for judgments in California for such time as the bill remains unpaid after the due date, and recover from Customer its costs related to collection of the delinquency including actual court costs.

3. Special Services.

Company shall also receive fees for performance of special services as agreed upon in separate contracts between Company and each Customer requesting such special service.

4. Electronic Billing and Payment

On or before December 31, 2012, Company shall establish an electronic, paperless billing and payment system that will allow all Customers with usual internet connections and credit cards to obtain and timely pay all bills from Company. The electronic, paperless billing and payment system shall be made available at no charge to the County or Customers.

**C. ADJUSTMENTS TO SERVICE RATES**

1. CPI-U-WST Adjustment.

The Service Rates (including charges for Collection, Transportation, Transfer, Recyclable Materials Processing, Organic Waste Processing, and Disposal) shall be increased or decreased annually on July 1st, beginning July 1, 2020, as described below in this paragraph (the "CPI-U-WST Adjustment"). The Service Rates (as they may have been previously adjusted) shall be adjusted by a percentage amount applied to the previous Service Rates that is derived by multiplying the then-current Service Rates by 100% of the percentage increase of the CPI-U-WST. Provided that adequate supporting information has been submitted by the Company, the annual CPI adjustment shall be deemed approved and shall take effect as outlined in this section.

Company may increase the Service Rates as listed in Exhibits 4 and 6 by the same percentage as the change in CPI-U WST. The CPI-U WST adjustment will be calculated using the change in the 12-month annual average of CPI-U WST index values between the January 1st and December 31st of the prior year, and the January 1st and December 31st of the year before the prior year (the prior previous year), each as published by the U.S. Department of Labor, Bureau of Labor Statistics. Therefore, the first CPI-U WST adjustment (effective July 1, 2020) will be based on the percentage change between the average index values for the period of January 1, 2018 through December 31, 2018 (the previous year) and January 1, 2017 through December 31, 2017 (the prior previous year).

Rounding. Calculation of rates and determination of any annual adjustments will be made only in units of one cent (\$0.01) and will not result in a decrease to the rates currently in effect. Fractions of less than one cent (\$0.01) will not be considered in making adjustments. The indices will be truncated at four (4) decimal places for the adjustment calculations.

Minimum Rate Increases and Annual Rate Cap on Service Rates. Except as specifically allowed for in Sections IV.B.8, IV.C.8, and IV.C.13, beginning on July 1, 2020, the total

increases to the Service Rates cannot be below one percent (1.00%) or exceed four percent (4.00%). In the event that total increase to the Service Rates as calculated by the CPI-U WST adjustment exceeds four percent (4.00%), or is below one percent (>1.00%), then the difference between the actual CPI-U WST adjustment and either the minimum rate increase or annual rate cap shall be added to the CPI-U WST adjustment for the following year, subject to the same minimum increase and annual rate cap limitations., and any prior year adjustments that exceeded four percent (4.00%), or was below one percent (>1.00%) will not be considered (e.g. , there is a 1.00% floor and a 4.00% cap on all rates, with any amounts under or over the caps applied to the following year rate increase except as specifically allowed for in Sections IV.B.8, IV.C.8, and IV.C. 13).

## 2. Special Service Rate Review Request.

In addition to the CPI-U-WST Adjustment, the Service Rates may, upon written request of the Company, be further adjusted (a “Discretionary Adjustment”) for increased expenses associated with performance of the services hereunder. The Board of Supervisors may approve or deny, in its reasonable discretion, Discretionary Adjustment (e); The Company may request a Discretionary Adjustment due to any one or more of the following causes:

- a) any Change in Law;
- b) changes in disposal methods, disposal governmental fees or sites mandated by any political body which may now or in the future have legal jurisdiction;
- c) surcharges, fees, assessments or taxes levied by federal, state or local regulatory authorities or other governmental entities upon the collection or disposal of Franchise Materials;
- d) increases in costs resulting from a change in the location of the Transfer Station or Disposal Site to which the Company is required to Transport Franchise Materials collected hereunder or a change to the Transfer Station directed by the County;
- e) change in location of or tipping fee for processing Organic Waste in excess of the limits as set forth in Sections IV.C.8 or IV.C.13, or
- f) any other causes or reasons that are not within the reasonable control of the Company.

The Company shall not seek a Discretionary Adjustment until the aggregate amount of additional costs related to the proposed Discretionary Adjustment exceeds \$25,000.00. The Company must provide the County complete and accurate documentation to support the requested Discretionary Adjustment. The Board of Supervisors will not unreasonably withhold a Discretionary Adjustment that is fully and accurately documented by the Company and verified by the County.

Without limiting adjustments as provided in Sections VI.C.1, VI.C.2, or IV.H.13 or otherwise in this Franchise Agreement, the Company shall not seek a Discretionary Adjustment for: (i) changes in fuel cost, (ii) changes in the number of Customers due to

changes in population or housing/business development but excluding natural disaster (ex. wild fires), (iii) shifts in the number of accounts between larger and smaller Cart sizes, large and smaller Bins, or more or less frequency of Bin pickup, (iv) changes in labor costs, , or (v) changes in insurance costs regardless of cause.

3. Rate Adjustment Procedure.

The CPI-U-WST Adjustment shall be made in the manner described in Section VI.C.1. The Company shall submit to the County a written request for a Discretionary Adjustment, including a report detailing the increased expenses associated with performance of the Services hereunder due to any of the above enumerated causes on later than March 1 of each calendar year. The Company's failure to submit a timely request shall constitute a waiver of the Company's rights to seek a rate adjustment for the following calendar year except to the extent that the County determines, in its reasonable discretion, that such failure does not materially prejudice the County's ability to give due consideration to and take action with respect to such request in the ordinary course of business so that any change in Service Rates may take effect on the following July 1st. Within sixty (60) days after the Company provides the County with such request and report, the County shall notify the Company in writing as to whether the County accepts such information as complete or specifying any respect in which the County deems such information incomplete or deficient. The County shall afford the Company a reasonable opportunity to supplement the information provided with the request in the event the County staff determines that it is not complete.

4. Effective Date of CPI-U-WST Adjustments.

The CPI-U-WST Adjustment shall go into effect as described in Section VI.C.1.

5. Effective Date of Discretionary Adjustments

To the extent reasonably possible, a Discretionary Fee Adjustment shall take effect on July 1st to correspond with the effective date for CPI -U-WST Adjustments. Discretionary adjustments are meant to fully capture Company's increased expenses resulting from the underlying event in Section VI.C.2. It is the Companies responsibility to submit discretionary adjustment requests in a timely manner.

**D. RATE ADJUSTMENT DISPUTES**

If a Rate adjustment is not approved or if the County approves an adjustment less than that sought by the Company, the Company may submit the matter to dispute resolution as provided in Section XXI.B.

**VII. REPORTS**

**A. ANNUAL REPORTS**

Within one hundred twenty (120) days after the close of the Company's fiscal year, the Company shall submit to the County a written annual report, in a form approved by the County, including, but not limited to, the following information:

1. A summary of the previous year's (or, in the case of the initial year, the initial year's), activities including, but not limited to, services begun or discontinued during the reporting year, and the number of customers for each class and level of service; and
2. A revenue statement, setting forth quarterly Franchise Fees and Host Fees, and the basis for the calculation thereof, certified by an officer of the Company.

## **B. MONTHLY REPORTS**

During the term of this Franchise Agreement, the Company shall submit to the County monthly reports of the amount (weight) of waste and materials collected, transported, disposed, and recycled pursuant to the terms of this Franchise Agreement. The monthly reports submitted by the Company shall include the following information:

1. **Solid Waste.** Tons of Solid Waste collected from Residential, Multiple-Family Dwellings (other than those using Bin service) Customers, and Commercial Customers.
2. **Recyclable Materials.** Tons of Recyclable Materials collected and diverted from disposal (net of residual) from Residential, Multiple-Family Dwellings (other than those using Bin service) Customers.
3. **Organic Waste.** Tons of Organic Waste (Food Waste and Green Waste) collected and diverted from disposal (net of residual) from Residential, Multiple-Family Dwellings (other than those using Bin service) Customers.
4. **Transfer Station Usage.** Number of customers using each Transfer Station, tonnage delivered (non-Company collected), and tonnage broken down by each facility, C&D, Solid Waste, Recyclable Materials, and Organic Waste.
5. **Facilities Used.** Names of Disposal Sites, Organic Material Processing Facilities, and Recyclable Processing Facilities to which Franchise Materials were transported, disposed, or processed and the tons transported to each facility.
6. **Average Number of Residential Customers Serviced.** Average number of Residential Customers to which solid waste, recycling and Green Waste Collection Services were provided each week.
7. **Public Education and Outreach Activities.** Public education and outreach program activities undertaken, including distribution of newsletters, billing inserts, other notices, collection notification tags, community information and events, tours and other activities related to the provision of services.
8. **AB 341, AB 1826, and SB 1383 Compliance Data.** The total number of Commercial Customers and/or Multiple-Family Dwellings serviced and the number of containers, container sizes and frequency of collection for Solid Waste, Recyclable Material and Organic Waste for each of Commercial Customer and/or Multiple-Family Dwellings.
9. **Overweight Vehicle Reporting.** The monthly report must include a summary total of all instances of overweight collection vehicles. This summary must include the number

of overweight vehicle instances expressed as a percentage of the total number of collection vehicle loads transported during the reported month.

