

**SAMPLE AGREEMENT BETWEEN THE COUNTY OF MONO
AND CONTRACTOR
PROVIDING FOR THE OPERATION OF
TRANSFER STATION FACILITIES**

THIS AGREEMENT is made and entered into as of the 1st day of July, 2016 by and between the County of Mono (hereinafter "County"), a political subdivision of the State of California, and **CONTRACTOR** (hereinafter "Contractor").

RECITALS

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (Act) and subsequent additions and amendments (codified as California Public Resources Code Section 40000 *et seq.*), has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for solid waste handling within their jurisdictions; and

WHEREAS, the State of California found and declared that the amount of solid waste generated in California, coupled with diminishing landfill space and potential adverse environmental impacts from landfill Disposal, has created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program; and

WHEREAS, the Legislature of the State of California has, through enactment of the Act, directed all local agencies to promote and maximize the use of feasible resources for source reduction, waste diversion, and recycling options in order to reduce the amount of solid waste that must be disposed in landfills; and,

WHEREAS, the County of Mono concurs with the aforementioned findings and declarations of the State of California and, in addition, desires to properly manage the natural resources and preserve landfill space in the unincorporated areas of the County; and

WHEREAS, the County of Mono leases or owns and manages various solid waste management facilities, including sanitary landfills and transfer stations, throughout the unincorporated areas of the County; and,

WHEREAS, the Mono County Board of Supervisors finds that continued management of these facilities by the County is necessary for the general health, safety, and welfare of its citizens; and

WHEREAS, the County may from time to time consolidate, construct, expand, close, or otherwise modify such Solid Waste facilities, including sanitary landfills and transfer stations, necessary to meet the disposal needs in the County's jurisdiction; and

WHEREAS, the Mono County Board of Supervisors has determined that continued operation of transfer station facilities can be best accomplished through an Agreement with a qualified and experienced private enterprise specializing in solid waste operations; and

WHEREAS, on July 26, 2000, the Office of the State Attorney General issued Opinion No. 00-402 in which it definitively declared that operation of the County's transfer station facilities under contract does not constitute a public work under the prevailing wage provisions of the California Labor Code when waste is transported to a County-operated landfill; and

WHEREAS, the County proposes to enter into an Agreement with the Contractor for the operation of the transfer station facilities as described herein; and

WHEREAS, the Contractor represents it is qualified and willing to operate the transfer station facilities pursuant to this Agreement; and

WHEREAS, this Agreement (including all “Exhibits”) shall represent the formal written agreement between the Parties for the performance of the work as specified herein, by the Contractor, on behalf of the County. To the extent that there are any inconsistencies between this Agreement and any prior statements, representations, or documents of any kind or nature used, prepared, or relied upon, this Agreement shall prevail; and

WHEREAS, this Agreement shall supersede any and all prior agreements by the Parties respecting the operation of Mono County transfer station facilities, whether written or oral, expressed or implied.

NOW, THEREFORE, intending to be legally bound, the Parties agree as follows:

ARTICLE 1 DEFINITIONS

Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth in Chapter 12.02 of the Mono County Code, or as defined in applicable sections of this Agreement.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES OF THE CONTRACTOR

2.1 GENERAL

The Contractor, by acceptance of this Agreement, represents and warrants that:

A. Existence and Powers. The Contractor is duly organized and validly existing as a corporation under the laws of the State of California with full legal right and power to enter into and perform its obligations under this Agreement.

B. Contractor Authorization and Binding Obligation. The Contractor has the ability to enter into and perform its obligations under this Agreement. The Contractor or its authorized representative has taken all actions required by law and its governing documents to authorize the execution of this Agreement. The persons signing this Agreement on behalf of the Contractor warrant and represent that they have authority to do so. This Agreement constitutes the legal, valid, and binding obligation of the Contractor.

C. No Conflict. Neither the execution nor the delivery by the Contractor of this Agreement nor the performance by the Contractor of its obligations hereunder (1) conflicts with, violates, or results in a breach of any law or governmental regulation applicable to the Contractor; (2) conflicts with, violates, or results in a breach of any term or condition of any judgment, decree, agreement (including, without limitation, the certificate of incorporation of the Contractor), or instrument to which the Contractor is a party or by which the Contractor or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or

instrument; or, (3) will result in the creation or imposition of any encumbrance of any nature whatsoever upon any of the properties or assets of the Contractor.

D. No Litigation. There is no action, suit, or other proceeding as of the Signature Date of this Agreement, at law or in equity, or to the best of Contractor's knowledge, any investigation, before or by any court or governmental entity, pending or threatened against the Contractor which is likely to result in an unfavorable decision, ruling, or finding which would materially and adversely affect the validity or enforceability of this Agreement or any such agreement or instrument entered into by the Contractor in connection with the transactions contemplated hereby, or which could materially and adversely affect the ability of the Contractor to perform its obligations hereunder or which would have a material adverse effect on the financial condition of the Contractor or its parent company.

E. No Legal Prohibition. The Contractor has no knowledge of any Applicable Law in effect on the Signature Date which would prohibit the performance by the Contractor of this Agreement and the transactions contemplated hereby.

F. The Contractor's Investigation. The Contractor has made an independent investigation (satisfactory to it) of the conditions and circumstances surrounding the Agreement and the work to be performed by it. The Contractor has relied solely on its own investigation of the County, its facilities, and service needs in preparing its proposal and entering into this Agreement.

G. Information Supplied by the Contractor. The information supplied by the Contractor in all proposals and submittals made in connection with negotiation and execution of this Agreement and warranties made by the Contractor throughout this Agreement are true, accurate, correct and complete in all material respects on and as of the Effective Date of this Agreement.

H. Representatives of the Parties. The Contractor has designated in writing a responsible officer who shall serve as the representative of the Contractor in all daily operational matters related to the Agreement. The County may rely upon action taken by such designated representative as action of the Contractor.

ARTICLE 3

TERM OF AGREEMENT

3.1 TERM OF AGREEMENT

The Term of this Agreement shall commence at 12:01 am Pacific Time on the Effective Date of this Agreement (July 1, 2016), at which time contract operations by Contractor at the Benton Transfer Station, Bridgeport Transfer Station, Chalfant Transfer Station, Paradise Transfer Station, Pumice Valley Transfer Station, and Walker Transfer Station shall commence. The Term shall continue in force for a period of five (5) years from the start of contract operations and shall expire at 11:59 pm Pacific Time, June 30, 2021. The County may elect, at its sole option, to extend the Term of this Agreement for up to two additional periods of a length not exceeding two years each. The County, in its written notice to the Contractor extending the Term, may elect to extend the Term for a period of less than two years, but in such event the lesser period shall be specified in the County's notice. If the County elects either one or both of the extension options, the Contractor shall be bound to perform all Contractor obligations for the additional extension period described in the County's written notice extending the Term. The County shall give the Contractor a minimum of one-hundred eighty (180) days notice prior to the expiration date of the initial Term or, if applicable, the first extension option if the County elects to extend this Agreement.

ARTICLE 4

CONTRACTOR SCOPE OF SERVICES

4.1 GENERAL

For and in consideration of all sums to be paid to Contractor, Contractor agrees to comply with all terms and conditions as specified herein. The scope of work for this Agreement shall generally consist of the operation of the Benton, Bridgeport, Chalfant, Paradise, Pumice Valley, and Walker transfer stations (the “Facilities”) and the transfer of Solid Waste and Diverted Materials delivered to those Facilities in accordance with Title 14, CCR, Sections 17407.1 through 17414.1, *et seq.*, and with the provisions set forth in this Agreement (the “Services”). The work to be done by Contractor pursuant to this Agreement shall include the furnishing of all labor, supervision, equipment, tools, materials, supplies, transportation, fuel, and all other items necessary to perform the Services required. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve Contractor of the duty to furnish all others, as may be required, whether enumerated or not.

Work completed by Contractor pursuant to this Agreement shall be accomplished in a thorough, professional, and workmanlike manner so that the Facilities are provided with efficient, reliable, organized, and high-quality operations at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve Contractor of the duty of accomplishing all other aspects in the manner provided in this Agreement, whether such other aspects are enumerated or not.

All Services provided by Contractor at the County’s request under this Agreement shall be performed in a manner consistent with any and all applicable Federal, State, and County statutes, codes, ordinances, resolutions, regulations, and leases, as now existing or as they may be later adopted, modified, or amended, and shall further comply with all approved permits, licenses, certifications, or other authorizations applicable to the Services. Contractor shall comply with applicable provisions of existing and future regulatory permits, including but not limited to any applicable land use permits, Waste Discharge Requirements, and Solid Waste Facilities Permits. In addition, Contractor shall comply with the provisions, conditions, and requirements of all operating plans and procedures, all future operating plans and procedures, and other documents for each Facility hereafter approved or adopted by the County. Contractor shall be solely responsible for paying any fines or penalties imposed by regulatory authorities for Contractor’s non-compliance with matters within Contractor’s control, including, but not limited to, this Agreement, permit terms and conditions, applicable laws and regulations, or for failure of Contractor to obtain necessary permits.

Contractor shall keep fully informed of all existing and future Federal, State, and local laws, ordinances, resolutions, and regulations which in any manner affects the work performed under this Agreement or which in any way affects the conduct of the work. Contractor shall at all times observe and comply with, and shall cause all Contractor agents and employees to observe and comply with, any and all existing and future laws, ordinances, regulations, orders, and decrees of any bodies or tribunals having jurisdiction or authority over the conduct of the work specified herein. Failure of the Contractor to adhere to this responsibility shall constitute “default” on the part of Contractor and, as such, shall be processed in accordance with applicable provisions of this Agreement.

The Mono County Director of Public Works (“Public Works Director”) or his or her designee shall be the designated County agent concerning the administration and implementation of this Agreement. It shall be the responsibility of the Public Works Director, or an authorized representative thereof, to determine whether Contractor is carrying out the terms and conditions of this Agreement in a good and workmanlike manner. To that end, Contractor shall further comply with reasonable directives as may be requested from time to time by the Public Works Director or his or her designee.

It is agreed and understood by the Parties that this Agreement does not require Contractor to be responsible for the monitoring, reporting, maintenance, management, funding, or performance of Disposal activities related to the County's sanitary landfills, nor for the funding or performance of closure activities or post-closure maintenance at said landfills.

4.2 TRANSFER OPERATIONS

A. Transfer Station Operations. The Contractor shall furnish all labor, supervision, equipment, tools, materials, and supplies necessary to receive, check, process, store, load, and transfer all Solid Waste and Diverted Materials delivered to the Facilities. Contractor is responsible for the transportation of Solid Waste and specified Diverted Materials to the Designated Disposal Site, and all costs associated with such transportation, including, but not limited to, the provision of transfer vehicles, transfer containers, personnel, fuel, lubricants, equipment upkeep, etc. Contractor is responsible for obtaining and maintaining in effect for the Term of this Agreement all necessary operating permits, licenses, insurance, or other requirements for proper operation of the transfer vehicle(s).

Unless otherwise modified in writing by the County, the Benton and Paradise Facilities shall be operated with one debris box (or "roll-off box") at each location within which Solid Waste and specified Diverted Materials (e.g., white goods, scrap metal, waste tires) may be commingled for collection, storage, and transporting to the Designated Disposal Site. Debris boxes' volume are 40 cubic yards at the Paradise Facility and at the Benton Facility and, if replaced by Contractor, shall remain equal or greater in volume. Further, the Bridgeport, Chalfant, Pumice Valley, and Walker Facilities shall each be operated with a stationary compactor equipped with a 40 cubic yard roll-off compaction container, with specified Diverted Materials (e.g., white goods, scrap metal, waste tires) and Bulky Waste (e.g., furniture, mattresses) at each of those Facilities managed separately through a 40 cubic yard debris box. The foregoing equipment will be provided by the County for the use of the Contractor under this Agreement. Recognizing the variation in specifications between manufacturers, the volumetric capacities specified in this Section 4.2 shall be considered approximate rather than precise measurements.

Disposal capacity shall be provided to Customers at all times during the operating day at each Facility by Contractor. In the event that Contractor removes a debris box or compaction container for transfer during the operating day at a Facility, Contractor shall immediately replace the container with an equivalent empty container of the same capacity to ensure continuous service for the remainder of that operating day. Compaction containers and debris boxes are not required to be in-place at any Facility during hours of non-operation.

B. Facility Permitting. The County shall be responsible for the preparation and submittal to regulatory authorities of all Plans of Operations, and other documentation related to the issuance of a Solid Waste Facilities Permit or amendment thereto, as required, for each Facility. In addition, the County shall perform or arrange for the completion of environmental review documents and obtaining appropriate certifications required under the California Environmental Quality Act (CEQA) for any required permitting or approvals.

C. Designated Disposal Site: Benton, Chalfant, Paradise and Pumice Valley Facilities. Contractor shall transport and deliver all Solid Waste that is intended for Disposal, and all Diverted Materials, to the Designated Disposal Site. The current Designated Disposal Site for the Benton, Chalfant, Paradise and Pumice Valley Facilities is the Benton Crossing Landfill on Pitt Road in Mono County (the "Benton Crossing Landfill"). Solid Waste delivered by Contractor to the Benton Crossing Landfill shall be fully discharged from the transfer container at the active working face. Diverted Materials delivered by Contractor to the Benton Crossing Landfill for processing by the County shall be discharged at the location(s) designated by site personnel. Contractor shall not be charged Gate Fees at the Benton Crossing Landfill for Disposal of Solid Waste that is removed and transferred directly from Facilities pursuant to this Agreement.

D. Designated Disposal Site: Bridgeport and Walker Facilities. The Designated Disposal Sites for Solid Waste handled through the Bridgeport and Walker Facilities shall be either the Benton Crossing Landfill or the Lockwood Regional Landfill in Sparks, Nevada (the "Lockwood Landfill"). Notwithstanding the foregoing, County may, in its sole discretion, require that all Solid Waste handled through the Bridgeport and Walker Facilities be delivered to the Benton Crossing Landfill, upon five (5) business days' written notice to Contractor. In such event, Service Fees shall be adjusted as provided in Section 6.1.A. Contractor shall pay any Gate, Tipping, or other fees and all transportation and other costs associated with the disposal of Solid Waste at the Lockwood Landfill.

