



**NAPA-VALLEJO WASTE
MANAGEMENT AUTHORITY**

SECOND AMENDED AND RESTATED AGREEMENT NO. 07-03

BETWEEN

THE NAPA-VALLEJO WASTE MANAGEMENT AUTHORITY

AND

NORTHERN RECYCLING OPERATIONS & WASTE SERVICES, LLC

FOR

**MUNICIPAL SOLID WASTE DIVERSION, TRANSFER AND
TRANSPORT SERVICES**

November 17, 2025

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**SECOND AMENDED AND RESTATED AGREEMENT
FOR SOLID WASTE DIVERSION, TRANSFER
AND TRANSPORT SERVICES**

This Agreement is entered into in Napa County, California this 17th day of November, 2025, by and between the Napa-Vallejo Waste Management Authority (“**Authority**”), a joint powers agency organized under the laws of the State of California, and Northern Recycling Operations and Waste Services LLC (“**Contractor**”), a California Limited Liability Company.

RECITALS

- A. The California Integrated Waste Management Act of 1989 directs all local agencies to promote recycling and to maximize the use of feasible source reduction, recycling and composting options in order to reduce the amount of municipal solid waste that must be disposed of in landfills.
- B. In an effort to reduce stateside emissions of methane gasses, in 2016 the Governor signed Senate Bill 1383 (“SB 1383”) that requires, among other things, that all local agencies reduce the amount of organic waste disposed of in landfills by 50% by 2020 and by 75% by 2025 (against 2014 levels).
- C. Authority is a joint powers agency with the County of Napa and the Cities of Napa, American Canyon and Vallejo as its members, and was formed for the purpose of providing economic coordination of solid waste processing, transfer and disposal services and to provide for the closure of the American Canyon Sanitary Landfill and to that end operates the Devlin Road Transfer Station (“Facility”).
- D. Authority desires to contract with a third-party vendor to operate the Facility to accept municipal waste, divert recyclable material, and transport the remaining waste to a landfill.
- E. On April 19, 2007, Authority and Contractor entered into an agreement for Contractor to operate the Facility (“2007 Agreement”) with a base term expiring on December 31, 2022, and 4 one-year options to renew.
- F. On March 19, 2010, Authority and Contractor entered into an amended and restated agreement for Contractor to operate the Facility (“2010 Agreement”) to reflect that the incoming tonnage at the Facility was different from what the parties anticipated in 2007 and that the cost of fuel significantly increased due to national and international events. No changes to the Base Term or Extensions were made by the 2010 Agreement.

G. On December 6, 2018, Authority and Contractor amended the 2010 Agreement to reflect the increased cost of transporting waste to the landfill, primarily caused by the increase in the cost of fuel (the “2018 Amendment”).

H. The 2007 Agreement as amended and restated by the 2010 Agreement (and as Amended by the 2018 Amendment) is hereinafter referred to as the “Authority Agreement”.

I. Authority has exercised all the options to renew under the Authority Agreement and the Authority Agreement expires December 31, 2026.

J. California Public Resources Code section 40059(a)(2) authorizes Authority and Contractor to enter into a new agreement to operate the Facility without competitive bidding.

K. Contractor has submitted a proposal to Authority to continue operating the Facility and Authority finds it is in its best interest to have Contractor continue to operate the Facility pursuant to the terms of this Second Amended and Restated Agreement Between the Authority and Contractor (this “Second Amended Agreement” or “Agreement”).

L. For good and valuable consideration, the sufficiency of which is hereby acknowledged, Authority and Contractor agree that the Authority Agreement is fully amended and restated as follows:

AGREEMENT

ARTICLE 1 - DEFINITIONS

Capitalized terms that appear in this Agreement shall have the meanings set forth in this article. Terms not defined in this article shall have the meanings found in the Act (as defined herein) and as the same may be amended in the future. In the event of conflict between the definition of a term as found in the Act or in Authority ordinances and this Agreement, the definition in this Agreement shall supersede the definition found in the Act or in Authority ordinances.

Accept (or **Acceptance** or other variations thereof) means the transfer of ownership of materials to Contractor from an Approved User Delivering the materials. Materials will be deemed Accepted unless Contractor rejects the materials within the same calendar day of receipt.

Accepted C&D Load means a load of Construction and Demolition Waste that has been inspected by the Contractor and Accepted into the C&D Processing Area based upon moisture content and an estimate of materials in the load that are materials other than C&D Waste.

Act means the California Integrated Waste Management Act of 1989 (Cal. Pub. Res. Code § 40000 et seq.) as amended, supplemented, superseded and replaced from time to time.

Adjusted Recovered Materials Revenue means gross revenue from the sale of Recovered Materials based on the pricing and weight of the Recovered Materials delivered to an unrelated third-party purchaser, less (i) Contractor's direct and actual third party cost of transportation to such unrelated third-party purchaser (ii) third party impositions such as tip fees, handling fees, service fees or other costs, (iii) purchase of material from an unrelated third-party seller at the Reuse, Drop-off, Buy-Back Recycling Center, and (iv) increases or reductions in revenues resulting from quality of product and moisture penalties made by any third party broker or end user.

Agreement means this Agreement, including all Exhibits and attachments which are incorporated herein by reference. This Agreement may be amended and supplemented pursuant to Section 16.05.

Alternative Daily Cover (or **ADC**) has the same meaning as defined in Title 27, Section 20164 of the California Code of Regulations (27 CCR § 20164). Green material used as ADC does not constitute Diversion pursuant to Public Resources Code section 41781.3(a)(2).

Applicable Law means all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued, or amended thereafter, including without limitation the Napa County Code, Resource Conservation and Recovery Act, CERCLA, the Act inclusive (without exclusion to other amendments not referenced here) of AB 939, AB 341, AB 1826, AB 1594, SB 1383, and inclusive of all State regulations implementing the Act.

Approved Users are public and private haulers approved by the Authority to Deliver Mixed Municipal Waste to the Facility. Approved Users include Authority, Member Agencies and their Collection Contractors, and Self Haulers Delivering Mixed Municipal Waste.

Authority means the Napa-Vallejo Waste Management Authority.

Authority Vehicle(s) means vehicles owned, operated or contracted by Authority.

Authority's Obligations means each and every obligation and liability of Authority specified in this Agreement.

Base Component means that portion of the Service Fee comprised of the Contractor's fixed costs for operation of the Facility.

Base Haul Rate means that portion of the Transportation Component which is applicable on the Effective Date for the per ton compensation due Contractor for Transporting Residue and Recovered Materials to the Designated Diversion or Disposal Facility.

Base Term means the period commencing on the Effective Date and ending December 31, 2040.

Base Tonnage means the annual tonnage of 290,000 tons that Contractor's monthly compensation is based upon.

Brown Goods means electronic equipment and other small appliances including, but not limited to, audio equipment, televisions, computers, and microwave ovens.

Bulky Goods means discarded materials that require special handling due to their size including, but not limited to, furniture, tires, carpets, mattresses, fencing, cabinetry, large appliances and household fixtures, tree trunks, and similar large items discarded as refuse, excluding automobiles.

CalRecycle means the California Department of Resources Recycling and Recovery, previously known as the California Integrated Waste Management Board.

Change in Law means the occurrence of any of the following changes in Applicable Law:

(1) the adoption, promulgation, amendment, modification, rescission, revision or revocation of any Applicable Law or change in judicial or administrative interpretation thereof occurring after the Effective Date; or

(2) any order or judgment of any Federal or State court, administrative agency or governmental body issued after the Effective Date if:

(a) such order or judgment is not also the result of the willful misconduct or negligent action or inaction of the Party relying thereon or of any third party for whom the Party relying thereon is directly responsible; and

(b) the Party relying thereon, unless excused in writing from so doing by the other Party, shall make or have made, or shall cause or have caused to be made, Reasonable Business Efforts in good faith to contest such order or judgment (it being understood that the contesting in good faith of such an order or judgment shall not constitute or be construed as a willful misconduct or negligent action of such Party); or

(3) the imposition by a governmental authority or agency of any new or different material conditions in connection with the issuance, renewal, or modification of any permit applicable to the Facility or Site after the Effective Date; or

(4) the failure of a governmental authority or agency to issue, or the suspension or termination of, any permit applicable to the Facility or Site after the Effective Date.

Change in Scope means a change in Operation directed by Authority or requested by Contractor and approved by the Authority, in accordance with Article 9.

Clean Dirt means granular soil such as clay, sand, or silt that breaks apart when handled by light duty construction equipment such as a small backhoe or skip loader which contains no metal, and which is not otherwise Hazardous Waste.

Collection Contractor(s) means the entity or entities that, separate from this Agreement, are contracted, licensed, franchised, permitted, or otherwise designated by the Authority or a Members Agency to collect Mixed Municipal Waste within their jurisdiction.

Construction and Demolition Waste or C&D Waste, as included in Permitted Material, means commonly used or discarded materials removed from construction, remodeling, repair, demolition, or renovation operations on any pavement, house, commercial building, or other structure, or from landscaping. Such materials include, but are not limited to, dirt, sand, rock, gravel, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastics, roofing material, cardboard, carpeting, cinder blocks, concrete, copper, electrical wire, fiberglass, formica, granite, iron, lead, linoleum, marble, plaster plant debris, pressboard, porcelain, steel, stucco, tile, vinyl, wood, masonry, rocks, trees, remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble resulting from construction, remodeling, renovation, repair and demolition operations on pavements, houses, commercial buildings and other structures. Construction and Demolition Waste does not include Hazardous Waste or materials with a moisture content in excess of 50%.

Construction and Demolition (C&D) Processing Area means both Phase 1 and Phase 2 C&D processing operations. Phase 1 operations include processing operations outdoors in place as of the Effective Date, while Phase 2 will utilize the new Construction & Demolition Facility, Project No. 17810, including the foundation, office and site improvements supplied by the Authority and the equipment and associated installation being provided by Contractor.

Construction and Demolition (C&D) Operations Date means six months after Authority files a notice of completion with the County Recorder for the new Construction & Demolition Facility, Project No. 17810, or six months after Authority accepts Project No. 17810 as complete, whichever occurs first.

Contractor means Northern Recycling Operations & Waste Services LLC, a California Limited Liability Company.

Contractor Default means Contractor's failure to meet one or more of Contractor's Obligations as defined in Article 11.

Contractor's Obligations means each and every obligation and liability of Contractor specified in this Agreement, including, but not limited to, its obligation to perform all services rendered in accordance with Standard Industry Practice.

Contractor's Proposal means the "Contract Extension Proposal for the Expansion and Operation of the Devlin Road Transfer Station" prepared by Steve Kelley and sent to the Executive Director by email on December 6, 2024, as revised by email sent from Steve Kelley to the Executive Director dated May 26, 2025.

County means the County of Napa, State of California.

CPI means the index sets published by the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index series San Francisco-Oakland-Hayward, CA all urban consumers, not seasonally adjusted. Base Period: 1982-84=100.

Delivery (Deliver, Delivering or Delivered or other variations thereof) means arrival of Permitted Materials from Approved Users at the Site entrance during Facility Receiving Hours for the purposes of Acceptance.

Designated Disposal Facility means the facility to be used by Contractor for Disposal of Residue in accordance with Article 7.

Designated Diversion Facility means the facility to be used by Contractor for Diversion of Recovered Materials in accordance with Article 7.

Direct Costs means costs directly related to the implementation of this Agreement and all Contractor Obligations that include any and all of the following:

- (1) payroll costs directly related to the performance, or management or supervision of any Contractor Obligation pursuant to the provisions hereof, comprised of compensation and fringe benefits, including vacation, sick leave, holidays, retirement, Workers' Compensation Insurance, Federal and State unemployment taxes and all medical and health insurance benefits;
- (2) the costs of materials, services, direct rental costs and supplies;
- (3) travel and subsistence costs;
- (4) the reasonable costs of any payments to subcontractors necessary to and in connection with the performance hereunder; and
- (5) any other cost or expense which is directly or normally associated with the task performed which is substantiated by:

(a) a certificate signed by the principal financial officer of Contractor setting forth the amount of such cost and the reason why such cost is properly chargeable to Authority, and stating that such cost is an arm's length and competitive price, if there are competitive prices, for the service or materials supplied; and

(b) if the Authority requests such additional back-up documentation as may be available to reasonably substantiate any such cost, including invoices from suppliers and subcontractors.

Disposal means depositing of Residue at the Designated Disposal Facility and Acceptance of Residue by the Disposal Facility Contractor.

Disposal Facility Contractor is the Person under contract with Authority for Disposal capacity at the Designated Disposal Facility.

Disposal Facility Receiving Hours means the hours when the Disposal Facility Contractor must accept Permitted Materials from Authority's Facility as defined in the contract between Authority and Disposal Facility Contractor for Disposal at the Designated Disposal Facility. For purposes of disposal at the Potrero Hills Landfill, the current Disposal Facility Receiving hours are Monday through Friday 4:00 am through 4:00 pm and Saturday 5:00 am through 1:00 pm, Holidays excluded.

Disposition means to provide safe and lawful handling and removal of Hazardous Waste and Household Hazardous Waste from Facility to Household Hazardous Waste Facility.

Diversion Guarantee means the requirement of Contractor to Recover and Divert the equivalent of a specific percentage by weight of the Accepted C&D Loads as specified in Section 6.03(b).

Diversion Incentive Payment means the per-ton payment to Contractor by Authority for Diversion of additional tons above a required processing tonnage at the C&D Facility and calculated pursuant to Section 8.02(b).

Diversion Rebate Payment means the funds added by Authority to payment due to Contractor due to an overage against the Diversion Guarantee and calculated pursuant to Section 8.02(d).

Diversion Shortfall Payment means the funds deducted by Authority from payment due to Contractor due to a shortfall against the Diversion Guarantee and calculated pursuant to Section 8.02(c).

Divert (or Diversion) has the same meaning as defined in Public Resources Code section 40124. Diversion includes a limited amount of wood processed through biomass conversion pursuant to Public Resources Code section 41783.1.

Effective Date means November 17, 2025.

Executive Director means the Executive Director of Authority.

Exhibit(s) means any or all of the attachments to this Agreement as of the Effective Date or as added or removed at any time during the Term by written amendment.

Extension (or **Extend**) means to cause the end date of this Agreement to be beyond the Base Term through an amendment of this Agreement as provided for in Section 4.02.

Extraordinary Review means a review of Contractor's Obligations and compensation for purposes of adjustment conducted in accordance with the provisions of Article 9 of this Agreement.

Facility means the Devlin Road Transfer Station and includes Site improvements, utility interconnections, the scale house, the building for Transport and materials Recovery and Processing areas, the Reuse, Drop-off, Buy-Back Recycling Center, a C&D Processing Area, together with administrative offices and ancillary support facilities, furnishings and equipment, and any and all other physical structures and improvements to the Site as described in Exhibit 4.

Facility Operating Guarantee means the ongoing assurance of Contractor to meet the Operating Throughput Guarantee, Diversion Guarantee, and Vehicle Turnaround Guarantee during the Term as specified in Section 6.03.

Facility Operation means all Contractor's Obligations specified in Article 6 including Operation and maintenance of the Facility in accordance with the provisions hereof and Applicable Law, together with Acceptance of Permitted Material for Transport and/or Recovery, Processing, Transporting Residue for Disposal, Marketing, transporting Recovered Materials to Market, and procuring and maintaining insurance and bonds.

Facility Operations Period means the period of time beginning on the Operations Date and ending upon the expiration or termination of this Agreement.

Facility Tipping Fees means the per-ton charges or per-item charges Approved Users pay the Authority for Delivery of Permitted Materials to the Facility with such fees governed by Section 8.01 hereof.

Facility Receiving Hours means the hours when Contractor must Accept Permitted Material from Approved Users at the Facility as defined in Section 6.04.a.

Force Majeure Event means an event which is outside the control of both parties and their subcontractors, consultants and employees, and could not be avoided by the exercise of due care,

which may include, but is not limited to, delays by regulating agencies, wars, floods, adverse weather conditions, labor disputes, unusual delay in transportation, epidemics abroad, earthquakes, fires, terrorism, incidence of disease or other illness that reaches outbreak, epidemic and/or pandemic proportions, unusual delay in deliveries, riots, civil commotion or other unavoidable casualties, and other acts of God.

Fuel Surcharge means the adjustment to the Base Haul Rate as described in Exhibits 1 and 10.

Hazardous Waste has the same meaning as defined in Public Resources Code section 40141.

Holidays means New Year's Day, Easter, Thanksgiving Day, and Christmas Day. The actual day the Holiday is observed may be changed by notifying Authority 30 days prior to the Holiday.

Household Hazardous Waste are those wastes resulting from products used by the general public for household purposes which, because of their quantity, concentration, or physical, or chemical characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, disposed, or otherwise managed.

Household Hazardous Waste Facility is the facility located adjacent to the Facility on the Site, not operated by the Contractor.

Labor Action means labor unrest, including strike, work stoppage, slowdown, sick-out, picketing and any other concerted job action.

Marketing (or **Market** or other variations thereof) means all Obligations of Contractor hereunder with respect to selling or giving away Recovered Materials, including Market promotion, storage, insurance, packaging, transportation, sales, weighing, and maintaining records with respect thereto.

Member Agencies means the Cities of American Canyon, Napa and Vallejo and the County of Napa.

Mixed Municipal Waste means all "municipal solid waste" including putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, street sweepings and catch basin residue, discarded Bulky Goods, discarded Brown Goods, dewatered, treated or chemically fixed sewage sludge which is not Hazardous Waste, Household Hazardous Waste, manure, vegetable or animal solid and semisolid wastes, Residues from recycling, composting, and similar processes, and other discarded wastes and any other materials defined in Public Resources Code section 40191 as may be amended from time to time. Mixed Municipal Waste does not include abandoned vehicles, Hazardous Waste, Source Separated Recyclable Materials, or Unpermitted Waste.

Napa Materials Diversion Facility or **Napa MDF** means the Materials Diversion Facility, including a materials recovery facility, compost facility, office, shop, yard and other ancillary facilities owned by the City of Napa and located at 820 Levitin Way. The facility accepts curbside recyclable materials, commercial recyclable materials, Source Separated Recyclable Materials, including but not limited to wood, metal, yard waste, White Goods, Brown Goods, Bulky Goods and other materials for processing and diversion.

Notice (or **Notify** or other variation thereof) means written notice given by one Party to the other Party in relation to the execution of the various Obligations of both Parties under this Agreement.

Operating Year means each one-year anniversary of the Operations Date.

Operation (or **Operate** or **Operating** or other variation thereof) means all activities and responsibilities of Contractor specified in Article 6 of this Agreement.

Operations Date means January 1, 2026.

Operating Throughput Guarantee means all of the Tonnage of Mixed Municipal Waste that Contractor commits to Accept, Process, and loadout for Transport at the Facility during Facility Operations. The requirements of the Operating Throughput Guarantee do not in any way obligate or guarantee Authority will Deliver or cause to be Delivered a minimum amount of Mixed Municipal Waste or Permitted Materials to the Facility during the Term.

Ownership (or **Own** or other variations thereof) means Ownership as defined in the constructive Ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date herein, and Section 318(a)(5)(C) shall be disregarded. For purposes of determining Ownership under this paragraph and constructive or indirect Ownership under Section 318(a), Ownership interest of less than ten (10) percent shall be disregarded and percentage interests shall be determined on the basis of the percentage of voting interest of value which the Ownership interest represents, whichever is greater.

Party and **Parties** refers to Authority and Contractor, individually and together.

Pass-Through Component is that portion of the Service Fee comprised of Pass-Through Costs which are applicable on the Operations Date as well as new costs incurred during the Term adjusted as provided in Article 8.

Pass-Through Cost(s) means governmental and regulatory fees, surcharges, and other costs, that are directly assessed against Contractor by governmental entities, that Contractor pays to such entities. The Pass-Through Costs are limited to Authority approved costs incurred by Contractor as a direct result of mandatory Federal, State, regional and local governmental and/or regulatory fees, surcharges, assessments or other governmental payments related to Facility Operations

except costs related to judgments, settlements, fines, or liquidated damages. Authority approval for costs described above shall not be unreasonably withheld.

Permitted Materials means wastes or other materials that the Facility may receive under its permits and Applicable Law, including nonhazardous solid wastes consisting of Mixed Municipal Waste, Source Separated Recyclable Materials, Recyclable Materials, Construction and Demolition Waste, Clean Dirt, Household Hazardous Waste, and other materials that Contractor Accepts, handles, recycles, or disposes.

Person means any individual, firm, association, organization, partnership, corporation, trust, joint venture, the United States, the State of California, a county, a municipality, a special district, or any other entity whatsoever.

Per-Ton Component means that portion of the Service Fee that is charged per-ton for every ton in excess of the Base Tonnage in a Calendar Year and, after the first two Operating Years, is annually adjusted throughout the Term by CPI.

Process (or **Processing** or any other variation thereof) means baling, crushing, shredding, chipping, grinding, extracting, and mechanical or hand classification, and any other method of handling Recovered Materials by Contractor at the Facility after Acceptance and before Marketing of Recovered Materials thereof.