All monthly reports shall be submitted to the County by the twentieth (20th) day of the following month, and shall only include information on the Company's Collection, Recycling, and Disposal activities in the Service Area.

#### **C. STUDIES**

Both parties acknowledge the necessity to cooperatively prepare studies, reports or analyses whose purpose is to improve Franchise Services, reduce costs and/or respond to changing technologies. When requested by the County, the Company shall prepare these studies in cooperation with County staff and shall utilize other resources as deemed appropriate by the Company. County may, in its sole discretion, compensate the Company for the costs incurred to prepare the studies, reports or analyses.

#### **D. ADVERSE INFORMATION**

The Company shall provide County two copies of all reports, or other material adversely reflecting on the Company's performance under this Franchise Agreement, submitted by the Company to the California or U.S. EPA, the California Integrated Waste Management Board or any other federal, state or county agency. Copies shall be submitted to County simultaneously with the Company's filing of such matters with said agencies. The Company's routine correspondence to said agencies need not be automatically submitted to County, but shall be made available to County upon written request.

#### **E. PUBLIC RECORDS ACT REQUESTS**

The Company shall submit to County copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by the Company to, as well as copies of all decisions, correspondence and actions by, any federal, state and local courts, regulatory agencies and other government bodies relating specifically to all material aspects of the Company's performance of services pursuant to this Franchise Agreement. Any data, which the Company seeks to be excluded from provisions of the California Public Records Act, shall be clearly identified as such by the Company with the basis for such exclusion clearly specified. In the event County receives a request under the Public Records Act, or by subpoena, the County shall notify the Company to permit the Company to object to the release of the information requested or subpoenaed. Should Company object to the release of the information requested or subpoenaed, or fail or refuse to release the information requested or subpoenaed, Company shall pay all costs and expenses, and shall defend, indemnify and hold County harmless from all damages, costs, liabilities, losses and claims of any kind, including all attorneys' fees and costs, arising out of Company's actions or omissions.

#### **F. CALRECYCLE REPORTS**

The Company shall prepare reports that the County is required to submit to the California Department of Resources Recycling and Recovery or that are otherwise required by applicable law in connection with the Franchise Services. The Company shall submit such reports in a form suitable for execution by the County for the County's review and comment, and revision by the County as needed.



## **G. ADDITIONAL REPORTS**

The County reserves the right to request additional reports from the Company as reasonably needed. The Company shall submit to the County such other information or reports in such forms and at such times as the County may reasonably request or require. All reports and records required under this or any other section shall be furnished by the Company and the expense therefore in the gathering and preparation of such information, reports and records shall be at no cost to the County.

## **VIII. INDEMNITY, INSURANCE**

### **A. INDEMNIFICATION OF THE COUNTY**

#### **1. General Indemnity.**

Subject to Section VIII.A.2 (which shall control in the event of a conflict or overlap), the Company agrees to and shall indemnify, defend, with Counsel acceptable to the County, and hold harmless County, its officers, officials, employees, volunteers, agents and assigns from and against any and all damages (whether special, general or punitive), loss, liability, fines, penalties, forfeitures, claims, demands, actions, proceedings or suits (whether administrative or judicial), in law or in equity, of every kind and description, (including, but not limited to, injury to and death of any person and damage to property, strict liability, product liability, or for contribution or indemnity claimed by third parties) arising or resulting from or in any way connected with: (i) the operation of the Company, its agents, employees, affiliates and subcontractors, in performing or failing to perform this Franchise Agreement; (ii) the failure of the Company, its agents, employees, affiliates and subcontractors to comply in all respects with the provisions of this Franchise Agreement, applicable laws (including without limitation all environmental laws), ordinances and regulations, and/or applicable permits and licenses; (iii) the acts of Company, its officers, employees, agents, affiliates and subcontractors in performing services under this Franchise Agreement (whether or not third parties may also be contributorily negligent); (iv) the acts of the Company, its officers, employees, agents, affiliates and/or subcontractors in performing services under this Franchise Agreement for which strict liability is imposed by law (including without limitation strict liability under environmental laws), subject to the Company's right of contribution, if any, against the County; and (v) the processing, marketing, and end use of Recyclable Materials and Green Waste. The foregoing indemnity shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is also caused in part by the negligence of the County, or its officers, employees, agents, or volunteers, except that which is caused by the sole gross negligence or willful misconduct of the County, its officers, employees, agents or volunteers. The Company further agrees to and shall, upon demand by the County, at the Company's sole cost and expense, defend (with attorneys acceptable to the County) the County, its officers, employees, agents and volunteers against any claims, actions, suits, or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any events described in this paragraph. The Company's duty to defend, indemnify and hold County harmless shall include without limitation payment of all costs, reasonable attorneys' fees, fines and penalties arising out of any claim, loss, liability, or damage set forth above. The provisions of this paragraph survive the expiration or termination of this Franchise Agreement.

2. Diversion Indemnity.

To the extent permitted by PRC Section 40059.1, to the extent noncompliance is caused by the Company's breach of or noncompliance with a provision of this Franchise Agreement, and to the extent that the County has adopted and enforces ordinances to ensure the Company has control over as much of the Franchise Materials, including Recyclables, generated or disposed of in the Service Area (including without limitation measures such as mandating that Residential and Commercial Customers use the Company's Recycling services) as reasonably possible, the Company agrees to protect and defend the County, and to defend, indemnify and hold harmless the County from and against all enforcement actions, fines or penalties imposed by the State of California or any federal or local agency, or any claim or action brought by any third party, if the waste diversion mandates specified in the California Public Resources Code within the Service Area are not met by the County with respect to the Franchise Materials collected by the Company under this Franchise Agreement. To the extent permitted by PRC Section 40059.1 and to the extent noncompliance is not caused by the County's breach of or noncompliance with a provision of this Franchise Agreement, Company shall defend, indemnify and hold County harmless from and against any and all claims, actions, demands, litigation, enforcement actions, fines or penalties for failure to meet or exceed the County's current rate of diversion within the Service Area following the first anniversary of the Effective Date of this Franchise Agreement.

**B. INSURANCE SCOPE AND LIMITS**

Policy certificates of all insurance, approved as to form by the County Risk Manager, shall be filed with the Board within ten (10) days after the execution of this Franchise Agreement. County shall be named as an additional insured on all required policies. The County Risk Manager shall reasonably approve the form of all policies. Such policy or policies shall contain a provision stating that such insurance is primary coverage and will not be canceled or modified by the insurer except after filing with the County thirty (30) days written notice of any proposed cancellation or modification. Contractor agrees that it shall provide the County at least thirty (30) days written notice of any proposed modifications of coverage required hereunder. If the insurance required herein lapses, Waste Management shall be deemed in default of this Franchise Agreement.

County reserves the right, to be exercised reasonably and in good faith, to increase amounts or types of insurance in the future as County insurance requirements may change.

1. Commercial General Liability.

The Company and its subcontractors, if any, shall obtain and maintain at their sole cost and expense, through the entire term of this Franchise Agreement, commercial general liability insurance. Such policy or policies shall insure the Company and its officers, employees, affiliates and subcontractors and County in providing services under this Franchise Agreement. Minimum bodily injury or death coverage shall be Five Million Dollars (\$5,000,000) for bodily injury or death to or of one person per occurrence, and property damage shall be a minimum of \$500,000 per occurrence.

2. Environmental Liability Insurance.

The Company shall obtain an environmental pollution liability insurance policy in the amount of Five Million Dollars (\$5,000,000). The Company shall be liable for payment of any deductible.

3. Auto and Equipment Insurance.

Where services under this contract involve or require the use of any type of vehicle by the Company, the Company shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of Five Million Dollars (\$5,000,000). The Company shall also keep all equipment and facilities under this Contract fully insured against fire, theft and vandalism for the full value of said equipment.

4. Workers Compensation Insurance.

The Company and its subcontractors, if any, shall obtain and maintain in full force and effect through the entire term of the Franchise Agreement, full Worker's Compensation Insurance in accordance with the California Labor Code and any other applicable laws. Certificates of such insurance, approved as to form by County Counsel, shall be filed with the Board upon execution of this Franchise Agreement. The insurance carrier shall immediately inform County of any cancellation withdrawal and/or change of any such insurance.

**C. PERFORMANCE BOND**

1. Performance Bond

The Company, upon execution of this Contract, shall provide the County with a performance bond in the amount of Five Million Dollars (\$5,000,000). Payment of such performance bond shall be due and payable to reimburse the County for any losses sustained in the event of default or failure of the Company to perform as set forth herein, or for Company's failure to operate and maintain the McCourtney Road Transfer Station and Satellite Transfer Stations in accordance with Exhibit 2.