E. Transportation of Solid Waste and Diverted Materials. The net volume and, at Facilities equipped with a truck scale, net weight of the contents in all transfer containers, including Solid Waste and Diverted Materials, shall be determined and recorded prior to removal from a Facility. Unless specified otherwise by the County, net weight shall be determined by subtracting the gross combined weight of the inbound transfer truck and empty replacement container from the gross combined weight of the outbound transfer truck and full transfer container.

Contractor shall use due care to prevent materials being transported from being spilled or scattered during transport, including, but not limited to, the use of a tarp or other cover mechanism over all open-top boxes. If any materials are spilled during transport, Contractor shall immediately clean up all spilled materials, whether on private or public property. Appropriate approvals shall be obtained by Contractor prior to accessing private property for purposes of Litter removal.

Transfer vehicles shall travel at a prudent speed at all times when operating on-site at a Facility. When leaving or entering Facility access roads carrying public traffic, the Contractor's equipment and vehicles shall in all cases yield to public traffic.

F. Transfer Vehicles. Contractor shall maintain all transfer vehicles in good mechanical condition. Each transfer vehicle shall be clean, numbered, uniformly painted, and shall display a sign on each side bearing the Contractor's name, telephone number, and Contractor's license number in lettering a minimum of two (2) inches in height. Transfer vehicles shall be subject to inspection and approval by the Mono County Department of Health Services to ensure that they are in satisfactory condition with respect to excessive fluid leaks, drippings, or otherwise causing a hazardous or unsightly condition. Transfer vehicle(s) shall be furnished with a broom and shovel at all times to be used to assist with immediate cleaning in the event of spilled Solid Waste.

Contractor will keep a maintenance log documenting its transfer vehicles' compliance with applicable laws, including, without limitation, air emissions, noise and inspections reports. Contractor will give the County copies of the maintenance log, (including California Highway Patrol BIT inspections) and registration certificates within ten (10) days of the County's request. The County may inspect transfer vehicles, including in connection with any permits issued by the County.

4.3 ENTRANCE GATE OPERATIONS

A. Facility Attendant Duties. Prior to the Effective Date of this Agreement, Contractor shall develop and submit for County review and approval written procedures for Facility attendant duties. Contractor shall ensure that its personnel are sufficiently trained and knowledgeable in Facility attendant procedures and are able to competently, courteously, and satisfactorily perform those functions at each Facility. Facility attendants shall be responsible for locking and unlocking the entrance gate, operating weigh scales and ticket printers (where applicable), assessing and inspecting incoming loads, collecting Gate Fees, monitoring and managing Storage Areas and Stockpiles, operating equipment, distributing information, providing traffic control and Litter control, cleaning site surfaces, record-keeping, and other tasks associated with the operation of Facilities.

B. Collection of Fees. Facility attendants shall perform fee collection duties in accordance with this Section 4.3, including assessing and collecting from all Facility Customers any applicable Gate Fees and charges

based on the Gate Fee Schedule established by, or as may be modified from time to time by, the County. Contractor shall not charge any amount less than or in excess of the approved Gate Fees for any Services required or permitted to be performed by the terms of this Agreement. Facility attendants shall verify that each Customer is either delivering waste generated by a parcel subject to the County solid waste parcel fees or is in possession of a valid Non-Participant Permit. Facility attendants shall thoroughly complete a written gate receipt for each load delivered to Facilities and provide each Customer with a copy of the receipt. Blank receipt books shall be furnished to Contractor by the County for use at the Facilities.

At the conclusion of each operating day, the Facility attendant shall tabulate the day's transactions and deposit all cash receipts, completed gate receipts, and the transaction tabulation into a secure deposit box at the Facility provided by the County. Contractor shall be responsible for collecting gate receipts from each Facility and transporting them to County offices during normal business hours, once per week, on a regularly-scheduled day to be agreed upon by County and Contractor. County shall be responsible for verifying and depositing cash receipts into a County bank account, creating Customer charge accounts, billing non-cash Customers, and providing late-payment notification for overdue accounts. The County shall provide, and periodically update, a list of active charge accounts for Contractor's use in Facility transactions. The County shall inform Contractor of established policies, which may be modified from time to time, to be followed for handling delinquent Customers at Facilities and the denial of service to Customers. Contractor shall be responsible for any theft or misappropriation of gate receipts. Under no circumstances shall cash receipts be left by Contractor in any location other than the secure deposit box during non-operating hours. Gate attendant shall ensure that the deposit box is secured with a lock furnished by the County at the end of each operating day.

C. Estimates. For Facilities not equipped with a truck scale, and in the event of power outage or scale malfunction at those Facilities that are so equipped, Contractor shall visually estimate the volumetric quantity of Solid Waste delivered to Facilities and materials transferred from the Facility. These estimates shall take the place of actual weighing and shall be the basis for records while scales are inoperable. With respect to Diverted Materials shipped off-site to a processor or commodity broker, Contractor shall either: 1) determine the net weight of such materials prior to leaving a Facility; or, 2) if the Facility is not equipped with a scale or in the event the scale system is inoperable, obtain a weight certificate from either a public scale or the processor or commodity broker.

D. Gate Records. Contractor shall maintain gate records that provide information including, but not limited to, inbound and outbound weights of each Customer (where applicable), origin of all Solid Waste or Diverted Materials, type and quantity of material, fee assessed, hauler identification and/or classification, and the type, weight, and destination of all outbound materials. Contractor shall also maintain waste manifest records related to used motor oil and Household Hazardous Wastes.

E. Scale Upkeep and Operation. At Facilities so equipped, Contractor shall operate truck scales during Facility operating hours, weighing all vehicle loads in both the inbound and outbound directions. County Facility personnel shall inspect platform scales on a routine basis pursuant to manufacturer's recommendations to ensure that scales are functioning properly and in an unrestricted fashion. Facility personnel shall notify County within 24 hours of identifying functional issues or potential functional issues with the equipment and County shall perform any necessary maintenance and/or repairs to keep truck scales in good working condition and in compliance with Applicable Law and manufacturer's recommendations.

F. Scale Calibration. County shall obtain certification of all truck scales verifying their proper calibration in accordance with applicable law.

G. Public Education, Program Surveys. Contractor shall actively participate in a good faith effort with the distribution of public education materials as may periodically be developed and furnished by the County to provide Customers with information about the County's solid waste program in general, or about specific

programs such as waste reduction, diversion, recycling, and household hazardous waste management. Such materials may include, but not be limited to, flyers, pamphlets, promotional products, or other items. Further, Contractor shall actively participate in a good faith effort with the distribution and collection of public opinion surveys as may periodically be developed and furnished by the County to solicit feedback from Facility users on various topics related to the County's solid waste program, including, but not limited to, Customer satisfaction, Customer preferences for days or hours of operation, Customer suggestions for program changes, or other subjects as may be deemed appropriate by the County. Completed surveys received by Contractor shall be forwarded to the County in a timely manner or as specified by County in a written request.

4.4 OPERATING SCHEDULE, TRAFFIC, AND WASTE FLOW

A. General. Contractor shall have the right to use the Facilities every day of the year during the Term of this Agreement. If Facility personnel are on-site during hours of darkness, Contractor shall be responsible for providing adequate lighting at no expense to the County. With the exception of days and hours of operation, discussed in Section 4.4.B below, Contractor shall prevent public access to the Facilities.

The County shall have the right to access the Facilities every day of the year during the Term of this Agreement for purposes of conducting environmental monitoring, site inspections, Facility maintenance or construction, field surveys or measurements, landfill maintenance or construction (where applicable), Contractor compliance review, or any other reason deemed necessary by the County.

B. Days and Hours of Operation. Contractor shall unlock and open the entrance gate to each Facility, operate the Facilities in conformance with this Agreement, and close and lock the gate at the times designated for opening and closing the Facilities in accordance with the operating schedule established by, and as may be modified from time to time by, the Mono County Board of Supervisors. If operating schedules are modified in a manner which results in fewer hours of operation and, consequently, in fewer working hours for Contractor's employees and/or other costs to Contractor, Contractor shall be compensated by County based on such modified schedules. Contractor shall have a Facility attendant present at all times during the period that each Facility is open to the public.

C. After-Hours Access. The County recognizes that construction contractors may, from time to time, have the need for Facility access outside the normal operating schedule for Disposal of Inert Waste and Construction and Demolition Waste. Contractor shall have the right to negotiate directly with construction contractors, including compensation on a time and materials basis, to make Facility access available under an extended schedule only for projects contracted by, or performed on behalf of, public agencies. In such an event, Contractor shall make Facilities available under the same terms, conditions, and cost to all contractors bidding on the project and shall provide such information in writing to the contracting agency and to the Public Works Director no later than fifteen (15) days prior to the conclusion of the project bidding period. Under no circumstances shall Facility access to the general public be allowed outside the normal operating schedule. In the event that Contractor wishes to accommodate construction contractors for a specific project, Contractor shall submit a written proposal to the County for consideration. The proposal shall at a minimum describe the project involved, an estimate of the type and quantity of Waste material to be deposited, an estimate of the type, quantity, and capacity of vehicles accessing the Facility, the days and hours of operation, number and composition of personnel required, access control measures, and any other information that will provide the County with a clear understanding of the nature of the proposed project. Any extended access schedule shall be limited to daylight hours only and shall require that Facility personnel be physically present while construction contractor personnel are on-site. Authorization will be evaluated by the County on a project-by-project basis. All provisions of this Agreement shall remain in effect, including load checking, fee collection, traffic control, record-keeping, protection of facilities, and adherence to the Materials Storage Plan in effect at the time.

D. Facility Signage. The County shall provide, install, and keep in proper condition signs at all Facilities with the following information: 1) directional signs (e.g., “County Disposal Site”) on main road at the driveway entrance or access road entrance to Facility; 2) sign at Facility entrance gate identifying the name of Facility, name of Facility owner and operator, hours and days the Facility is open to the public, and emergency contact number(s); 3) rules applicable to the Facility; 4) Gate Fees; 5) prohibited materials; 6) materials identified for storage, stockpiling, recycling, or salvaging; and, 7) any other information deemed necessary or appropriate by the County. Contractor shall be responsible for providing, maintaining, and managing signs within the site to safely and efficiently direct traffic from the Facility entrance gate to the truck scale (if applicable), transfer area, material Stockpiles or Storage Areas, or other unloading areas. Signs furnished and erected by Contractor shall be approved by the County as to size, wording, and location. At applicable Facilities, portable signs provided by County to identify Inert Waste and Green Waste stockpile locations shall be relocated by Contractor as appropriate to provide clear direction for unloading pursuant to the Materials Storage Plan, discussed in Section 4.4.H, below. Contractor is responsible for protecting signs from damage and for notifying the County in a timely manner when County-provided signs require maintenance.

E. Traffic Control. Contractor shall be responsible for providing traffic control to ensure the safe and efficient routing of vehicles at all Facilities. Vehicle ingress and egress shall be limited to the main entrance gate at each Facility. Traffic flow through Facilities shall be controlled to prevent the following: 1) interference with or creation of a safety hazard on adjacent public streets or roads; 2) On-Site safety hazards; 3) interference with operations; and, 4) damage to Facility equipment, structures, or other appurtenances. Traffic control shall be accomplished through the use of traffic cones, barricades, signs, flags, or other warning and safety devices furnished by Contractor. Such devices shall not obscure the visibility of the traveled way. All traffic control devices shall remain the property of the Contractor, shall be clean, freshly painted, marked, or otherwise made clearly legible and visible to the traveling public.

F. Control of Materials Unloading. Contractor shall ensure that materials unloaded from each vehicle are placed properly in the appropriate area in the Facility, including locations that may be established as temporary Storage Areas or Stockpile for later processing, diversion, or other use. Facility personnel shall ensure that each Customer places all Solid Waste in the appropriate transfer container or compaction hopper, and that Diverted Materials do not contain trash or other inappropriate waste material. Contractor shall be responsible for the evaluation (including testing that may be deemed appropriate), handling, and placement into storage containers of all used motor oil or Household Hazardous Waste delivered to the Facility. Contractor shall promptly relocate any waste that is deposited in the wrong area.

Contractor shall abide by the County load-checking program. Contractor shall at all times comply with the procedures and requirements of the County load-checking program, and as may it be modified or amended from time to time, to ensure that prohibited materials are not unloaded at the Facility. Contractor shall ensure that its personnel are sufficiently trained and knowledgeable in the procedures and requirements of the load-checking program to perform those functions at each Facility, including the routine performance of random physical load inspections. No liquid, Medical, Infectious, or other prohibited wastes shall be received at the Facilities. Vehicles transporting such wastes shall be directed away from the Facility without the opportunity to dump their loads. Contractor shall furnish Customers transporting such wastes with information regarding their proper Disposal, including the name, address, and telephone number of the nearest location capable of handling such wastes.

G. Household Hazardous Waste Collection Program. The County shall provide such Household Hazardous Waste storage containers as it deems appropriate at each Facility for temporary on-site storage of Household Hazardous Waste identified and removed from the waste stream during Facility operations. These Facilities will be equipped to receive small quantities of materials such as antifreeze, batteries, oil, paint, pesticides, and treated wood waste from the general public. The Contractor shall be responsible for providing trained and qualified staff sufficient to operate the collection program (screening, receiving, and storage of acceptable materials) at each Facility during normal hours of operations. The County shall be responsible for arranging for transportation and

final disposition of Household Hazardous Waste collected at Facilities. Contractor shall protect the Household Hazardous Waste storage containers from damage and keep them in a neat, orderly, and fully-functioning manner. Said containers shall remain the property of the County. No physical alteration to the storage containers shall be permitted unless written authorization is granted by the County.