Reasonable Business Efforts means those efforts a reasonably prudent business Person would expend under the same or similar circumstances in the exercise of such Person's business judgment, intending in good faith to take steps calculated to satisfy the obligation that such Person has undertaken to satisfy.

Recovered Materials means Recyclable Materials Delivered to or Recovered at the Facility from Permitted Materials.

Recovery (or **Recover**, **Recovered** or other variations thereof) means the picking, pulling, sorting, separating, classifying and recovery of Recyclable Materials from Permitted Material, whether by manual or mechanical means, by Contractor at the Facility, after Acceptance of Permitted Materials and before Marketing of Recovered Materials Accepted by Contractor.

Recyclable Materials means materials having a potential for reuse or reprocessing or other materials having value.

Replacement Operator is a third party designated by Authority to Operate the Facility in the event of Contractor breach or default or due to an Uncontrollable Circumstance as described in Section 11.04.

Residue (or **Residual** or a variation thereof) means Permitted Material remaining after Acceptance, Recovery, and Processing thereof that require Disposal. Residue does not include Recovered Materials, or potentially Recovered Brown Goods, Bulky Goods, or White Goods.

Reuse, Drop-off, Buy-Back Recycling Center is the facility located on the Site to Accept, Process and Recycle certain Source Separated Recyclable Materials, operated by the Contractor.

Rolling Stock means the mobile equipment used at the Facility and on the highway to meet Contractor's Obligations.

Scheduled Facility Downtime means the time (measured in days or hours) that the Facility is closed in accordance with the schedule provided by Contractor to the Authority as part of Contractor's Transfer Processing Report in accordance with Section 6.04.

Self Haulers (or **Self Haul** or other variations thereof) means Persons who Deliver Permitted Material on their own behalf and not as a commercial enterprise collecting Mixed Municipal Waste for third parties or on behalf of a municipality or other local agency.

Service Fee means the per month compensation due to Contractor from Authority for Accepting, Processing, Diverting and loading into Transport vehicles, Residue at the Facility. The Service Fee is comprised in total of the Base Component, Per-Ton Component, Transport Component and Pass-Through Component.

Significant (cost or event) means that the cumulative annual financial impact to Authority or Contractor exceeds twenty thousand (\$20,000). Such amount shall be adjusted to reflect CPI changes over the Term in the same manner that Liquidated Damages are adjusted in accordance with Section 8.04.

Site means the parcels of land on which the Facility is situated.

Source Separated Recyclable Materials means the types of Permitted Materials that are segregated prior to collection from other materials collected as Mixed Municipal Wastes; are designated by the generator for the purposes of Diversion; are Delivered separately to the Facility or from other Permitted Material; and are Delivered in loads composed of less than ten (10) percent Residue by weight. These materials are intended for Diversion at the Reuse, Drop-off, Buy-Back Recycling Center.

Standard Industry Practice(s) means commercially reasonable diligence and prudence on part of a Contractor in employing, at a minimum, the then-current development, operations, management, and business practices and standards of the California solid waste management industry.

State means the State of California.

Subcontracted Transport Costs means Contractor's costs for engaging hauling subcontractors to provide Transport of Residue and Other Permitted Materials (including wood, scrap and other materials) to the Designated Disposal Facility or, in the case of wood, scrap and other materials, to an appropriate facility permitted to receive such materials

Term of this Agreement means the Base Term and any Extensions granted beyond the Base Term in accordance with provisions of Article 4.

Ton means a unit of measure for weight equivalent to two thousand (2,000) standard pounds (where each pound contains 16 ounces).

Transport (or **Transporting** or other variations thereof) means delivering Residue or other Permitted Materials to the Designated Diversion or Disposal Facility for the purposes of unloading the transported materials at the Designated Diversion or Disposal Facility in an area directed by the Diversion or Disposal Facility Contractor for the purpose of Diversion or Disposal, as provided in Articles 6 and 7.

Transport Component is that portion of the Service Fee which is applicable on the Operations Date for the per ton compensation due to Contractor for Transporting Residue and Recovered Materials to the Designated Diversion or Disposal Site. The Transport Component shall be comprised of two parts, the "Fuel Surcharge" portion and the "Base Haul Rate" portion in accordance with Exhibit 1.

Uncontrollable Circumstance means any act, event or condition outside either Party's control and not the result of willful or negligent action or inaction on the part of such Party, whether affecting the Facility or either Party, which materially and adversely affects the ability of either Party to perform any of its Obligations as defined in Section 11.09.

Unpermitted Materials mean wastes or other materials that the Facility may not receive under its permits, including:

- (1) unpermitted landfill wastes, including all materials that the Designated Disposal Facility is not permitted to Accept excluding White Goods with chlorinated fluorocarbons and capacitors removed, and other materials that Contractor Accepts and safely handles, recycles, or disposes;
- (2) asbestos, including friable materials that can be crumbled with pressure and are therefore likely to emit fibers, being a naturally occurring family of carcinogenic fibrous mineral substances, which may be a Hazardous Waste if it contains more than one percent (1%) asbestos;

(3) ash residue from the incineration of solid wastes, including municipal waste, infectious waste described in item (8) below, wood waste, sludge, and agricultural wastes;

(4) auto shredder "fluff" consisting of upholstery, paint, plastics, and other non-metallic substances which remains after the shredding of automobiles;

(5) large dead animals;

(6) Hazardous Wastes;

(7) industrial solid or semi-solid wastes that pose a danger to the Operation of the Facility, including cement kiln dust, or process residues;

(8) infectious wastes that have disease transmission potential and are classified as Hazardous Wastes by the State Department Health Services, including pathological and surgical wastes, medical clinic wastes, wastes from biological laboratories, syringes, needles, blades, tubing, bottles, drugs, patient care items such as linen or personal or food service items from contaminated areas, chemicals, personal hygiene wastes, and carcasses used for medical purposes or with known infectious diseases;

(9) liquid wastes that are not spadeable, usually containing less than fifty percent (50%) solids, including cannery and food processing wastes, landfill leachate and gas condensate, boiler blowdown water, grease trap pumpings, oil and geothermal field wastes, septic tank pumpings, rendering plant byproducts, sewage sludge, and those liquid wastes that may be Hazardous Wastes;

(10) radioactive wastes under California Radiation Control Law (Health & Safety Code sections 114960 et seq.) and any waste that contains a radioactive material, the storage or disposal of which is subject to any other State or Federal regulation; and

(11) sewage sludge comprised of human (not industrial) residue, excluding grit or screenings, removed from a wastewater treatment Facility or septic tank, whether in a dry or semi-dry form.

Vehicle Turnaround Guarantee means a guarantee to Operate Facility in such a manner that the Authority and its Collection Contractor(s) are able to Deliver to and unload Waste at the Facility in a timely manner as defined in Section 6.03.

White Goods mean used appliances including, but not limited to, refrigerators, freezers, dishwashers, washers and dryers, and hot water heaters.

Working Days mean days during which Napa County offices are open to do business with the public.

ARTICLE 2 - REPRESENTATIONS AND WARRANTIES

2.01 Contractor's Representations and Warranties. Contractor represents and warrants as of the Effective Date:

a. Status. Contractor is a company duly organized, validly existing and in good standing under the laws of California, and is authorized to conduct business in the State.

b. Authority and Authorization. Contractor has full legal right, power and authority to execute and deliver this Agreement and perform Contractor's Obligations hereunder. This Agreement has been duly executed and delivered by Contractor and constitutes a legal, valid and binding obligation of Contractor enforceable against Contractor in accordance with its terms.

c. Verification of Statements and Information in Proposal. Contractor's Proposal, on which Authority has relied upon in entering into this Agreement, is correct and complete in all material respects at the time originally submitted to the Authority. Contractor possesses the business, professional, and technical expertise, and has the financial ability, equipment, and employee resources required to perform Contractor's Obligations.

d. No Conflicts. Neither the execution or delivery by Contractor of this Agreement, the performance by Contractor of Contractor's Obligations, nor the fulfillment by Contractor of the terms and conditions hereof: (1) conflicts with, violates or results in a breach of any Applicable Law; or (2) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other governmental authority, or any agreement or instrument to which Contractor is a party or by which Contractor or any of its properties or assets are bound, or constitutes a default thereunder; or (3) will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Contractor, other than as specifically permitted hereunder.

e. No Approvals. No approval, authorization, license, permit, order or consent of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery of this Agreement by Contractor, except such as have been duly obtained from its Board of Directors or members. Contractor has all licenses, permits, authority, business licenses, qualifications and approvals of whatsoever nature which are legally required for Contractor to provide services hereunder and meet Contractor's Obligations, and Contractor further warrants that it shall, at its sole cost and expense, keep in effect or

obtain at all times during the Term all licenses, permits, and approvals which are legally required for Contractor to provide such services and meet Contractor's Obligations.

f. No Litigation. There is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of Contractor's knowledge, threatened, against Contractor wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by Contractor of Contractor's Obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity of, or the ability to enforce this Agreement or any other agreement or instrument entered into by Contractor in connection with the transactions contemplated hereby.

g. Patents, Trademarks, Licenses. The Contractor shall hold or possess a right to use all proprietary property including patents, rights to patents, trademarks, copyrights, and licenses, as the case may be of any equipment or software necessary for the performance by the Contractor of Contractor's Obligations and the transactions contemplated by this Agreement. As of the date hereof, Contractor represents that it does not know any material conflict with the rights of other parties regarding proprietary property. Contractor acknowledges and agrees that such representation is material.

h. Contractor Investigation. Contractor has made an independent investigation to its satisfaction of matters, conditions and circumstances relating to its execution and delivery of this Agreement and Contractor's Obligations hereunder, including the nature and amount of the Permitted Material Delivered to the Facility and the recycling and source reduction programs now in effect or currently planned to be put into effect at the Facility.

2.02 Authority's Representations and Warranties. The Authority represents and warrants as of the Effective Date:

a. Status. Authority is a joint powers agency organized and validly existing under the laws of the State pursuant to Government Code section 6500 et seq.

b. Authority and Authorization. Authority has full legal right, power and authority to execute and deliver this Agreement, and perform Authority's Obligations hereunder. This Agreement has been duly executed and delivered by the Authority and upon execution constitutes a legal, valid and binding Obligation of the Authority enforceable against the Authority in accordance with its terms. Authority has complied with Applicable Law in entering into this Agreement.

c. No Warranty. Authority expressly disclaims any warranties, either express or implied, as to the quantity or composition for any particular purpose of Permitted Material Delivered to the Facility.

d. No Conflicts. Neither the execution or delivery by Authority of this Agreement, the performance by Authority of Authority's Obligations hereunder, nor the fulfillment by Authority of the terms and conditions hereof: (1) conflicts with, violates or results in a breach of Applicable Law; or (2) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other governmental authority, or any agreement or instrument to which Authority is a party or by which Authority or any of its properties or assets are bound, or constitutes a default thereunder.

e. No Approvals. No approval, authorization, license, permit, order or consent of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery of this Agreement by Authority, except such as have been duly obtained by Authority.

f. No Litigation. There is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of Authority's knowledge, threatened against Authority wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by Authority of Authority's Obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity of, or the ability to enforce this Agreement or any other agreement or instrument entered into by the Authority in connection with the transactions contemplated hereby.

ARTICLE 3 - THE PARTIES

3.01 Contractor Is Independent Contractor. Contractor is an independent contractor engaged by Authority and not an officer or employee of Authority nor a partner of or joint venturer with Authority. No employee or agent of Contractor shall be deemed to be an employee of Authority, nor an agent of Authority. Contractor shall have the exclusive control over, and sole responsibility for the manner and means of performing Operations, except as otherwise provided in this Agreement. 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 Authority employees.

No agents, employees, contractors, subcontractors, consultants, licensees or invitees of Contractor shall be deemed to be an employee or agent of the Authority. Such Persons shall be entirely and exclusively under the direction, supervision, and control of Contractor. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging or any other terms of employment of requirements of Applicable Law, shall be determined by

Contractor. Contractor shall issue W-2 or 1099 Forms for income and employment tax purposes for all such Persons.

Except as Authority may specify in writing, Contractor and Contractor's personnel shall have no authority, express or implied, to act on behalf of Authority in any capacity whatsoever as an agent. Contractor and Contractor's personnel shall have no authority, express or implied, to bind Authority to any obligation whatsoever.

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

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

3.04 Further Assurances. Each Party agrees to execute and deliver any instruments and to perform any acts as may be necessary or reasonably requested by the other in order to give full effect to this Agreement.

3.05 Actions of Authority in Its Governmental Capacity. Nothing herein shall be interpreted as limiting the rights and obligations of Authority in its governmental or regulatory capacity, including land use and permitting actions.

3.06 Contractor's Obligations Performed at Its Sole Expense. Contractor shall perform Contractor's Obligations at its sole cost or expense and shall not be entitled to any adjustment in compensation from Authority as a result thereof, except as provided for herein.

3.07 Exercise of Options. The Parties' exercise of any approval, disapproval, option, discretion, election or choice hereunder shall be in each respective Party's independent, sole, exclusive and absolute control and judgment.

3.08 Compliance with Applicable Law. Contractor shall perform all of Contractor's Obligations hereunder, and shall cause its subcontractors to perform Contractor's Obligations hereunder, in accordance with Applicable Law and permits, subject to Change in Law handled in accordance with Extraordinary Review procedures in Article 9.

3.09 Confidentiality of Contractor Information. Contractor acknowledges and agrees that information submitted to Authority pursuant to this Agreement may be subject to compulsory disclosure by Authority upon request from a member of the public under the California Public Records Act. Authority recognizes and agrees that certain information that may be disclosed by Contractor or that Contractor may be required to submit pursuant to the Agreement may be considered confidential and proprietary by Contractor. Authority agrees to protect the confidentiality of materials submitted to it to the extent permitted by the Public Records Act, in

accordance with the procedures, and subject to the limitations described in this Section. Contractor shall specifically and clearly designate as "CONFIDENTIAL" all materials that it wishes Authority to treat in confidence and withhold from public disclosure. Authority agrees not to voluntarily disclose any materials so designated to persons other than officers, attorneys, employees and consultants of Authority involved in financing, overseeing and operating the Facility.

If Authority receives a request from a third party to review and/or copy material designated confidential, it will inform Contractor and will permit Contractor to present arguments and facts to Authority in support of the position that the material is entitled to an exemption from disclosure under the Public Records Act and should not be released. If Authority determines that the material is not entitled to an exemption and that it must be released, Authority will advise Contractor of such determination prior to releasing the material so that Contractor may seek a court order enjoining its release. If Authority determines that the material is entitled to an exemption, and the person who requested the information files a legal action seeking its release, Authority will advise Contractor and will not oppose a motion by Contractor to intervene in the action. Contractor must either intervene or agree to pay Authority's legal expenses in defending the action; otherwise Authority will have no obligation to affirmatively defend the action and may release the information sought without any liability whatsoever to Authority.

Without intending to limit the remedies available to each Party due to any breach of this provision, each Party agrees the damages at law for any such breach would be an insufficient remedy to the other and that the non-breaching Party shall be entitled to injunctive relief or other equitable remedies in the event of any such breach.

3.10 Sole Responsibility. Each Party shall be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents.

3.11 Subcontractors. No substantive part of Contractor's Obligations with regard to Facility Operations shall be subcontracted, including, but not limited to, scale house, Acceptance, Processing, Recovery, and Marketing activities unless Authority's written approval has been obtained. Authority shall not unreasonably withhold its approval of subcontractors. In an emergency, upon immediate telephonic or other oral Notice to Authority, followed promptly by written Notice, Contractor may engage additional or substitute subcontractors for up to seven (7) calendar days, provided that at the expiration of such seven (7) calendar days, engagement of such additional or substitute subcontractors may be continued only if Authority consents in writing thereto, which consent shall not be unreasonably withheld.

All subcontractors shall be licensed as required under Applicable Law to perform their subcontracted work. Contractor shall remain liable for the full and complete performance of Contractor's Obligations hereunder. Any reference to Contractor's Obligations hereunder shall be deemed to include any subcontractor performing such Obligations, whether or not the language hereof provides that Contractor shall perform, or cause to be performed, such

Obligations. References to Contractor causing performance of any Contractor's Obligation by a subcontractor or another Person shall not create the inference that Contractor is not primarily obligated to Authority to meet such Obligations.

3.12 Cooperation. The Parties recognize and agree that unforeseen developments and circumstances may occur during the Term that materially modify or otherwise affect one or both Parties' respective Obligations. The Parties further agree that in such event each Party will cooperate in a professional manner and negotiate with the other in good faith to address and resolve such unforeseen developments.

ARTICLE 4 - TERM OF AGREEMENT

4.01 Base Term. This Agreement shall become effective on the Effective Date hereof and the Base Term shall commence on the Operations Date and continue in effect through December 31, 2040, unless terminated earlier in accordance with Article 12.

4.02 Term Extensions.

a. Authority Right of Renewal. Authority may, at its sole discretion, Extend the Base Term for one 5-year period. Authority shall notify Contractor of its intention to exercise this Extension provision no later than six (6) months prior to end of the Base Term.

b. Conditions for Term Extension. As a condition of term extension, Authority may require the Contractor to certify that since the date hereof, there shall not have occurred any material change, financial or otherwise, that would adversely affect the ability of the Contractor to perform Contractor's Obligations hereunder or its obligations under any other agreement, contract or instrument entered into or to be entered into by the Contractor in connection with Facility Operation, Contractor's Obligations, the services hereunder and the transactions contemplated hereby.

c. Agreement in Full Effect. All provisions of this Agreement shall remain in effect during any Extension, including the Contractor's Obligations and all provisions related to Contractor compensation.

4.03 Survival of Certain Provisions. All indemnifications for obligations which arise from acts, omissions or errors of Contractor during the Term of this Agreement or Extension thereof and any other rights and obligations of the Parties expressly stated to survive the termination of this Agreement, shall survive such termination including, but not limited to, the following provisions: Section 6.11.a (Record Keeping), and Article 12 Indemnification, Bonds and Insurance.

ARTICLE 5 - APPROVED USERS

5.01 Facility Users. Contractor shall only allow Approved Users to utilize the Facility. Contractor may allow others to utilize the Facility on a temporary basis with the approval of the Executive Director.

5.02 Adding Approved Users. At any time during the Term, Authority may designate additional Approved Users in its sole discretion. If Authority decides to include an additional Approved User(s), a contract amendment shall be prepared to encompass the additional Approved User(s), to adjust the Service Fee, and to modify other provisions of this Agreement as necessary.

5.03 Permitting Requirements for Additional Approved User(s). Mixed Municipal Waste may only be Accepted from the additional Approved User(s) if it will not violate the Facility permits. Authority's amendment to the Agreement to Accept Mixed Municipal Waste from additional Approved User(s) does not warrant that Authority will be capable of obtaining necessary approvals and permit modifications to Accept Mixed Municipal Waste from additional Approved User(s). Contractor will be responsible for applying for and use Reasonable Business Efforts to secure the necessary regulatory approvals and permit revisions.

ARTICLE 6 - FACILITY OPERATION

6.01 Operations and Maintenance Standards. Beginning on the Operations Date, Contractor shall Accept all Mixed Municipal Waste delivered to the Facility by Approved Users, Recover Recyclable Materials, Divert Recovered Materials to Designated Diversion Facilities, and Transport Residue to the Designated Disposal Facility. Contractor shall comply with the Facility Operating Guarantee throughout the Term and perform Contractor's Obligations with respect to Facility Operations hereunder in accordance with sound management and operations practice, the Facility Requirements in Exhibit 4, regulatory and permit requirements, its plans and specifications, Applicable Law, Standard Industry Practices, the provisions hereof, and covenants, conditions and restrictions pertaining to the Site.