2. Alternative Cash Guarantee

Alternatively, the Company may provide a cash deposit to the county in the sum as listed above as security for faithful performance of its obligation herein. If the Company provides a cash guarantee, it shall be deposited in a secured interest bearing account as agreed upon by the company and the county and Company shall assign all rights to the account to County, except for the right to withdraw interest annually. Interest earned from this account will be paid to the Company annually. The performance guarantee, less any outstanding fees or charges due the county, will be returned to the company upon expiration of this franchise agreement.

#### **D. PARENT GUARANTY**

The County may, in its discretion, require the Company to provide a guaranty by its parent entity of the timely payment when due of the financial obligations of the Company under this Franchise Agreement.

#### **E. SURVIVAL OF OBLIGATIONS**

All indemnity and insurance requirements set forth in this Section VII shall survive the expiration or termination of this Franchise Agreement until the expiration of the applicable statute of limitations.

### **IX. BREACH, DEFAULT AND REMEDIES**

#### **A. EVENTS OF DEFAULT**

Each of the following, if material, shall constitute an event of default (“Event of Default”) hereunder, in each case subject to any applicable cure rights, including without limitation the cure rights provided in Section IX.B:

1. Failure to correct breach.

Failure to correct any breach of this Franchise Agreement within the applicable cure period (as defined below).

2. Company bankruptcy.

The company files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or consents to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of equipment no longer useful to the company or necessary for this Franchise Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator (or similar official) of the company for a part of the company’s operating assets or any substantial part of the company’s property, or shall make any general assignment for the benefit of the company’s creditors, or shall fail generally to pay the company’s debts as they become due.

3. Court order or decree.

Any court having jurisdiction shall enter a decree or order for relief in respect of the company, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or the company shall consent to or shall fail to oppose any such proceeding, or any such court shall enter a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the company or for any part of the company’s operating equipment or assets, or order the winding up or liquidation of the affairs of the company. A default under this subparagraph IX.A.3 is considered material and, upon such default, County shall have the right to terminate this Agreement upon ten (10) days’ written notice, but without the need for hearing, suit or other legal action.

4. Fraud or Deceit.

If the Company practices, or attempts to practice, any fraud or deceit upon the County.

5. Failure to Maintain Coverage/Indemnification.

If the Company fails to provide or maintain in full force and effect the Workers' Compensation and liability coverage, or fails to provide indemnification as required by this Agreement.

6. Violation of Regulation.

If the Company violates any order or filings of any regulatory body having jurisdiction over the Company relative to this Agreement, which violation prevents the Company from providing service required by this Franchise Agreement, provided that the Company may contest any such orders or filings by appropriate proceedings conducted in good faith.

7. Failure to Perform.

If the Company ceases to provide services or operate the Transfer Station as required under this Franchise Agreement for a period of forty-eight (48) hours (on days on which it is scheduled to be open) or more.

8. Attachment.

There is a valid seizure or attachment of, or levy on, the operating equipment of the Company or County, including without limits equipment, maintenance, or office facilities, or any part thereof, to the extent the partial attachment or levy materially affects the operations of the Company with regard to its obligations under this Franchise Agreement.

9. Failure to Provide Performance Bond or Parent Guaranty.

If the Company fails to provide or maintain a Performance Bond as required under Section VIII.E or fails to provide a Parent Guaranty as required under Section VII.F.

**B. CURE RIGHTS.**

Notwithstanding any other provision of this Section IX to the contrary, the County shall provide the Company with reasonable notice of and a reasonable opportunity to cure any breach of this Franchise Agreement during the time periods set forth below (the "Cure Period"). Any breach that is timely cured by Company shall not be determined to constitute an Event of Default. The Company shall begin cure of any breach or default as soon as it becomes aware of the breach or default, whether discovered by the Company or through notice from the County. Upon becoming cognizant of the default, the Company shall proceed to cure such default as follows:

1. Health, Safety and Welfare Matters.

Immediately, if the default is such that in the determination of the County, the health, safety, or welfare of the public is endangered thereby; or

2. Other Matters.

Within thirty (30) days of giving or receiving notice of default; provided that if the nature of the default is such that it will reasonably require more than thirty (30) days to cure, the Company shall have such additional time as is reasonably needed to expeditiously complete a cure. During any default cure period, the Company shall provide the County weekly written status of progress in curing such default.

**C. RIGHT TO TERMINATE UPON DEFAULT**

Upon an Event of Default by the Company, the County shall have the right to terminate this Franchise Agreement, subject to review as provided in Section IX.

**D. CUMULATIVE SPECIFIC PERFORMANCE**

The County's right to terminate the Franchise Agreement under Section IX. IX.C is not exclusive, and the County's termination of the Franchise Agreement shall not constitute an election of remedies. Instead, all remedies provided for in this Franchise Agreement shall be in addition to any and all other non-duplicative legal and equitable rights and remedies which the County may have under law or as otherwise provided in this Franchise Agreement.

**E. EXCUSE FROM PERFORMANCE**

1. Excuse from Performance.

The Parties shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by Uncontrollable Circumstances beyond the control of and not the fault of the Party claiming excuse from performance hereunder. Labor unrest, including but not limited to strike, work stoppage or slowdown, sickout, picketing, or other concerted job action lawfully conducted by the Company's employees or lawfully directed at the Company, or a subsidiary, shall not constitute an excuse from continuing to provide a reasonably satisfactory level of performance during the pendency thereof, but the Company shall not be required to adhere strictly to the specific requirements of this Franchise Agreement regarding routes, collection times or similar matters; provided, however, that: (i) in no event shall more than nine days elapse between pickups for Residential Customers, (ii) pickup delays for Commercial Customers shall not exceed three days, and (iii) all Customers shall receive at least 24 hours' notice of deviations from collection routes or times. The terms of this paragraph shall not excuse the Company's compliance with its obligations under applicable law, but the County will not claim or assert that the Company is in breach of this Franchise Agreement with respect to such labor unrest so long as it complies with the requirements of this paragraph.

2. Notice.

The Party claiming excuse from performance shall, within two (2) days after such party has notice of such cause, give the other party notice of the facts constituting such cause, efforts undertaken by the Company to attempt to perform this Franchise Agreement, the estimated timelines for such performance, and asserting its claim to excuse under this Section; provided, that failure to give such notice shall not eliminate the excuse from

performance except to the extent the other Party shall have been prejudiced by such failure.

**F. QUALITY OF PERFORMANCE OF COMPANY**

1. Administrative Charges.

County and Company recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance, that if Company fails to achieve the performance standards, or fails to submit required documents in a timely manner, County, and County’s residents and businesses will suffer damages, and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages.

Without prejudice to County’s right to treat such non-performance as an event of default under Section IX.A, County and Company agree that the administrative charges amount defined in this Section IX.G represents a reasonable estimate of the amount of such damages considering all of the circumstances existing on the effective date of this Franchise Agreement, including the relationship of the sums to the range of harm to County, Customers and the community as a whole that reasonably could be anticipated and that proof of actual damages would be costly or impractical. In placing their initials at the places provided, hereto County and Company specifically confirm the accuracy of the statements made above and the fact that County and Company has had ample opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions at the time this Franchise Agreement was made. Company agrees to pay (as administrative charges and not as penalty) the following amounts:

Administrative Charges		
Item	Amount if Not Cured in 30 Days	If Cured in 15 Days
a.	Failure to respond to each complaint within three (3) Work Days of receipt of complaint.	\$100 per incident per Service Recipient.
b.	Failure to maintain call center hours as required by this Agreement.	\$100 per day. -0-
c.	Failure to submit to County all reports by the deadlines required under the provisions of this Agreement.	\$100 per day. -0-
d.	Failure to display Company’s name and customer service phone number on collection vehicles.	\$100 per incident per day. -0-
e.	Failure to collect a missed collection by close of the next Work Day upon notice to Company that exceeds twenty (20) in any Agreement Year.	\$1000 per Agreement Year, plus \$10 per incident per day. -0-
f.	Failure to repair or replace damaged Containers to deliver or exchange Containers within the time required by this Agreement, that exceeds twenty (20) in any Agreement Year.	\$1000 per Agreement Year, plus \$10 per incident per day.
g.	Failure to maintain collection hours as required by this Agreement.	\$100 per day. -0-
h.	Failure to have Company personnel in Company -provided uniforms.	\$25 per day per employee. -0-

Administrative Charges			
Item		Amount if Not Cured in 30 Days	If Cured in 15 Days
i.	Failure to clean up spillage or litter on public streets located within County caused by Company's collection vehicles within two (2) hours after notice by County to Company.	\$250 per incident per location.	Cannot be cured
j.	Disposal of separately collected Recyclable Materials or separately collected Organic Waste in the Disposal Facility without first obtaining the required permission of the County except as otherwise allowed by the agreement.	\$500 per load.	Cannot be cured
k.	Failure to deliver Garbage collected under this Contract to the Disposal Facility, except as otherwise expressly provided in this Contract.	\$5,000 each failure.	Cannot be cured
l.	Failure to submit a corrective action plan as set forth in Section V.D.	The current disposal cost/ton for each ton under the diversion requirement, or \$10,000 whichever amount is greater.	Cannot be cured

2. Procedure for Review of Administrative Charges.

The County Executive Officer may assess liquidated damages pursuant to this Section on a monthly basis. At the end of each month during the term of this Franchise Agreement, the County Executive Officer shall issue a written notice to Company ("Notice of Assessment") of the administrative charges assessed and the basis for each assessment. A Notice of Assessment must be sent to Company within 60 days of the underlying event.