The County may from time to time, at its option, obtain grant funding or otherwise provide for additional equipment and/or supplies that may be appropriate to augment the load-checking program and the Household Hazardous Waste collection program established at each Facility. Contractor agrees to incorporate such equipment and/or supplies into said programs and to provide for their continuous and proper operation in accordance with manufacturer's recommendations. Specifications for such equipment and/or supplies, which may include, but not be limited to, quantity, type, size, and/or material, shall be at the discretion of the County, but shall be developed in consultation with Contractor. Contractor understands that, as a result of grant agreements under which equipment and/or supplies may be furnished, there may be specific criteria by which equipment and/or supplies may be used and agrees to comply with such criteria. Any equipment and/or supplies furnished by the County for said programs shall remain the property of the County. No physical alteration shall be permitted unless written authorization is granted by the County. Any future potential for County-furnished equipment and/or supplies does not relieve Contractor of its obligation to furnish at its own expense all necessary equipment, tools, supplies, training, or otherwise provide for the proper operation of the load-checking program and the Household Hazardous Waste collection program established at each Facility.

H. Materials Storage Plan. The County shall develop a plan for each Facility that delineates on-site locations to be utilized for temporary storage of Waste and Diverted Materials, including tires, metals, used oil, recyclables, Salvaged material, Household Hazardous Waste, Inert Waste, Green Waste, or other materials as may be determined by the County. The County shall semi-annually review the Materials Storage Plan and performance by Contractor in its implementation of said Plan. The County shall make modifications to the Plan as necessary to meet Facility needs anticipated for the subsequent semi-annual period, then confer with the Contractor to discuss any further adjustments that may be deemed appropriate. The County shall then issue a final Materials Storage Plan to be implemented by Contractor through the subsequent six (6) month period. The frequency of Plan review and modification may be adjusted by County if necessary to meet Facility requirements. The Contractor shall conduct Facility operations in accordance with the Materials Storage Plan to ensure an organized and well-run Facility. The storage or stockpiling of materials shall be kept as confined as is practical; size of Storage Areas shall be subject to County approval.

I. Materials Salvaging. For the purpose of meeting its obligation toward achieving waste diversion goals, the County may, at its discretion, develop a Materials Salvaging Program at the Facilities. In that event, a Re-Use Exchange Area will be established at designated Facilities for the temporary storage of re-usable materials removed from the waste stream, which may then be safely salvaged by the public. At that time, the County shall develop policies, procedures, and reporting requirements in a Materials Salvaging Plan. Contractor shall be responsible for implementing the Materials Salvaging Plan and managing the Re-Use Exchange Area in a neat, organized, and safe manner at each Facility. Location and limits of the Re-Use Exchange Area will be determined by the County and included in the Materials Storage Plan, described in Section 4.4.H, above.

J. Avoidance of Undisturbed or Restricted Land. Contractor must seek and receive written authorization from the County prior to encroaching on any previously undisturbed land or onto those areas of the Facilities not directly related to, or necessary for, the daily operation of the Facilities. Any alteration of the earth's surface by Contractor is prohibited unless specifically authorized in writing by the County.

K. Contingency Plan. Upon the Effective Date of this Agreement, Contractor shall submit to the County a written "Contingency Plan" demonstrating the Contractor's specific arrangements to provide personnel and vehicles necessary to maintain uninterrupted service during mechanical breakdowns and in the event of fire, natural disaster, strikes, or other emergency. The Contingency Plan submitted by the Contractor shall be subject to

the County's reasonable review and approval. In the event some condition arises to necessitate implementation of the Contingency Plan, Contractor shall follow the approved Plan as written. Contractor shall be responsible for periodically reviewing the Plan and updating it as necessary to ensure its accuracy during the Term of this Agreement. Should the Plan require modification or amendment, Contractor shall submit the proposed modification or amendment to the County for reasonable review and approval.

4.5 MANAGEMENT OF DIVERTED MATERIALS

The Contractor shall be responsible for operations associated with handling materials that will be temporarily stored or stockpiled on-site for diversion, processing, on-site Disposal, Salvaging, or otherwise diverted from transfer and off-site Disposal.

A. General. Contractor recognizes that the County is committed to the diversion and recycling of waste materials that have in the past been Disposed in landfills. To that end, Contractor recognizes that the County has established charges for Solid Waste Disposal that are intended to encourage Facility users to source-separate materials that may be recovered for re-use or recycling prior to Disposal. For that reason, the Facilities shall be operated at the Contractor's best ability to accomplish materials recovery and diversion for any materials subject to diversion pursuant to County's existing recycling programs or any future recycling program(s) which County may implement during the Term of this Agreement. County's current recycling program includes: glass, plastic, aluminum cans, cardboard, mixed paper, metal, household hazardous waste, used oil and filters, tires, wood waste and organic materials. Contractor shall communicate this operational priority to its personnel and shall make all Facility users aware of diversion and recycling opportunities available at each Facility and through other programs offered within Mono County. Contractor shall actively participate in a good faith effort with the distribution of public education materials as may periodically be developed and furnished by the County for waste reduction, diversion, and recycling efforts.

B. Receiving Materials for Diversion. The Contractor shall ensure that Facility personnel are sufficiently trained and knowledgeable in the types of materials that are to be diverted, and actively divert such loads from transfer and Disposal. Contractor shall perform materials diversion activities in a manner that does not interfere with other aspects of Facility operations.

C. Certified Used Oil Collection Center. The County may, at its sole discretion, elect to register the Facilities with the State as Certified Used Oil Collection Centers. If the County does register the Facilities with the State as Certified Used Oil Collection Centers, or if the County opts to maintain any such existing registration, Contractor shall operate the used oil recycling program in accordance with the County's Used Oil Recycling Plan and applicable rules and regulations established by the California Integrated Waste Management Board. Contractor's responsibilities in that event shall include offering and/or providing the redemption value specified by the State to Customers delivering uncontaminated used motor oil to the Facility for recycling, to the extent required by law. Contractor shall perform record-keeping and provide the County with all necessary information specified in the Used Oil Recycling Plan. To that end, the County shall provide reporting of program status to the State and, upon verification through copies of gate receipts, reimburse Contractor for the redemption value paid to Customers.

D. Storage and Management of Diverted Materials. Contractor shall accept and Stockpile or otherwise store Green Waste, Inert Waste, waste tires, used motor oil, white goods, scrap metals, and other recyclable materials designated by the County. The Contractor shall protect such materials against theft, deterioration, contamination, or other damage. Contractor shall protect all storage containers from damage and shall keep them in a neat, orderly, and fully-functioning condition. Further, Contractor shall operate and keep all containers in sound condition in accordance with applicable rules, regulations, and guidelines established by the Mono County Certified Unified Program Agency (CUPA). No physical alteration to County-provided storage containers shall be permitted unless written authorization is received from the County.

At applicable sites, the final disposition of stockpiled Green Waste and Inert Waste shall be managed by the County, either by On-Site Disposal or through other processing, at a frequency approved by the Local Enforcement Agency. The Contractor shall ensure that stockpiled materials are placed in orderly piles within a well-defined area in accordance with the Materials Storage Plan, discussed in Section 4.4.H, above. Contractor shall provide one forty (40) cubic yard debris box at each of the Bridgeport, Chalfant, Pumice Valley, and Walker Facilities for temporary commingled storage of specified Diverted Materials (e.g., white goods, scrap metal, waste tires, or others as may be designated by the County) and Bulky Waste (e.g., furniture, mattresses). Debris boxes shall remain the property of the Contractor and shall be maintained in a satisfactory condition at all times by Contractor. Contractor shall at all times handle white goods containing freon in a manner as to prevent freon leakage from the units. The County shall be responsible for the proper evacuation of refrigerants from white goods following transfer of the units to the Designated Disposal Site, and the Contractor shall be responsible for the proper evacuation of refrigerants for any white goods not transferred to the Designated Disposal Site.

The County shall provide such storage containers for recyclables as it deems appropriate at the Bridgeport, Paradise, Pumice Valley, Walker, Benton and Chalfant Facilities. The County shall also provide storage containers for used motor oil at all Facilities and shall equip each container with a locking mechanism. Facility attendants shall be responsible for ensuring that the locking mechanism is properly in place at the end of each operating day to prevent unauthorized access. The County shall furnish the Contractor with keys to each locking mechanism placed on used motor oil storage containers. Contractor shall take all necessary precautions, including implementing generally-accepted testing practices, to ensure that used motor oil deposited into on-site storage containers is free from contaminants. Facility attendants shall receive used motor oil and oil filters from Customers and take direct control of the discharge of used motor oil to storage tanks.

E. Condition of Stockpiles. The Contractor shall ensure that Storage Areas and Stockpiles contain only the specific material for which they are intended and keep them free of trash, Litter, and other material deemed inappropriate by the County or regulatory authorities.

F. Inspections of Stockpiles. All material Stockpiles are subject to inspection and/or approval by the County and the Local Enforcement Agency.

G. Removal of Stored Materials for Diversion. Upon reaching the storage capacity of a debris box designated for the temporary commingled storage of specified Diverted Materials and Bulky Waste, the Contractor shall remove the debris box from the Facility and transport it to the Designated Disposal Site, or other location as may be approved by the County, for unloading. Contractor shall immediately replace any debris box removed during the operating day with an empty debris box of the same capacity to ensure that continuous service is provided throughout the Facility's hours of operation. Upon reaching the bin capacity of a "roll-off" recycling container provided by the County at the Bridgeport, Paradise, Pumice Valley, Walker, Benton or Chalfant Facilities, Contractor shall remove and transport to a recycling processor (as approved by the County), for unloading and subsequent processing. Since there are no provisions for replacement recycling containers at these sites, Contractor shall make every effort to remove and transport recycling containers when the Facility from which it originated is not open to the public. In the event that a recycling container is removed and unavailable during business hours, Contractor shall provide temporary storage capacity for recyclables delivered to the Facility by Customers. The County shall arrange, and bear the expense, for the periodic removal of used motor oil from Facility storage containers. At a minimum, used oil storage containers shall be emptied by the County at least once annually. Should any additional expenses be incurred due to the treatment or management of contaminated used motor oil as a result of Contractor neglect, negligence, or mismanagement, Contractor shall bear the full cost for such additional expenses and any direct or indirect damages resulting therefrom.

H. Contractor Diversion Program. In the event that the Contractor wishes to establish an on-site diversion program in addition to the program specified by the County, Contractor shall submit a written proposal to the

County for consideration. The proposal shall at a minimum describe the plan of operations, the proposed location and limits of the operation, the days and hours of operation, the quantity, type, capacity, and age of proposed equipment, the quantity and type of supplies and personnel required, a traffic management plan, a materials storage plan, and any other information that will provide the County with a clear understanding of the nature and extent of the proposed program. Provision of records related to quantities, types, and final disposition of materials diverted under the Contractor's program shall be required. Further, Contractor shall obtain a certification of end use from any commodity broker that the materials sold or donated will be or have been recycled or re-used.

4.6 EXISTING FACILITIES AND EQUIPMENT

A. Each site is equipped with two (2) Household Hazardous Waste lockers, two (2) recycling roll-offs, and a gatehouse. Generator-operated Compactors are present at the Bridgeport, Chalfant, Pumice Valley, and Walker Facilities. Five (5) compactor roll-offs are available for contractor use at the Facilities where a compactor is installed. Each Facility has an open-top roll-off, with two (2) open-top roll-offs at the Benton Facility -- one for MSW and one for metal and bulky items. Benton and Paradise are equipped with a roll-off building enclosure. In addition, the mobile home at the Pumice Valley site is owned by the County and may be removed by the County at its discretion. County will perform, or provide for the performance of, maintenance of the foregoing facilities and equipment and such facilities and equipment are, and shall at all times remain, the property of County.

4.7 CONTRACTOR PROVIDED FACILITIES AND SUPPLIES

A. Telephone. Contractor shall maintain a functioning cellular telephone at each Facility at all times during operating hours. Although the telephones are not generally intended for routine public use for outgoing calls, they shall be made available to the public for emergency purposes. All charges for telephone service installed and/or used by Contractor shall be the sole responsibility of Contractor. Contractor shall provide the telephone number for each Facility to the County and shall be responsible for notifying the County of any future changes to any telephone number within three (3) working days of its implementation. The telephone at each Facility must be available to receive calls from the County and general public and be answered by an employee of the Contractor during normal business hours. In addition, the Contractor shall provide an after-hours recorded message in English listing Facility hours of operations, the telephone number of the Contractor's office, and a telephone number for emergency purposes.

B. Sanitary Facilities and Drinking Water. Contractor shall be responsible for furnishing sanitary facilities in good condition for use by the general public and employees at each Facility. A chemical toilet and provisions for hand washing, by means acceptable to the Local Enforcement Agency, are the minimum requirements. In addition, Contractor shall provide a safe and adequate water supply for drinking and emergency use (i.e., first aid) to all Facility employees during normal work hours. Sanitary facilities shall be kept in a clean and sanitary condition at all times and shall be subject to inspection, permitting, and approval by the Mono County Department of Health Services. Toilet facilities shall be serviced at a minimum frequency established by the Mono County Department of Health Services. Servicing records shall be maintained and copies provided to the County upon request.

C. Safety Equipment. Contractor shall furnish all Facilities with personnel safety equipment, including, but not limited to, supplies for the County-provided eye wash station, first aid kit, personal protective equipment, and other items that may be required to comply with Cal-OSHA standards and other applicable regulations.

4.8 FACILITY CLEANLINESS AND NUISANCE CONTROL

A. General. Contractor shall operate and keep Facilities in a manner and condition that does not create a public Nuisance.

B. On-Site Litter Control. The Contractor shall continuously monitor and keep each Facility and surrounding off-site property free of Litter, debris, and other refuse. The Contractor shall be solely responsible for keeping the Facilities in a clean and sanitary condition and shall be responsible for any public Nuisance created as a result of its operations. Wind screens, Litter fences, or other devices shall be used during periods of high wind to contain blowing Solid Waste, such as paper and other light debris, and prevent its off-site migration. Contractor must seek and receive written permission from County prior to the use of any permanent litter-control fixtures. Contractor shall provide adequate personnel to collect and properly dispose of Litter collected from the Facility, at least weekly, and to keep any screens cleared of Solid Waste. Additionally, Contractor shall tarp all transfer containers storing Solid Waste at the conclusion of each operating day. At Facilities that have a permanent transfer structure constructed with a Litter enclosure, Contractor will ensure that all structure doors are closed at the end of the operating day, and if Customer loads are spaced at least twenty (20) minutes apart, enclosure doors shall be closed between Customer loads.