6.02 Commencement of Facility Operations. Contractor shall commence Operation on the Operations Date.

6.03 Facility Operating Guarantee

a. Operating Throughput Guarantee. Beginning on the Operations Date, Contractor shall guarantee its ability to Accept, Transport, and Dispose, as the case may be, all Mixed Municipal Waste and all other Permitted Materials Delivered by Approved Users, up to the maximum permitted capacity of the Facility and Contractor's Obligation to Accept Mixed Municipal Waste. If at the end of any Operating Year, Contractor has not

met its Operating Throughput Guarantee, then Authority may declare the Contractor in breach of the Operating Throughput Guarantee and the provisions of Section 11.01 shall apply.

b. Diversion Guarantee. Beginning on the C&D Operations Date, Contractor shall annually Divert at least both of the following percentages by weight of total incoming tons:

Construction & Demolition Line:	75% (including ADC)
	40% (excluding ADC)

In determining Contractor's performance with respect to meeting the Diversion Guarantee the actual percentages of Diversion shall be calculated by dividing the number of tons of C&D Waste Diverted at the C&D Facility (outbound tons) by the total number of tons of Accepted C&D Loads (inbound tons). Authority has arranged for its Disposal Facility Contractor to accept ADC at Potrero Hills Landfill to offset the cost of Disposal. Contractor shall be responsible for Marketing any additional ADC produced at a total cost of transportation and payment, that does not exceed the transport and payment cost of Authority's Agreement with its Disposal Facility Contractor. No later than 15 days after the end of each month, Contractor shall provide a report summarizing total tons received, the weight of Residue delivered to the landfill and the type, weight and disposition of all materials Diverted, for the current month and year to date, in a manner acceptable to Authority. Should there be a Change of Law limiting or eliminating the use of ADC towards Diversion credit, Authority and Contractor shall meet and confer and make reasonable efforts to adjust the Diversion Guarantee to a number that would take into account the Change in Law.

c. Vehicle Turnaround Guarantee. Contractor guarantees that the average time required for Authority Vehicles and Collection Contractor Vehicles Delivering Mixed Municipal Waste on behalf of an Approved User are able to unload and exit the Facility in fifteen (15) minutes commencing from the time the vehicle arrives at the entrance to the Facility property to when it exits the Facility property, absent vehicle breakdown, driver negligence, lack of cooperation, or driver parking to use restrooms or telephone or other such driver caused delays not caused by or under the control of the Contractor. The average time shall be calculated on a thirty (30) calendar day basis as the sum of the vehicle turnaround time for each load Delivered by a Facility User during the month divided by the number of loads received during the thirty (30) calendar day period. Contractor shall manage the Permitted Materials receiving and unloading area in order to facilitate the access and unloading of Approved Users. Contractor shall use Reasonable Business Efforts to meet the Vehicle Turnaround Guarantee and avoid significantly delaying Self Haulers' ability to use the Facility. If at the end of any Operating Year, Contractor has not met its Vehicle Turnaround Guarantee, over an annual basis, then Authority may declare the Contractor in breach of the Vehicle Turnaround Guarantee and

the provisions of Section 11.01 shall apply. The Vehicle Turnaround Guarantee shall not apply to Self-Haul Vehicles.

6.04 General Operations.

a. Receiving Hours. Receiving and operating hours of the Facility shall be as follows:

(1) Facility Receiving Hours. Contractor shall Accept Permitted Material from Approved Users at the Facility from 5:00 a.m. to 4:00 p.m. (public self-haul are not allowed in the Facility until 8:00 a.m.) all seven days a week, excluding Holidays, or at such other times as Authority and Contractor may reasonably agree upon and based on landfill availability.

(2) Continuous Operations. Beginning on the Operations Date and throughout the Term, Contractor shall keep open and Operate the Facility continuously and uninterruptedly during Facility Receiving Hours, except when Contractor is prevented from doing so by any Uncontrollable Circumstance or during Scheduled Facility Downtime.

(3) Extended Facility Receiving Hours. Upon request of Authority or its Collection Contractor(s) no less than one (1) Working Day in advance or in event of emergencies, as soon as possible using Reasonable Business Efforts, Contractor shall Accept Permitted Materials at times other than Facility Receiving Hours. Contractor may charge Authority, or Member Agency's Collection Contractor(s) if directed by Authority, for extended Facility Receiving Hours in accordance with Section 8.07. This provision is intended to address a temporary extension of Facility Receiving Hours that may be needed from time to time to accommodate special circumstances.

b. Scale Operation.

(1) Maintenance and Operation. Contractor shall maintain all the State certified motor vehicle scales in accordance with Applicable Law and in a manner that allows for Collection Contractors' Delivery vehicles with tare weights to bypass the weighing operation when exiting the Facility after unloading Permitted Materials. All scales shall be linked to a centralized computer recording and billing system which shall be compatible with Contractor's systems and accounts for tracking all incoming and outgoing materials. Upon request, Contractor shall provide Authority, in a useful electronic form, scale house information and billing information related to Authority and Approved Users. Contractor shall operate such scales during Facility Receiving Hours, provided that Contractor shall provide Authority with visual access to weighing information at all times and copies thereof on the next Working Day on which the scale house is open. All

weighing shall be conducted by Contractor or its agents by a licensed weigh master.

(2) Vehicle Tare Weights. When additional or replacement vehicles are placed into service by Collection Contractor(s), the Contractor shall promptly weigh such additional and replacement vehicles and provide the tare weight(s) to Collection Contractor and Authority. Contractor shall tare or re-tare vehicles two (2) times per year per vehicle, with at least 5 months between tares.

(3) Substitute Scales. To the extent practicable, if any scales are inoperable, being tested or otherwise unavailable, all such vehicles shall be weighed on the remaining operating scales. To the extent that all the scales are inoperable, being tested, or otherwise unavailable, Contractor shall substitute portable scales until the permanent scales are replaced or repaired. Contractor shall arrange for any inoperable scale to be repaired as soon as possible, and in any event, within seventy-two (72) hours (excluding Holidays) of the failure of the permanent scale. Contractor shall arrange to immediately obtain a substitute portable scale(s) should the repair of the permanent scale require more than seventy-two (72) hours.

(4) Estimates. Pending substitution of portable scales or during power outages, Contractor shall estimate the quantity of Permitted Material Delivered to the Facility and Residue Transported from the Facility, on the basis of delivery vehicle and transfer trailer volumes, tare weight, Designated Disposal Facility or Designated Diversion Facility weight records, and brokers' weight records, and data obtained through historical information from the Facility and purchasers of Recovered Materials. These estimates shall take the place of actual weighing and shall be the basis for records while scales are inoperable. If Authority and Contractor cannot agree on the estimated quantities, the Parties shall handle the matter in accordance with the dispute resolution procedures in Article 13.

(5) Testing. Contractor shall test and calibrate all scales in accordance with Applicable Law, but at least every twelve (12) months. Upon Authority request, Contractor shall provide the Authority with copies of test results. Contractor shall further test and calibrate any or all scales upon written request therefore by the Authority, within three (3) Working Days of such request. If such test results indicate that the scale or scales complied with Applicable Law, the Authority will reimburse Contractor the Direct Costs of such tests. If such test results indicate that the scale or scales did not comply with Applicable Law, Contractor will bear the costs thereof and Contractor shall at its own cost adjust and correct, consistent with the results of such test, all weight measurements recorded and Service Fees calculated, charged and paid, as the case may be, from the date of such request.

(6) Weighing Requirements. Contractor shall weigh and record inbound weights of all Approved Users' vehicles including Self Haul vehicles, and Contractor shall weigh and record outbound weights of vehicles for which Contractor does not maintain tare weight information.

(7) Records. In accordance with Section 6.11, Contractor shall maintain scale records that provide information such as, but not limited to, inbound and outbound weights of vehicles, vehicle identification number, jurisdiction of origin of Permitted Materials received, type of material, hauler identification and/or classification, type, weight, and destination of outbound materials.

c. Security. Contractor shall maintain adequate security at the Site during the Term.

d. Personnel.

(1) Hiring Practices. Contractor shall use Reasonable Business Efforts to include, where relevant, through Standard Industry Practices, such skill and knowledge among criteria for employment at the Facility.

(2) Compliance with County Policies. Contractor shall comply, and require its employees and subcontractors to comply, with the following policies, copies of which are available on Napa County's website at <https://www.countyofnapa.org/771/Purchasing> and are hereby incorporated by reference.

(i) Napa County "Waste Source Reduction and Recycled Product Content Procurement Policy," which is found in the Napa County Policy Manual Part I, Section 8D.

(ii) Napa County "Discrimination, Harassment and Retaliation Prevention Policy," which is found in the Napa County Policy Manual Part I, Section 37K.

(iii) Napa County "Drug and Alcohol Policy," which is found in the Napa County Policy Manual Part I, Section 37O.

(iv) "Napa County Information Technology Use and Security Policy" which is found in the Napa County Policy Manual Part I, Section 31A.

(v) Napa County "Workplace Violence Policy," which is found in the Napa County Policy Manual Part I, Section 37U.

(3) Local and Alternative Workforce. Contractor shall use Reasonable Business Efforts to hire employees from neighborhoods surrounding the Facility and from within the jurisdictional limits of the Member Agencies, and alternative workforces (eg. welfare-to-work programs, Urban League, etc.)

(4) Qualifications and Performance. Contractor shall engage and train qualified and competent employees, including managerial, supervisory, clerical, maintenance, and operating personnel, in numbers and skill levels necessary and sufficient for Facility Operation at the levels in Contractor's Proposal which is hereby incorporated into this Agreement by reference, and to perform Contractor's Obligations. Contractor shall train such staff to perform their work in a safe and efficient manner in accordance with the health and safety plan in the Transfer Processing Report and shall ensure that each staff person treats Approved Users, Authority employees and its representatives, and other members of the public with courtesy.

e. Equipment, Repair, and Maintenance

(1) General. Contractor shall maintain the Facility, Processing equipment, Rolling Stock, and the Site in good working order and repair, and in accordance with any permit requirements for the Facility. Contractor shall maintain a spare parts inventory and perform periodic maintenance in accordance with Standard Industry Practices. If such activities must be performed during Facility Receiving Hours, the maintenance and repair activities shall be performed in a manner that does not impede the Contractor's ability to fulfill Contractor's Obligations and does not jeopardize safety of Approved Users or employees. Contractor shall maintain the aesthetic appearance of the Facility and Site in a clean and neat manner in accordance Standard Industry Practices with due regard for reasonable control of odors, dust and noise. If Contractor does not maintain Facility in accordance with the provisions of this Agreement, Authority may hire an outside company to provide the required maintenance and deduct the cost from funds due Contractor.

(2) Rolling Stock. Contractor shall purchase, lease, or otherwise procure, operate, and maintain the Rolling Stock and materials necessary for Facility Operations, and Transportation of Residue and Recovered Materials while meeting all permit requirements. Tractors and transfer trailers shall be kept clean, shall be thoroughly washed on the exterior at least once every month unless more often as needed for appearance and shall be thoroughly cleaned with pressurized hot water at least once per year. They shall be repainted and/or refurbished so that they present a reasonably acceptable appearance to the Authority. Contractor's name and truck identification number shall be clearly marked on all vehicles that travel off the Site. Signs shall comply with Local Enforcement Agency (LEA)

requirements. Any advertising on tractors and transfer trailers is subject to the Authority's approval in its sole discretion.

All Transport vehicles shall be inspected by the driver prior to leaving the Facility at the start of the day. The driver shall use a standard inspection checklist designed by Contractor. Contractor shall ensure each driver maintains a Driver's Daily Log.

(3) Offices. Building office areas shall be kept clean and orderly. Work areas within buildings and structures shall be routinely swept or vacuumed and washed or dusted at least twice per week.

(4) Transfer Station/Materials Recovery Facility Building and C&D Processing Area. The building loadout areas, tipping floor areas, C&D Processing areas and access ramps shall be cleaned and swept at the end of each day, excluding Holidays.

(5) Interior Surfaces. The tipping floor shall be swept weekly, and the interior walls of the transfer station/material recovery Facility building shall be thoroughly cleaned with pressurized hot water at least once per year.

(6) Exterior Surfaces. Except as otherwise provided in Section 6.15, surfaces of exterior buildings and structures shall be repainted or refurbished as needed by Contractor so that they present an acceptable appearance. The type of paint, color, and method of application shall match existing and be of equal quality and shall conform to the conditions, covenants and restrictions for the Site.

(7) Safe Condition and Repair. Except as otherwise provided in Section 6.15, Contractor shall maintain in good condition the roofs, structural portions and exterior walls (including plate glass, glass windows, window frames, doors and door frames), paved exterior areas and scales. Contractor shall keep and maintain in good, safe condition and repair the Facility, appurtenances and every part thereof, including without limitation the stationary equipment; plumbing and sewage facilities; mechanical, electrical, lighting, heating, ventilating and air conditioning systems; fire and dust suppression systems; fuel storage and dispensing facilities; and all personal property furnished by Contractor including vehicles.

(8) Periodic Maintenance. Contractor shall perform periodic maintenance on all equipment and Rolling Stock at least to Standard Industry Practices.

(9) Repair of Damage. Contractor shall also repair any damage to the Facility caused by the actions of its employees, subcontractors, or other Contractor agents.

Contractor shall immediately, within 24 hours of damage occurrence repair any damage that adversely affects Operations or is a safety concern. In any other instance, Contractor shall repair all damage within a 14-day period from the occurrence.

f. Safety.

(1) Traffic Flow. Contractor shall direct traffic upon entry to the Site so that vehicles travel, queue, unload and exit in a safe manner. Contractor shall ensure that no vehicles queue on public streets in the normal course of business.

(2) Fire Protection. Contractor shall provide and maintain all necessary and appropriate fire control equipment, as provided in the Transfer Processing Report and in accordance with the governing fire authority.

(3) Safety Training. Contractor shall perform regular safety training for all Facility employees and safety training for its subcontractors as appropriate.

g. Litter and Vectors. Contractor shall maintain the Facility and Site in a neat and orderly condition that minimizes the potential for birds, rodents and insects, and on a daily basis shall remove litter and debris on Site and litter and debris along Devlin Road adjacent to the Devlin Road Transfer Station and Kelly Road from Highway 29 to Devlin Road. In the event of apparent vector activity, Contractor shall implement reasonable additional vector control measures within twenty-four (24) hours. Contractor shall implement and maintain a litter control program as described in Exhibit 6 and shall diligently monitor and enforce the vehicle tarp requirements included in Exhibit 6 for all vehicles including Self Haul vehicles.

h. Quarterly Meetings. Authority and Contractor shall meet no less than quarterly to discuss Facility Operation and any related matters raised by either Party.

i. Complaints about Operation of Facility.

(1) General. Contractor shall take all reasonable steps to minimize complaints. Complaints shall be handled in accordance with Title 14 of the California Code of Regulations, Section 17414 (14 CCR § 17414). All complaints about the Operation and maintenance of the Facility shall be directed to the person designated as general manager by Contractor. Contractor shall promptly and politely respond to complaints from Approved Users, Authority staff and its representatives, and the public at large, related to Contractor's performance or nonperformance of Contractor's Obligations. Contractor shall use Reasonable Business Efforts to resolve such complaints within ten (10) calendar days of receipt thereof. Such complaints shall not be directed by Contractor to the

Authority with the exception of those that pertain to the Authority's Obligations. The station manager shall compile a log of all complaints brought to the attention of Contractor in a form that can be readily audited, and that indicates the date and time the complaint was received; the name, address and telephone number of the Person making the complaint; the nature of the complaint; the corrective action taken in response to the complaint; and the date the corrective action was taken.

(2) Complaint Log. Each month Contractor shall send Authority a copy of the complaint log for the previous month in accordance with Section 6.11.b. In the event more than ten (10) complaints were received during a given month by unrelated complainants, Contractor shall promptly investigate and, within five (5) days (or sooner if the circumstances reasonably require), excluding Holidays, take all corrective action necessary to remedy the cause of complaints. If Contractor fails to cure any issues within such period, Authority may cause corrective action to be taken at Contractor's expense.

(3) Litter Complaints. If Contractor receives a complaint regarding litter problems on Site or along the roads identified in paragraph (g) above, Contractor shall promptly clean up the litter within the same Working Day if complaint was received before noon and before noon of the following Working Day if the complaint was received after noon. Contractor shall be subject to Liquidated Damages specified in Exhibit 7 for failure to clean up litter within the time frames specified in this Section.

j. Signage. Contractor shall post easily-visible signs approved by Authority at the entrance to the Facility detailing the rules that must be followed by vehicles entering the Site; indicating the Facility Receiving Hours; the types of Permitted Materials and Recyclable Materials Accepted from Self Haulers; rates charged to Self Haulers; and a local telephone number to call for information and assistance in case of emergency. All signage shall, at a minimum, be provided in English and shall be approved by Authority prior to installation. Signage shall comply with Title 14 of the California Code of Regulations, Section 17409.4 (14 CCR § 17409.4). Contractor shall also post appropriate signage directing vehicles to the City of Napa's Materials Diversion Facility (MDF) for appropriate materials.

k. Accommodating Collection Contractors' Drivers. Contractor shall provide a parking area for Collection Contractors' vehicles where Contractor will permit Collection Contractors' drivers to park their vehicles and use bathroom facilities or make local telephone calls on telephones which Contractor shall make available to Collection Contractors' drivers. Contractor shall allow drivers to call their supervisors without charge.

6.05 Delivery of Permitted Material.

a. Acceptance.

(1) Commencement of Mixed Municipal Waste Delivery. Delivery of Mixed Municipal Waste to the Facility shall commence on the Operations Date.

(2) Acceptance of Mixed Municipal Waste from Approved Users. Subject to permit limitations, Contractor shall Accept all Mixed Municipal Waste Delivered by the Approved Users during Facility Receiving Hours except during periods of an Uncontrollable Circumstance that prevents Contractor from Accepting Mixed Municipal Waste, and except when actions or inactions of Authority prevent Contractor from Accepting Mixed Municipal Waste. If Contractor refuses or is unable to Accept such Mixed Municipal Waste during any portion of the Term, Contractor shall be liable to Authority for any damages payable and remedies available under Articles 8, 11, and 12. As specified in Article 6, Contractor shall not Accept Mixed Municipal Waste from any Person other than Approved Users without prior written approval of Authority.

(3) Authority Responsibility. Commencing on Operations Date, Authority, shall use Reasonable Business Efforts, including its statutory and contractual authority consistent with its obligations under its joint powers agreement, to cause Mixed Municipal Waste in each Member Agency jurisdiction that remains for disposal and is collected by the jurisdiction or its Collections Contractors following operation of each Member Agency's diversion programs (whether operated by the jurisdiction or by a contractor, including, but not limited to recycling, composting, reuse, source reduction, and all other methods of processing and diverting materials) to be Delivered to the Facility commencing on the Operations Date. However, nothing in this Agreement shall be construed to mean that Authority makes any guarantee regarding the fitness, quality, constituency, or quantity of Mixed Municipal Waste Delivered to the Facility. Authority is not responsible for any reduction in quantities due to increases in diversion achieved by Member Agencies. In addition, Authority is not responsible for a reduction in Mixed Municipal Waste resulting from a Member Agency's withdrawal from the Authority in accordance with the provisions of the joint powers agreement.

(4) No Representation. Authority makes no representation, and is under no obligation, regarding the quantity and/or composition of the Permitted Materials Delivered to the Facility by Approved Users.

b. Rejection of Unpermitted Material.

(1) Inspection. Contractor shall use Reasonable Business Efforts and Standard Industry Practices to detect and discover Unpermitted Material and shall not

knowingly Accept Unpermitted Material. Contractor shall institute an inspection procedure which includes a Hazardous Waste exclusion program in accordance with Applicable Law, Standard Industry Practice and Exhibit 6. Contractor shall promptly modify such procedure to reflect any changes in permits or Applicable Law.

(2) Handling Inadvertently Accepted Unpermitted Materials. If Contractor inadvertently Accepts Delivery of Unpermitted Material which the Household Hazardous Waste Facility is permitted to Accept and handle, Contractor shall deliver such Unpermitted Material to the Household Hazardous Waste Facility for classification, treatment or disposal, or recycling.

(3) Unpermitted Materials Handling Costs. Contractor is solely responsible for handling and arranging transport and Disposition of any Unpermitted Material that is contained in or with Delivered Permitted Materials Accepted by the Contractor, and for all related costs. Contractor has the right to pursue any remedies against the Person generating or Delivering the Unpermitted Materials to the Facility. If such Person is Authority, the Parties shall meet to discuss and resolve the Disposition and cost of the Unpermitted Material.

(4) Remedies for Rejected Materials. If Contractor rejects material Delivered to the Facility at the time of Delivery because it contains Unpermitted Material, Contractor shall direct the Person who Delivered the Unpermitted Material to cause the removal and disposal of it in a safe and lawful manner, at the sole expense of the Person. In the event that Unpermitted Material is Delivered to the Facility or Site, Contractor shall be entitled to pursue whatever remedies, if any, it may have against Person bringing such Unpermitted Material to the Facility. If such Person is Authority, the Parties shall meet to discuss and resolve the Disposition and cost of the Unpermitted Material. Nothing herein shall excuse the Contractor from the responsibility of handling such Unpermitted Materials in a lawful manner, including rejecting such materials as provided in this Section, and to arrange for the proper Disposition of such materials.

(5) Notification. Should the Contractor not Accept any Delivered materials due to the presence, or reasonable suspicion of the presence, of Unpermitted Materials, Contractor shall immediately notify Authority verbally and within one Working Day, follow verbal notification with written Notice. The Notice shall identify Contractor's reasonable reason for rejection of the Delivered material and identify the Party which Delivered such material if the Party was identified.