- a) The assessment shall become final unless, within ten (10) calendar days of the date of the notice of assessment, Company provides a written request for a meeting with the County Executive Officer to present evidence that the assessment should not be made.
- b) The County Executive Officer shall schedule a meeting between Company and the County Executive Officer as soon as reasonably possible after receipt of Company's request for same.
- c) The County Executive Officer shall review Company's evidence and render a decision sustaining or reversing the liquidated damages as soon as reasonably possible after the meeting. Written notice of the decision shall be provided to Company.
- d) In the event Company does not submit a written request for a meeting within ten (10) calendar days of the date of the Notice of Assessment, the County Executive Officer's determination shall be final and Company shall submit payment to County no later than that tenth (10th) day after County delivers said determination to Company.



e) If monies are owed to Company, County with notification to Company, County will deduct the liquidated damages from amounts otherwise due to Company. County's assessment or collection of liquidated damages shall not prevent County from exercising any other legal right or remedy, including but not limited to the right to terminate this Agreement, for Company's failure to perform the work and services in the manner set forth in this Agreement.

## **G. PERFORMANCE REVIEW**

### **1. Purpose.**

The performance reviews shall be designed to verify that Service Rates have been properly calculated and that they correspond to the level of service received by the customer; verify that Franchise Fees and Host Fees and other fees required under this Franchise Agreement have been properly calculated and paid to County; verify Company's compliance with the reporting requirements; and the performance standards of the Franchise Agreement; and verify the diversion percentages reported by Company.

### **2. Selection and Cost.**

The County may conduct three (3) performance reviews ("reviews") of Company's performance, at any time during the term of this Franchise Agreement. Company will be responsible for a maximum cost of Seventy-Five Thousand Dollars (\$75,000.00) for each Performance Review, which amount shall be escalated annually by the percentage of annual rate increase. Company will reimburse County thirty (30) days from County submitting invoice or request to Company for reimbursement

The performance reviews will be performed by a qualified firm under contract to County. The County shall have the final responsibility for the selection of the firm but may seek and accept comments and recommendations from Company.

### **3. Methodology of Review.**

The County (or its designated consultant) may utilize a variety of methods in the execution of the performance review, including analysis of relevant documents, on-site and field observations, and interviews. County (or its designated consultant) will review and document the items in the Agreement that require Company to meet specific performance standards, submit information or reports perform additional services, or document operating procedures, that can be objectively evaluated. This information will be formatted in a "compliance checklist" with supporting documentation and findings tracked for each of the identified items. The review will specifically include a determination of Company's compliance with the diversion requirements of Section V.D.

County (or its designated consultant) may also review the customer service functions and structure utilized by Company. This may include Company's protocol for addressing Customer complaints and service interruption procedures. Complaint logs may be reviewed, along with procedures and systems for tracking and addressing complaints. On-site and field observations by County (or its designated consultant) may include, but are not necessarily limited to:

- a) Interviews and discussions with Company's administration and management personnel;
- b) Interviews and discussions with Company's financial and accounting personnel;
- c) Interviews and discussions with route dispatchers, route drivers, vehicle maintenance staff, field and service supervisors, and managers;
- d) Review and observation of Company's customer service functions and structure, and vehicle maintenance practices;
- e) Review of public education and outreach materials;
- f) Review of on-route collection services, including observation of driver performance and collection productivity and visual inspection of routes before and after collection to evaluate Cart placement and cleanliness of streets;
- g) Review of vehicle and equipment maintenance log and accident or vehicle incident records, if any.

4. Company's Cooperation.

Company shall cooperate fully with the review and provide all requested data, including operational data, financial data and other data reasonably requested by Company within thirty (30) Work Days.

5. Additional Performance Reviews.

In the event that the Performance Review concludes that Company is not in compliance with all terms and conditions of this Agreement and such non-compliance is material, County may conduct an additional Performance Review to ensure that Company has remedied any such area of non-compliance. Company shall be responsible for the cost of any such additional Performance Review.

6. County Requested Program Review.

County reserves the right to require Company to periodically conduct reviews of the Company's transfer station operations and collection programs. Prior to the program evaluation review, County and Company shall meet and discuss the purpose of the review and agree on the method, scope, and data to be provided by Company. County shall work with Company to minimize cost to Company and avoid interference with Company's operations.

## **X. REVOCATION OF PREVIOUS AGREEMENT**

This Franchise Agreement, rather than any preceding agreements between the County and Company (including without limitation the Franchise Agreement between the County and the Company for Solid Waste Collection, Recycling, Disposal, and Processing Services in Unincorporated Western Nevada County, California, dated December 2003, as amended), shall govern with respect to the Company's and County's rights, duties and obligations relating to this Franchise. Upon the Effective Date of this

Franchise Agreement, all previous agreements between the parties shall terminate and be of no further force and effect except with respect to covenants therein for acts and omissions occurring prior to the date of termination.

## **XI. OTHER AGREEMENT OF THE PARTIES**

### **A. COMPLIANCE WITH APPLICABLE LAW AND COUNTY ORDINANCE**

Company agrees that it will comply with all applicable law and those provisions of the county code which are applicable to the work or business in which it is herein franchised, and with any and all amendments to such applicable provisions during the term hereof, but only to the extent they are not inconsistent with or do not conflict with the terms and conditions of this franchise agreement without regard to this section.

### **B. DISPUTE RESOLUTION**

#### **1. Reference of dispute.**

Any dispute seeking damages and any dispute seeking other legal or equitable relief, including but not limited to specific enforcement of any provision hereof, shall be heard and determined as provided below in this Section

#### **2. Dispute Resolution Procedures.**

##### **a) Negotiations.**

In the event that any dispute may arise, the parties shall first seek to resolve any disputes by negotiations between a senior executive of the Company and the County Executive Officer (the "Senior Executives").

i. **Notification.** When a party believes there is a dispute relating to the Franchise Agreement, the party will give the other party written notice of the dispute.

ii. **Meeting among Senior Executives.** The Senior Executives shall meet at a mutually acceptable time and place within thirty (30) days after the date of the notice to exchange relevant information and to attempt to resolve the dispute. If a Senior Executive intends to be accompanied at a meeting by an attorney, the other party's Senior Executive shall be given at least three (3) business days' notice of such intention and may also be accompanied by an attorney.

iii. **Confidentiality.** All negotiations are confidential and shall be treated as compromise and settlement negotiations under the State of California Rules of Evidence.

##### **b) Board of Supervisors.**

If the dispute has not been resolved within thirty (30) days after the date of the notice of a dispute, or if the party receiving such notice fails or refuses to meet within such time period, either party may submit the dispute to the Board of

Supervisors for resolution by making written request to the Board of Supervisors. The Board of Supervisors shall consider the dispute at a meeting to be held within thirty (30) days following receipt of such request.

c) Litigation.

If a dispute has not been resolved to the satisfaction of the parties within sixty (60) days after the written submission to the Board of Supervisors, then either party may initiate litigation in the courts of the State of California, which shall have exclusive jurisdiction over such disputes. The exclusive venue for such disputes shall be Nevada County.

3. Interim Measures.

Notwithstanding the requirements for alternative dispute resolution procedures (such as negotiation and submission to the Board of Supervisors), either party may apply to the courts of the State of California for equitable relief, including temporary restraining orders, injunctions, attachments and conservation orders in appropriate circumstances.

4. Costs and Attorney's Fees.

In the event of any action or litigation to enforce this Franchise Agreement, for interpretation or construction of this Franchise Agreement, or on account of any default under or breach of this Franchise Agreement, each party to such action, arbitration or litigation shall bear its own costs and expenses in connection with such action or litigation.

5. Punitive Damages.

Penal, punitive, treble, multiple, consequential, incidental or similar damages may not be recovered or awarded.

**C. INDEPENDENT COMPANY**

It is expressly understood and agreed that Company shall perform all work and services described herein as an independent Company and not as an officer, agent, servant or employee of County; that Company shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Company shall be solely responsible for the acts and omissions of its officers, agents, employees, Company's and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between County and Company. Neither Company nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to County employees.

**D. RIGHT OF ENTRY**

Company shall have the right, until receipt of written notice revoking permission to pass is delivered to Company, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting Franchise Materials of the Owner of the private street, easement, or property, or his/her lawful occupant.