C. Off-Site Dumping and Litter Control. Contractor shall be responsible for the clean up of illegally dumped Solid Waste within one-quarter (0.25) mile of Facility boundaries, with the limitation that individual loads do not exceed either eighty (80) pounds or one (1) cubic yard. In the event that illegally dumped loads exceed these limits, Contractor shall contact the County for assistance. Contractor shall be responsible without limitations for the clean-up of windblown Litter within one-quarter (0.25) mile of Facility boundaries. Contractor has the sole responsibility to contain all Solid Waste and Litter and other refuse within the Facility, and the Contractor shall be held responsible and liable for the clean-up of all refuse blown from within the Facilities to areas beyond Facility boundaries.

D. Vector Control. The Contractor shall take adequate measures to protect facility personnel and Customers from risks associated with bears, snakes, birds, rodents, insects, and other disease-carrying or breeding organisms, subject to applicable regulation. The Contractor shall employ any chemical sprays, traps, and similar measures approved by the Mono County Department of Health Services or applicable State agencies to control these pests, whenever necessary.

E. Use of Licensed Vector Control Operator. The Contractor shall obtain final approval from the County before the use of any pesticides, rodenticides, or herbicides used for vector control. Application of any said substances shall be performed by a State-licensed vector control operator and shall comply with all applicable State and Federal wildlife protection regulations.

F. Noise Control. Contractor shall comply with all applicable local, State, and Federal sound control and noise level rules, regulations, and ordinances, including worker safety standards established by Cal-OSHA. Any internal combustion engine used for any purpose in the performance of Services required by this Agreement shall be equipped with a muffler of a type recommended by the manufacturer. Stationary devices equipped with an internal combustion engine and used at any Facility for an extended period of time shall be housed in a sound-dampened structure such that noise levels do not exceed 60 dβ at the exterior of the scalehouse door and 40 dβ at Facility boundaries.

4.9 FACILITY UPKEEP

A. General. Contractor shall implement a program to monitor and promptly repair or correct deteriorated or defective conditions with respect to all equipment and other items furnished by Contractor to meet its obligations under this Agreement. All other aspects of the Facilities shall be kept in a state of reasonable orderliness.

B. Cleanliness. Contractor shall provide adequate housekeeping and keep the site in a neat, clean, organized, and professional condition, including sweeping the unloading area, load-out area, and truck scales at a minimum frequency of once per week. Contractor shall take appropriate care to ensure that truck scales are free of

mud, debris, and not otherwise weighted or restricted in a manner that does not allow proper measurement of vehicle loads. Contractor shall not allow the accumulation of fuel drums, inoperable equipment, equipment parts or components, tires, or similar items on the grounds of any Facility.

C. Fence Upkeep. Routine upkeep of all existing perimeter fences and gates and all future perimeter fences and gates shall be the sole responsibility of the County. Contractor shall inspect Facility gates and perimeter fencing on a daily basis to ensure its overall integrity for site security. In the event that damage to perimeter fencing or gates is detected, Contractor shall notify the County of the damaged section within twenty-four (24) hours of its discovery. The County shall be responsible for notifying the Local Enforcement Agency of the breach and making arrangements for its repair within the time limits established by the Local Enforcement Agency.

D. Site Road Conditions. Contractor shall keep internal access roads and applicable entrance roads (Garbage Pit Road - Bridgeport, Dross Road - Pumice Valley, and Offal Road - Walker) clean and free of dirt, mud, Litter, debris, and tire puncture hazards. No material or equipment shall be stored where it will interfere with Facility operations and the free and safe passage of public traffic. County shall provide snow removal on all Facility entrance roads and internal access roads as necessary to ensure uninterrupted vehicle access to unloading areas. The Contractor shall provide snow removal along the scale, stairs, and walkways to provide for uninterrupted pedestrian access once Customers are outside of their vehicle. The County shall be responsible for the maintenance of Facility entrance roads and internal access roads.

E. Drainage Control. The County shall be responsible for the maintenance and repair of all drainage structures and for the construction of new facilities as may be required for the control of surface water run-on and run-off in order to prevent damage to site facilities and the accumulation of standing water in operations areas.

F. Structure Protection. Contractor shall be responsible for the protection of Facility structures and shall take all necessary precautions to identify and reduce the potential for their damage, including the use of suitable safeguards.

G. Cooperation with Construction Projects. Contractor shall cooperate with the County or County's contractors or other authorized forces during any construction projects which may be undertaken at any Facility site to the extent that any delay or hindrance to their work shall be avoided. The County reserves the right to perform, or to arrange to have performed on its behalf, other or additional work within or adjacent to the limits of work provided for under this Agreement by the use of other forces. The County shall provide advance written notification to Contractor of any construction projects to be implemented, and work with Contractor to ensure that Facility operations are impacted to the minimum extent possible and coordinated with construction schedules and related activity.

4.10 CONTRACTOR TO HIRE COMPETENT PERSONNEL

A. Sufficient Number of Employees. Contractor shall employ only competent, qualified, conscientious, and sober personnel to ensure performance satisfactory to the County and to serve the public in a courteous and impartial manner. Contractor shall have on duty during all hours that the Facilities are required to be open a sufficient number of competent employees to perform efficient Facility operations. Contractor personnel shall conduct scalehouse duties, assess Gate Fees, check loads, direct traffic, control Customer unloading, operate equipment, control and clean up Litter, and perform other duties as required to efficiently operate the Facilities in accordance with this Agreement.

B. On-Site Supervision and Representation. One Contractor employee at each Facility (the "site supervisor") shall be assigned the responsibility for supervising daily operations at that Facility and shall be designated as a representative of the Contractor to interact with the public and the County. The site supervisor

shall be at the Facility during all hours of operation, except lunch breaks, and shall be able to read, write, and speak English.

C. Hazardous/Unacceptable Material Training. Contractor shall not allow unloading of material other than Solid Waste at the Facilities.

D. Safety Program and Monthly Safety Meetings. Contractor shall conduct safety training meetings for all Facility employees at least monthly, and copies of the meeting records shall be submitted to the County at a minimum frequency of once per quarter, in conformance with Cal-OSHA regulations and Title 14 of the Health and Safety Code.

E. Other Training. Contractor shall conduct quarterly operations training for all Facility personnel to ensure that all personnel are sufficiently knowledgeable in subjects pertinent to site operations, including, but not limited to: 1) Facility operations and upkeep, including applicable provisions of this Agreement; 2) the use of mechanized equipment (if applicable); 3) emergency procedures and first aid; 4) environmental controls; and, 5) regulatory requirements governing transfer station operations, including Title 14, CCR, Sections 17407.1 through 17414.1, *et seq.* Copies of training documentation for each employee shall be submitted to the County at a minimum frequency of once per quarter.

F. Safety Equipment. Contractor shall provide all Facility personnel with appropriate personal safety equipment, including, but not limited to, hard hats, rain and snow gear, steel-toed boots, back support, eye and ear protection, work gloves, dust masks, and other appropriate equipment. The Contractor is responsible at all times to enforce use of all such personal safety equipment by Facility personnel.

G. Replacement of Noncomplying Employees. In the event that any Contractor employee neglects to properly serve the public or representatives of the County or State in a courteous and efficient manner, or fails to conduct operations at the Facility in a safe, competent, conscientious, and workmanlike manner, or permits or causes any violation of this Agreement, Contractor shall, upon written notification by the County, take measures to correct the problem, including, but not limited to, individualized training in the problem area. Contractor shall respond to the County's notification within two (2) weeks of receipt with a written plan for correcting the problem. Contractor shall provide documentation within two (2) months of receipt of notification demonstrating that the plan for correction has been implemented. If more than six (6) nuisance complaints concerning an individual Contractor employee are received within a six (6) month period by the County, Contractor agrees to replace such person with a competent and trained employee within fifteen (15) days of written notification by the County.

H. Community Service Personnel. Contractor agrees to supervise, at no cost to the County, persons who may be assigned to any Facility by the County or the local court system to meet their obligation to perform community service work. Community service personnel shall report to the assigned Facility and receive assignments for Litter pickup, organization of Stockpiles or Storage Areas, and other laborer duties. The County shall provide community service personnel with appropriate personal safety equipment. Contractor shall be responsible to train personnel in the proper use of such equipment and enforce the use of such equipment at all times by community service personnel.

4.11 SUPERVISION OF SERVICES

It is expressly understood and agreed that the County has entered into this Agreement in reliance upon the Contractor's personal and continuous supervision of, and responsibility for, such enterprise, and at no time shall the County be required to rely upon supervision or performance by any other party, including, but not limited to, the surety of the Contractor or successor, or assign or heir of the Contractor, whether by operation of law or otherwise.

4.12 FACILITY INSPECTION

Contractor shall allow Facility access to, and fully cooperate with, regulatory authorities at any time during normal business hours for the purpose of site inspection, monitoring, or regulatory enforcement. Authorized regulatory agencies shall include, but may not be limited to, representatives from the California Integrated Waste Management Board, the Lahontan Regional Water Quality Control Board, the Great Basin Air Pollution Control District, the California Department of Toxic Substances Control, the California Department of Industrial Relations, the Mono County Department of Weights and Measures, the Mono County Department of Health Services, the Mono County Department of Public Works, the Los Angeles Department of Water and Power (at Paradise site), and the United States Environmental Protection Agency. Regulatory authorities shall have the right to interview Facility personnel to evaluate regulatory compliance, and in the case of the County, to additionally verify compliance with this Agreement.

The County shall have the right to observe, monitor, review, and inspect Contractor's operations and all Facility equipment, structures, records, Storage Areas, Stockpiles, and other items associated with Facility operations at any time without prior notification. Inspection of Contractor's work shall not relieve Contractor of any of the Contractor's obligations to fulfill the contract as prescribed. Work not meeting the requirements shall be corrected, and unsuitable work may be rejected.

4.13 FIRE SAFETY & CONTROL

A. Smoking. Smoking by Facility personnel and the public shall not be permitted within enclosed structures or within twenty (20) feet of areas specifically labeled to prohibit smoking (e.g., unloading area, used oil storage tank, Household Hazardous Waste storage container).

B. Burning. No burning or open flames of any kind shall be permitted at the Facilities and Contractor shall use all reasonable means to prevent burning or open flames from occurring.

C. Fire Control. Contractor shall be responsible to furnish and keep in operating condition fire extinguishers or other fire suppression equipment in the immediate vicinity of each of the following: 1) any structure; 2) the unloading and transfer areas; and, 3) any equipment, mobile or stationary, furnished with an internal combustion engine or electric motor. Extinguishers shall be of sufficient size, type, and quantity to safely extinguish the type and size of fire that may be anticipated for each area. Should any fire occur, it shall be the responsibility of Contractor to notify the local fire department, to use all available methods to control and extinguish such fire, and to notify the County and the Local Enforcement Agency of the event and its status as soon as is practical.

4.14 MODIFICATIONS TO SCOPE OF WORK

A. General. The County may, at its option, direct Contractor to perform Additional Services (including new diversion programs) or modify the manner in which it performs existing Services (including the modification or elimination of programs). Contractor shall only proceed with any modification to Services upon receipt of written notice to proceed from the County. Contractor's compensation shall be increased or decreased, as appropriate, to give effect to these adjustments in accordance with Article 6 of this Agreement. Any extra work or modification to Services performed by Contractor without written authority from the County will be considered as unauthorized work and will not be paid for.

B. Proposal from Contractor. Contractor shall present, within thirty (30) days of a request by the County to do so, a proposal to modify existing Services. At a minimum, the proposal shall contain a thorough and complete description of the following:

1. Methodology to be employed, including use of equipment, manpower, etc;

2. Equipment to be utilized, including quantity, type, make, model, capacity, age, etc.;
3. Labor requirements, including the number of employees by classification;
4. Provision for program publicity, public education, or marketing, if applicable;
5. Estimate of the impact of the Service modification, such as increased diversion, reduced costs, etc.
6. Projection of the financial results of the program's operations to the expiration date of this Agreement in a balance sheet and operating statement format, including documentation of the key assumptions underlying the projection and the support for those assumptions, giving full effect to the savings or costs to existing Services.

C. County Right to Permit Others to Provide Services. The Parties acknowledge and agree that the County may permit other persons, organizations, agencies, or enterprises to provide additional services not otherwise contemplated under this Agreement. If pursuant to Section 4.14 B, Contractor and the County cannot agree on terms and conditions of such services within ninety (90) days from the date when the County first requests a proposal from Contractor to perform such services, Contractor acknowledges and agrees that the County may permit others to provide such services. In such an event, Contractor shall fully cooperate with, and allow full Facility access to, those who have been contracted by the County to provide additional services.

ARTICLE 5

OTHER OBLIGATIONS OF THE CONTRACTOR

5.1 OFF-SITE OFFICE REPRESENTATION

A. Off-Site Office Facilities. Contractor shall establish and provide at all times during the Term of this Agreement an office. Unless otherwise specified herein, Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the Services identified in this Agreement. County shall not be obligated to reimburse or to pay Contractor for any expense or cost incurred by Contractor in procuring or providing such items. Responsibility for the costs and expenses incurred by Contractor in providing such items is the sole responsibility and obligation of Contractor.

B. Office Hours. Contractor shall maintain regular office hours that extend, at a minimum, from 8:00 a.m. through 4:00 p.m. daily, except Saturdays, Sundays, and designated holidays.

C. Availability of Representatives. A responsible and qualified representative of Contractor shall be available at Contractor's office during office hours for communication with the County or the general public.

D. Telephone. Contractor shall provide a telephone system in operation at its office during regular office hours. Contractor shall have available a service representative to handle telephone calls from the general public, regulatory personnel, or the County during office hours. Contractor shall also provide an after-hours telephone number for the purpose of receiving messages or complaints relating to Facility operations during hours when Contractor's office is closed. Contractor shall have a representative, answering service, answering machine, or voice mail system available at said telephone number during all hours when Contractor's office is closed. Any recording shall provide an additional number to call in the event of an emergency. Contractor shall provide the County the means to contact Contractor directly by telephone on a 24-hour basis in the event of an emergency.