6.06 Materials Recovery and Diversion.

a. Diversion Guarantee. Contractor recognizes and acknowledges that the Member Agencies are required by the Act to Divert at least fifty percent (50%) of each jurisdiction's municipal solid waste from Disposal by 2000 and to maintain that diversion level. The Act also requires that all local agencies reduce the amount of organic waste disposed of by landfilling by fifty percent (50%) by 2020 and by seventy five percent (75%) by 2025, pursuant to Senate Bill 1383. Contractor further acknowledges that Member Agencies may adopt and achieve more aggressive diversion goals during the Term of this Agreement. Contractor has read and understands Authority's joint powers agreement included in Exhibit 8 and acknowledges that because each Member Agency is solely responsible for achieving the level of diversion required by the Act, that the diversion programs implemented by the Member Agencies are primary and Diversion efforts at the Facility are intended to supplement the programs of the Member Agencies, but not to replace, displace or compete in any way with the diversion programs of Member Agencies, including the diversion operations conducted at the City of Napa Materials Diversion Facility (MDF). Contractor's Diversion Guarantee is stated in Section 6.03. Contractor further acknowledges that the composition and characteristics of Mixed Municipal Waste will vary over time and assumes the risk of fulfilling its Diversion Guarantee with this understanding. Contractor shall not seek amendment of the Diversion Guarantee, excuse from noncompliance therewith, or adjustment of the Service Fees for failure to meet such Diversion Guarantee due to the composition of Mixed Municipal Waste.

b. Recovery and Processing Protocol. In keeping with the Authority's joint powers agreement in Exhibit 8, and the concept that the Facility does not compete with diversion programs implemented by Member Agencies, Contractor shall make reasonable efforts to inform customers about the availability of the Napa MDF and other similar facilities in the region. Of the Mixed Municipal Waste that is delivered to the Facility, Contractor shall Recover and/or Process Mixed Municipal Waste and Recyclable Materials as allowed under Facility permits; and shall use Reasonable Business Efforts to Recover and Process Brown Goods, White Goods, Construction and Demolition Waste, and yard waste Delivered to the Facility using methods and procedures described in Exhibit 4 in a manner sufficient to meet or exceed the Diversion Guarantee. In selecting which materials and methods of processing to use at the Facility, Contractor shall make Reasonable Business Efforts to process Mixed Municipal Waste such that the resulting products represent the highest and best use of the materials in the stream. For example, loads of wood that can be reused or loads of yard waste that can be composted will not be ground for ADC unless the market for wood or compost makes it unreasonable to do so.

c. Measurement of Diversion Guarantee. Contractor will calculate and measure the Diversion Guarantee on a quarterly basis in accordance with Section 6.03 and shall report thereon in accordance with reporting requirements in Section 6.11. Contractor may take into account the aggregate Tons of Accepted C&D Loads disposed of at transformation facilities to the extent allowed by Applicable Law.

d. White Goods. Contractor shall Accept Delivered White Goods. Contractor shall handle, Recover, Process, and Market such White Goods in accordance with Applicable Law and the Recovery and Processing protocol in Exhibit 4.

e. Brown Goods. Contractor shall use Reasonable Business Efforts to Recover Brown Goods from Mixed Municipal Waste, and Process and Market the Recovered Brown Goods.

f. Construction and Demolition Debris. Contractor shall Accept, Process and Divert C&D Waste and load out Residue for Delivery to the Designated Diversion or Disposal Site.

g. Other Recyclable Materials. Contractor shall use Reasonable Business Efforts to Operate the Facility for Recovery and Processing of additional materials such as Bulky Goods and as new recycling Markets, processes, and technologies develop.

h. Increased Diversion Goals. Contractor shall cooperate with Authority in reaching increased Diversion levels if needed to comply with Applicable Law or to reach supplemental Diversion goals which may be adopted by Authority in the future. This may include implementing new programs as part of Contractor's Obligations, or delivering the Facility residue to another site, whether or not operated by Contractor and whether or not co-located on the Facility site, for the purpose of additional Diversion. Changes in Contractor's costs due to modifications of Contractor's Obligations resulting from this subsection shall be adjusted in accordance with Section 9.03.

6.07 Recovered Materials Marketing.

a. General. Contractor shall use Reasonable Business Efforts to Market Recovered Materials.

b. End Use Certificate. To the extent practicable, Contractor shall obtain a certification of end use from the purchaser of Recovered Materials establishing that the Recovered Materials have been, in fact, recycled, re-used or otherwise Diverted from Disposal. Contractor shall not permit Recovered Materials to be incinerated, pyrolyzed, distilled, gasified, biologically converted other than being composted, or otherwise subjected to transformation as defined in the Act except to the extent permitted by Applicable Law and with Authority's prior written consent and reasonable approval.

c. Marketing Records. Contractor shall maintain complete, accurate, and detailed Marketing records, including Tonnage of material Marketed, purchaser, and end use in accordance with Section 6.11. Contractor shall supply Authority with additional

information and documentation within fifteen (15) calendar days of Authority's request describing the information requested with reasonable specificity.

d. Adjusted Recovered Materials Revenues. As an incentive to Divert as much Recyclable Material as commercially reasonable, Contractor shall retain fifty percent (50%) of all Adjusted Recovered Materials Revenues quarterly. Contractor shall remit the remaining fifty percent (50%) of all Adjusted Recovered Materials Revenues to Authority quarterly. Contractor shall include quarterly reports with the quarterly payments showing the calculation of Adjusted Recovered Materials Revenues pursuant to Section 6.11.

6.08 Residue Transport.

a. Transport of Residue. Contractor shall Transport all Residue to the Designated Disposal or Diversion Facilities for additional Diversion or for Disposal as specified in Article 7 such that they arrive and depart during the business hours of the Designated Disposal or Diversion Facilities. The date, time, vehicle identification number, and weight of all vehicles Transporting Residue shall be recorded when the vehicle leaves the Site. In the ordinary course of business, Contractor shall move all Residue off the Facility tipping floor at the close of each day's Operations, off-Site within twenty-four (24) hours on Monday through Friday and within forty-eight (48) hours on Saturday and Sunday of receipt thereof, and in accordance with Facility permits and Applicable Law. Contractor shall Transport Residue in accordance with the protocol included in the Transfer Processing Report. Contractor shall Transport Residue with sufficient regularity and frequency to minimize storage of Mixed Municipal Waste and Residue at the Facility, avoid creation of nuisance, and to minimize the amount of Mixed Municipal Waste and Residue stored in the Facility to create a safe, efficient Operating environment in the Facility.

b. Transport Equipment. Contractor shall be responsible for acquisition, supply, operation, repair, maintenance and replacement of all Rolling Stock, Residue storage and transport containers, loading equipment, and other necessary equipment for Transport. Transport equipment shall comply with Applicable Law, including vehicle emission standards which currently require decreasing emission levels over the Term of this Agreement. Transport equipment shall use "live or walking" floors for trailer component.

c. Modes of Transport. The mode of Residue Transport shall be by large volume highway transport truck and trailer in accordance with Standard Industry Practices. Contractor shall use Reasonable Business Efforts to utilize transport vehicles that reduce GHG emissions such as CNG or RNG and electric vehicles as they become available and as required by Applicable Law.

d. Alternative Modes of Transport. During the Term the use of rail haul or another alternative mode of Transport may be of potential interest to Authority or Contractor. Alternative modes of Transport may be considered a change in Contractor's Obligation and addressed as an Extraordinary Review under provisions of Article 9. The Parties agree that as of the Effective Date of this Agreement it is not possible to specify the exact means by which an alternative method of Transport may be developed. The means of development depends on the roles of Authority, Contractor, and the Disposal Facility Contractors. Thus, Contractor agrees:

(1) Good Faith Participation. To be a willing and active participant in assisting Authority in determining whether an alternative Transport method is advantageous to Authority;

(2) Alternative Use of Transport Rolling Stock. To make a good faith effort to minimize or eliminate costs to Authority by reallocating the use of any Transport Rolling Stock that is no longer needed for Residue Transport to Contractor operations other than those covered under this Agreement; and

(3) Resolution of Disputes. Any dispute regarding compliance with this Section will be resolved according to the Dispute Resolution provisions of Article 13.

e. Prohibition of Disposal of Recovered Materials. Contractor shall not Transport Recovered Materials or Recyclable Materials (except for the Residue therefrom) which has been included in the Contractor's calculation to document compliance with its Diversion Guarantee, to the Designated Disposal Facility or any other disposal Facility for the purpose of Disposal, without the prior consent of the Authority.

f. Transport Routes. Contractor shall select routes from the Facility to the Designated Disposal Facility which minimize inconvenience and disturbance to the public and comply with permits and Applicable Law. Contractor shall provide Authority with prompt Notice of such selection and any change in regular routes that affect area(s) within a two (2) mile radius of the Facility. Authority shall have the right to approve such routes prior to use by Contractor.

g. Highway Rolling Stock Loading Standard. Contractor shall load Residue into the highway Rolling Stock in a manner which minimizes vehicle waiting time and maximizes the weight of Residue in each vehicle, without exceeding legal limits. Each vehicle shall be efficiently loaded by combining Residue of varying densities, distributing Residue with respect to axle weights, tamping down or compacting the Residue in the vehicles, or by other suitable means.

h. Litter Prevention. Contractor shall not spill or scatter Residue or Recovered Materials during Transport or transportation thereof. Contractor shall enclose or cover all

vehicles Transporting Residue or Recovered Materials from the Facility in a manner approved by the Authority. If any Residue or Recovered Materials are spilled or scattered, whether on private or public property, Contractor shall immediately clean them up.

i. Vehicle Parking, Fueling and Maintenance. Contractor may park, fuel, maintain, and repair vehicles for Transport of Residue or Recovered Materials at designated area of the Facility; provided Contractor shall ensure that such vehicles do not interfere with or pose any hazard to the Approved Users Delivering Permitted Materials to the Facility.

j. Transport Permit. Contractor shall secure and maintain all permits required by Applicable Law for Transporting Residue and Recovered Materials. Contractor shall supply Authority with copies of any such permits (including prior permits, current permits, or renewals thereof) promptly upon request.

6.09 Household Hazardous Waste Facility. Authority will contract separately for operation of the Household Hazardous Waste Facility located on the Site. Contractor agrees to cooperate with the operator of the Household Hazardous Waste Facility so as not to unreasonably interfere with their operations.

6.10 Reuse, Drop-off, Buy-Back Recycling Center. Contractor shall operate the Reuse, Drop-off, Buy-Back Recycling Center located on the Site. The Center shall be staffed by Contractor and open to the public between 8:00 a.m. to 3:15 p.m. Monday through Saturday. Contractor will pay Buy-Back customers in accordance with State approved buy-back CRV rates. Funds paid to customers will be credited to Contractor as part of calculating the Adjusted Recovered Materials Revenue.

6.11 Records and Reports.

a. Record Keeping. Contractor shall keep daily accurate and complete records of Facility Operations using paper, electronic, magnetic or other media, and videotape recordings of Facility Operations (including weighing and tipping Operations), in sufficient detail to allow Authority to calculate Service Fees, any liquidated damages or other damages levied under this Agreement, and to determine compliance with all provisions of this Agreement. Contractor shall maintain records so as to be available to Authority during Facility Receiving Hours and upon Authority request, and shall promptly provide Authority copies of such records at Authority's request. Contractor shall preserve all such records for a period of no less than seven (7) years, including retention of records beyond the expiration date of the Term in order to comply with the seven (7) year retention period, with the exception of video records that need to be preserved for at least one year pursuant to Government Code sections 26202.6 and 53160.

b. Reporting Requirements.

(1) Monthly Reports. By the fifteenth (15th) day of each month, Contractor shall submit to Authority written reports summarizing, at a minimum; (1) inspections, notices, citations or other correspondence or interactions with regulatory agencies; (2) staffing levels; (3) daily Tonnage of Permitted Materials Accepted, Recovered Materials, Residue Transported, and percent Diverted for Approved Users separately listing Collection Contractors and Self Haulers for the month as well as year-to-date cumulative Tonnage totals; (4) a copy of the complaint log for the previous month as required in Section 6.04(i); and (5) jurisdictional and franchise diversion and disposal data including year-to-date with monthly reports and separate Diversion from the C&D Processing Area. All C&D loads shall be (1) coded as C&D loads at the scale house; (2) directed to the C&D processing area and processed; (3) Residue from the C&D area is weighed out separately from the mixed municipal waste and tracked; and (4) the outbound product (wood, wood chips, material to compost, ADC) is separately weighed out and tracked for report purposes. An example of the reporting format is included in Exhibit 9. Contractor shall provide reports requested herein in a form and of content that is satisfactory to Authority. Liquidated damages for the failure to provide such reports will not be imposed by Authority unless Authority has provided notice to the Contractor of such failure and has allowed Contractor fifteen (15) days after such notice to provide such reports.

(2) Quarterly Reports. By April 15, July 15, October 15, and January 15 of each year (excluding January 15, 2026), Contractor shall submit a quarterly report for the previous quarter showing how the Adjusted Recovered Materials Revenues was calculated for each type of Recovered Materials. Contractor shall provide reports requested herein in a form and of content that is satisfactory to Authority. Liquidated damages for the failure to provide such reports will not be imposed by Authority unless Authority has provided notice to the Contractor of such failure and has allowed Contractor fifteen (15) days after such notice to provide such reports.

(3) Annual Reports. No later than February 1st of each year, Contractor shall submit an annual report for the previous calendar year that summarizes the monthly reports and provides a statement of Contractor's compliance with or failure to comply with the Facility Operating Guarantees. If Contractor has at any time during the previous year failed to comply with the Facility Operating Guarantee the annual report shall also include the amount of any Liquidated Damage calculated pursuant to Article 8 and Exhibit 7 and previously paid to the Authority, or owed by Contractor to the Authority. Furthermore, as part of the annual reporting process, Contractor shall also provide a list identifying the end-users and end-users of all Recovered Materials and the types and weights of

materials diverted to each. Contractor shall also submit an annual report for the previous year showing how the Diversion Incentive Payment, the Diversion Shortfall Payment or Diversion Rebate Payment was calculated.

(4) Other Reports. Authority reserves the right to require Contractor to supply other reports at any time during the Term.

(5) Failure to Provide Reports. If Contractor fails to provide reports herein, Contractor shall pay Liquidated Damages in accordance with Exhibit 7.

6.12 Provision of Emergency Services. Contractor shall provide emergency services at Authority's request in the event of major accidents, disruptions, or natural calamities. Contractor shall be capable of providing emergency services within twenty (24) hours of notification by Authority or as soon thereafter as is reasonably practical in light of the circumstances. Emergency services which exceed the Contractor's Obligations under this Agreement shall be compensated through Extraordinary Review in accordance with Article 9. Emergency services does not include extended Facility Receiving Hours under Sections 6.04(a)(3) and 8.07.

6.13 Authority Rights to Access Facility. Authority and its designated representative(s) shall have the right to enter, observe and inspect the Facility at any time during Facility Operations; conduct studies or surveys of the Facility; meet with the Facility manager or their representatives at any time; and meet with other employees upon request, which request shall not be unreasonably denied by Contractor, provided that the Authority and its representatives comply with Contractor's reasonable safety and security rules and shall not interfere with the work of Contractor or its subcontractors. Upon Authority request, Contractor shall make personnel available to accompany Authority employees on inspections. Contractor shall ensure that its employees cooperate with Authority and respond to Authority's reasonable inquiries. Contractor shall make Operational and business records required to be kept pursuant to Section 6.11 available to Authority or its agent during Facility Receiving Hours upon Authority request, and shall provide Authority copies of such records at Authority's request.

6.14 Billing and Payments.

a. Collection Contractor. No later than the fifteenth day of each month, Contractor shall bill each Collection Contractor, or such other Person as may be designated by Authority, for the amount of Facility Tipping Fees incurred by such Collection Contractor during the preceding calendar month. Contractor shall provide Authority with copies of all such bills. The bills shall itemize Facility Tipping Fees by date, delivered load, other fees or charges authorized by this Agreement (for example, fees assessed for handling any Unpermitted Materials discovered in the delivered load), and other information as Authority may instruct in writing from time to time. The bill shall direct payment in accordance with Authority's written instructions to Contractor. If such instructions direct that payment of such bills shall be made to Contractor, Contractor shall

remit all amounts collected to Authority in accordance with procedures designated in writing by the Authority's Auditor-Controller and Contractor shall be responsible for collecting all such accounts which become delinquent. If such instructions direct that payment of such bills shall be made directly to Authority, Authority shall be responsible for collecting any such accounts which become delinquent.

b. Other Haulers. Contractor shall collect Facility Tipping Fees at the time of Delivery from Approved Users other than a Collection Contractor who Delivers Permitted Materials other than Source Separated Recyclable Materials delivered to the Buy-Back Center. Contractor shall remit to Authority all Facility Tipping Fees so collected in accordance with Authority's written instructions to Contractor.

c. Payment of Service Fees. On a monthly basis, Contractor shall submit to Authority a statement of Service Fees due and owing for the preceding month. Authority shall pay Contractor the Service Fee within fifteen (15) business days of Contractor's submittal of its statement. The statement shall be in a form as may be mutually agreed between the Parties.

d. Adjusted Recovered Materials Revenues. Contractor shall remit fifty percent (50%) of all Adjusted Recovered Materials Revenues to Authority quarterly with the quarterly reports showing the calculation of gross and net revenues required by Section 6.11.

e. Billing Schedule Adjustment. The Parties may from time to time and by mutual consent expressed in writing change the frequency of statements required by this section.

f. Statement. The Contractor shall provide to Authority, by the twenty-fifth day of each month, a statement in a format acceptable to Authority and accompanied by supporting documentation as required by Authority detailing Facility Tipping Fees collected by the Contractor under this Agreement in the preceding month.

g. Unresolved Disputes. All unresolved disputes concerning the calculation of or adjustment to payments based upon the Facility Tipping Fee, Service Fees or Service Fee components shall be resolved by mediation in accordance with Article 13. However, the undisputed portion of the adjustment shall be made effective promptly; further adjustment shall be made effective upon the resolution of the dispute under Article 13.

6.15 Repair and Maintenance of Facility.

a. Projects of \$1,000 or less. Contractor shall perform, or hire a licensed contractor to perform, construction, alteration, demolition, installation, repair and maintenance work needed at the Facility costing \$1,000 or less. The cost of such work is included in the Base Component of the Service Fee and not subject to separate reimbursement by Authority.

b. Maintenance Projects Between \$1,000 and \$15,000. Contractor may perform, or hire a licensed contractor to perform, maintenance work needed at the Facility costing more than \$1,000 but less than or equal to \$15,000 with the prior approval of the Executive Director. Contractor shall comply with, and require its contractor (if any) to comply with, California prevailing wage requirements including but not limited to those listed in Exhibit 5. Contractor shall invoice Authority for the cost of performing the work, and may include a markup of 15% to work performed by its contractor, if any. Authority shall pay the invoice within 30 days of receipt.

c. Public Works Projects Between \$1,000 and \$25,000. Contractor may perform, or hire a licensed contractor to perform, construction, alteration, demolition, installation, and repair work needed at the Facility costing more than \$1,000 but less than or equal to \$25,000 with the prior approval of the Executive Director. Contractor shall comply with, and require its contractor (if any) to comply with, California prevailing wage requirements including but not limited to those listed in Exhibit 5. Contractor shall invoice Authority for the cost of performing the work, and may include a markup of 15% to work performed by its contractor, if any. Authority shall pay the invoice within 30 days of receipt.

d. All Other Projects. Construction, alteration, demolition, installation, and repair work costing more than \$25,000 and maintenance work costing more than \$15,000 shall be performed by contractors hired by Authority. Contractor and Authority will coordinate their activities to minimize impacts to Operations while the work is performed.

e. Project Management. Contractor may perform project management services at the Site with Authority's approval, on terms to be memorialized by separate written agreement on a case by case basis.

f. Damage Caused by Contractor. Notwithstanding anything in this Section to the contrary, damage caused by the negligence or willful misconduct of Contractor's employees or subcontractors shall be repaired by Contractor at its own expense. This does not apply to ordinary wear and tear caused by normal use of the Facility.

g. Unresolved Disputes. All unresolved disputes concerning the performance or payment for construction, alteration, demolition, installation, repair or maintenance work performed at the Facility shall be resolved by mediation in accordance with Article 13. However, the undisputed portion of any invoices shall be made promptly; further adjustments to payment shall be made upon the resolution of the dispute under Article 13.

6.16 C&D Processing Equipment. Notwithstanding anything in this article to the contrary, Contractor shall procure, install, maintain and replace (if necessary), all at its own expense, the new C&D Processing Equipment at the Facility as described in paragraphs III.A and III.B of Contractor's Proposal. The C&D Processing Equipment is Contractor's sole property. Contractor

shall complete installation and begin Operation of all the C&D Processing Equipment within six months after completion of construction of the new C&D Building. Contractor shall Operate the C&D Processing Equipment for the remaining duration of the Term of this Agreement and use Reasonable Business Efforts to meet or exceed the Diversion Guarantee and the performance parameters set forth in paragraphs III.A. and III.B of Contractor's Proposal. Contractor shall remove the C&D Processing Equipment at its own expense upon the expiration or termination of this Agreement, unless otherwise agreed by the Parties.