**E. LAW TO GOVERN**

It is understood and agreed by the parties hereto that the laws of the State of California shall govern the rights, obligation, duties and liabilities of the parties to this Franchise Agreement and shall govern the interpretation of this Franchise Agreement.

**F. FEES AND GRATUITIES**

Company shall not, nor shall it permit any agent, employee or subcontractor employed by it to, request, solicit, demand or accept, either directly or indirectly, any compensation or gratuity for the collection of Franchise Materials otherwise required to be collected under this Franchise Agreement, other than acceptance by drivers of holiday gifts offered by customers of a reasonable value.

**G. POSSESSORY INTERESTS TAX**

Possessory Interests Tax: Rights granted to Grantee by County under this Agreement may create a possessory interest. Grantee acknowledges and agrees that any possessory interest created by this Agreement may be subject to California Revenue and Taxation Code section 107.6 and that a property tax may be levied on that possessory interest. If applicable, Grantee shall pay the possessory interest property tax. Grantee further acknowledges and agrees that the notice of the potential possessory interest property tax required by Revenue and Taxation Code section 107.6 has been provided as required by law.

**XII. MISCELLANEOUS**

**A. AMENDMENT**

Except for rate and fee adjustments made pursuant to Section VI.C of this Franchise Agreement may be amended or modified only by a written agreement duly authorized and executed by both County and Company.

**B. SUBCONTRACTING**

The Company shall not engage any subcontractors (other than entities that control, are controlled by or are under common control with the Company) for performance of Franchise Services without the prior written consent of the County, which consent shall not be unreasonably withheld, conditioned or delayed.

**C. ASSIGNMENT**

1. Restriction on assignment

The franchise granted by this Franchise Agreement shall not be transferred, sold, hypothecated, sublet or assigned, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except the Company, by act of the Company, without the prior written consent of the County expressed by resolution, except for the programs described in this Franchise Agreement to be provided by WM Curbside, LLC, and Recyclebank. Any

attempt by the Company to assign this franchise without the consent of County shall be void.

2. Consent to assignment.

The Company acknowledges that the County is granting this franchise extension in an effort to reduce the overall costs of the solid waste system, and that the County may refuse, without reason or justification, the requested transfer or assignment of this Franchise Agreement; provided, however, that the County shall not unreasonably withhold, condition or delay its consent to an assignment in which the Company provides the County with the information required by Section XII.C.5 and satisfactory proof that any proposed assignee has the demonstrated technical and financial capability to perform all Franchise Services, including:

- a) That the proposed assignee has at least 10 years of Solid Waste management experience on a scale equal to or exceeding the scale of operations conducted by Company under this Franchise Agreement.
- b) In the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any State, federal or local laws and the assignee has provided County with a complete list of such citations and censures.
- c) The proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion.
- d) The proposed assignee must be shown, by credible and sufficient evidence, to be qualified, by financial condition, background and experience to be able to fully assume and satisfactorily perform all of the Company's obligations hereunder, and, particularly, to be able to perform under this Franchise Agreement in a fashion that will assure the County of complying with applicable law.
- e) The proposed assignee conducts its Solid Waste management practices 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 including hazardous substances.
- f) Assignee has experience in billing Customers for a jurisdiction of comparable size to Nevada County in which the company has provided residential and Commercial Service, and has successfully performed the billing and collection services for a minimum of five years for Residential and Commercial Customers.
- g) Financial assurances that confirm the assignee's financial ability to perform the Franchise Agreement, and the County may require changes to the insurance coverages provided in this Franchise Agreement (including without limitation insurance products, coverage limits, deductibles and self-insured retentions) as appropriate in view of the assignee's financial capability and to confirm the assignee's financial ability to perform all Franchise Services and its other responsibilities under this Franchise Agreement.

h) Any other information required by County to ensure the proposed assignee can fulfill the terms of this Franchise Agreement in a timely, safe and effective manner.

i) Review and evaluate the assignee/transferee's history and or commitment to participation and support of community activities and community based organizations to the same or higher standard as the Company has done in prior years of this franchise.

3. Termination for unpermitted assignment.

In the event the Company herein attempts to assign or subcontract this Franchise Agreement or any part hereof or any obligation hereunder, the County shall have the right to elect to terminate this Franchise Agreement forthwith, without suit or other proceeding.

4. Involuntary assignment.

Each or any of the following acts shall be considered an involuntary assignment providing the County with the right to elect to terminate the agreement forthwith, without suit or other proceeding:

a) If the Company is or becomes insolvent, or makes an assignment for the benefit of creditors;

b) If Writ of Attachment or Execution is levied on this Franchise Agreement or other property of the Company such that would affect the Company's ability to perform its duties and obligations under this Franchise Agreement;

c) If in any proceeding to which the Company is a party, a Receiver is appointed with authority to take possession of the Company's property such that would affect the Company's ability to perform its duties and obligations under this Franchise Agreement;

5. Notice of proposed assignment.

The Company shall give the County at least ninety (90) days advanced written notice of the Company's intent to sell, transfer or assign this Franchise Agreement. As part of that notice, the Company shall provide to the County the following written information:

a) The name, address and telephone number of the proposed assignee.

b) the character of the legal entity owning or controlling the assignee, and the names, addresses and telephone numbers of all principals, partners, and/or shareholders thereof, as the case may be.

c) A copy of any and all purchase and assignment agreements containing, at a minimum, the terms and conditions of the sale, transfer or assignment of this Franchise Agreement and of the Company's Solid Waste and recycling business; provided, however, that the dollar amount of any financial consideration may be

deleted from said copies unless and until said information becomes relevant to the review of the Company's transferee's rates under this Franchise Agreement. Further, however, that nothing in this Franchise Agreement shall obligate County to treat any of said acquisition costs as an allowance expense of said transferee for rate setting purposes.

6. No defaults.

The Company cannot be in default under any of the material terms and conditions hereof.

7. Assumption of obligations.

The transferee must be willing to, in writing, assume all of the obligations hereunder.

#### **D. NOTICES**

All notices, demands, requests, consents or other communications which this Franchise Agreement contemplates or authorizes, or requires or permits either party to give to the other, shall be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, telecopies (with written confirmation of receipt), or a nationally recognized overnight delivery service (receipt requested), addressed to the respective party as follows:

To COUNTY: Nevada County  
Attn: County Executive Officer  
950 Maidu Ave., Suite  
Nevada City, CA 95959

To Company USA Waste of California, Inc.  
Attn: Public Sector Manager  
1333 East Turner Road  
P.O. Box 241001  
Lodi, CA 95241-9501

or to such address as either party may from time to time designate by notice to the other given in accordance with this Section. Such notice shall be deemed effective on the date personally served or, if mailed, three (3) business days from the date such notice is deposited in the mail.

#### **E. SEVERABILITY**

If any non-material provision of this Franchise Agreement shall for any reason be held to be invalid or enforceable, the invalidity or unenforceability of such provision shall not affect the validity and enforceability of any of the remaining provisions of this Franchise Agreement, which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

#### **F. GOOD FAITH AND EXERCISE OF OPTIONS**

Parties will exercise any approval, disapproval, consent, option, discretion, election, opinion or choice under this Franchise Agreement, make a requirement under this Franchise Agreement or interpret this Franchise Agreement ("Discretionary Action") reasonably; provided, however, that nothing contained in this Franchise Agreement shall in any way limit or preclude the full and



unfettered exercise of the County's discretion with respect to the issuance and approval of permits, inspection of the Facility for compliance with legal requirements, enforcement or prosecutorial decisions, the setting or approving of rates, fees or other charges, or any other action which by law requires the exercise of County's discretion. Parties will exercise their rights and remedies in good faith in accordance with Applicable Law.

**G. MODIFICATIONS TO THIS AGREEMENT.**

County has the power to make changes in this Agreement as the result of changes in law, changes in the County Municipal Code, or both, to impose new rules and regulations on Company under this Agreement relative to the scope and methods of providing Collection Services as may from time-to-time be necessary and desirable for the public welfare. County will give the Company notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing Collection Services as referenced herein will be liberally construed to include procedures, operations and obligations, financial or otherwise, of Company. When such modifications are made to this Agreement, County and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of Contractor due to any modification in the Agreement under this Section. County and Contractor will not unreasonably withhold agreement to such compensation adjustment.

**H. ENTIRE AGREEMENT; PRIOR AGREEMENTS; WAIVER**

This Franchise Agreement, including all Exhibits attached hereto, constitutes the full and entire agreement between the parties with respect to the matters covered herein. All prior and contemporaneous agreements, understandings, negotiations, writings and other communications between the parties are hereby superseded and are no longer of any force and effect, except to the extent that the terms of such communications are expressly addressed in this Franchise Agreement. As of the Effective Date, this Franchise Agreement shall supersede any and all prior agreements between the parties. No waiver of any provision of this Franchise Agreement shall be deemed or shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver.