5.2 NUISANCE COMPLAINTS AND RESPONSE

Contractor shall provide at all times a written log (“Complaint Log”) of all oral and written Nuisance complaints registered with Contractor from the public. As used herein, the term “Nuisance” shall refer to a situation where Litter, debris, dust, noise, or odors from Facility operations are allowed to travel beyond Facility property boundaries, thereby occasioning complaints from the public. A condition of “Nuisance” shall also be deemed to occur where dumping of Solid Waste occurs along a Facility access road and road sections for which the Contractor is responsible. Written and oral complaints made with respect to the conduct of Contractor and its employees shall also be entered into the Complaint Log. Contractor 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 for final resolution. Contractor 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 the nature and date of remedial action. Such log shall be kept so that it may conveniently be inspected by representatives of the County or State upon request. A copy of the log shall be forwarded to the County on a quarterly basis.

5.3 PAYMENT OF EMPLOYEES

A. Payroll Records. Contractor shall provide to the County, within ten (10) working days following receipt of request, a copy of the Contractor’s certified payroll records of all on-site employees for any specified month in which the Contractor performed Services at the County’s request under this Agreement.

B. Workers’ Compensation. Contractor shall provide workers’ compensation insurance coverage, in the legally required amount, for all Contractor’s employees utilized in providing Services pursuant to this Agreement. By executing this Agreement, Contractor acknowledges its obligations and responsibilities to its employees under the California Labor Code, and warrants that Contractor has complied and will comply during the Term of this Agreement with all provisions of the California Labor Code with regard to its employees. Contractor, at the time of execution of this Agreement and during the Term of this Agreement, will provide the County with evidence of the required workers’ compensation insurance coverage within ten (10) days of receiving a written request from the County.

5.4 CHANGE IN OPERATIONS OR ADMINISTRATION

Contractor shall notify the County in writing of any material changes in the operations to provide Services (e.g., vehicles, management and employees), at the time such material change is implemented. Any changes to the operations shall meet the Service requirements, performance standards, and other terms of this Agreement.

5.5 REQUIRED LICENSES, CERTIFICATES, AND PERMITS

Any licenses, certificates, or permits (other than permits obtained by the County as described in Section 4.2.B of this Agreement) required by the federal, State, or local governments for a contractor to provide the Services and work requested by the County under this Agreement must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the Term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver’s licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide the County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the Services identified in this Agreement. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the Services requested by the County under this Agreement, the County reserves the right to make such determination for purposes of this Agreement.

ARTICLE 6

CONTRACTOR COMPENSATION

6.1 CONTRACTOR SERVICE FEES

The Service Fees shall constitute full compensation to Contractor for furnishing all labor, supervision, equipment, tools, materials, supplies, fuel, transportation, and all other items necessary to perform the Services required under this Agreement. The Parties agree that the Service Fees are the only form of compensation to Contractor for the Services provided under this Agreement. No compensation will be made in any case for loss of anticipated profits. The Service Fees are as follows:

A. Service Fee. The Service Fee shall initially be the monthly amount paid to Contractor by County in accordance with the fee schedule attached hereto as Exhibit A and incorporated by this reference, for operating each Facility and providing for transfer of Solid Waste and Diverted Materials. The Service Fee includes Contractor's total compensation for gatehouse operations, traffic control, materials management, transfer of Solid Waste or Diverted Materials to the Designated Disposal Site or other designated location (such transfer of Solid Waste or Diverted Materials is herein referred to as a "Pull"), and other Services specified in this Agreement for each Facility operated by Contractor during the Term of this Agreement. The monthly Service Fee shall be calculated using the amounts set forth in the fee schedule (Exhibit A). If County should direct that Solid Waste handled through the Bridgeport and Walker Facilities be delivered to the Benton Crossing Landfill pursuant to Section 4.2.D, then Service Fees for the transfer of Solid Waste and Bulky Items from those Facilities shall be replaced, as applicable, with those Fees set forth in Exhibit B, attached hereto and incorporated by this reference. Service Fees shall be subject to an annual CPI increase in accordance with Section 6.4.

B. Modified Services. Should County take any action resulting in an increase or decrease in the amount of work provided by Contractor pursuant to this Agreement (e.g., increasing or reducing the number of Pulls or increasing or decreasing hours of operation at a Facility), then the Service Fee shall be increased or reduced accordingly, based on the number of employee hours worked, number of Pulls or otherwise, in accordance with The Fee Schedule. In no event shall Service Fees exceed the Monthly and Annual Contract Limits, as set forth in Section 6.7.

6.2 FEDERAL AND STATE TAXES

A. Except as provided in Section 6.2.B below, the County will not withhold any federal or State income taxes or social security from any payments made by the County to Contractor under the terms and conditions of this Agreement.

B. If required by California law, County shall withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety-nine dollars (\$1,499.00).

C. Except as set forth in Section 6.2.B, above, the County has no obligation to withhold any taxes or payments from sums paid by the County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. The County has no responsibility or liability for payment of Contractor's taxes or assessments.

D. The total amounts paid by the County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board.

6.3 INVOICING, BILLING, AND PAYMENT

By the fifteenth (15th) day of the month following the month in which Services were provided pursuant to this Agreement, Contractor shall submit to County an invoice listing the Services provided during the prior month and the charges therefor, in accordance with Exhibit A (or B, as applicable) and Sections 6.1 and 6.4 of this Agreement. Contractor's monthly invoices shall also include such Additional Services as authorized by the County during the prior month, unless the Solid Waste Superintendent has agreed to another arrangement for payment for such Additional Services in writing. Invoices shall itemize employee hours worked and the number of Pulls from each Facility during the previous month. Following receipt of such invoice, County shall make payment to Contractor within thirty (30) calendar days.

6.4 ANNUAL INFLATION ADJUSTMENT

A. Annual Inflation Adjustment. Subject to the terms herein, the Service Fees shall be adjusted annually for inflation. Each annual adjustment shall be based on the twelve (12) month inflation ending March 31st of each year, and will be effective on July 1 of each adjustment year. The first adjustment will be effective for Services performed on or following July 1, 2017, and will be based on inflation calculated between April 1, 2016 and March 31, 2017.

On or before May 15 of each year, the County shall prepare and submit to Contractor for review the annual inflation adjustments to the Service Fees and supporting calculations. The Service Fees set forth in Section 6.1 of this Agreement shall be revised by the County to reflect such annual adjustments and shall be effective on July 1 of the adjustment year.

B. Method for Determining Annual Inflation Adjustment. The Service Fees shall be adjusted annually to reflect the annual inflation rate measured as the percentage increase or decrease in the seasonally-unadjusted Consumer Price Index for All Urban Consumers (CPI) over the previous twelve (12) months. The expenditure category of the CPI utilized in this adjustment method shall be the "Water and Sewer and Trash Collection Services," as published by the United States Department of Labor, Bureau of Labor Statistics, Washington, D.C. The adjusted Contractor Service Fee shall be calculated as follows:

All adjusted Service Fees shall be rounded to the nearest dollar. In the event that the specified CPI increases by more than four (4) percent in any one year (i.e., $(\text{Current CPI} - \text{Previous CPI}) / \text{Previous CPI}$ is greater than 0.040), the Service Fee adjustment shall be limited to four percent (4%).

C. Change in CPI Expenditure Category. If the Consumer Price Index for All Urban Consumers, "Water and Sewer and Trash Collection Services" expenditure category, is discontinued or revised during the Term by the United States Department of Labor, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the CPI category had not been discontinued or revised. The County shall specify any replacement index to the CPI category at its sole discretion.

6.5 TRAVEL AND PER DIEM

Contractor shall not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing Services requested by the County under this Agreement.

6.6 NO ADDITIONAL CONSIDERATION

Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive from the County, any additional consideration, compensation, salary, wages, or other type of remuneration for Services rendered

under this Agreement. Specifically, Contractor and its employees shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime payment, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

6.7 LIMIT UPON AMOUNT PAYABLE UNDER AGREEMENT

The total sum of all payments made by the County to Contractor for Services and work performed under this Agreement during the first year this Agreement is in effect shall not exceed **\$XXX,000** (the “Annual Contract Limit”). Monthly payments to Contractor by County for such Services and work shall not exceed **\$XX,000** (the “Monthly Contract “Limit”) during the first year this Agreement is in effect. The Annual and Monthly Contract Limits shall be adjusted for subsequent years in accordance with Section 6.4. The County expressly reserves the right to deny any payment or reimbursement requested by Contractor for Services performed which is in excess of the Annual or Monthly Contract Limits.

6.8 SUBSTANTIAL CHANGE IN COSTS

Should any federal, State, regional, or local government enact any statute, ordinance, or regulation which substantially alters the nature or cost of Services as considered by this Agreement, Contractor or the County may, after thirty (30) days’ written notice to the affected party, re-open this Agreement for the purposes of re-negotiating the amount of payment due Contractor to meet the obligations of this Agreement under the new statute, ordinance, or regulation. If the amount of compensation cannot be successfully negotiated between the Parties, Contractor or the County shall have the option of terminating this Agreement given thirty (30) days’ written notice.

6.9 COUNTY RIGHT TO ESTABLISH GATE FEES

Contractor acknowledges that the County has the exclusive right to establish Gate Fees, whether expressed as per-ton tipping fees or other charges, at County-owned Facilities. Contractor acknowledges that the County may make changes to the Gate Fees from time to time and at its sole discretion. The County shall post changes in Gate Fees at each Facility and provide a minimum of fifteen (15) days’ notice to Contractor prior to establishing any such changes.

ARTICLE 7

RECORD-KEEPING AND REPORTING

7.1 ACCOUNTING AND FINANCIAL RECORDS

Contractor shall maintain in its local off-site office full, complete, and separate financial and accounting records pertaining to cash, payroll, expenses, and other transactions provided for the County under this Agreement. Records shall be prepared in accordance with generally-accepted accounting principles. Such records shall be subject to audit and inspection by County. Contractor shall maintain and preserve all financial and accounting records for a period of not less than four (4) years following the close of each of the Contractor’s fiscal years.

7.2 OTHER RECORDS

Contractor shall prepare and maintain all records required by the various provisions of this Agreement, and federal, State, and County law, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this Section 7.2 by substitute photographs, microphotographs, or other authentic reproduction of such records. Contractor shall maintain in its local off-site office records of the

quantities of materials received, Stockpiled, transferred, and diverted. Said records shall be subject to the inspection provisions as provided in Section 7.3, below.

7.3 RIGHT TO INSPECT RECORDS

The County and/or an authorized representative thereof shall at any reasonable time have the right to review and inspect the Contractor's records, including payroll and other financial records, to determine Contractor's compliance with the terms and conditions of this Agreement. The County shall have the right, at its sole discretion and at any time during the Term of this Agreement, to inspect or audit any books, documents, papers, Customer lists, records, including, but not limited to, financial records of Contractor, which the County determines to be pertinent to this Agreement, for the purposes of making an audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. The County shall have the right to enter Contractor premises for the purposes of such review and shall provide seven (7) days' advance notice to Contractor when such inspection or audit is to be conducted. Contractor shall fully cooperate with any review or inspection of Contractor's records by County and/or an authorized representative thereof, including providing full and timely access to all required records, data, and other information, and shall, if requested by County, participate in any such review or inspection for purposes of providing clarifying information. Refusal to cooperate or participate on the part of Contractor shall be deemed an event of Default. The County's right to review and inspect Contractor's records in this Section 7.3 shall survive termination of this Agreement for a period of not less than four (4) years.

7.4 SITE DOCUMENTS

A copy of all approved permits issued by any Approval Agency shall be maintained at the office of each Facility and made available for review by Facility personnel and upon request by representatives of the County, regulatory agencies, or concerned individuals. Contractor shall maintain an "operating record" for each Facility pursuant to regulatory requirements.

7.5 MONTHLY REPORTING

Contractor shall submit monthly reports of waste transfer data, diversion data, a log of daily operations, and load inspection forms to the County in accordance with the following specifications:

A. Report Submittals. Monthly reports shall be submitted no later than the fifteenth (15th) day of the month immediately following the reported month. Monthly reports shall be submitted either in hard copy or electronically.

B. Waste Transfer Data. Reports shall include separately for each Facility the date and quantity, in Tons, of each load of Solid Waste transferred to the Designated Disposal Site.

C. Diversion Data. Reports shall also include the date and quantity, both in Tons and cubic yards, of all materials diverted, stored, or stockpiled at each Facility. Reports shall provide quantities, by material type and final destination, of all materials transported off-site for recycling or other end-use. Reports shall also include facility name and location, quantities, and material type, removed through Salvaging operations.

D. Daily Operations Log. Reports shall further be provided that summarize the daily operational activities at each Facility. These reports shall include for each Facility daily information such as weather conditions, number of Customers, Facility visitors, equipment breakdown and/or repair, a brief description of any incidents, accidents, injuries, and/or vandalism that occurred, and any other information that may be considered relevant.

E. Load Inspection. Inspections performed in accordance with the County's Load Checking Program shall be conducted at least once per operating day and submitted monthly.

7.6 QUARTERLY REPORTING

Contractor shall submit, on a quarterly basis, personnel training records and any applicable certifications obtained pursuant to Section 4.10 of this Agreement. Training records shall, at a minimum, include date of training session, name of Contractor personnel attending training, name of person or firm conducting the training session, and topic of training session. In addition, Contractor shall also submit copies of load-checking records from each Facility to the County on a quarterly basis. Such records shall be prepared in accordance with the approved load-checking program, as specified in Section 4.4.F and G of this Agreement. Contractor shall further submit to the County a copy of the complaint log kept pursuant to Section 5.2 of this Agreement.

7.7 ADDITIONAL REPORTING

Contractor shall furnish the County with any additional reports as may reasonably be required.

7.8 OTHER RELATED REQUIREMENTS

Contractor shall cooperate with and assist the County in the performance, if and as needed, of periodic waste characterization studies that may be conducted at the Facilities.