ARTICLE 7. DESIGNATED DISPOSAL OR DIVERSION FACILITIES

7.01 Designated Disposal or Diversion Facilities. The Designated Disposal Facility is the Potrero Hills Landfill and the Designated Diversion Facilities are listed in Exhibit 8. The Authority may change the Designated Disposal Facility or Designated Diversion Facilities effective upon ninety (90) calendar days after Notice to Contractor, provided however in cases of emergency, the Authority may immediately change the Designated Disposal Facility and shall provide such Notice to Contractor. The Contractor's Service Fees will be adjusted as provided in Article 9 to reflect any increase or decrease in the cost of Transporting ADC, Clean Dirt, Recovered Material or Residue to a new Designated Disposal or Diversion Facility.

7.02 Disposal Fee Payment. Authority will directly pay the Designated Disposal and Diversion Facilities for Disposal and Diversion of Residues and Recovered Materials.

7.03 Designated Disposal and Diversion Facility Permits. Permits for the Designated Disposal and Diversion Facilities may identify materials that are permitted for Disposal or Diversion and materials prohibited from Disposal or Diversion. Contractor shall observe and comply with such permit requirements and conduct load checking procedures at its Facility to prevent materials which are prohibited from Disposal or Diversion at the Designated Disposal or Diversion Facility from being Transported and Disposed or Diverted at the Designated Disposal or Diversion Facility. Contractor acknowledges that the list of materials permitted and prohibited for Disposal or Diversion at the Designated Disposal or Diversion Facility may change from time to time and Contractor must conform to any changes. If such changes occur, Authority and Contractor shall consider changes to the Designated Disposal or Diversion Facilities pursuant to Section 7.01.

7.04 Disposal and Diversion Capacity. Authority shall be responsible for securing daily and long-term Disposal capacity at the Designated Disposal and Diversion Facilities.

7.05 Professionalism. Contractor and its employees, subcontractors, and agents shall act in a professional and courteous manner at all times when on the property of the Designated Disposal or Diversion Facility and shall follow all operating procedures established by the Disposal or Diversion Facility including those related to health and safety, traffic, gate house, unloading, and load checking operations.

7.06 Cooperation and Disputes. Contractor shall fully comply with its obligations and cooperate to its fullest extent with the Designated Disposal and Diversion Facility operators. In the event of disputes between Contractor and Disposal or Diversion Facility operator, Contractor shall attempt to resolve the dispute directly with them. If such discussions are unsuccessful, Contractor may request assistance from Authority in resolving the dispute. In the event of a dispute, Contractor shall continue performance of Contractor's Obligations under this Agreement and shall attempt to continue to resolve such dispute in a cooperative manner, including but not limited to negotiating in good faith.

ARTICLE 8 - COMPENSATION

8.01 Facility Tipping Fees. Facility Tipping Fees are established by Authority. Contractor is responsible for collecting all Facility Tipping Fees from Approved Users. Facility Tipping Fees may be collected from Approved Users at the time of Delivery of Permitted Materials to the Facility scale house or Contractor may submit monthly invoices to Approved Users requesting payment be made on a monthly basis. Contractor shall invoice Collection Contractors monthly. A copy of each invoice submitted by Contractor to Collection Contractors shall be sent to the Authority. Contractor is responsible for all delinquent payments and bad debts. Contractor may charge late fees. Nothing in this paragraph shall limit rights of Contractor or Authority to pursue all legal and equitable remedies available under Applicable Law.

8.02 Contractor Compensation.

a. Service Fee for Mixed Municipal Waste. Authority shall pay Contractor the Service Fee monthly after receipt of Contractor's statement pursuant to Section 6.14.c. Exhibit 1 sets forth the Service Fee that is the compensation to the Contractor for Acceptance of Permitted Materials Delivered by Approved Users subject to adjustments in accordance with Section 8.03. The Service Fee has four components: the Base Component, the Per-Ton Component, the Transport Component and the Pass-Through Component. The four components are defined in Article 1, and the amounts of the four components are shown in Exhibit 1.

b. Diversion Incentive Payment. Authority shall pay Contractor \$15 for each whole ton over 120,000 tons of cumulative Accepted C&D Loads measured after one year beginning on the C&D Operations Date. Similarly, Authority shall pay Contractor \$20 for each whole ton over 125,000 tons between the first and second year after the C&D Operations Date. After the second year, the Diversion Incentive Payment shall be adjusted annually pursuant to Section 8.03 at the annual percentage increase applicable to the Service Fee. Contractor shall submit a request for payment annually when applicable, including a report with supporting calculations and documents pursuant to Section 6.11.b. Authority will review Contractor's request for payment and process accordingly.

c. Diversion Shortfall Payment. For each percentage point that Contractor fails to achieve the annual Diversion Guarantee of 75% diversion including ADC specified in Section 6.03.b., Authority shall deduct \$5,000, or pro-rated fraction thereof, from the Service Fee due Contractor. In addition, for each percentage point that Contractor fails to achieve the annual Diversion Guarantee of 40% diversion excluding ADC specified in Section 6.03.b., Authority shall deduct \$2,000, or pro-rated fraction thereof, from the Service Fee due Contractor. Contractor shall submit a report annually, including supporting calculations and documents pursuant to Section 6.11.b. Authority will review Contractor's report and upon the concurrence by Authority will make the necessary debit to Contractor's next monthly invoice. The Diversion Shortfall Payment shall not be imposed until one year after the C&D Operations Date.

d. Diversion Rebate Payment. For each percentage point that Contractor exceeds the annual Diversion Guarantee of 75% diversion including ADC specified in Section 6.03.b., Authority shall add \$2,000, or pro-rated fraction thereof, to the Service Fee due Contractor. In addition, for each percentage point that Contractor exceeds the annual Diversion Guarantee of 40% diversion excluding ADC specified in Section 6.03.b., Authority shall add \$5,000, or pro-rated fraction thereof, to the Service Fee due Contractor. Contractor shall submit a report annually, including supporting calculations and documents pursuant to Section 6.11.b. Authority will review Contractor's report and upon the concurrence by Authority will make the necessary credit to Contractor's next monthly invoice. The Diversion Rebate Payment shall not be imposed until one year after the C&D Operations Date.

e. Only Compensation. The Service Fee, Diversion Incentive Payment, Diversion Rebate Payment, Contractor's share of Adjusted Recovered Materials Revenue, and certain costs for repair and maintenance of the Facility specified in Section 6.15 is the only compensation due Contractor from Authority for service provided under this Agreement unless otherwise provided in this Agreement or agreed to by the Parties.

8.03 Adjustment of Service Fee.

a. Initial Rate. The initial Service Fee is shown in Exhibit 1. The first year's Service Fee will be in effect from the Operations Date through December 31, 2026, and the second year's Service Fee will be in effect from January 1, 2027 through December 31, 2027.

b. Annual Adjustment. The intent of this Agreement is to provide for an adjustment to the Service Fee annually. The first increase will be effective January 1, 2027, as shown in Exhibit 1. The second annual increase will be effective January 1, 2028. Thereafter, the annual increases will reflect changes in the CPI and be applied to the Base Component and the Per-Ton Component. The Base Haul Rate of the Transport Component is also subject to annual increases based on CPI except in years when the Base Haul Rate is

competitively bid and awarded pursuant to Exhibit 10. The annual change will be calculated using the current annual average beginning October CPI (for the current year) and the CPI for the previous annual average beginning October (prior year) which is 12 months prior to the most recently published CPI. CPI adjustments shall be effective every January 1. The adjustments shall be rounded to the nearest cent per ton. The specific annual adjustments shall be made as follows:

(1) Adjusted Base Component = Current Base Component x (current annual average of October CPI / annual average previous year October CPI)

(2) Adjusted Per-Ton Component = Current Per-Ton Component x (current annual average of October CPI / annual average previous year October CPI)

(3) Adjusted Base Haul Rate = Current Base Haul Rate x (current annual average of October CPI / annual average previous year October CPI)

c. Verification of Pass-Through Costs. The following steps shall be used to determine if an adjustment to the Service Fee should include any adjustment in the Pass-Through Component:

(1) No later than thirty (30) calendar days prior to Authority's determining an annual adjustment to the Service Fees, Contractor shall provide written verification and documentation of the specific costs (listed separately) comprising the then-current Pass-Through Component, and indicate if they have increased, decreased, or remained the same.

(2) Based on the information submitted by Contractor, and any additional information Authority may reasonably request or separately collect for its independent verification, Authority shall adjust the Pass-Through Component to reflect any verified increases or decreases in Pass-Through Costs.

(3) The annual adjustment provided for in this Section shall not occur until the Authority has to its satisfaction verified current Pass-Through Costs, except that the Authority shall not unreasonably delay an adjustment of the Service Fee.

d. Limitation. If during any annual adjustment period, the CPI change for the annual period exceeds five (5) percent, the Authority will adjust the Per-Ton Component and Base Haul Rate of the Service Fee in excess of five (5) percent only to the extent that the Contractor provides documentation demonstrating that the Contractor's actual Direct Costs for the period being adjusted increased in excess of five (5) percent. In making a

determination with regard to this subsection, Authority may request that Contractor develop and provide, at its own cost, any reasonably necessary financial, cost or technical data, or other documentation needed in reaching a decision.

e. Notice of New Service Fee. Authority shall give Notice to Contractor of any change in the Service Fee no later than thirty (30) calendar days prior to the effective date of the new Service Fee.

8.04 Liquidated Damages.

a. General. If Contractor fails to meet its Facility Operating Guarantee or other Obligations set forth in Exhibit 7, it will lead to damages or other injury to Authority or the Member Agencies that are uncertain and difficult (if not impossible) to accurately calculate. Accordingly, Authority and Contractor agree that any payments by Contractor to Authority imposed under this Section are not penalties but instead are intended by the Parties to be, and shall be deemed, liquidated damages.

b. Initial Amounts. The liquidated damage amounts specified in Exhibit 7 shall be in effect from the Operations Date through December 31, 2027.

c. Annual Adjustment to Liquidated Damages. The amount of liquidated damages specified in Exhibit 7 for specific events of Contractor nonperformance shall be adjusted on an annual basis at the same time the Service Fee is adjusted. The first annual increase will be effective January 1, 2028, adjusted annually as follows:

Adjusted Liquidated Damages = Current Liquidated Damages x (current annual average of October CPI / annual average previous year October CPI)

d. Payment of Liquidated Damages. Pursuant to Section 8.06, beginning with the month immediately following the month in which Authority provides Notice to Contractor that liquidated damages are due, Contractor shall submit payment to the Authority via wire transfer for any liquidated damages assessed pursuant to this Agreement and Exhibit 7. If Contractor disputes any amount of liquidated damages it shall nevertheless pay the undisputed amount and the dispute shall be submitted to mediation for resolution as described in Section 13.03.

8.05 Authority Imposed Fees. Authority may from time to time during the Term increase existing fees or impose new fees on Approved Users, which shall be collected by Contractor with Facility Tipping Fees or other fees charged at the Facility. Contractor shall remit fees to Authority on a monthly basis without deduction of offset. As of the Effective Date, the Authority Imposed Fees shall be as specified in Exhibit 1. If existing fees are increased or new fees imposed after the Effective Date, Authority shall give Notice to Contractor no later than fifteen (15) Working Days prior to the date the fee changes are to go into effect.

8.06 Contractor Remittance to Authority. Contractor shall remit to Authority on or before the last Working Day of each month via wire transfer all fees collected from Approved Users for the previous month including liquidated damages and any other moneys that may be owed to Authority under this Agreement. The remittance shall be accompanied by a report itemizing the fees and Delivered Tonnage associated with each fee and the number and nature of liquidated damages. In the event Contractor fails to pay the Authority in a timely manner, Contractor will be required to pay a late payment for each day the payment is due in the amount of two tenths percent (0.2%) of the amount due.

8.07 Extended Facility Receiving Hours. In the event Authority requests Contractor to extend Facility Receiving Hours on a temporary basis, Contractor shall be compensated by Authority the per-hour fee specified in Exhibit 1 in addition to the Service Fee it will receive for Permitted Materials Accepted during the extended Facility Receiving Hours.

8.08 Recovered Materials Revenue. Contractor shall split all Adjusted Recovered Materials Revenues with Authority pursuant to Section 6.07.d. Contractor shall submit Authority's share of Adjusted Recovered Materials Revenue on a quarterly basis with supporting documentation and calculations.

8.09 Payment of Pass-Through Charges. Contractor shall pay when due, all Pass-Through Costs to the appropriate Federal, State, regional, or local governmental entities which levied the charges and shall provide Authority with proof of such payments promptly upon request. Contractor agrees to defend with counsel acceptable to Authority, indemnify, and hold Authority, its Member Agencies, and their officers and employees harmless from any claims, losses, costs, fees, liabilities, damages or injuries arising out of Contractor's failure to fulfill any such payment obligation.

8.10 Payment of Taxes. Contractor shall pay when due, any and all Federal, State, and local fees, assessments, or taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide Authority with proof of such payments promptly upon request. Contractor agrees to defend with counsel acceptable to Authority, indemnify, and hold Authority, its Member Agencies, and their officers and employees harmless from any claims, losses, costs, fees, liabilities, damages or injuries arising out of Contractor's failure to fulfill this tax payment obligation.

8.11 Retroactive Increases. In the event that adjustments to Contractor's compensation occur after the date Contractor experiences such changes in its costs, Contractor shall be repaid retroactively for up to one (1) year for past due compensation if such increases do not cumulatively exceed five hundred thousand dollars (\$500,000) and in the event the increase cumulatively exceeds five hundred thousand dollars (\$500,000), then Parties may agree to the time period for repayment, but in no event shall the period be longer than three (3) years from

the date Contractor experiences such changes in costs.

ARTICLE 9 - EXTRAORDINARY REVIEW OF COMPENSATION

9.01 Limitation. Other than as provided in Article 8, any adjustments to Service Fees under the terms of this Agreement shall be the result of an Extraordinary Review as provided in this Article.

9.02 Definition. An Extraordinary Review is the review of a specified change in circumstances with relation to Operations that may result in a change in the Service Fees, such as a change in Contractor's Obligations or a Change of Scope. An Extraordinary Review may result in an upward or downward adjustment of the Service Fee. An Extraordinary Review can be initiated by either Party.

9.03 Conditions for an Extraordinary Review. Except as otherwise provided in this Agreement, the following are the only conditions under which the Service Fee will be modified or an alternative form of increased or decreased compensation as provided in Section 9.05 shall be specified.

a. Change in Designated Disposal or Diversion Facility. Significant increased or decreased Direct Costs of Transport directly incurred by the Contractor due to Authority change in a Designated Disposal or Diversion Facility.

b. Change in Approved Users. Significant increased or decreased Direct Costs due to changes to the list of Approved Users provided that such increase or decrease in Direct Costs are disclosed to Authority by Contractor prior to Authority's approval of a change in Approved Users.

c. Change in Contractor's Obligations. Significant increased or decreased Direct Costs that result from a specific change in Contractor's Obligations as directed or approved by the Authority, including but not limited to changes in Facility Receiving Hours, in the Diversion Guarantee, Recovered Materials Processing requirements, or provision of emergency services pursuant to Section 6.12.

d. Change in Law. A Change in Law such that:

(1) A Significant change in third-party Pass-Through Costs that occurs as a result of a Change in Law which results in a Significant prorated increase or decrease in the Pass-Through Component;

(2) A Significant increase or decrease in Operating and/or Contractor provided capital costs occurs as a result of a Change in Law as determined by impacts to Direct Costs; or

(3) A Significant increase in Authority's direct costs as a result of a Change of Law.

e. Uncontrollable Circumstances. An Uncontrollable Circumstance provided that such Uncontrollable Circumstance results in a Significant increase or decrease in Contractor's Direct Costs or a Significant increase in Authority cost.

f. Changes to Collection Contractor services. Authority or its Member Agencies makes a change to the collection services provided by a Collection Contractor (or the Authority or its Member Agencies, if it has assumed collection activities in whole or in part from the Collection Contractor) which result in a major impact to the quality or characterization of the Mixed Municipal Waste and the ability of Contractor to meet Contractor's Obligations.

g. Change in Authority Diversion Requirements. Authority changes the Diversion Guarantees or requires Contractor to deliver some or all of Recovered Materials to another Designated Diversion Facility as described in Section 6.06(h).

9.04 Items Ineligible for an Extraordinary Review. Items that are not eligible for an Extraordinary Review include:

a. Variations in Permitted Materials. Variations or fluctuations in the weight, volume or composition of Permitted Materials Delivered to the Facility unless such variation or fluctuation is caused by a change to Collection Contractor services as provided in Section 9.03(f).

b. Labor Action. Labor Actions experienced by or directly affecting Contractor whether or not within the Contractor's control.

c. Errors and Omissions. Errors and omissions on the part of Contractor in preparing Contractor's Proposal or this Agreement, unless an error or omission is deemed by Authority to be insignificant is waived by Authority at its sole discretion.

d. Contractor Error. Equipment failure or failure to Accept Permitted Materials due to Contractor error(s) in planning, failure to maintain proper permits; regulatory actions against Contractor that prohibit or curtail Operations; underestimation of Operating costs; other Operating problems; and/or problems related to internal company operations of the Contractor, its subcontractors, its vendors, or its agents.

e. Contractor's Costs. Costs incurred by Contractor in fulfillment of Contractor's Obligations for fines, judgments, and settlements levied against Contractor by third parties.

f. Loss(es) Covered by Insurance. Costs incurred by Contractor which Contractor can recover from any insurers or from another party.

9.05 Extraordinary Review Process. A request for an Extraordinary Review shall be conducted as provided in this Section. Contractor is obligated to meet the requirements of this Section whether the process is Authority-initiated or Contractor-initiated.

a. Notice of Extraordinary Review. The Party initiating an Extraordinary Review shall provide Notice to the other Party, citing the applicable provisions of this Article and providing a complete written summary of the reason for the Extraordinary Review and its impact on the Service Fee.

b. Authority's Request for Proposal. If a Notice of Extraordinary Review is issued, Authority may request a proposal from Contractor in accordance with the proposal format specified in Section 9.05(d). As soon as possible, but in any event within twenty (20) Working Days of receiving Authority's request for proposal, Contractor shall submit the proposal. Such proposal shall be deemed to be Contractor's offer with regard to changes in Contractor's compensation, Contractor's Obligations, and/or Change in Scope pertaining to the extraordinary circumstances under review, as appropriate, in accordance with the terms of such proposal, and shall be binding for one hundred and eighty (180) calendar days.

c. Form of Compensation. Authority may, at its sole discretion, require that Contractor propose a change in compensation under this Article in the form of an adjustment to the Service Fee. As an alternative, Authority may require that Contractor propose compensation in a form of a lump-sum fixed price; a reimbursement of documented Direct Costs; or other form(s) of compensation to be determined.

d. Proposal Format. For any proposal submitted under this Section Contractor shall:

- (1) Describe the circumstance warranting an Extraordinary Review.
- (2) Describe the impact of the circumstance under Extraordinary Review on Contractor's compensation, Contractor's Obligations, or the need for a Change in Scope.
- (3) Submit work plan for implementing a change in Contractor's Obligations or a Change of Scope if applicable, identifying physical changes to the Facility and Site, changes in Operating methods and labor needs, and implementation schedule.

(4) Identify the capital and/or operating cost of modifying the Contractor's Obligations and/or implementing any Change in Scope if applicable to support any requested change in Contractor compensation. The Contractor shall include detailed documentation supporting its cost proposal, including cost substantiation required with respect to Direct Costs. Contractor covenants that it will not propose a cost in excess of the fair market price for such change in Contractor's Obligations or Change of Scope, whether it implements such changes itself or through a subcontractor.

(5) Propose a change in compensation, as necessary, as a change in Service Fees, or in an alternate form as directed by the Authority pursuant to Section 9.05(c).

(6) Provide draft language changes to the provisions of this Agreement, as Contractor deems appropriate and necessary to effect any change in Contractor's compensation, Contractor's Obligations, and/or Change in Scope.

e. Authority's Review. Within sixty (60) calendar days of receiving Contractor's proposal, Authority shall review and comment on, and approve or disapprove such Extraordinary Review request. Authority and Contractor may mutually agree to extend the time periods for review due to complexity of the specific Extraordinary Review request, the time needed for review or approval, or for other reasonable reasons.

Authority may request the assistance of an independent third party to review the proposal. The first \$25,000 of reasonable costs shall be paid by Contractor if the Extraordinary Review is initiated by Contractor or be paid by Authority if the Extraordinary Review is initiated by Authority. Any additional costs above \$25,000 shall be shared equally by Authority and Contractor. The cost of such review shall be estimated in advance of the work, and provided to Contractor for comment and agreement to pay. Contractor refusal to pay its share of the reasonable cost of review of a Contractor-initiated proposal shall be grounds for Authority rejection of such proposal.