**I. SECTION HEADINGS**

The section and subsection headings in this Franchise Agreement are for convenience of reference only and are not intended to be used in the construction of this franchise agreement nor to alter or affect any of its provisions.

**J. REFERENCES TO LAWS**

This Franchise Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. The parties hereto agree that venue for all actions arising out of this Franchise Agreement shall be in Nevada County, California.

**K. INTERPRETATION**

The language of each and all paragraphs, terms and/or provisions of this Franchise Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and

with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Franchise Agreement.

**L. THIRD PARTIES**

Nothing in this Franchise Agreement expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the Parties hereto and their successors and permitted assigns, any rights or remedies under or by reason of this Franchise Agreement.

**M. AUTHORITY**

All individuals executing this Franchise Agreement on behalf of the County or the Company represent and warrant that they are duly authorized to execute and deliver this Franchise Agreement to the other Party. IN WITNESS WHEREOF, the parties hereto have caused this Franchise Agreement to be duly executed as of the day and year first above written.

“COUNTY”  
NEVADA COUNTY  
a Municipal corporation of the  
State of California

“COMPANY”  
USA WASTE OF CALIFORNIA, INC.  
a Delaware corporation

By: \_\_\_\_\_  
Chairman of the Board

By: \_\_\_\_\_  
President

APPROVED AS TO FORM:

By: \_\_\_\_\_  
County Attorney

## Exhibit 1

### Recyclable Materials

RECYCLABLES must be dry, loose (not bagged) and include the following:

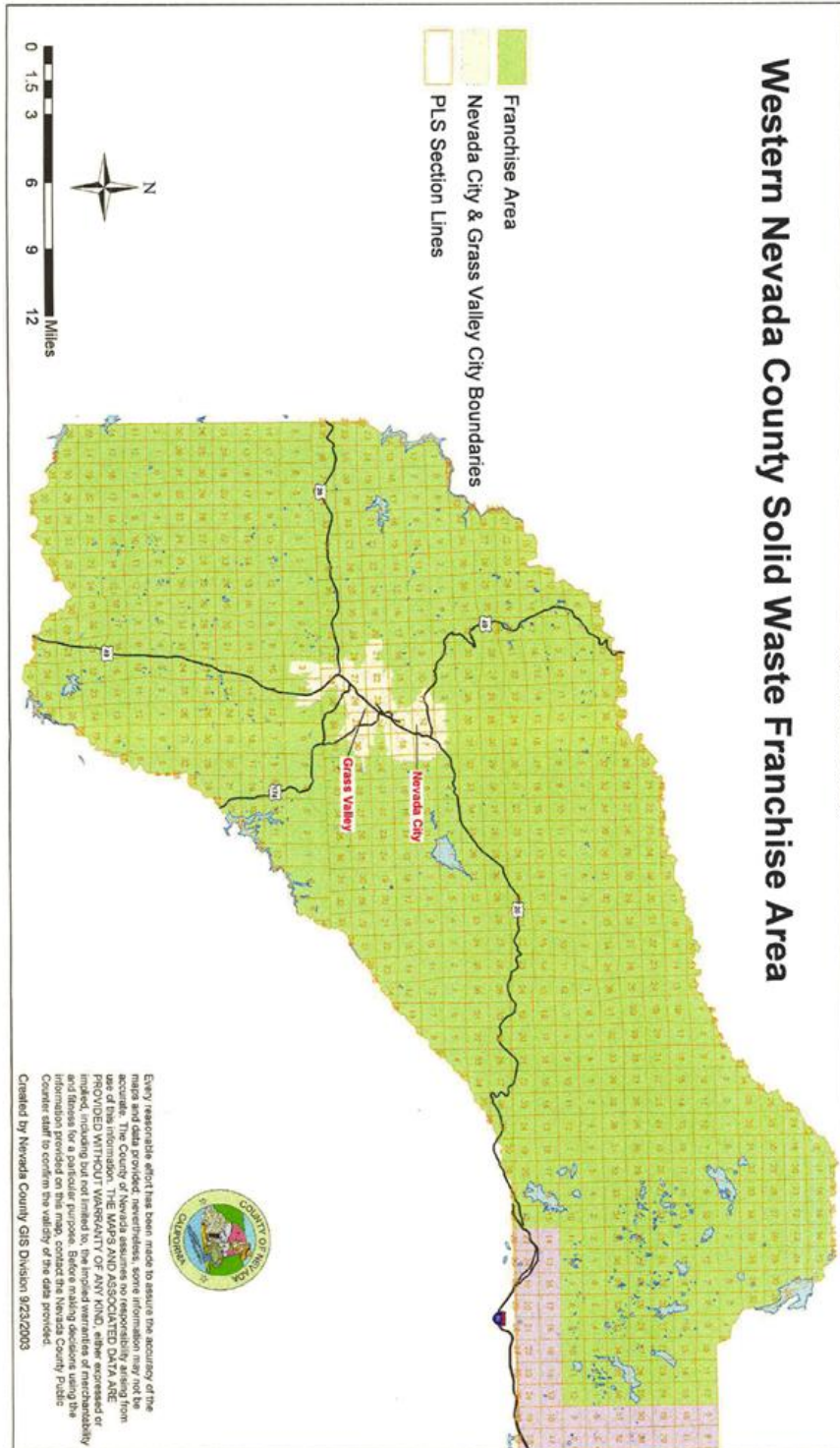
Aluminum cans - empty	Newspaper
Mixed Plastics 1-7	Mail
Paper bags (colored or white)	Uncoated paperboard (ex. cereal boxes; food and snack boxes)
	Uncoated printing, writing and office paper
Steel and tin cans – (should be empty)	Old corrugated containers/cardboard (uncoated)
Glass food and beverage containers – brown, clear, or green – (should be empty)	Magazines, glossy inserts and pamphlets

Non-Recyclables include, but are not limited to the following:

Film plastic (plastic bags)	Microwavable trays
Mirrors	Window or auto glass
Light bulbs	Coated cardboard
Porcelain and ceramics	
Expanded polystyrene	Coat hangers
Glass and metal cookware/bakeware	Household appliances and electronics,
Hoses, cords, wires	Yard waste, construction debris, and wood
Flexible plastic or film packaging and multi-laminated materials	Needles, syringes, IV bags or other medical supplies
Food waste and liquids, containers containing such items	Textiles, cloth, or any fabric (bedding, pillows, sheets, etc.)
Excluded Materials or containers which contained Excluded Materials	Food or soil contaminated napkins, paper towels, tissue, paper plates, paper cups, and plastic utensils
Shredded paper	Propane tanks, batteries
Cartons – need to be more specific	Aseptic Containers

Exhibit 2  
Service Area

Exhibit 3  
Service Area



## Exhibit 3

### Operating Standards and Procedures

The Company shall operate the Facility in compliance with applicable law and permits issued with respect to the Facility and its operations.

1. **Traffic Control.** Company shall be responsible for the safe control and direction of traffic once it enters the Facility for all the waste unloading and loading vehicles.

Traffic shall be directed with the aid of the pavement markings shown and by the directions of the gatehouse attendant. Spaces for dumping of the waste shall be clearly marked on the pavement.

Company shall make optimal use of queuing lanes and unloading spaces and shall operate and store vehicles so as not to impede on-site traffic.

2. **Floor Operations and Transfer Loading.** The depth and breadth of Municipal Solid Waste shall not reach a point where unloading by users is hampered. Solid waste shall be loaded into transfer trailers so the gross weight of the transfer tractor and trailer does not exceed weight limitations for streets and highways established by the public agency or agencies having jurisdiction therefore. At the end of each business day, the transfer station floor shall be completely cleared of all solid waste.

3. **Cleaning and Litter Control.** Company shall maintain a daily litter collection to minimize the impact of litter on the site and on the surrounding area, including McCourtney Road from Grass Valley City Limits to Indian Springs Road, Wolf Mountain Road adjacent to transfer station operations.

4. **Vector Control.** Company shall conduct the operation of the Facility in such a manner as to ensure that conditions are unfavorable for production of rodents and insects.

5. **Odor, Dust and Noise Control.** Company shall control odor and dust at the facility. Company shall operate its equipment within limits of applicable noise regulations and sensitivity to neighbors. Noise control shall include use of “white noise alarms” for vehicles.

6. **Medical Wastes.** No medical wastes shall be knowingly accepted at the facility. Treated medical wastes, which have been made non-hazardous by a treatment process (e.g., autoclaving, fixation, solidification, etc.), are acceptable for disposal. “Exempted” medical wastes, such as those from diabetic households, shall be accepted as Household Hazardous Waste as long as they have been fixed in an approved biohazard container.

7. **Hazardous, Liquid, and Special Wastes.** Household hazardous wastes are acceptable at the Household Hazardous waste facility. Antifreeze, car batteries, non-contaminated oil and latex paint (ABOP) are recycled and not acceptable. Liquid wastes with 50% or more water and sludge are not accepted at the Facility. Universal wastes (household batteries, fluorescent lighting) are accepted and stored in an enclosed lockable shed in accordance with the California Universal Waste Law.