7.9 PERFORMANCE REVIEW

Contractor shall cooperate fully and assist the County with an annual "Performance Review" of Contractor's performance under this Agreement and provide within thirty (30) days of request, all operational, financial, and other information deemed reasonable or convenient by the County or the firm selected by the County for purposes of conducting the Performance Review. Contractor's failure to cooperate or provide all requested information shall be considered an Event of Default. The Performance Review shall be conducted as set forth below.

A. Scope of Performance Review. The Performance Review shall address all appropriate areas which may include, but not be limited to, the following areas, and shall provide specific recommendations, as appropriate, for improvement in each area:

1. Compliance with the terms of this Agreement and Applicable Laws.
2. Overall organizational structure and management systems and procedures.
3. Efficiency of transfer operations.
4. Staffing practices, including the deployment of management and supervisory personnel.
5. Financial management practices, including Contractor's handling of gate receipts and weigh tickets.
6. Employee job and safety training, and management of Household Hazardous Waste.
7. Procedures for receiving and resolving nuisance complaints registered by the public.
8. Procedures for the acquisition, upkeep, safety check, and replacement of equipment.
9. Utilization and management of facilities, equipment, and personnel.

B. Changes to Operations. In conjunction with the results of a particular Performance Review, the County reserves the right to require reasonable changes to the Contractor's operations, which the County determines to be reasonably necessary or reasonably appropriate by reason of the findings or results of the Performance Review to carry out the intent of the terms and conditions of this Agreement.

C. Determination of Default. If, after the County has reviewed the results of a particular Performance Review, including problem areas, frequency of occurrence, recommended improvements and compliance therewith, and has considered any evidence presented by the Contractor in connection therewith, the County determines to its satisfaction that an event of Default has occurred, then the County may issue a Notice of Default pursuant to Section 9.2.G. of this Agreement and without prejudice to any other remedy to which it may be entitled to either at law, in equity, or under this Agreement, and/or issue a written notice of termination, either by mail or personal service, to Contractor not less than thirty (30) days prior to the date upon which the termination is to become effective.

ARTICLE 8

INDEMNITY, INSURANCE, BONDS

8.1 DEFENSE AND INDEMNIFICATION BY CONTRACTOR

Contractor shall indemnify, defend with counsel acceptable to the County, protect, and hold harmless the County, its officers, employees, and agents from and against any and all claims, damages, losses, judgments, liabilities, expenses, penalties, forfeitures, demands, actions, proceedings or suits, in law or in equity, of every kind and description arising out of, resulting from, or in any way connected with: 1) the operations of the Contractor, its officers, employees, agents, contractors, and/or subcontractors in performance of this Agreement; 2) the failure of Contractor, its officers, employees, agents, contractors, and/or subcontractors to comply in all respects with the provisions and requirements of this Agreement, applicable laws, ordinances, and regulations, and/or applicable permits and licenses; 3) the acts and/or omissions of Contractor, its officers, employees, agents, contractors, and/or subcontractors in performing Services under this Agreement; and 4) the procurement of this Agreement. Contractor's obligation to defend, indemnify, and hold the County, its officers, employees, and agents harmless includes, but is not limited to, any actual or alleged personal injury, death, damage, or destruction to tangible or intangible property, including the loss of use, or for contribution or indemnity claimed by third Parties.

The foregoing indemnity shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death, or damage is caused in whole or in part by any act, omission, or negligence of the Contractor, its officers, employees, agents, suppliers, contractors, and/or subcontractors, or anyone directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable. The Contractor's obligations in this Section 8.1 shall survive termination of this Agreement.

Contractor's obligation to defend, indemnify, and hold the County, its officers, employees, and agents harmless under the provisions of this Section 8.1 is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

8.2 HAZARDOUS SUBSTANCES INDEMNIFICATION BY CONTRACTOR

Contractor shall indemnify, defend with counsel acceptable to the County, protect, and hold harmless the County, its officers, employees, and agents from and against all claims, damages (including, but not limited to, special, consequential, natural resources, and punitive damages), injuries, response remediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings (including any such proceedings threatened or contemplated, provided the County has been placed on notice thereof), interest, fines, charges, penalties, attorney's fees, and other expenses (including, but not limited to, attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred, or suffered by, or asserted against, the County, its officers, employees, and agents arising from or attributable to acts or omissions of Contractor, its officers, employees, agents, contractors, and/or subcontractors, including, but not limited to, any repair, cleanup or detoxification, or preparation and

implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or Hazardous Wastes brought to a Facility during the Term of this Agreement, or handled by Contractor or its officers, employees, agents, contractors, and/or subcontractors at any place where Contractor conducts operations pursuant to this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607(e), and California Health and Safety Code Section 25364, to defend, insure, protect, hold harmless, and indemnify the County from liability.

The foregoing indemnity shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death, or damage is caused in whole or in part by any act, omission, or negligence of the Contractor, its officers, employees, agents, suppliers, contractors, and/or subcontractors, or anyone directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable. Contractor's obligations in this section shall survive termination of this Agreement.

8.3 INSURANCE SCOPE AND LIMITS

Contractor shall procure and maintain for the entire Term of this Agreement a policy of insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, its officers, employees, agents, representatives, contractors, or subcontractors. Such policy shall not exclude or except from coverage any of the Service and work required to be performed by Contractor under this Agreement. With respect to General Liability and Pollution and/or Environmental Impairment Liability, coverage should be maintained for a minimum of five (5) years after contract completion. The maintenance of claims made against any insurance required of Contractor shall not be considered a waiver by the County of any claim or liabilities it may have against Contractor.

A. Types and Minimum Limits of Insurance. Contractor shall maintain types and limits no less than:

1. General Liability: One million (\$1,000,000) dollars combined single limit per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: One million (\$1,000,000) dollars combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation: As specified in Section 5.3.B of this Agreement.
4. Pollution and/or Environmental Impairment Liability: One million (\$1,000,000) dollars each occurrence and five million (\$5,000,000) dollars aggregate policy covering liability arising from the release of waste materials and/or irritants, contaminants, or pollutants. Such coverage shall, if commercially available, without involvement of the County, automatically broaden in its form of coverage to include legislated changes in the definition of waste materials and/or irritants, contaminants, or pollutants, including on- and off-site clean-up. The policy shall stipulate this insurance is primary and no other insurance carried by the County will be called upon to contribute to a loss suffered by Contractor hereunder and shall waive subrogation against the County and other additional insureds.
5. Property: A policy on property insurance, including, where necessary, builders risk insurance, which will cover any County-owned equipment, structures, or materials that this Agreement places in the care custody or control of Contractor at any time during the Term thereof or any subsequent extension or renewal.

B. Deductible and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either the Insurer shall reduce or eliminate such

deductibles or self-insured retentions with respect to the County; or, Contractor shall provide evidence satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and defense expenses. Notwithstanding the foregoing, the County may elect not to accept any deductibles or self-insured retentions offered by Contractor.

C. Other Insurance Provisions.

1. The policies are to contain, or be endorsed to contain, the following provisions:
 - a. The County, its agents, officers, employees, and community service personnel are to be named as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Contractor in the performance of Services under this Agreement; and with respect to liability arising out of work or operations performed by or on behalf of the Contractor, including materials, parts, or equipment furnished in connection with such work or operations; and with respect to Pollution and/or Environmental Impairment Liability.
 - b. Contractor's insurance coverage shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess of Contractor's insurance and shall not contribute with it.
 - c. Each insurance policy required by this clause shall be "claims-made," or an alternate form as approved by the County.
 - d. Each required insurance policy shall contain a clause providing that written notice shall be given to the County a minimum of thirty (30) days prior to termination, cancellation, suspension, or reduction of coverage or limits.
 - e. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
2. The Automobile Liability policy shall be endorsed to delete the Pollution and/or the Asbestos exclusion and add the Motor Carrier Act endorsement and/or other endorsements required by federal or State authorities. The Automobile Liability policy shall cover any and all automobiles, trucks, tractors, trailers, and mobile equipment that are owned, rented, or leased by Contractor, and which are used, stored, or otherwise present on County-owned, rented, or leased premises.
3. With respect to Workers' Compensation Coverage, the insurer shall agree to waive all rights of subrogation against the County, its officers, agents, and employees for losses arising from Services performed by Contractor for the County.

D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII if admitted. If Pollution and/or Environmental Impairment coverages are not available from an "Admitted" insurer, the coverage may be written with the County's permission, by a non-admitted insurance company. A non-admitted company should have an A.M. Best's rating of A:X or higher.

E. Verification of Coverage. As provided in Section 3.2.D of this Agreement, Contractor shall furnish the County with endorsements effecting coverage required by this Section 8.3. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by the County no later than one week prior to the Effective Date for review and acceptance by the County before work commences.

F. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein for the Contractor.

G. Failure to Furnish. In the event Contractor fails to maintain the appropriate insurance as specified herein or surety as specified in Section 8.4 of this Agreement, County may, after providing fifteen (15) days written notice to Contractor, take out such required insurance and/or surety in the name of the County, or may terminate this Agreement. The costs thereof shall be deducted from the monthly compensation due Contractor at the time of the next payment.

H. Other Provisions. Any failure by Contractor to comply with reporting or other provisions of insurance policies, including breaches of warranties, shall not affect coverage provided to the County, its officers, agents, and employees.

8.4 FAITHFUL PERFORMANCE BOND

Simultaneously with the execution of this Agreement, Contractor shall file with the County a bond, payable to the County, in a form acceptable to the County, securing the Contractor's faithful performance of each and every one of its obligations under this Agreement. The principal sum of the bond shall be fifty thousand dollars (\$50,000). The bond shall be executed as surety by an "A" rated, "T" listed (U.S. Treasury) bonding company authorized to issue surety bonds in the State of California. Alternatively, Contractor may deposit a letter of credit or open a certificate of deposit in the name of the County, approved as to form by County Counsel, to be held to secure this faithful performance. The bond or other surety shall be renewed annually, with certificate furnished to County within two weeks of renewal, and shall remain in full force and effect for the duration of this Agreement. The premium for the bond or other surety shall be paid by Contractor.

ARTICLE 9

BREACH, DEFAULT, AND REMEDIES

9.1 EVENTS OF BREACH

A. General. Failure by either Party to comply with any term or condition of this Agreement shall constitute a material breach of the Agreement.

B. Failure to Properly Manage or Account for Solid Waste. If Contractor is a franchisee pursuant to Chapter 12.10 of the Mono County Code, County and Contractor understand and agree that, due to Contractor's status as a franchised waste hauler within the County's solid waste franchise system, Contractor is required to account for, report, and make Capacity Payments to the County for Solid Waste that it collects from Customers in unincorporated Mono County and Disposes of at a facility other than Benton Crossing Landfill pursuant to the Franchise Agreement entered into between County and Contractor (the "Franchise Agreement"). In contrast, pursuant to this Agreement, Contractor must account for and report Solid Waste and Diverted Materials delivered to the Walker and Bridgeport Facilities, but may, if authorized by County, transfer such waste and materials to a disposal facility other than Benton Crossing Landfill without any additional payment to County. These varied commitments require Contractor and County to exercise vigilance and care in managing and accounting for Solid Waste handled pursuant to this Agreement and to Contractor's Franchise Agreement (if applicable). Accordingly, County may audit, observe, follow or ride with, or otherwise track Contractor's work in properly managing and accounting for Solid Waste in accordance with the terms of this Agreement and the Franchise Agreement (if applicable). In the event Contractor co-mingles or fails to properly account for Solid Waste or Diverted Materials, or takes any action resulting in an underpayment of Capacity Payment or other moneys owing to County pursuant to the Franchise Agreement (if applicable), this Agreement may be immediately terminated by County and/or County may pursue any other remedy available at law, including damages, if such amounts are ascertainable, or liquidated damages as provided in Section 9.1.D.9.

C. Liquidated Damages, General. The Parties acknowledge that provision of consistent, reliable services is of utmost importance to the County and that the County has considered and relied on the Contractor’s representations as to its ability and commitment to quality of service in entering this Agreement. The Parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The Parties further recognize that if Contractor fails to achieve the performance standards, or fails to submit required documents in a timely manner, the County and users of the County’s Facilities will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages which the County and Facilities users will suffer. Therefore, without prejudice to the County’s right to treat such non-performance as an Event of Default under this Article 9, the Parties agree that the following liquidated damage amounts represent a reasonable estimate of the amount of such damages considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to the County that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or inconvenient. In placing their initials at the places provided, each Party specifically confirms the accuracy of the statements made above and the fact that each party has had ample opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions at the time that the Agreement was made.

Contractor
Initial Here _____

County
Initial Here _____

Contractor agrees to pay (as liquidated damages and not as a penalty) the amounts set forth below:

D. Liquidated Damages, Specified. Upon delivery of written notice to Contractor, the County may impose the following liquidated damages upon Contractor, in addition to any other available remedies the County may have.

1. One hundred dollars (\$100) shall be withheld for failure to remove Contractor’s property not used in or necessary to the transfer station operations, as specified in this Agreement, for each day of said violation.
2. One hundred dollars (\$100) shall be withheld for failure to properly manage diversion areas and Stockpiles of materials associated with Green Waste, Inert Waste, or other diversion programs, as specified in the Agreement, for each day of said violation.
3. One hundred dollars (\$100) shall be withheld for failure to verify loads and direct Facility users to the appropriate unloading area, and comply with operating procedures for waste diversion programs, as specified in this Agreement, for each day of said violation.
4. One hundred dollars (\$100) shall be withheld for failure to keep or submit documents and reports, as specified in this Agreement, for each day of said violation after ten (10) days’ notice by the County.
5. Two-hundred fifty dollars (\$250) shall be withheld for failure to provide adequate staff to conduct all Facility operations, as specified in this Agreement, for each day of said violation.
6. Two-hundred fifty dollars (\$250) shall be withheld for failure to provide personal safety and other supplemental equipment, as specified in this Agreement, for each day of said violation.
7. Two-hundred fifty dollars (\$250) shall be withheld for failure to control routine Litter, and for failure to remove materials illegally dumped in and around the Facilities, as specified in this Agreement, for each day of said violation.
8. Two-hundred fifty dollars (\$250) shall be withheld for each citation of a “violation” at any Facility and for which the Contractor is obligated under this Agreement, as specified in an inspection report

prepared and issued by the Local Enforcement Agency, for each day of said violation after seven (7) days' notice by the County or the Local Enforcement Agency.