Authority may request to review Contractor's Operating and business records reasonably required to verify the reasonableness and accuracy of the impacts associated with an Extraordinary Review. Contractor shall fully cooperate with the Authority's request and provide Authority and its employees and consultants with copies of, or access to, Contractor's records.

f. Approval of Extraordinary Review. Upon Authority approval in whole or in part, Authority will issue a Notice approving the Extraordinary Review and documenting any change to the Service Fee, an approved change in Contractor's Obligations, or an approved Change in Scope. Depending on the change, approval of Authority's Board may be necessary to execute an amendment to the Agreement. No adjustment in

Contractor compensation, change in Contractor's Obligations, or Change in Scope shall become effective absent such Authority approval.

g. Resolution of Disputes. Any dispute regarding compliance with this Section or the validity of the grounds for Extraordinary Review or the amount of any change in Service Fees to be paid to Contractor will be resolved according to provisions of Article 13.

h. Withdrawal of Notice for Extraordinary Review. The Party that initiated the Extraordinary Review may withdraw its Notice and its request for Extraordinary Review at any time.

9.06 Contractor's Implementation of Change in Scope. Upon approval of a Change in Scope pursuant to Section 9.05(f), Contractor shall diligently perform such work in accordance with the approved work plan, schedule, and cost proposal. If Authority has agreed to pay for such work, Contractor shall submit invoices for such implementation in accordance with the schedule contained in the proposal and shall provide full documentation of Direct Costs incurred.

9.07 Change in Service Fees. Upon Authority approval or determination of a change in the Service Fee pursuant to this Section, such change in compensation shall be implemented as provided in Article 8, including provision for advance notice to Approved Users.

9.08 Insurance and Other Third Party Payments. To the extent that any costs resulting from an Extraordinary Review are incurred by Authority and/or Contractor pursuant to this Article and can be recovered by Contractor or Authority from any insurance provider or from another third party, Contractor and Authority shall exercise with due diligence such rights as either Party may have to effect such recovery. Contractor shall provide Authority with copies of all documentation, and shall afford Authority a reasonable opportunity to participate in all conferences, negotiations and litigation, regarding insurance claims which materially affect the Authority's interest under this Agreement. All applicable insurance recoveries shall be applied to recoup expenses or costs related to the event or problem which gave rise to the recovery.

9.09 Limitations to Change in Compensation. Contractor shall be entitled to an Extraordinary Rate Review scheduled only in conjunction with the annual rate review for any cost increase eligible pursuant to this Article 9, whether or not such cost increase is Significant.

ARTICLE 10 - INSURANCE, INDEMNITY, BONDS, FURTHER ASSURANCES

10.01 Insurance. Prior to the Operations Date, Contractor shall obtain and maintain in full force and effect throughout the Term of this Agreement, and thereafter as to matters occurring during the Term of this Agreement, the insurance coverage set forth in Exhibit 2. Contractor shall include all its subcontractors as insureds under its policies or shall furnish separate certificate and endorsements for each subcontractor that meet or exceed the insurance requirements set forth in Exhibit 2.

10.02 Indemnification and Defense. Excepting only the active and sole negligence or willful misconduct of Authority, Contractor shall defend, with counsel reasonably acceptable to Authority, save, indemnify, and hold harmless Authority, its Member Agencies, and their respective officers, agents, and employees, from and against any and all liabilities including damages, claims, demands, judgments, losses, costs, expenses and actions, including reasonable attorney's fees, arising out of, or resulting from any act, error or omission of Contractor, its officers, employees, agents or subcontractors in connection with the performance of this Agreement, and which may cause but is not limited to the following:

- a. personal injuries including, but not limited to wrongful death, and property damage of any kind, nature or sort, resulting from Operations;
- b. penalties, fines, and charges arising from Contractor's violation of Applicable Law in connection with Operations;
- c. any condition of the Facility relating to the presence of Hazardous Waste, Household Hazardous Waste, petroleum or petroleum products from the Operations Date through the Term and subsequent migration off-Site or on-Site remediation thereof;
- d. any allegation of infringement, violation or conversion of any patent, licenses, proprietary right, trade secret or other similar interest, in connection with Operations;
- e. any claims or liability related to vector-caused damages or illness, biohazard, damage to the environment or health of the community in the vicinity of the Facility;
- f. any claims or other liabilities directly or indirectly related to Operations;
- g. any claims or other liabilities directly or indirectly related to the provisions of the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC §9601 *et seq.*, during or subsequent to the Term of this Agreement;
- h. any claims that may be made against Authority based on any contention by any of Contractor's employees or by any third party, including any State or Federal agency and employees making workers compensation claims, that an employer-employee relationship or a substitute therefore exists between Contractor's employees and Authority for any purpose whatsoever by reason of this Agreement or by reason of the nature and/or performance of Contractor's Obligations;
- i. for damages in connection with any claims made by, or payments made to, purchasers or users of Recovered Materials; or

j. any claims against Authority which challenge and/or invalidate Authority's right to enter this Agreement, the process used by Authority for entering this Agreement or which allege Authority's failure to use another legal process for entering this Agreement - notwithstanding the "negligence or misconduct" exceptions provided in Section 10.02.

If there is an event which may result in potential litigation, damage, or liability, Contractor agrees to immediately notify Authority in order for Authority to retain the ability to participate in the defense. The terms and obligations of this Section shall survive termination or expiration of this Agreement.

10.03 Hazardous Substances Indemnification. Contractor shall defend with counsel reasonably acceptable to Authority, save, indemnify, protect and hold harmless Authority, its Member Agencies, and their respective officers, officials, employees, agents, assigns, contractors, and any successor or successors to Authority's interest, from and against all claims, damages (including but not limited to special, consequential, natural resources and punitive damages), injuries, response mediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, reasonable attorney's fees for the adverse party and 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 Authority or its officers, officials, employees, agents, assigns, or contractors arising from or attributable to willful or negligent acts, errors, omissions including but not limited to any repair, cleanup, disposal or detoxification, or preparation and implementation of any removal, remedial, response, or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance, Hazardous Wastes, or Household Hazardous Waste at the Facility or any place where the Contractor stores or Transports Mixed Municipal Waste pursuant to this Agreement. In the event that there are uninsured costs arising from a release of Hazardous Wastes as described in this Section which are not due to the failure by the Contractor to comply with its Hazardous Waste identification and treatment procedures, negligence, or willful misconduct of Contractor, Authority shall be responsible for payment of up to thirty-five thousand dollars (\$35,000) of such costs annually on a cumulative basis and the Contractor shall pay all such costs above that amount. The terms and obligations of this Section shall survive termination or expiration of this Agreement.

10.04 Performance Bonds. On and after the Operations Date, and throughout the Term, Contractor shall furnish and maintain a performance bond, (in a form reasonably acceptable to Authority and commercially available), or a Letter of Credit or comparable instrument(s) approved by Authority, or any combination thereof, (the "Surety Instruments") in the principal sum of one million dollars (\$1,000,000). If the performance bond described herein is not commercially available, the Parties shall meet and negotiate in good faith a substitute method of securing Contractor's performance.

All bonds or other Surety Instruments shall be executed by a corporation authorized to issue such Surety Instruments in the State, subject to regulation by the California Insurance Commissioner,

rated not less than A-VII by A.M. Best Company, Inc. as applicable, and having a financial condition and record of service reasonably satisfactory to Authority. The company(ies) executing such Surety Instruments shall be financially and organizationally independent of, and in no manner be affiliated with Contractor.

The term of each Surety Instrument shall be issued for a three (3) year period if commercially available to Contractor, but not less than one (1) year or the remaining period of the Term hereof, whichever is less. Not less than ninety (90) calendar days before the expiration of each such Surety Instrument, Contractor shall either extend such Surety Instrument as evidenced by a continuation certificate in a form reasonably Acceptable to Authority, or furnish a replacement Surety Instrument in the principal sum referenced above. The terms and obligations of this Section shall survive termination of this Agreement, if such termination is due to Contractor default.

ARTICLE 11 - BREACHES AND DEFAULTS

11.01 Breaches.

a. Definition of Contractor Breaches. A breach is a material failure to perform any of Contractor's Obligations in accordance with the provisions of this Agreement. In addition, the following events shall constitute a breach by the Contractor:

(1) Seizure or Attachment of Equipment. Any equipment owned by Contractor essential in Operations is lawfully seized, attached or levied upon resulting in Contractor's failure to meet Contractor's Obligations.

(2) Failure to Fulfill Contractor Obligations. Contractor fails to meet any of Contractor's Obligations, excluding the Diversion Guarantee, for more than two (2) consecutive days or an aggregate of five (5) days in any twelve (12) month period from the Operations Date. The Contractor shall also be in breach if Contractor fails to meet the Diversion Guarantee for a period equal to any consecutive twelve (12) month period after the Diversion Guarantee becomes effective. However, Contractor shall not be in breach where the failure to meet Contractor's Obligations is due to an act or omission of Contractor which caused damage or destruction of all or part of the Facility, provided all of the following conditions are met:

(a) Contractor shall certify in writing to Authority that insurance proceeds or other funds are available to repair or reconstruct the Facility, and Authority to its reasonable satisfaction is in agreement with such certification;

(b) Contractor shall diligently pursue such repair or reconstruction;

(c) Contractor shall pay compensatory or Liquidated Damages pursuant to Section 11.01(d); and

(d) Contractor shall again be able to meet all Contractor Obligations within a reasonable time but in no event longer than nine (9) months following the original breach causing damage or destruction.

(3) Fiscal or Legal Difficulties.

(a) Contractor fails to regularly pay its bills, including payment to the Designated Disposal or Diversion Facility, as they become due, including non-payment of bills over sixty (60) calendar days; or

(b) Contractor is the subject of a civil or criminal judgment or order entered by a Federal, State, regional or local agency for violation on an environmental or tax law, for which any uninsured portion of the judgment is in excess of two hundred fifty thousand dollars (\$250,000). If Authority believes in good faith that Contractor's ability to timely and fully perform Contractor's Obligations has thereby been placed in substantial jeopardy, Authority may, at its option and in addition to all other remedies it may have, demand from Contractor reasonable assurances of timely and full performance hereunder. If Contractor fails or refuses to provide such reasonable assurances by the date required by Authority such failure or refusal shall constitute a Contractor default.

(4) Misrepresentation or False Warranty. Any material written representation, disclosure, assurance, or warranty made to Authority by Contractor in connection with, or as an inducement to entering into or performing this Agreement or any future amendment to this Agreement, that proves to be false or misleading in any material respect as of the time the representation, disclosure, assurance, or warranty is made, whether or not any such representation or disclosure is contained in, or referenced in, the Agreement.

(5) Bankruptcy, Insolvency, Liquidation.

(a) Voluntary Proceeding. Contractor or Guarantors file a voluntary claim for debt relief under any applicable bankruptcy, insolvency, debtor relief or other similar law now or hereafter in effect, or shall consent to the appointment of or taking of possession by a receiver, liquidator, assignee, trustee, custodian, administrator (or similar official) of Contractor or Guarantors for any part of Contractor's or Guarantor's operating assets or any substantial part of Contractor's or Guarantor's property, or shall make

any general assignment for the benefit of Contractor's or Guarantor's creditors, or shall take any action in furtherance of any of the foregoing; provided that Contractor may propose to Authority that Authority substitute Guarantors as provided in Exhibit 5, in which event Authority may, at its sole discretion, effect such substitution, in which event it shall not terminate this Agreement in accordance with this paragraph.

(b) Involuntary Proceeding. With respect to Contractor, a court having jurisdiction, without Contractor's consent or where Contractor fails to oppose the proceeding: (a) enters a decree or order for relief in respect of the Agreement, in any involuntary case brought under any bankruptcy, insolvency, debtor relief or similar law, now or hereinafter in effect, or (b) any such court enters 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 (c) orders the winding up or liquidation of the affairs of the Contractor and any such decree or order is not vacated within thirty days of its issuance.

(c) Assurances. If either (a) or (b) above occurs, and Authority believes in good faith that Contractor's ability to timely and fully perform Contractor's Obligation has thereby been placed in substantial jeopardy, Authority may, at its option and in addition to all other remedies it may have, demand from Contractor reasonable assurances of timely and full performance hereunder. If Contractor fails or refuses to provide such reasonable assurances by the date required by Authority such failure or refusal shall constitute a Contractor default.

(6) Failure to Maintain Performance Bond or other Financial Requirement.

The Contractor fails to maintain the Performance Bond as specified in Section 10.04 or any other financial assurance required under this Agreement or is declared by a financial institution to be in material default under any provisions, terms, or conditions of a loan or other financing document after giving effect to any applicable cure periods.

(7) Failure to Notify Authority. Contractor fails to provide Notice to Authority in a timely manner of any receipt of notice of violation or official communication from any regulatory body having jurisdiction over the Contractor's Operations which significantly affects the Contractor's ability to perform Contractor's Obligations.

(8) Regulatory Violation. Contractor violates any permits, orders, or filings of any regulatory body having jurisdiction over the Contractor relative to this Agreement in such a manner as to materially interfere with Contractor's present

or future ability to perform Contractor's Obligations, provided the Contractor may contest any such permits, orders, or filings by appropriate proceedings conducted in good faith, in which case no breach or default of this Agreement shall be deemed to have occurred.

(9) Failure to Meet Payment or Reporting Requirements. Contractor fails to make any required payment to Authority, Contractor's subcontractors or employees, or a Federal, State, regional, and local entity or refuses to provide Authority with required information, reports, and/or records in a timely manner as provided for in the Agreement.

b. Definition of Breaches by Authority. A breach is a material failure to perform any of Authority's obligations in accordance with the provisions of this Agreement. In addition, the following shall constitute events of breach by Authority:

(1) Material Failure of Representations and Warranties. Material false statement with respect to Authority's representations and warranties described in Section 2.02.

(2) Failure to Pay Services Fees. Authority fails to set, adjust and pay Services Fees pursuant to this Agreement.

(3) Bankruptcy, Insolvency, Liquidation.

(a) Voluntary Proceeding. Authority files a voluntary claim 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, trustee, custodian, administrator (or similar official) of Authority for any part of Authority's operating assets or any substantial part of Authority's property, or shall take any action in furtherance of any of the foregoing;

(b) Involuntary Proceedings. With respect to Authority, a court having jurisdiction, without Authority's consent, or where Authority fails to oppose the proceeding; (a) enters a decree or order for relief in respect of the Agreement, in any involuntary case brought under any bankruptcy, insolvency, debtor relief or similar law, now or hereinafter in effect, or (b) any such court enters a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of Authority, or for any material part of Authority's assets, or (c) orders the winding up or liquidation of the affairs of Authority and any such order or decree is not vacated within thirty days of its issuance; and

(c) Assurances. If either (a) or (b) above occurs, and Contractor believes in good faith that Authority's ability to timely and fully perform Authority's Obligation has thereby been placed in substantial jeopardy, the Contractor may, at its option and in addition to all other remedies it may have, demand from Authority reasonable assurances of timely and full performance hereunder. If Authority fails or refuses to provide such reasonable assurances by the date required by Contractor such failure or refusal shall constitute an Authority default.

c. Notice of Breach. Either Party shall promptly provide Notice to the other Party regarding the occurrence of a breach as soon as such breach becomes known to the Noticing Party. Such notice shall be given verbally followed immediately by written Notice.

d. Cure of Breach. Authority and Contractor shall begin cure of any breach as soon as possible after it becomes aware of its breach. Upon giving or receiving verbal notice of a breach, Authority or Contractor shall proceed to cure such breach as follows:

(1) Immediately, if the breach is such that in the sole determination of Authority the health, welfare or safety of the public is endangered thereby unless immediate cure is impossible in which event the Contractor shall notify the Authority and the provisions of Section 11.03 shall apply;

(2) Immediately, if the breach is an Authority breach as described in Sections 11.01(b)(2) and 11.01(b)(3) hereof; or

(3) Within thirty (30) calendar days of giving or receiving Notice of the breach; provided that if the nature of the breach is such that it will reasonably require more than thirty (30) calendar days to cure, Authority or Contractor shall not be in default so long as Authority or Contractor promptly commences to cure its breach, secures written agreement from the other Party to extend the thirty (30) calendar day cure period, and provides the other Party, no less than weekly, written status of progress in curing such breach, and diligently proceeds to complete same.

e. Remedy of Breach, Specified Monetary Damages. Upon delivery of Notice thereof to Contractor, Authority may exercise any one or more of the following remedies, or the remedies provided in Section 11.01(f) to which it may be entitled, according to proof, and including but not limited to:

(1) Compensatory Damages. Any applicable damages to Authority directly resulting from any breach including but not limited to the following:

(a) Incremental Direct Haul Costs: The incrementally greater Direct Costs for direct haul of any Permitted Material to an alternative Transport, Processing or Disposal facility, as compared to the then-current direct haul costs to the Facility.

(b) Incremental Facility Operations Costs: The incrementally greater Direct Costs of replacing one or more aspects of Facility Operations, including, but not limited to Acceptance, Transport, Recovery, Processing, Diversion, Marketing, transport of Recovered Materials to Market, and procuring and maintaining insurance and bonds, as compared in aggregate to the then-current Service Fee.

(c) Incremental Diversion Costs: The incrementally greater Direct Costs for Diversion of any Mixed Municipal Waste or Residue at a Diversion facility other than Facility, as required to make up for shortfalls in Contractor's Diversion Guarantee in Section 6.03.

(d) Incremental Disposal Costs: The incrementally greater Direct Costs for Disposal of any Mixed Municipal Waste or Residue at a Disposal facility other than the Designated Disposal Facility, as compared to the then-current Disposal fee at the Designated Disposal Facility.

(e) Consequential Fines: Any fines and penalties assessed on the Authority, including by CalRecycle, directly resulting from Contractor's failure to meet all Contractor's Obligations. In the event of any administrative proceeding before CalRecycle, Authority will provide Notice to Contractor of the date and time of such proceeding, and provide Contractor the opportunity to attend and make a presentation.

(f) Administrative Costs: Any documented administrative costs incurred by Authority including, but not limited to, Authority staff time, legal, and consultant expenses that would have not been incurred but for Contractor's breach.

(2) Liquidated Damages. Exhibit 7 contains specific circumstances that constitute a breach of contract, with an associated payment to be paid by Contractor to Authority. The purpose of the payments contained in Exhibit 7 is to provide a clear and expeditious means for remedying the specified breaches occurring during Facility Operations, without incurring the time and cost necessary to determine proof of actual damage. The breaches contained in Exhibit 7 are not intended to be inclusive of all events of breach, but rather are circumstances for which a specific payment has been assessed with the agreement of the Parties. Therefore, the Parties agree that the liquidated damages specified in

Exhibit 7 constitute a reasonable estimate of the damages incurred in each instance, considering all of the circumstances existing on the Effective Date, including the relationship of the payments to the range of harm that reasonably could be anticipated. In signing this Agreement, each Party specifically confirms the accuracy of this Section 11.01(e)(2) and of Exhibit 7, and the fact that each Party had ample opportunity to consult with legal counsel and to obtain an explanation of these provisions. In the event Authority seeks liquidated damages for Contractor's failure to meet one or more of Contractor's Obligations, Authority shall not be entitled to compensatory damages for the same Contractor failure.

f. Remedy of Breach, Other Authority Remedies. In addition to the monetary damages specified in Section 11.01(e), Authority shall be entitled to all available equitable remedies, including specific performance and injunctive relief.

g. Remedy of Breach, Contractor Remedies. In addition to compensatory damages, Contractor shall be entitled to all available equitable remedies, including specific performance and injunctive relief.

11.02 Default.

a. Events of Contractor Default. Each of the following shall constitute an event of default by Contractor.

(1) **Uncured Breach of Agreement.** Contractor fails to cure any breach as specified in 11.01(d).

(2) **Repeated Pattern of Breaches.** Contractor has, in the sole but reasonable determination of Authority, incurred a pattern of successive breaches, or related events of breach, that cumulatively indicates Contractor unwillingness or inability to timely, fully, and consistently perform Contractor Obligations throughout the Term.

(3) **Failure to Remedy Effects of Uncontrollable Circumstance.** The Contractor fails to remedy effects of an Uncontrollable Circumstance in accordance with Section 11.09.

b. Notice of Default. Contractor shall be in default from the date of receipt of a Notice from Authority identifying such default.

c. Cure of Default. Unless otherwise specified in Section 11.02(a), Contractor upon receipt of a Notice of default shall effect a cure of such default, as follows:

(1) Immediately, if the default is such that in the sole determination of the Authority the health, welfare or safety of the public is endangered thereby unless immediate cure is impossible in which event the Contractor shall provide Notice to Authority and the provisions of Section 11.03 shall apply; or

(2) Within ten (10) Working Days of receiving Notice of default; provided that if the nature of the default is such that it will reasonably require more than ten (10) Working Days to cure, Contractor shall have such additional time as is reasonably needed to expeditiously complete a cure, and only as mutually agreed by the Parties. During any default cure period, Contractor shall provide Authority, no less than weekly, written status of progress in curing such default.

d. Authority Remedies in the Event of Contractor Default. Upon failure to cure a Contractor default pursuant to Section 11.02(c), Authority shall, in addition to its right to collect monetary damages as specified in Section 11.01(e), have the following rights:

(1) **Waive Default.** To waive the Contractor default at its sole discretion.

(2) **Termination.** Terminate the Agreement in accordance with Article 12, provided that no termination shall be effective until Authority has given Notice to Contractor of its decision to terminate the Agreement.