8. **Training.** Company shall provide adequate operational and safety training for all its employees who are involved in performing operations at the Facility including load checking. All such personnel shall be trained in the identification and proper handling and disposal of Hazardous and Biomedical Wastes.

9. **Load checking.** Company shall conduct a load checking program and shall have one person checking material as it is deposited on the public receiving area floor. Records will be available to County staff upon request. The Company and the County will agree on a mutually acceptable program to facilitate the enforcement of applicable laws regarding covered loads.

10. **Cleaning and Maintenance.**

a) **General.** Company shall maintain all properties, facilities and equipment used in providing service under this Franchise Agreement in a safe, clean neat and operable condition at all times. Building office areas shall be cleaned daily. Work areas within buildings and structures shall be swept daily and washed once per week.

The transfer station floor shall be cleaned on a daily basis. The trailer loading area shall be inspected at the end of each day by Company and shall be cleaned as required to keep trailer-loading area clean.

Municipal Solid Wastes (other than Recyclable Materials) shall be removed to the Designated Disposal Facility within 48 hours after delivery to the Facility.

b) **Maintenance and Repair Alterations.** Company shall keep and maintain in good, safe condition and repair the roofs, structural portions and exterior portions and exterior walls, paved exterior areas, Facility appurtenances and every part thereof, including equipment, plumbing and sewage facilities, mechanical, electrical, heating, lighting, ventilating and air conditioning systems, fire and fume suppression systems, scales and all personal property furnished by Company including vehicles.

Company shall perform periodic maintenance on all equipment, in accordance with applicable manufacturers' specifications and schedules and so as maintain in force any manufacturer's/vendor's warranties.

Company shall also repair any damage to any facilities, whether owned by it or the County, caused by actions of its employees, subcontractors or other agents (other than ordinary wear and tear).

Company shall be responsible for securing replacement parts (and for maintaining an inventory of spare parts as agreed on with the County) for all equipment and systems and facilities, which it is required to maintain or repair. The cost of replacement/ spare parts including those for equipment furnished by the

Company for facilities, will be borne by the Company. The cost of all labor required for maintenance and repair performed by the Company will be borne by the Company. Company shall not make any alterations to the Facility or

equipment owned by the County without the County's prior written consent. In order to obtain such consent, Company shall submit plans and specifications, or other form of description as required by the County, to County prior to commencing any alterations.

Company shall be solely responsible for (and shall bear the cost of) all capital improvements, replacements, and major repair of facility structures or Company-provided equipment, or overhauls of any such equipment, unless the same result from damage caused by the actions of County's employees, subcontractors or other agents (other than ordinary wear and tear).

- c) Wastewater Disposal. Drainage at the facility is managed by County to:
  - i. Minimize the creation of contact water;
  - ii. Prevent to the greatest extent possible, given existing anticipated weather conditions, the uncontrolled off-site migration of contact water;
  - iii. Protect the integrity of roads, structures, and traffic areas;
  - iv. Protect the public health; and
  - v. Prevent safety hazards and interference with operations.

The storm water control facilities consisting of storm drains, manholes, roof drains.

Leachate generated from tipping and waste loading operations, and "wash down" water from cleaning of the tipping and trailer loading areas will be collected by the leachate collection and removal system (LCRS) and discharged to the 1,000,000-gallon leachate storage tank adjacent to the MRTS. County shall arrange for leachate from the 1,000,000-gallon leachate storage tank to be trucked for treatment and disposal to a permitted facility, at County's cost.

The LCRS consists of a drop inlet with grate at the tipping floor, leachate sump and leachate drain to the 1,000,000-gallon leachate storage tank. The Company shall be responsible for assuring the PRA leachate collection is maintained but shall otherwise have no obligations to maintain or repair the leachate collection and storage system. The County will continue to maintain the leachate collection and storage system in all areas of the facility other than the PRA area.

11. **Landscape Maintenance.** Company shall regularly maintain (e.g. water, weed, prune, and repair) all landscaped areas within the Facility site so that they present a neat and attractive appearance to the satisfaction of the County's Director of the Department of Sanitation. Company shall replace all plant materials (trees, bushes, etc.) which are damaged or killed by Company's operations with plant materials of the same type, unless different type is approved by the County's Director of the Department of Sanitation or other individual appointed by the County.

12. **Tours of the Facility.** Upon reasonable request by the County, Company shall provide tours of the Facility. Such tours shall not unreasonably disrupt Facility

operations. County shall not be charged for labor, overhead, overtime, or any other costs associated with any such tours.

13. **Customer Courtesy.** Company shall insure that its employees deal with members of the public in a courteous and professional manner.

14. **Use of Premises.** Company shall use the Facility and site only for Operations delivered under this Franchise Agreement and for directly related purposes.

15. **Spill Response Plan.** Company shall provide kits for cleanup of spills of Hazardous materials, including used motor oil, on the Facility site. Company shall comply with Spill Response component of the TPR.

16. **Complaints about the Operation of the Facility.** Subject to Section 6.04i(2) all complaints about the operation or maintenance of the Facility shall be directed to the person designated as Facility Manager by the Company. Such complaints shall not be directed by Company to County. The Facility Manager shall compile a log of all complaints brought to his or her attention or that of his or her staff, indicating the date and time the complaint was received; the name, address and telephone number of the party making the complaint; and the action to correct or modify the situation complained of. Each month Company shall send to County a copy of the log of complaints for the previous month.



Exhibit 4  
 Transfer Station Service Rates  
 MCCOURTNEY ROAD TRANSFER STATION RATES  
 EFFECTIVE 7/1/2019

MCCOURTNEY ROAD TRANSFER STATION	Rounded Rates Effective 7/1/2019
Trash Only	
2 CANS - TRASH ONLY	\$6.70
3 CANS - TRASH ONLY	\$7.25
4 CANS - TRASH ONLY	\$7.80
Per Ton*	\$78.10
Trash Containing Recycling	
2 CANS - CONTAINING RECYCLING	\$11.15
3 CANS - CONTAINING RECYCLING	\$11.70
4 CANS - CONTAINING RECYCLING	\$12.25
Per Ton*	\$89.25
Trash Only - Non County Resident	
Per Ton*	\$156.25
C&D	
Per Ton*	\$66.40
Tires	
Up to 16" without rim	\$2.25
17" to 17.5" without rim	\$6.70
Up to 16" with rim	\$10.05
17" to 17.5" with rim	\$20.10
White Goods	
Refrigerated	\$33.50
Non-refrigerated	\$27.90
Yard & Wood Waste	
Cubic Yard (small volume customers)	\$10.35
Per ton (large volume customers)*	\$53.95
Minimum Charge	\$12.00

Exhibit 4  
 Transfer Station Service Rates  
**MCCOURTNEY ROAD TRANSFER STATION RATES**  
 EFFECTIVE 7/1/2019

MCCOURTNEY ROAD TRANSFER STATION	Rounded Rates Effective 7/1/2019
Mattresses and Similar (ea.)	
Single/Double without box spring	\$6.70
Single/Double with box spring	\$7.80
Queen/King without box spring	\$7.25
Queen/King with box spring	\$8.95
Couch	\$7.80
Hide-a-bed Couch	\$8.35
Propane Tanks	
Less than 5 gallons	\$0.00
5 to 25 gallons	\$11.15
Treated Wood	
Per Ton*	\$270.00
* Per ton rates are not rounded	

## Exhibit 5 Phased Improvement of McCourtney Road Transfer Station

1. For purposes of this Exhibit, the “Project” means construction of Phase I of the proposed improvements to the McCourtney Road Transfer Station (MRTS), as identified in the "Final Basis of Design Memorandum (Dec 9, 2016), and as may be modified during the design (PS&E) phase of the project. All future phases may be completed at the County's discretion and will not be tied to this agreement. The goal of the project will be to eliminate queuing issues at the existing PRA and scale house and to control odor, dust and noise. Proposed improvements include a new PRA, new entrance/exit road, new scales and site grading and paving necessary to accommodate said improvement. All improvements will be designed to accommodate the projected 20 year growth rate. The final configuration of the PRA, access road and scale facility will be determined in design. The reference map below shows conceptual preliminary design of the Project.



2. The County will be the lead for the Project. The County will hire a firm to develop plans, specifications, engineering and architectural design for the Project and oversee the Project through construction. The County will provide the Company with design plans and drawings for review at the 30%, 60%, 90% and 100% phases of the design process. It will be the Company’s responsibility to review documents and provide the County with comments in a timely manner (within two weeks of receiving documents). The Company may also be asked to provide the County with site and/or operational information to aid in the design process. The County will coordinate with the Company as required to schedule site visits during the engineering/design phase of the project and to develop construction phases so they have a minimal impact on the ongoing operation of the McCourtney Road Transfer Station. The County shall use good faith efforts to achieve the Project “Item” milestones by the “Proposed Timeframe” dates referenced in the table under Section 7 below.