9. Five hundred dollars (\$500) shall be withheld for each instance in which Solid Waste or Diverted Materials handled by Contractor pursuant to this Agreement are not managed and/or accounted for so as to prevent the mis-reporting to County of amounts of Solid Waste or Diverted Materials redirected from the Designated Disposal Site by Contractor pursuant to this Agreement or the Franchise Agreement (if applicable).

The County may determine the occurrence of events giving rise to liquidated damages through the observation of its own employees or representatives.

Prior to assessing liquidated damages, the County shall give Contractor notice of its intention to do so. The notice shall include a brief description of the non-performance, violation, or other breach. Contractor may review (and copy at its own expense) all information in the possession of the County, and not protected from disclosure by law or by contract, relating to the non-performance, violation, or other breach. Contractor may, within ten (10) days after receiving the notice, request a meeting with the County. If a meeting is conducted, it shall be held by the Public Works Director or his or her designee. Contractor may present evidence in writing and through testimony of its employees and others relevant to the non-performance, violation, or other breach. The Public Works Director or designee shall provide Contractor with a written explanation of his or her determination on each non-performance, violation, or other breach prior to authorizing the assessment of liquidated damages. The decision of the Public Works Director or designee shall be final. The amount of the authorized assessment of liquidated damages issued by the County shall be withheld from the County's next payment to Contractor.

E. Limit on Amount of Damages. In no event shall the amount of liquidated damages to be withheld for any given day exceed \$500 per Facility.

F. Fines Assessed. Contractor shall be solely responsible for paying any fines or penalties imposed by governmental agencies against the County, Contractor, or any of its subcontractors as a result of Contractor's or subcontractor's non-compliance with permit terms or failure to obtain necessary permits. The County shall retain from amounts otherwise due Contractor an amount equal to any fines or penalties assessed against the County because of Contractor's or subcontractor's failure to perform in accordance with the terms of this Agreement, in addition to any liquidated damages assessed in accordance with this Agreement and to any other remedies available to the County. In the alternative, the County may, in its sole discretion, pay any such fines or penalties and seek reimbursement from Contractor or deduct an equivalent amount from a future payment or payments under this Agreement, in addition to any liquidated damages assessed in accordance with this Agreement and to any other remedies available to the County.

G. Notice of Breach. In the event that either Party to this Agreement believes that the other party has breached the Agreement, it shall send the party alleged to have breached the Agreement a written "Notice of Breach" setting forth in detail the specific nature of the breach and any damages, liquidated or otherwise, believed to be owing as a result of the breach. The party sending the Notice may combine it with a Notice of Default and/or Notice of Termination in the event that the party asserting the breach does not wish, and is not otherwise required by this agreement, to allow the other party an opportunity to cure the breach prior to declaring an "Event of Default" and/or terminating the Agreement.

9.2 EVENTS OF DEFAULT

Each of the following shall constitute an event of Default ("event of Default") hereunder:

A. Failure to Correct Breach. Failure to correct any breach, 1) within seventy-two (72) hours of written notice from the County, provided that if the nature of the breach is such that it can be cured but will reasonably

require more than seventy-two (72) hours to cure, Contractor shall not be in Default so long as Contractor promptly commences to cure such breach and diligently proceeds to complete same; or 2) immediately, if the breach is such that the health, welfare, or safety of the public is endangered as determined by the Public Works Director or his designee. For example, and without limiting the generality of the foregoing, failure by the Contractor to receive Waste at a Facility during normal operating hours would constitute a breach requiring immediate correction by the Contractor.

B. Misrepresentation. Any representation or disclosure made to the County by Contractor in connection with or as an inducement to entering into this Agreement or any future amendment to this Agreement which proves to be false or misleading in any material respect as of the time the representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

C. Seizure or Attachment of Equipment. There is a seizure or attachment (other than a prejudgment attachment) of, or levy affecting possession on, the operating equipment of the Contractor, including without limit its vehicles, equipment, or facilities, or any part thereof of such proportion as to impair Contractor's ability to perform under this Agreement and which cannot be released, bonded, or otherwise lifted within forty-eight (48) hours excluding weekends and the County-approved holidays.

D. Contractor Bankruptcy. Contractor 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 Contractor or necessary for this Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator (or similar official) of Contractor for a part of Contractor's operating assets or any substantial part of Contractor's property, or shall make any general assignment for the benefit of Contractor's creditors, or shall fail generally to pay Contractor's debts as they become due.

E. Court Order or Decree. Any court having jurisdiction shall enter a decree or order for relief in respect of Contractor, in any case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or Contractor 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 Contractor or for any part of Contractor's operating equipment or assets, or order the winding up or liquidation of the affairs of Contractor.

F. Failure to Provide Performance Assurances. Contractor fails to provide reasonable assurances of performance as required under Section 9.8 of this Agreement or fails to maintain the Faithful Performance Bond as specified in Section 8.4 of this Agreement.

G. Failure to Notify County. Contractor fails to notify the County within fifteen (15) days of any receipt of notice of violation from those regulatory agencies regulating Waste transportation, handling, processing, or Disposal activities.

H. Lapse of Financial Requirement. Lapse of any insurance or bond required under this Agreement.

I. Regulatory Violation. Contractor violates any orders or filings of any regulatory body having jurisdiction over Contractor relative to this Agreement, provided Contractor may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of this Agreement shall be deemed to have occurred unless a final determination is issued following such proceedings which affirms the violation.

J. Cessation of Services. Contractor ceases to provide Services as required under this Agreement for a period of two consecutive operating days or more, for any reason within the control of Contractor, including labor disputes.

K. Failure to Meet Reporting Requirements. Contractor refuses to provide County with required information, reports, and/or records (or access thereto) in a timely manner as provided for in the Agreement.

L. Unremedied Acts or Omissions. Any other act or omission by Contractor which materially violates the terms, conditions, or requirements of this Agreement and which is not corrected or remedied within the time period set in the written notice of the violation or, if Contractor cannot reasonably correct or remedy the breach within the time period set forth in such notice, if Contractor should fail to commence to correct or remedy such violation within the time period set forth in such notice and diligently effect such correction or remedy thereafter.

M. General Default. Violation of any term or condition of this Agreement.

N. Notice of Default. In the event that either Party to this Agreement believes that an “Event of Default” has occurred, it shall send the party alleged to have defaulted a written “Notice of Default” setting forth in detail the specific nature of the default. The party sending the Notice may combine it with a Notice of Termination in the event that the party asserting the default wishes to terminate the Agreement as a result of the default.

9.3 RIGHT TO TERMINATE UPON CONTRACTOR DEFAULT

Upon a Default by Contractor, the County shall have the right to terminate this Agreement without need for any hearing, suit, or legal action by giving Contractor written “Notice of Termination” either by mail or personal service not less than sixty (60) days prior to the date upon which the termination is to become effective unless a shorter notice period is required for the immediate protection of public health, safety, or welfare. Said Notice may be combined with any Notice of Breach or Notice of Default.

9.4 RIGHT TO TERMINATE UPON COUNTY DEFAULT

Contractor shall have the right to terminate this Agreement by giving written “Notice of Termination,” either by mail or personal service, to the County not less than sixty (60) days prior to the date upon which the termination is to become effective, in the event of any material breach of this Agreement by the County, including but not limited to, any of the following:

- (1) The County’s failure to make any payment required under this Agreement or refusal to provide the Contractor with required information or reports, as to any material matter, as provided by this Agreement; or,
- (2) Any act or omission by County which materially violates the terms, conditions, or requirements of this Agreement.

Notwithstanding the foregoing, Contractor shall not be permitted to terminate this Agreement if the County cures said default within thirty (30) days after receiving written Notice of Termination from the Contractor, or, if the default is not capable of being cured within thirty (30) days, if County commences action and proceeds in good faith to cure the default within thirty (30) days.

9.5 POSSESSION OF PROPERTY UPON TERMINATION

In the event of termination for Contractor Default, the County shall have the right to take possession of any and all of the Contractor’s equipment, records, Customer lists, and other property used or useful in the provision of Services under this Agreement, and to use such property. The County shall pay reasonable compensation to the Contractor for the temporary use of such equipment and other property. In no event shall monthly compensation

exceed twenty-five percent (25%) of the Contractor's "Service Fee" (as defined in Section 6.1 of this Agreement) then in effect for use of Contractor's equipment and other property. The County shall have the right to retain the possession of such property for a period not to exceed ninety (90) days, or until other suitable arrangements can be made for the provision of Services, which may include the award of an agreement to another company, whichever is earlier.

9.6 COUNTY'S REMEDIES CUMULATIVE

The County's right to terminate this Agreement under Section 9.1, and 9.3 and to take possession of Contractor's properties under Section 9.5 are not exclusive, and the County's termination of the Agreement shall not constitute an election of remedies. Instead, all remedies provided for in this Agreement shall be in addition to any and all other legal and equitable rights and remedies which the County may have under law or as otherwise provided in this Agreement.

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

9.7 EXCUSE FROM PERFORMANCE

A. 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 conducted by Contractor's employees or directed at the Contractor, or a subcontractor, is not an excuse from performance and Contractor shall be obligated to continue to provide Service notwithstanding the occurrence of any or all of such events.

B. Inexcuse from Performance. In addition, none of the following are to be considered an excuse from performance: 1) general economic conditions, interest or inflation rates, currency fluctuation, or changes in the cost or availability of fuel, commodities, supplies or equipment; 2) changes in the financial condition of Contractor or any of its subcontractors affecting their ability to perform their obligations; 3) the consequences of errors, neglect, or omissions by Contractor or any subcontractor; 4) any failure of any subcontractor or supplier to furnish labor, materials, service, or equipment for any reason; 5) equipment failure; or 6) any act, event, or circumstance occurring outside the State of California.

C. Notice. The Party claiming excuse from performance shall, within two (2) days after such party has notice of such cause, give the other party written notice of the facts constituting such cause and asserting its claim to excuse under this Article 9. Notwithstanding, in the event of a catastrophic event Contractor shall comply with the Mono County Emergency Preparedness Plan.

D. Waiver of Damages. In the event that either Party validly exercises its rights under this Article, the Parties hereby waive any claim against each other for any damages sustained thereby.

E. Interruption or Discontinuance of Service. The partial or complete interruption or discontinuance of Contractor's Services caused by one or more Uncontrollable Circumstances and constituting an excuse from performance shall not constitute an event of Default by Contractor under this Agreement. Notwithstanding the foregoing, however, if Contractor is excused from performing its obligations hereunder for any of the causes listed in this Article 9 for a period of thirty (30) days or more, the County shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) days written notice, in which case the provisions of

Section 9.5 shall apply. In the event the County exercises its right to terminate this Agreement under this subsection, Contractor shall not be obligated to the County under its performance bond.

9.8 RIGHT TO DEMAND ASSURANCES OF PERFORMANCE

If Contractor is: 1) the subject of any labor unrest including work stoppage or slowdown, sickout, picketing, or other concerted job action; 2) appears in the reasonable judgment of the County to be unable to regularly pay its bills as they become due; or, 3) the subject of a civil or criminal investigation, charge, or judgment or order entered by a federal, State, regional, or local agency for violation of a law relating to performance under this Agreement, and the County believes in good faith that Contractor's ability to perform under this Agreement has thereby been placed in substantial jeopardy, the County may, at its option and in addition to all other remedies it may have, demand from Contractor reasonable assurances of timely and proper performance of this Agreement, in such form and substance as the County believes in good faith is reasonably necessary in the circumstances to provide evidence of Contractor's continued ability to perform under this Agreement. If Contractor fails or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by the County, such failure or refusal shall be an event of Default for purposes of Section 9.2.

9.9 COUNTY'S RIGHT TO PERFORM

A. County's Right to Perform. In addition to any and all other legal or equitable remedies, in the event that Contractor, for any reason whatsoever, fails, refuses, or is unable to perform any Services at the time and in the manner provided in this Agreement for a period of more than seventy-two (72) hours, and if, as a result thereof, Waste accumulates within the boundaries of the County to such an extent, in such a manner, or for such a time that the Public Works Director or his or her designee should find that such accumulation endangers or menaces the environment, public health, safety, or welfare, then the County shall have the right, but not the obligation, without payment to the Contractor, upon twenty-four (24) hours' prior notice to Contractor during the period of such emergency as determined by Public Works Director or his or her designee, to do either one or both of the following: 1) cause to be performed such Services with other personnel; or, 2) take possession of any or all of the Contractor's equipment and other property used or useful in providing one or more of the Services and to provide one or more of the Services.

B. Notice. Notice of Contractor's failure, refusal, or neglect to perform one or more Services may be given orally by telephone to the Contractor at its principal office, or by email, and shall be effective immediately. Written confirmation of any oral notification shall be sent to the Contractor within twenty-four (24) hours of the oral notification.

C. Contractor's Cooperation. The Contractor further agrees that in such event:

1. It shall fully cooperate with the County to effectuate the transfer of possession of property to the County for the County's use.
2. It shall, if the County so requests and to the extent feasible, keep in good repair and condition all of such property, provide all motor vehicles with fuel, oil and other service, and provide such other service as may be necessary to maintain said property in operational condition.

D. Not a Taking by the County. The County's exercise of its contractual rights under this Article 9: 1) does not constitute a taking of private property for which compensation must be paid; 2) shall not create any liability on the part of the County to the Contractor; and, 3) does not exempt Contractor from the indemnity provisions of Article 8, which are meant to extend to circumstances arising under this Article 9, provided that the Contractor is

not required to indemnify the County against claims and damages that are solely caused by the established active negligence or willful misconduct of County officers, employees, agents, or volunteers acting under this Article 9.

E. Temporary Possession of Contractor's Property. The County's right to retain temporary possession of Contractor's property, and to provide one or more Services, shall continue until Contractor can demonstrate to the County's satisfaction that it is ready, willing, and able to resume such Services. The County has no obligation to maintain possession of Contractor's property or continue its use in performing one or more Services for any period of time and may, at any time, in its sole discretion, relinquish possession to Contractor.