(3) **All Other Available Remedies.** In addition to, or in lieu of termination, to exercise all of its remedies in accordance with this Article and any other remedies at law and in equity, to which Authority shall be entitled, according to proof.

(4) **Damages Survive.** If Contractor owes any damages upon Authority's termination of the Agreement, Contractor's liability under this Article shall survive termination.

(5) **Other Authority Rights.** In the event Authority does not exercise its right to terminate this Agreement, Authority shall have the right to:

(a) Seek performance by the surety under the performance bond; and

(b) Make a claim on any insurance policy or policies.

e. Events of Authority Default. The following shall constitute an event of default by Authority.

(1) **Uncured Breach of Agreement.** Authority fails to cure any breach as specified in Section 11.01(d).

f. Notice of Default. Authority shall be in default from the date of receipt of a Notice from the Contractor identifying such default.

g. Cure of Default. Authority upon receipt of a Notice of default shall effect a cure of such default, as follows:

(1) Within ten (10) Working Days of receiving Notice of default; provided that if the nature of the default is such that it will reasonably require more than ten (10) Working Days to cure, Authority shall have such additional time as is reasonably needed to expeditiously complete a cure, and only as mutually agreed by the Parties.

h. Contractor Remedies in the Event of Authority Default. Upon failure to cure a Authority default pursuant to Section 11.02(g), Contractor shall, in addition to its right to collect monetary damages, have the following rights:

(1) **Waive Default.** To waive the Authority default at its sole discretion.

(2) **Termination.** Terminate the Agreement provided that no termination shall be effective until Contractor shall have given 45 days written Notice to Authority of its decision to terminate the Agreement and any such termination.

(3) **All Other Available Remedies.** In addition to, or in lieu of termination, to exercise all of its remedies in accordance with this Article and any other remedies at law and in equity, to which Contractor shall be entitled, according to proof.

(4) **Damages Survive.** If Authority owes any damages upon Contractor's termination of the Agreement, Authority's liability under this Article shall survive termination.

11.03 Substitute Services.

a. Authority Rights. In addition to exercising any or all remedies specified in Section 11.01, Section 11.02, or Exhibit 7, or with regard to an event of Contractor breach or default, respectively, or due to an Uncontrollable Circumstance as defined in Section 11.09, Authority may at its sole discretion take any of the actions specified below with regard to provision of substitute services. Authority has no obligation to secure or to continue to secure, or to require Contractor to secure or continue to require Contractor to secure substitute services. If Contractor is, for any reason whatsoever including Uncontrollable Circumstances, and in the reasonable determination of Authority, unable to Accept Permitted Material in substantial conformance with Contractor's Obligations, Authority may exercise its rights as specified in this Section.

b. Notice. Authority may give Contractor oral notice followed within twenty-four (24) hours by written Notice, that Authority is exercising its right to secure substitute services. Such oral notice shall be immediately effective. Authority's immediate right to continue to secure substitute services under this Section, exercised due to a specific instance(s) of breach, default, or Uncontrollable Circumstance, shall cease within five (5) Working Days of receipt of Notice from Contractor that the latter is ready, willing, and able to resume timely and full performance of Contractor's Obligations.

c. Authority Provision of Substitute Service. Authority may make its own arrangements to provide substitute services for Authority substantially and reasonably similar to the services Contractor is Obligated to provide hereunder and using a facility other than the Facility. Any costs, expenses, or damages incurred by Authority in providing or contracting for such substitute services as should have been part of the performance of Contractor's Obligations which are a result of Contractor's breach or Contractor Default shall be paid by Contractor to Authority provided that if Contractor is not receiving the Service Fees provided hereunder during the period in which substitute services are being used, it shall be responsible only for the amount by which Authority's costs, expenses or damages exceed the amount of the Service Fees which otherwise would have been paid to Contractor.

d. Contractor Provision of Substitute Service. Authority may require Contractor to secure and pay for substitute services for Authority substantially similar to the services it is obligated to provide hereunder and using a facility other than the Facility satisfactory to Authority. During the period in which Contractor provides and pays for substitute service, Contractor will continue to receive its Service Fee for handling Permitted Materials Delivered by Approved Users. If the costs of substitute services provided under this paragraph exceed the amount of the Service Fee received by Contractor, and the need for substitute services is a result of Contractor's breach or default, then Contractor shall pay any such excess costs. If, however, the need for substitute services is due to Uncontrollable Circumstances or Authority default, then Contractor shall be entitled to recover any such excess costs through an Extraordinary Increase in the Service Fee.

e. Contractor Request to Provide Substitute Service. Should Authority decide to provide for substitute services as provided in 11.03(c), Contractor may submit to Authority a proposal to provide the substantially equivalent service. Authority may, at its sole discretion direct Contractor to proceed with provision of substitute services as provided in Section 11.03(d). Should Contractor later proceed to secure and pay for substitute services as provided in Section 11.03(d), Contractor shall be responsible for reimbursing Authority for any costs it may have incurred in having earlier arranged for substitute services pursuant to Section 11.03(c).

11.04 Authority Use of Facility.

a. Authority Rights. In the event of Contractor default which results in Contractor failure to Operate the Facility and Transport and Dispose Residue or Recovered Material, Authority may Operate the Facility. Contractor shall lease to Authority, at fair market value as either agreed to between Authority and Contractor, or as determined in accordance with the dispute resolution procedures established in Article 13, some or all of the Contractor's equipment and Rolling Stock as required by Authority for the Operation for such time until the Contractor can again resume timely and full performance of Contractor's Obligations hereunder, or the Agreement is terminated pursuant to Article 12 hereof and a new operator put in place. Contractor agrees to negotiate in good faith to determine lease provisions that, at maximum, compensate the Contractor for its fixed costs. Authority may designate a third party ("**Replacement Operator**") to operate the Facility during the period of any such lease. Authority shall retain all Service Fees received at the Facility during the period of the lease described herein.

b. Contractor Obligations. In the event Authority decides to select a Replacement Operator pursuant to this Section, Contractor shall provide the following to Authority or Replacement Operator in a timely manner to permit the continued Operation of the Facility:

- (1) A nonexclusive sublicense to any patents, trademarks, copyrights and trade secrets and "shop rights" as necessary for, and limited to, the Operation of the Facility;
- (2) Any proprietary components needed for continuing the Operation of the Facility;
- (3) Initial training of personnel as may be reasonably necessary to enable the assignee to continue with Operation of the Facility; and
- (4) Provide non-technical and technical design, construction and Operation information, whether or not proprietary, including technical specifications and as-built plans of the Facility and assign or provide any other license or consent which is necessary for the Operation, maintenance and repair of the Facility.

11.05 [Reserved]

11.06 Waiver. A waiver by Authority of any breach or default by Contractor shall not be deemed to be waiver of any other breach or default by Contractor, including waivers with respect to the same Obligations hereunder, and including new incidents of the same breach or default. The subsequent Acceptance by Authority of any damages or other money paid by Contractor

hereunder shall not be deemed to be a waiver by Authority of any pre-existing or concurrent breach, or default by Contractor.

11.07 Determination of Remedy or Cure of Breach or Default. Upon request of either Party, an event of breach or default shall be considered remedied or cured upon signature by both Parties of a written agreement specifying the event and stating that remedy and/or cure of such event has been completed.

11.08 Criminal Activity of Contractor. Contractor shall be considered to have performed criminal activity should Contractor or any of its officers or directors be convicted of felonious conduct relating to Contractor's Obligations under this Agreement, or other felonious conduct by Contractor, its officers, directors, or management or fiscal employees (where "management employee" means an employee with general responsibility, direction and control over the Contractor's activities and "fiscal employee" means an employee with direct responsibility and control duties relating to the Service Fees, Disposal fees, and financial matters generally) or its Guarantors, its officers or directors, arising under this Agreement or relating to the Operation of the Facility. Convictions include any judicial determination that Contractor or any of Contractor's officers, directors or employees is guilty, and any admission of guilt by Contractor, or any of Contractor's officers, directors or employees including, but not limited to, the pleas of "guilty," "nolo contendere," "no contest" or "guilty to a lesser felony" entered as part of any plea bargain. Such felonious conduct includes, but is not limited to: (i) price fixing, (ii) illegal transport or disposal of Hazardous Waste, Household Hazardous Waste, or toxic materials, (iii) bribery of public officials, or (iv) fraud or tampering. In the event Contractor conducted criminal activity, Authority reserves the right to exercise one or more of the remedies specified below in Sections 11.09(a), 11.09(b), or 11.09(c). Such action shall be taken after Contractor has been given Notice and an opportunity to present evidence in mitigation. If Authority does not terminate this Agreement, Contractor shall dismiss or remove officers, directors or employees found guilty of felonious behavior and take all action necessary and appropriate to remedy any breach of Contractor's Obligations. Authority shall have the right to one or more of the following remedies:

a. Unilateral Termination. To unilaterally terminate this Agreement in accordance with Article 12 in which event the Parties shall have no further obligations to each other. However, if Contractor is in breach or default of any of its Obligations hereunder other than the criminal activity of Contractor described in this Section 11.08, Authority shall be entitled to pursue any other remedies it may have pursuant to Sections 11.01 and 11.02 hereof for breach of such other Obligation, notwithstanding the termination of this Agreement pursuant to this Subsection (a).

b. Exercise Remedies. If Authority does not terminate this Agreement, Contractor shall dismiss or remove officers, directors or employees found guilty of felonious behavior and take all action necessary and appropriate to remedy and breach of Contractor's Obligations pursuant to Section 11.01. Contractor's failure to cure any

breach in accordance with Section 11.01 shall be a Contractor default under Section 11.02 and Authority shall have the right to all other remedies specified therein including, without limitation, the right to terminate the Agreement pursuant to Section 12.

11.09 Uncontrollable Circumstances.

a. Uncontrollable Circumstances. Uncontrollable Circumstances, as defined in Article 1, includes but is not limited to the following:

- (1) The failure of any appropriate Federal, State, regional authority, or local public agency or private utility having operational jurisdiction in the area in which the Facility is located, to provide and maintain utilities, services, water, sewer or power transmission lines to the Facility which are required for Operation.
- (2) A Change in Law other than Changes in Law excluded in Section 11.09(b)(1).
- (3) The suspension or interruption of Operations as a result of any release, spill, contamination, migration or presence of any Hazardous Waste, petroleum and petroleum products or as a result of any release, spill, contamination, or migration of Household Hazardous Waste at the Facility or the Site.
- (4) A Force Majeure event that temporarily or permanently interrupts Operations.
- (5) A natural disaster.
- (6) Labor Actions.

b. Exclusions. The following are excluded from Uncontrollable Circumstances, unless caused by an Uncontrollable Circumstance listed above:

- (1) Adverse changes in the financial condition of either Party or any Change in Law with respect to any taxes based on or measured by net income, or any unincorporated business, payroll, franchise or employment taxes;
- (2) The consequences of errors in Operation on the part of Contractor, its employees, agents, subcontractor or affiliates;
- (3) The failure of Contractor to secure patents, technical licenses, trademarks, and the like necessary for Facility Operation;

c. Performance Excused. Neither Party shall be in breach of its Obligations hereunder in the event, and for so long as, it is impossible or extremely impracticable for it to perform such Obligations due to an Uncontrollable Circumstance if such Party exerted

Reasonable Business Efforts to prevent such Uncontrollable Circumstance, and such Party expeditiously takes all actions within its control to end, or to ameliorate the effects of such Uncontrollable Circumstance as soon as possible.

(1) Insurance Proceeds. Contractor shall, as specified in Article 10, carry and keep in force such insurance as is needed to mitigate the financial effects of Uncontrollable Circumstances to which the Facility or Contractor may be subject. All insurance proceeds available from policies covering any Uncontrollable Circumstance act or event shall be used to mitigate any damages caused by insurable events, including, to the extent funds are available therefore, prompt reimbursement in full of any Service Fee or Direct Cost payments made by Authority to Contractor for services which were not rendered during an Uncontrollable Circumstances affecting the Facility or Contractor.

d. Notice. The Party claiming excuse from performance of its Obligations based on an Uncontrollable Circumstance shall Notify the other Party as soon as is reasonably possible after the occurrence of the event constituting the Uncontrollable Circumstance. The Notice shall include a description of the event, the nature of the Obligations for which the Party claiming Uncontrollable Circumstance seeks excuse from performance, the expected duration of the inability to perform, proposed mitigation measures.

e. Events not Causing Facility Damage or Destruction. If an Uncontrollable Circumstance does not cause damage or destruction of the Facility, and Contractor is unable to fulfill Contractor's Obligations for longer than thirty (30) calendar days, the Party claiming excuse shall diligently exercise Reasonable Business Efforts to develop and pursue a course of action designed to allow it to again perform all of its Obligations as soon as is reasonably practicable, and provided it does so, shall be given such additional time as is reasonably necessary until it is able to resume performance of its Obligations hereunder. If Contractor, despite its Reasonable Business Efforts, is unable to resume performance of Contractor's Obligations within the three (3) month period following the date of the Notice provided in subsection (d) above, then Authority may terminate this Agreement and the Parties shall thereafter have no further Obligations to the other.

f. Events Causing Facility Damage or Destruction. If an Uncontrollable Circumstance causes damage or destruction of the Facility then Authority shall as soon as is practicable, commence the repair or reconstruction activities and Contractor shall be excused from those of its Obligations hereunder which it cannot perform due to the Uncontrollable Circumstance for a period of up to one (1) year from the date of the Notice described in subsection (d) above and Authority shall not be required to pay Service Fees for the Obligations Contractor is prevented from performing. In the event that Authority cannot complete repair or reconstruction so that Contractor may again assume performance of its Obligations hereunder within one (1) year from the date of Notice described in subsection

(d) above, then Authority may, upon written Notice to Contractor, terminate this Agreement in which event the Parties shall have no further Obligations to each other.

11.10 Payment of Service Fee Held in Abeyance. While an uncured breach and/or Contractor default is in progress which interrupts the ability of Contractor to Accept Mixed Municipal Waste, Authority may postpone any scheduled payment or adjustment pursuant to Article 8 until such breach or default is cured.

ARTICLE 12 - SUSPENSION AND TERMINATION

12.01 Authority's Right to Suspend or Terminate.

a. Suspension. Authority shall have the right to suspend this Agreement, in whole in or in part, upon the occurrence of a Contractor default under Section 11.02 regarding a failure to perform Contractor's Obligations and such occurrence endangers public health, welfare or safety; provided such suspension is for no longer than forty-five (45) calendar days, during which period Contractor shall have the opportunity to demonstrate to the reasonable satisfaction of Authority that Contractor can once again fully perform Contractor Obligations in which case Authority may waive such default and Contractor shall continue to perform Contractor's Obligations. If Authority is not so satisfied, it may exercise any or all remedies, including those under Section 12.01(b). In the event of Contractor suspension, Authority shall have the right to use the Facility and designate a Replacement Operator to perform some or all Facility Operations as provided in Section 11.04.

b. Termination for Reasons Other than Convenience. In addition to any other remedy available to Authority in law or under the terms of this Agreement, Authority shall have the right to terminate this Agreement if one or more of the following events occur:

- (1) **Contractor Default.** Occurrence of a Contractor default which is not cured within the time frame specified in Section 11.02(c).
- (2) **Criminal Activity of Contractor.** Contractor, its officers, directors, or management or fiscal employees is convicted of a felony as described in Section 11.08.

Authority must give Contractor Notice of termination. Such Notice shall be effective thirty (30) calendar days thereafter; provided that such Notice shall be effective immediately if the public health or welfare is threatened.

c. Termination for Convenience. Authority may terminate this Agreement for convenience at any time provided that the effective date of termination occurs no earlier

than the fifth (5th) anniversary of the Operations Date and prior to the expiration of the Base Term. Authority must provide Notice to Contractor at least one (1) year prior to effective date of such termination.

12.02 Contractor's Responsibilities and Obligations Upon Termination or Contract Expiration.

a. Outstanding Damages. Contractor shall pay Authority any compensatory damages or liquidated damages, in accordance with Sections 11.01 and 11.02, accrued and payable during the then current calendar year or portion thereof which would have otherwise become payable. Contractor's liability for such payments shall survive the termination of this Agreement.

b. Outstanding Fees. Contractor shall pay Authority any Facility Tipping Fees and other fees paid by Approved Users and collected by Contractor which are due to the Authority.

c. Outstanding Pass-Through Costs and Taxes. Contractor shall pay all Pass-Through Costs and taxes due to appropriate parties including, but not limited to, State, county, and local agencies.

d. Records. Upon Authority request, Contractor shall promptly provide Authority with any or all records kept in accordance with Article 6. Contractor's obligation to provide such records shall survive the termination of this Agreement.

ARTICLE 13 - DISPUTE RESOLUTION

13.01 Dispute Resolution Procedures. Except in the case of Contractor default under Section 11.02 and the Suspension/Termination provisions of Article 12, in the event that any dispute arises between the Parties concerning the interpretation, enforcement or any other matter related to or in connection with this Agreement, the Parties shall comply with the procedures in this Article in an attempt to resolve such dispute and shall exert Reasonable Business Efforts to comply with their respective Obligations pending resolution.

13.02 Meet and Confer. The dispute resolution procedure may be initiated by either Party upon providing Notice to the other specifying the matter in dispute. Upon receipt of such Notice, both Parties shall within five (5) Working Days of receipt of such Notice, meet and confer in good faith to resolve such dispute. Each Party shall, in good faith and in writing, promptly provide to the other Party any and all information and documentation reasonably related to the dispute requested by the other Party. If the Parties are unable to satisfactorily resolve the dispute within thirty (30) calendar days then Authority and Contractor shall proceed to mediation in accordance with this Article.

13.03 Continue Performance. Except for an event of Contractor default, in the event of any dispute arising under this Agreement, Authority and Contractor shall continue performance of their respective Obligations under this Agreement while they attempt to resolve such dispute under this Article.

13.04 Mandatory Non-binding Mediation. If meetings between the Parties under Section 13.02 do not resolve the dispute, the Parties agree to attempt to settle the dispute in an amicable manner, using mandatory mediation through Judicial Arbitration and Mediation Services (JAMS) or any other neutral organization agreed to by the Parties. To initiate mediation, the initiating Party shall send Notice of its request for mediation to the opposing Party. Mediation is mandatory before either Party may initiate litigation or have recourse in a court of law.

13.05 Mediation Costs. The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All other expenses of the mediation, including required travel and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the Parties, unless they agree otherwise.

13.06 Selection of Mediator. A single mediator that is acceptable to both Parties shall be used to mediate the dispute. The mediator may be selected from lists furnished by JAMS or any other agreed upon mediator. The Parties shall endeavor to agree on a mediator within 10 Working Days, unless a longer period is mutually agreed to in writing by Contractor and Authority. If the parties cannot agree on a mediator, JAMS or other neutral organization shall select the mediator.

13.07 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, or admissions will be confidential to the proceedings and will be subject to Evidence Code Section 1152. The Parties may agree to exchange any information they deem necessary. Both Parties shall have a

representative attend the mediation who is authorized to settle the dispute, though Authority's recommendation of settlement may be subject to the approval of its Board of Directors. Either Party may have attorney(s), witnesses, or expert(s) present. Either Party may request a list of witnesses and notification whether attorney(s) will be present.

13.08 Mediation Results. Any resultant agreements from mediation shall be documented in writing. Mediation results and documentation, by themselves, shall be "non-binding" and inadmissible for any purpose in any legal proceeding, unless such admission into evidence is otherwise agreed to in writing by both Parties. Mediators shall not be subject to any subpoena or liability, and their files and actions shall not be subject to discovery.

ARTICLE 14 - ASSIGNMENT

14.01 Definition. For purposes of this Article, "assignment" shall include, but not be limited to (i) a sale, exchange or other transfer to a third party of substantially all of Contractor's assets used to perform Contractor's Obligations under this Agreement; (ii) a sale, exchange or other transfer of fifty percent (50%) or more of the outstanding common stock of Contractor; (iii) 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 fifty percent (50%) or more of the value or voting rights in the stock of Contractor; and (iv) 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. Change in Ownership of Contractor's assets or stocks which occur for interfamilial planning purposes only and do not involve a change in the management of the Facility shall not be considered an assignment for the purposes of Article 14.

14.02 Authority Assignment. Authority may assign its rights and responsibilities under this Agreement to any other governmental entity or agency as long as any such proposed assignee under this Section shall (i) have the legal authority and financial capacity sufficient to assume and perform all of Authority's Obligations, and (ii) agree in writing to do so.