3. The Company's contribution toward the capital costs of the Project shall be \$5.6 million (“Project Funds”) paid within 90 days after start of construction (minus initial design plan costs of up to a maximum amount of \$100,000 as demonstrated with supporting cost documentation provided by the Company to the County).

4. In the event that the McCourtney Road Transfer Station is not re-built as set forth in this Franchise Agreement and accepted by the Board of Supervisors on or before the termination of this Contract, Company shall not be obligated to make Five Million Six Hundred Thousand Dollar (\$5,600,000) payment as provided in this Franchise Agreement.

5. Upon mutual agreement between the County and the Company, up to a maximum amount of \$350,000 (as demonstrated with supporting cost documentation provided by the Company to the County), Project Funds can also be used for repairs and/or improvements to the existing PRA structure, if said improvements are deemed necessary to extend the useful life of said structures and are outside of the footprint of any future site improvements proposed as part of this Project. Company shall obtain all necessary design and permits associated with improvements to existing facilities.

6. Within ninety days (90) after the Project is accepted as final and complete by the Board of Supervisors, Company will make an additional one-time payment to County of Fifty Thousand Dollars (\$50,000) for the County to use at its discretion.

7. The Company may relocate RecycleWorks on July 1, 2019, or the effective date of this amendment whichever is earlier, pending LEA and County approved site plan, traffic plan and approval of building permits if necessary. Any cost incurred by the Company for the relocation of RecycleWorks shall be the Company's responsibility and shall not be included as part of, or counted against the \$5.6 million the Company is obligated to contribute for improvements to the McCourtney Road Transfer Station.

The Parties agree to an estimated timeline for construction of the Project as outlined below:

Item	Proposed Timeframe	Total Estimated Cost	Company Payment
Design/ Permitting/ Public Outreach	July 2019 – Fall 2021	\$12,859,000	
County Bid Construction Contract	2021/22		
Phase 1 Public Entrance/ Road/ Scales/ New Public Receiving Area	2022/23		\$5,600,000
Phase 2 Option a: Minimal Improvements	2022/23	\$996,000	
Begin Operations	2023		

Exhibit 6  
Service Rates  
**RESIDENTIAL RATES**  
EFFECTIVE 7/1/2019

RESIDENTIAL	Rate Effective July 1, 2019
<b>Residential MSW Service</b>	
20 gallon can/cart	\$14.65
Each additional 20 gallon can/cart	
35 gallon can/cart	\$18.71
Each additional 35 gallon can/cart	
64 gallon cart	\$26.81
Each additional 64 gallon can/cart	
96 gallon cart	\$40.19
Each additional 96 gallon can/cart	
<b>Residential Yard Waste Service</b>	
64 gallon cart	\$5.64
additional 64 gallon can/cart	
96 gallon cart	\$5.85
additional 96 gallon can/cart	
<b>Residential Recycling Service</b>	
All sizes with trash service	\$0.00
1-35 gallon (no trash service)	\$8.28
1-64 gallon (no trash service)	\$8.28
1-96 gallon (no trash service)	\$8.28
<b>Bulky Waste Service – Bagster</b>	
Hauling Service	\$149.10
<b>Same Day Extra Pickups</b>	
20-gallon or 1 bag (service day)	\$4.49
35-gallon (service day)	\$5.73
64-gallon (service day)	\$8.21
96-gallon (service day)	\$12.32
<b>NON Same Day Extra Pickups (20-gallon – 96-gallon)</b>	
	\$45.00

Exhibit 6  
Service Rates  
RESIDENTIAL RATES  
EFFECTIVE 7/1/2019

RESIDENTIAL	Rate Effective July 1, 2019
Ancillary Rates	
Cart Removal Fee (contamination; per occurrence)	\$25.00
Restart Charge without delivery	\$15.00
Restart Charge with delivery	\$45.00
Bear Cart Charge (per month)	\$2.50
Overflow (cart is overfilled; per cart-per occurrence)	\$10.00
Backyard Service (per month)	\$4.50
Disabled backyard service (less than 100 feet)	\$0.00

Exhibit 6  
Service Rates  
EFFECTIVE 7/1/2019  
COMMERCIAL RATES

COMMERCIAL	Rate Effective 7/1/2019
<b>Commercial and Multi-family Bin Service - 2-yard bin</b>	
One collection/week	\$275.68
Two collections/week	\$471.06
Three collections/week	\$677.95
Four collections/week	\$890.60
Five collections/week	\$1,099.76
Six collections/week	\$1,311.30
<b>Commercial and Multi-family Bin Service - 3-yard bin</b>	
One collection/week	\$353.27
Two collections/week	\$601.00
Three collections/week	\$856.77
Four collections/week	\$1,105.64
Five collections/week	\$1,356.87
Six collections/week	\$1,624.13
<b>Commercial and Multi-family Bin Service - 4-yard bin</b>	
One collection/week	\$451.69
Two collections/week	\$780.28
Three collections/week	\$1,151.62
Four collections/week	\$1,514.87
Five collections/week	\$1,882.71
Six collections/week	\$2,229.89
<b>Commercial and Multi-family Bin Service - 6-yard bin</b>	
One collection/week	\$557.34
Two collections/week	\$960.97
Three collections/week	\$1,408.22
Four collections/week	\$1,891.05
Five collections/week	\$2,292.29
Six collections/week	\$2,730.34
<b>Commercial and Multi-family Bin Service - 8 yard</b>	
One collection/week	\$640.48
Two collections/week	\$1,102.97

Exhibit 6  
Service Rates  
EFFECTIVE 7/1/2019  
COMMERCIAL RATES

COMMERCIAL	Rate Effective 7/1/2019
Three collections/week	\$1,608.37
Four collections/week	\$2,190.34
Five collections/week	\$2,610.23
Six collections/week	\$3,121.19
Commercial and Multi-family Can Service	
35 gallon cart	\$19.02
Each additional 35 gallon can/cart	
64 gallon cart	\$27.15
Each additional 64 gallon can/cart	
96 gallon cart	\$40.50
Each additional 96 gallon can/cart	
Commercial Recycling	
All sizes with trash service	\$0.00
Commercial Green Waste (same as residential)	
64 gallon cart	\$5.64
additional 64 gallon can/cart	
96 gallon cart	\$5.85
additional 96 gallon can/cart	
Commercial Food Waste Rate	
64 gallon	\$84.68
2 yard bin	\$404.26
Temporary Bin	
2-yard bin - refuse (per service)	\$78.82
3-yard bin - refuse (per service)	\$100.74
4-yard bin - refuse (per service)	\$127.50
6-yard bin - refuse (per service)	\$165.12
Same Day Extra Pick Up	
2-yard bin (service day)	\$73.25
3-yard bin (service day)	\$93.86



Exhibit 6  
Service Rates  
EFFECTIVE 7/1/2019  
COMMERCIAL RATES

COMMERCIAL	Rate Effective 7/1/2019
4-yard bin (service day)	\$120.00
6-yard bin (service day)	\$148.00
NON Same Day Extra Pick Up	
2-yard bin (non-service day)	\$85.36
3-yard bin (non-service day)	\$109.51
4-yard bin (non-service day)	\$140.00
6-yard bin (non-service day)	\$172.77
Debris Box Service (all rates plus delivery and tonnage charges)	
* 10 Yard Bin (concrete, dirt)	\$267.22
* 10 to 40 Yard Bin – refuse	\$267.22
* 20 to 40 Yard Bin – C&D	\$267.22
* 20 to 40 Yard Bin – Green waste	\$234.85
Ancillary Rates	
Temp Bin Inactivity Charge per day after the 7th day	\$10.00
Delivery (Temp bins and RO's)	\$75.00
Temp Bin Relocate Charge (per occurrence)	\$75.00
Commercial Restart Charge without delivery	\$15.00
Commercial Restart Charge with delivery	\$75.00
Commercial Pull Bin out Fee under 10' (Per Month)	\$2.50
Commercial Pull Bin out Fee 10'-20' (Per Month)	\$3.50
Commercial Pull Bin out Fee over 20' (Per Month)	\$4.50
Commercial Lock Charge Per Lock (Per Month)	\$2.50
Commercial Overflow (Bin is overfilled; per container per occurrence)	\$150.00
* This charge is for the service portion only. The disposal cost per ton and any delivery charge will be assessed in addition to the service charge.	
All charges include a 12% franchise fee.	

Exhibit 6  
Service Rates  
SPECIAL FEES  
EFFECTIVE 7/1/2019

Special Fees	Rate Effective 7/1/2019
Miscellaneous Services	
Late Fee - 2.5% or \$5.00, whichever is greater	2.5% or \$5.00
Cart Replacement Fee	\$89.22
Bad/Return Check Fee	\$25.00
Commercial Bin Exchange Fee	\$79.75
Residential Cart Exchange Fee	\$47.85
*Contamination fee - If recycle bin is more than 5% contaminated, customer will be charged at the applicable rate for solid waste.	