9.10 WAIVER OF DEFAULT

The waiver by either Party of any breach, default, or violation of any provision of this Agreement shall not be deemed to be a waiver of any breach, default, or violation of any other provision nor of any subsequent breach, default, or violation of the same or any other provision, and shall not be construed to be a modification of the terms and conditions of this Agreement unless the Agreement is modified as provided in Section 11.6, below. The subsequent acceptance by either Party of any monies which become due hereunder shall not be deemed to be a waiver of any preexisting or concurrent breach of violation by the other Party of any provision of this Agreement.

ARTICLE 10

OTHER AGREEMENTS OF THE PARTIES

10.1 RELATIONSHIP OF PARTIES

The Parties intend that Contractor shall perform the Services required by this Agreement as an independent Contractor engaged by the County and not as an agent, officer, or employee of the County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of the County. Except as may be expressly provided herein, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the County is to be considered an employee of Contractor. It is understood by both Parties that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship, partnership, or joint venture.

No employee or agent of Contractor shall be or shall be deemed to be an employee or agent of the County. Except as expressly provided herein, Contractor shall have the exclusive control over the manner and means of conducting the Services performed under this Agreement, and all persons performing such Services. Contractor shall be solely responsible for the acts and omissions of its officers, employees, subcontractors, and agents. Neither Contractor nor its officers, employees, subcontractors, and agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to County employees by virtue of this Agreement.

Contractor, its agents, officers, and employees shall conduct themselves in a professional manner at all times in the performance of Services requested by the County under this Agreement. Contractor shall be responsible to the County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to the County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor or its employees shall not provide, directly or indirectly, any gifts or gratuities to any County officer, employee, agent, or representative.

In the event that any statute or court decision ever renders the assumptions of this Section invalid, either Party may terminate this Agreement within thirty (30) days prior written notice to the other Party.

10.2 PARTIES IN INTEREST

Nothing in this Agreement, whether express or implied, is intended to confer any rights on any persons other than the Parties to it and their representatives, successors, and permitted assigns.

10.3 CONFLICTS

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and Services under this Agreement.

10.4 COMPLIANCE WITH APPLICABLE LAW

In providing the Services required under this Agreement, the Contractor shall at all times, at its sole cost, comply with all Applicable Laws. In particular, Contractor's operations at each Facility shall comply with all applicable laws, regulations and ordinances, as now existing or as they may be later adopted, modified or amended, and shall further comply with all applicable regulatory permits, including, but not limited to, any applicable land use permits, Waste Discharge Requirements, and Solid Waste Facilities Permits. In addition, Contractor shall comply with the provisions, conditions, and requirements of all operating plans and procedures, and all other future operating plans and procedures and other documents for each Facility hereafter approved or adopted by the County.

10.5 GOVERNING LAW

This Agreement shall be governed by, and construed and enforced in accordance with, the internal laws of the State of California, without regard to its law governing conflicts of law.

10.6 UNANTICIPATED PREVAILING WAGE ISSUES

The Parties hereto are of the mutual opinion that the work to be performed by Contractor under this Agreement is not subject to prevailing wage laws. That mutual assumption is critical to both Parties' entry into this Agreement. If that assumption ultimately proves incorrect for any reason during the Term of this Agreement, then either Party may at that point, with thirty (30) days' written notice to the other Party, terminate the Agreement without penalty, damages, indemnification, or contribution of any kind owing to the other Party as a result of the mistaken assumption.

10.7 NONDISCRIMINATION

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, State, or local law, against any employee, or applicant for employment, or person receiving Services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, sex, or any other legally-protected status. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900, *et seq.*), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act.

10.8 CONFIDENTIALITY

Contractor agrees to comply with the various provisions of the federal, State, and County laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing Services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor

agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County. Contractor understands, however, that the County may be required by State or other law to allow public access to records and other information provided by Contractor to the County.

10.9 POST-AGREEMENT COVENANT

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing Services and work under this Agreement, for any personal benefit, gain, or enhancement.

10.10 COUNTY PROPERTY

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, keys, structures, containers, and equipment provided to Contractor by the County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. Contractor shall use reasonable care to protect, safeguard, and maintain such items while they are in Contractor's possession. Contractor shall be financially responsible for any loss or damage to such items, partial or total, (excluding normal wear and tear) which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's Services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of this Agreement, Contractor will convey possession of and title to all such properties to the County. (This section is intended to cover only those items which were specifically requested and/or paid for by the County in conjunction with applicable provisions of this Agreement. It is not intended to cover those items of a creative nature produced by Contractor or its employees.)

10.11 CONTRACTOR ASSIGNMENT

A. Definition. For purposes of this Article, "assignment" shall include, but not be limited to: 1) a sale, exchange, or other transfer of substantially all of Contractor's assets dedicated to Service under this Agreement to a third party; 2) a sale, exchange, or other transfer of thirty (30) percent or more of the outstanding common stock of Contractor; 3) any reorganization, consolidation, merger, recapitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation, or other transaction to which Contractor or any of its shareholders is a party which results in a change of ownership or control of thirty (30) percent or more of the value or voting rights in the stock of Contractor; and, 4) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership. If Contractor is not a corporation, an assignment shall also include, among other things, any transfer or reorganization that has an effect similar to the situations described in foregoing sentence for corporations. For purposes of this Article, the term "proposed assignee" shall refer to the proposed transferee(s) or other successor(s) in interest pursuant to the assignment. If Contractor is a subsidiary of another corporation or business entity, any "assignment," as defined above, by the parent company or corporation shall be considered an assignment by Contractor.

B. County Consent. Contractor acknowledges that this Agreement involves rendering a vital service to the County, and that the County has relied upon Contractor's representation of its skills, knowledge, experience, training, and financial resources in qualifying Contractor to perform the Services under this Agreement. Except as provided in this Article, Contractor shall neither assign its rights nor delegate, subcontract, or otherwise transfer its obligations under this Agreement to any other person or entity without the prior written consent of the County.

Further, Contractor shall not assign any moneys due or to become due under this Agreement without prior written consent of the County. Any such assignment without the consent of the County shall be void and the attempted assignment shall constitute a material breach of this Agreement. Under no circumstances shall the County be required to consider any proposed assignment if Contractor is in Default at any time during the period of consideration.

C. Requirements of Contractor. If Contractor requests the County's consideration of and consent to an assignment, the County may deny or approve such request in its sole and complete discretion. No request by Contractor for consent to an assignment need be considered by the County unless and until the Contractor has met the following requirements:

1. Contractor shall pay the County its reasonable expenses for attorney's fees, consultant fees, and other related costs to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment;
2. Contractor shall furnish the County with audited financial statements of the proposed assignee's operations for the immediately-preceding five (5) operating years;
3. Contractor shall furnish the County with satisfactory proof that the proposed assignee has the demonstrated technical capability to perform all Services, including:
 - a. That the proposed assignee has at least five (5) years of transfer station experience on a scale equal to or exceeding the scale of operations conducted by Contractor under this Agreement;
 - b. In the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, State, or local environmental laws and the assignee has provided the County with a complete list of all citations and censures, significant or otherwise, that it has suffered over that period;
 - c. The proposed assignee has at all time conducted its operations in an environmentally safe and conscientious fashion;
 - d. The proposed assignee conducts its operations in accordance with sound waste management practices in full compliance with all federal, State, and local laws regulating the Disposal of Solid Waste, including hazardous substances;
 - e. The assignee's office that serves as the location for managing Services is within one hundred (100) miles of the County, as determined by estimating the distance on a map by drawing a straight line between the County's office and the assignee's office;
 - f. Any other information required by the County to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe, courteous, and effective manner.

D. Application and Transfer Fee. Any application for a transfer of Agreement shall be made in a manner prescribed by the County. The application shall include a transfer fee in an amount to be set by resolution of the Mono County Board of Supervisors to cover the cost of all direct and indirect administrative expenses, including consultants and attorneys, necessary to adequately analyze the application and to reimburse the County for all direct and indirect expenses. In addition, Contractor shall reimburse the County for any and all additional costs related to the assignment requested and not covered by the transfer fee. Request for payment by the County shall be supported with evidence of the expense or cost incurred. The applicant shall pay such bills within thirty (30) days of receipt.

E. Transition. If the County consents to an assignment, then throughout any period of transition, Contractor shall cooperate with the County and subsequent contractor(s) or subcontractor(s) to assist in an orderly transition, which shall include the Contractor providing operating records and information to the County and/or the assignee.

10.12 SUBCONTRACTING

Contractor shall not engage any subcontractors for Services provided under this Agreement without the prior written consent of the County. No subcontractor will be recognized as such, and all persons engaged in the performance of Services under this Agreement shall be considered as employees of the Contractor and the Contractor will be held responsible for their work, which shall be subject to the provisions of this Agreement.

Subcontracts shall include provisions that this Agreement is part of the subcontract, and that all terms and provisions of this Agreement are incorporated into the subcontract. Subcontracts shall also contain certification by the subcontractor that the subcontractor is experienced in and qualified to do, and knowledgeable about, the subcontracted work. Before work is started on a subcontract, Contractor shall submit to the County a written statement describing the name(s) of the subcontractor, a description of each portion of the work to be subcontracted, the equipment to be utilized in performance of the subcontract, and the term of the subcontract. Copies of subcontracts shall be submitted to the County upon the County's written request. When a portion of the work which has been subcontracted by the Contractor is not being prosecuted in a manner satisfactory to the County, the subcontractor shall be removed immediately at the written request of the County and shall not again be employed in the completion of obligations under this Agreement.

10.13 BINDING ON SUCCESSORS

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

10.14 TRANSITION TO THE NEXT CONTRACTOR

One (1) year prior to the conclusion of the Term, or any approved extension thereto, whichever is applicable, and in order to assist with the process to award a new agreement at the conclusion of the Term, or approved extension thereto, Contractor shall provide the County with such information as may reasonably be requested. Failure to provide full cooperation may at the County's sole discretion preclude Contractor from participating in the next agreement. The County shall consider in good faith any reasonable requests by Contractor to maintain as confidential any bona fide proprietary or trade secret information of Contractor which the County may request. The County shall in no event be liable for disclosing information or records in its possession that the County reasonably deems to be "public records" that the County must disclose under State law.

10.15 CONDEMNATION

In addition to its rights under Article 9, the County fully reserves the right to acquire Contractor's property utilized in the performance of this Agreement, by negotiated purchase or through the exercise of its power of eminent domain.

10.16 NOTICE AND PARTY REPRESENTATIVE

All notices, demands, requests, proposals, approvals, consents, amendments, additions, or deletions to this Agreement, and other communications which this Agreement requires, authorizes, or contemplates are, except as otherwise specifically provided, to be in writing and shall be effective when personally delivered to a representative of the Parties or deposited in the United States mail, postage prepaid, addressed as follows:

If to the County:

Mono County Solid Waste Superintendent

74 North School Street, Annex I
P.O. Box 457
Bridgeport, CA 93517

If to the Contractor:

The address to which communications may be delivered may be changed from time to time by a notice given to the other Party in accordance with this Article. Notice shall be deemed given three (3) calendar days following deposit in the United States mail as provided in this Section, or upon personal delivery.

10.17 FUNDING LIMITATION

The ability of the County to enter this Agreement is based upon existing available funding from various sources including, but not limited to, Solid Waste Assessments, Gate Fees, and grants. Notwithstanding any other provision of this Agreement, in the event the County finds it necessary to reduce or modify such funding, in consideration of future budget constraints, the County shall have the option to terminate this Agreement without penalty or damages arising or to negotiate with the Contractor to reduce or modify this Agreement. Any such cancellation, proposed change, or modification shall require a minimum of thirty (30) days' written notice to the Contractor.

ARTICLE 11

MISCELLANEOUS AGREEMENTS

11.1 ENTIRE AGREEMENT

This Agreement, including Exhibits, contains the entire agreement of the Parties, and no representations, inducements, promises, or agreements otherwise between the Parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the Parties hereto.

11.2 SECTION HEADINGS

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

11.3 REFERENCES TO LAWS

All references in this Agreement to laws shall be understood to include such laws as they may be subsequently amended or recodified, unless otherwise specifically provided.

11.4 REFERENCE TO DAYS

All references to days herein are to calendar days, including Saturdays, Sundays, and holidays, except as otherwise specifically provided.

11.5 INTERPRETATION

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

11.6 INTEGRATION AND AMENDMENT

This Agreement represents the entire integrated agreement between the County and Contractor and supersedes all prior negotiations, representations, understandings, or agreements between the Parties, either written or oral. No prior oral or written understanding shall be of any force or effect with respect to those matters contained herein. This Agreement may be modified, amended, changed, added to, or subtracted from only by the mutual consent of the Parties. Any such amendment shall be in written form and shall be processed and executed with the same formalities as the original Agreement.

11.7 SEVERABILITY

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, State, or County statute, ordinance, or regulations, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the remainder of this Agreement is severable by law. Nevertheless, either Party may in that event terminate this Agreement without penalty or damages arising by giving thirty (30) days' written notice to the other Party.

11.8 COUNTERPARTS

This Agreement may be executed in counterparts.

11.9 MISCELLANEOUS

A. Judicial Venue. The Parties agree that any lawsuit arising out of this Agreement shall be brought and concluded in the courts of the State of California, which shall have exclusive jurisdiction over such lawsuits. With respect to venue, the Parties agree that this Agreement is made in and shall be performed in Mono County, California. All depositions made by County employees shall be made in Mono County, unless another location is selected by the County.

B. Advice. Each of the Parties has received the advice of legal counsel prior to signing this Agreement or has knowingly waived the opportunity to do so. Each Party acknowledges that no other party or agent or attorney has made a promise, representation, or warranty whatsoever, express or implied, not contained herein concerning the subject matter herein to induce another party to execute this Agreement. The Parties agree no provision or provisions may be subject to any rules of construction based upon any party being considered the party "drafting" this Agreement.

11.10 EXHIBITS

Each of the Exhibits identified is attached hereto and incorporated herein and made a part hereof by this reference.

**IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS
THIS _____ DAY OF _____, 2016.**

EXHIBIT A
SERVICE FEE SCHEDULE