14.03 Contractor Assignment.

a. Limitations. Contractor acknowledges that this Agreement involves rendering a vital service to the Member Agencies' residents and businesses, and that Authority has relied upon the Contractor's representation of its experience and financial resources in

qualifying Contractor to perform the services under this Agreement. Except as provided in this Article, Contractor shall not assign its rights or delegate, subcontract, or otherwise transfer its Obligations hereunder to any other Person without the prior written consent of Authority. Any such assignment made without the written consent of Authority shall be void. Under no circumstances shall Authority be required to consider any proposed assignment if Contractor is in default at any time during the period of consideration.

b. Determination. Contractor shall submit its request for Authority's consent to the Authority together with documentation and information concerning the financial capability and solid waste management experience of the proposed assignee. Any such proposed assignee under this Section shall have the legal authority to assume and perform all of Contractor's Obligations, and shall agree in writing to do so. In making its determination whether to consent to the assignment, Authority may require and consider, and Contractor shall provide if requested by Authority, information such as the following:

- (1) Audited financial statement of the proposed assignee for the immediately preceding five (5) operating years, indicating that the proposed assignee's financial status is sufficient to perform all of Contractor's Obligations.
- (2) Satisfactory proof that the proposed assignee has at least ten (10) years of municipal solid waste materials Recovery and Transport experience on a scale equal to or exceeding the scale of Operations conducted at the Facility.
- (3) Satisfactory proof that in the last five (5) years, the proposed assignee has not suffered any citation or other censure from any Federal, State or local agency having jurisdiction over its waste management operations due to any Significant failure to comply with State, Federal or local waste management law, which citation or censure has not been timely cured to the satisfaction of such agency, or is not now in the process of a cure; and if it has suffered any citation or other censure, that the assignee has provided Authority with a complete list thereof.
- (4) Evidence the proposed assignee conducts its operations in accordance with Standard Industry Practices and in full compliance with all Federal, State and local laws regulating the materials Recovery, Transport and Disposal of Municipal Solid Waste including Hazardous Waste and Household Hazardous Waste.
- (5) Documented letters of available credit, lines of credit, or other financial assurances confirming the assignee's financial ability to perform the Obligations in this Agreement and if in the opinion of Authority that the assignee's or its guarantor's financial ability does not meet that standard, then Authority may

reasonably increase the amount of the performance bond as a requirement of assignment.

(6) Any other information reasonably required by Authority to ensure the proposed assignee can fulfill the terms hereof, including the payment of damages, in a timely, safe and effective manner.

c. Application and Transfer Fee. Any application for an assignment of this Agreement shall be governed by the following conditions:

(1) Any application for an assignment shall be made in a manner prescribed by the Executive Director. The application shall include a transfer fee in the amount of fifty thousand dollars (\$50,000) to cover the cost of all direct and indirect administrative expenses including consultants and attorneys, necessary to adequately analyze the application and to reimburse Authority for all direct and indirect expenses. Authority shall refund any amounts deposited that exceed such expenses actually incurred by Authority.

(2) Contractor shall reimburse Authority for any and all additional costs related to the assignment requested that exceed the transfer fee, including attorney's fees and investigation costs related to investigation of the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment. Bills shall be supported with evidence of the expense or cost incurred. Contractor shall be responsible for ensuring the payment of such bills within thirty (30) calendar days of receipt.

d. Transition. If Authority consents to an assignment, at the point of transition Contractor shall cooperate with Authority and the assignee and its subcontractor(s) to assist in an orderly transition which shall include Contractor providing all Operating information requested by the assignee including scale house records, vehicle tare weights, and billing information.

ARTICLE 15 - ADDITIONAL OR DELETED WORK

15.01 General. For purposes of this Article, the term, "additional work" means work that is in addition to that required of Contractor under Articles 6 and 7 but does not include any work required to comply with any Changes in Law, statutes, rules, regulations, ordinances, permits, permit conditions, or regulatory provisions. Nothing in this Article is intended to negate or lessen any other precondition or procedure for payment or reimbursement as otherwise provided in Article 8.

15.02 Additional Work. Authority shall submit to Contractor a written request to perform any work or services that exceed Contractor's obligations under this Agreement. Within twenty-one

(21) calendar days of that request, Contractor shall submit to Authority an itemized proposal stating (a) Contractor's cost proposal for performing the additional work; (b) a schedule for performing the additional work; and (c) the impact the performance of that additional work or services will have on Contractor's performance under this Agreement. Contractor's proposal shall be based upon the least costly method for performing the additional work or services that complies with Applicable Law and Standard Industry Practices.

Upon receipt of Contractor's proposal, Authority shall have the right to order Contractor to perform the additional work and the Contractor shall comply with that order. If Authority and Contractor disagree with some or all of Contractor's proposal, the Parties will address the dispute in accordance with Article 13. Contractor shall perform the additional work and track its costs while the dispute is resolved, and Authority shall pay Contractor for the undisputed costs of such work.

15.03 Deleted Work. Authority may submit to Contractor a written request to delete one or more of Contractor's obligations under this Agreement. Within twenty-one (21) calendar days of receipt of that request, Contractor shall submit an itemized proposal stating (a) the Contractor's cost savings for deleting such work; (b) a schedule for implementing the deletion of such work; and (c) the impact that deletion of such work would have upon Contractor's performance under this Agreement. Upon receipt of Contractor's proposal, Authority may order Contractor to delete the relevant work in accordance with Contractor's proposal. If Authority and Contractor disagree with some or all of Contractor's proposal, the Parties will address the dispute in accordance with Article 13.

ARTICLE 16 - OTHER PROVISIONS

16.01 Notices. All demands, orders, requests, proposals, comments, acknowledgments, approvals, consents, certifications and other communications made hereunder shall be in writing and shall either be personally delivered to a representative of the Parties at the address below or be deposited in the United States mail, first class postage prepaid (certified mail, return receipt requested), addressed as follows:

If to Authority:

Executive Director
Napa-Vallejo Waste Management Authority
1195 Third Street, Room B-10
Napa, CA 94559
707-299-1314

If to Contractor:

Greg Kelley, Managing Member

Northern Recycling Operations & Waste Services, LLC
P.O Box 239,
Napa Ca 94559
707-287-1961

The address to which communications may be delivered may be changed from time to time by providing Notice in accordance with this Section. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

16.02 Authorized Representatives.

a. Authority. For purposes of this Agreement, Authority's authorized representative is the Executive Director, who shall have the authority to make Operational decisions and financial decisions, in an amount not to exceed \$50,000 in accordance with Applicable Law and Authority policy with respect to this Agreement which are binding on Authority.

b. Contractor. For purposes of this Agreement, Contractor's authorized representative shall be Greg Kelley, who shall have the authority to make decisions in accordance with Applicable Law and Contractor's articles of incorporation, bylaws and policy.

16.03 Contract Interpretation. This Agreement shall be deemed to be made under, and shall be construed in accordance with and governed by, the laws of the State of California without regard to the conflicts or choice of law provisions thereof. It is the intent of this Agreement to completely describe the goods and services to be provided. Any work, materials, or equipment that may reasonably be inferred from this Agreement or from prevailing custom or trade usage as being required to produce the intended result shall be supplied whether or not specifically called for or identified in this Agreement. When words or phrases which have a well-known technical or industry or trade meaning are used to describe work, materials, equipment, goods, or services such words or phrases shall be interpreted in accordance with that meaning unless a definition has been provided in this Agreement. In resolving conflicts resulting from discrepancies between this Agreement, the Exhibits, and Contractor's Proposal, the order of precedence shall be in descending order as set forth below (the first listed document having the highest precedence). Provisions within this Agreement or among the documents listed below addressing the same subject which are consistent but have different degrees of specificity shall not be considered to be in conflict, and the more specific language shall control. Order of Precedence:

- a. This Agreement.
- b. The Exhibits to this Agreement.
- c. Contractor's Proposal.

16.04 Independent Contractors. Contractor and its subcontractors, if any, are independent contractors and not agents of Authority. Any provisions of this Agreement that may appear to

give Authority any right to direct Contractor concerning the details of performing Contractor's Obligations, or to exercise any control over such performance, shall mean only that Contractor shall follow the direction of Authority concerning the end results of the performance.

16.05 Drafting Ambiguities. The Parties acknowledge that they have the right to be advised by legal counsel with respect to the negotiations, terms, and conditions of this Agreement, and the decision of whether to seek advice of legal counsel with respect to this Agreement is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

16.06 Third Party Beneficiaries. Unless expressly set forth in this Agreement, none of the provisions of this Agreement are intended to benefit any third party other than the Member Agencies. No person other than Authority and Contractor shall have the right to enforce any of the provisions of this Agreement.

16.07 Access to Records/Retention. Contractor shall provide Authority with access to Contractor's records which are reasonably necessary for Authority to review or audit Contractor's compliance with the provisions of this Agreement. Contractor shall provide such access within 21 calendar days after Notice by Authority, either by providing copies of the requested records to Authority or allowing Authority to inspect and photocopy the records at Contractor's place of business where the records are kept. Contractor shall maintain all records related to this Agreement for at least four years after expiration or termination of this Agreement.

16.08 Amendments. The Parties may change, modify, supplement, or amend this Agreement only upon mutual written agreement duly authorized and executed by both Parties.

16.09 Venue. This Agreement is made and entered into in Napa County, California. Venue for any legal action in state court filed by either party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa. Venue for any legal action in federal court filed by either Party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Northern District of California.

16.10 Attorneys Fees. In the event that either party commences legal action of any kind or character to either enforce the provisions of this Agreement or to obtain damages for breach thereof, the prevailing party in such litigation shall be entitled to all costs and reasonable attorney's fees incurred in connection with such action. This Section does not apply to attorney's fees or costs incurred during dispute resolution under Article 13.

16.11 Severability. Should any provision of this Agreement be held invalid or illegal by a court of competent jurisdiction, such invalidity or illegality shall not invalidate the whole of this Agreement, but rather the Agreement shall be construed as if it did not contain the invalid or illegal provision, and the rights and obligations of the Parties shall be construed and enforced

accordingly, except to the extent that enforcement of this Agreement without the invalidated provision would materially and adversely impact either or both Parties' consideration for entering into this Agreement.

16.12 Exhibits Incorporated. All Exhibits referenced in this Agreement are hereby incorporated into the Agreement by this reference.

16.13 Entirety of Contract. This Agreement, including any documents expressly incorporated by reference whether or not attached hereto, constitutes the entire agreement between the Parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings, and negotiations, whether written or oral, among the Parties with respect to the subject matter hereof.

16.14 Counterparts. This Agreement may be executed in counterparts, which when taken together, shall constitute a single signed original as though all parties had executed the same page.

IN WITNESS WHEREOF, this Agreement is executed by the Authority, by and through the Chair of its Board of Directors, and by Contractor through its duly authorized officer(s).

NORTHERN RECYCLING OPERATIONS &
WASTE SERVICES, LLC

By: 
GREG KELLEY, Managing Member

NAPA-VALLEJO WASTE MANAGEMENT
AUTHORITY, a joint powers agency

By: _____
MARY LUROS, NVWMA Chair

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Thomas C. Zeleny</u> Authority Counsel</p> <p>Date: <u>November 3, 2025</u> PL Doc. No. 135610</p>	<p>APPROVED BY THE AUTHORITY BOARD OF DIRECTORS</p> <p>Date: _____ Processed By: _____ Secretary of the Authority</p>	<p>ATTEST: MARIE NICHOLAS Secretary of the Authority</p> <p>By: _____</p>
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EXHIBIT 1
Service Fee Calculation
Diversion Incentive Payment
Diversion Shortfall Payment
Diversion Rebate Payment

The Service Fee, Diversion Incentive Payment Diversion Shortfall Payment and Diversion Rebate Payment are presented in this Exhibit 1.

The Service Fee is comprised of: 1) Base Component; 2) Per-Ton Component, 3) Transport Component and 4) Pass-Through Component. All Service Fee components contained in this Exhibit 1 shall be adjusted periodically in accordance with Section 8.03 of the Agreement.

Service Fee (Section 8.02(a)):

1). Base Component (up to Base Tonnage):

Year 1 (2026)	\$605,432 per month
Year 2 (2027)	\$711,270 per month
Year 3 and each Year Thereafter	Prior Year's monthly rate adjusted for CPI

2). Per Ton Component (over Base Tonnage):

Year 1 (2026)	\$22.33 Per Ton over 290,000 Tons (Base Tonnage)
Year 2 (2027)	\$24.27 Per Ton over 290,000 Tons (Base Tonnage)
Year 3 and each Year Thereafter	Prior Year's per ton rate over 290,000 Tons adjusted for CPI

3). Transport Component

Base Haul Rate – The Base Haul Rate shall be \$12.92 per ton (as adjusted by CPI published for October 2025) for Year 1 (2026) and shall be adjusted annually pursuant to Section 8.03(b) except in years when the Base Haul Rate is competitively bid pursuant to Exhibit 10, which will establish a new Base Haul Rate.

Fuel Surcharge – The Fuel Surcharge shall be calculated as described in Exhibit 10. The Base Haul Rate shall be increased by a percentage equal to the Fuel Surcharge.

4). Pass Through Component

The Pass-Through Component is adjusted annually pursuant to Section 8.03(c) of the Agreement.

Diversion Incentive Payment Section (8.02(b)):

Year 1 (2026)	\$15 Per Ton of Accepted C&D Loads over 120,000 Tons.
Year 2 (2027)	\$20 Per Ton of Accepted C&D Loads over 125,000 Tons.
Year 3 and each Year Thereafter	Prior Year's Per Ton rate of Accepted C&D Loads over 125,000 Tons adjusted for CPI

Diversion Shortfall Payment and Diversion Rebate Payment (Section 8.02(c) and (d)) (Neither is imposed until one year after the C&D Operations Date)

Diversion Guaranty (calculated by dividing the number of tons of C&D Waste Diverted at the C&D Facility (outbound tons) by the total number of tons of Accepted C&D Loads (inbound tons)):

- 75% including ADC
- 40% excluding ADC

Diversion Shortfall Payment equals:

- \$5,000 per percent (100 basis points) below 75% C&D diversion.
- \$2,000 per percent (100 basis points) below 40% excluding ADC diversion

Diversion Rebate Payment equals:

- \$2,000 per percent (100 basis points) over 75% C&D diversion.
- \$5,000 per percent (100 basis points) over 40% excluding ADC diversion

Contractor compensation for extended Facility Receiving Hours* \$1,505 per hour
Amount regarded as Significant * \$ 20,000

*Adjusted annually by CPI

EXHIBIT 2
INSURANCE REQUIREMENTS

1. Workers Compensation Insurance. To the extent required by law during the term of this Agreement, Contractor shall provide workers compensation insurance for the performance of any of Contractor's duties under this Agreement as required by the State of California with statutory limits, and employer's liability insurance with a limit of no less than TWO MILLION DOLLARS (\$2,000,000) per accident for bodily injury or disease, all with a waiver of subrogation. Contractor shall provide Authority with certification of all such coverages upon request by Authority's Risk Manager.

2. Liability Insurance. Contractor shall obtain and maintain in full force and effect during the term of this Agreement the following occurrence-based liability insurance coverages, issued by a company admitted to conduct business in California and having an A.M. Best rating of A:VII or better, or equivalent self-insurance:

2.1. General Liability. Commercial general liability (CGL) insurance coverage (personal injury and property damage) of not less than TEN MILLION DOLLARS (\$10,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of Contractor or any officer, agent, or employee of Contractor under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall apply separately to this Agreement or shall be no less than twice the per occurrence limit.

2.2. Reserved.

2.3. Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with Contractor's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. Coverage shall be business auto insurance coverage using Insurance Services Office (ISO) form number CA 0001 06 92 including symbol 1 (any Auto) or the exact equivalent. If Contractor owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the General Liability Insurance described in paragraph C.2.1, above. If Contractor or Contractor's employees, officers, or agents will use personal automobiles in any way in the performance of this Agreement, Contractor shall provide evidence of personal auto liability coverage for each such person upon request.

2.4 Pollution and/or Environmental Impairment Liability. Not less than THREE MILLION DOLLARS (\$3,000,000) each occurrence / TEN MILLION DOLLARS (\$10,000,000) policy aggregate 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 Authority, automatically broaden in its form of coverage to include legislated changes in the definition of waste materials and/or irritants, contaminants or pollutants. The policy shall stipulate this insurance is primary and no other insurance carried by the Authority will be called upon to contribute to a loss suffered by the Contractor hereunder and waive subrogation against the Authority and other additional insureds.

3. Certificates of Coverage. All insurance coverages referenced in paragraph 2 above shall be evidenced by one or more certificates of coverage or, with the consent of Authority's Risk Manager, demonstrated by other evidence of coverage acceptable to Authority's Risk Manager, which shall be filed by Contractor with Authority prior to the Operations Date.

3.1. Notice of Cancellation. The certificate(s) or other evidence of coverage shall reference this Agreement by its Authority contract number or title; shall be kept current during the Term of this Agreement; shall provide that Authority shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium.

3.2. Multiple Insureds. The certificate(s) shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.

3.3. Waiver of Subrogation and Additional Insured Endorsements. For the commercial general liability insurance coverage referenced in subparagraph 2.1, for the comprehensive automobile liability insurance coverage referenced in subparagraph 2.3 where the vehicles are covered by a commercial policy rather than a personal policy, and for the pollution and environmental impairment liability insurance coverage in subparagraph 2.4, Contractor shall also file with the evidence of coverage an endorsement from the insurance providers naming Authority, its Member Agencies, and their respective elected officials, officers, agents and employees, as additional insureds and waiving subrogation against them. For the Workers Compensation insurance coverage, Contractor shall file an endorsement waiving subrogation with the evidence of coverage as to Authority, its Member Agencies, and their respective elected officials, officers, agents and employees.

3.4. Additional Requirements. The certificate or other evidence of coverage shall provide that if the same policy applies to activities of Contractor not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of Authority shall pertain only to liability for activities of Contractor under this Agreement, and that the insurance provided is primary coverage to Authority and

Member Agencies with respect to any insurance or self-insurance programs maintained by them. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94. The automobile liability insurance coverage shall be endorsed to delete the Pollution and/or the Asbestos exclusion and add the Motor Carrier Act endorsement (MCS-90), TL 1005, TL 1007 and/or other endorsements required by federal or state authorities.

4. Copies of Policies. Upon request by Authority's Risk Manager, Contractor shall provide or arrange for the insurer to provide within thirty (30) days of the request, certified copies of the actual insurance policies or relevant portions thereof.

5. Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by Authority's Risk Manager, which approval shall not be denied unless the Authority's Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and the risks of liability associated with the activities required of Contractor by this Agreement. At the option of and upon request by Authority's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects Authority, its Member Agencies, and their respective elected officials, officers, agents and employees, or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**EXHIBIT 3
PERMITS AND APPROVALS**

Contractor is solely responsible for securing all Permits required for Facility Operations, including, but are not limited to, the following:

Permit or Regulatory Review	Reviewing Agency
Federal	
Hazardous Materials Registration	United States Department of Transportation
State and Regional	
Solid Waste Facility Permit including CIWMB/CoSWMP conformance and Report of Station Information	California Integrated Waste Management Board (CIWMB) and Napa County Environmental Health Department (Local Enforced Agency)
NPDES General Permit to Discharge Stormwater Runoff Associated with Industrial Activity (General Permit)	State/Regional Water Quality Control Board
Title 22 Activities: Generator Status	State Department of Toxic Substance Control (DTSC)
Local	
Uniform Fire Code Compliance	California Department of Forestry/Napa County fire department or other local fire department.

EXHIBIT 4 FACILITY REQUIREMENTS

The Facility Requirements detailed in this Exhibit have been copied from the Authority's Transfer/ Processing Report (TPR) or Report of Facility Information (RFI) pursuant to Title 14, California Code of Regulations (CCR), Section 18221.6. For further details not included in this Exhibit, please refer to the complete TPR.

The Devlin Road Transfer Station (DRTS or Facility) is located in unincorporated areas of Napa County, at 889 Devlin Road, which is on the west side of State Route 29, south of Tower Road and adjacent to the City of Napa Materials Diversion Facility (MDF). This address is located in the USGS Cuttings Wharf Quad, 7.5 minute series, Township 4N, Range 4W, Sections 11 and 12. Primary access to the Facility is from Devlin Road, via South Kelly Road or Tower Road. The Facility is located on an approximately 35-acre parcel of land wholly owned by the Authority. The legal boundary description for the property is contained in Assessor's Parcel Number 57-090-60.

The Facility and the surrounding area are planned for Industrial and Business Park uses. It includes:

Scalehouse. The scalehouse is where Contractor personnel visually inspect, weigh, and collect the fees for each incoming load and direct all of the traffic to the appropriate area of the transfer station building (self-haul or commercial trucks). This area includes the 12-foot by 24-foot scalehouse (handicap-accessible), equipped with sanitary facilities, and two scales (incoming and outgoing) with 100,000 pound capacities. There are also scale bypass lanes for traffic that does not need to be weighed. Sliding windows on two sides of the scalehouse allow easy communication with vehicle drivers.

Transfer Station Office. The approximately 2,600 square foot office building is located north of the scalehouse. All operations are managed from this office and all records are stored here. The office is designed to provide basic office functions and provide Contractor employees with a place to change and store clothes, to eat and relax. The building includes an office area, a general-purpose room with small kitchen, restrooms, locker rooms, and storage space. Mechanical and electrical rooms are in this building. Parking spaces (including handicap) for employees and visitors are located adjacent to the office building.

Permanent Household Hazardous Waste Collection Facility. A 3,500 square foot household hazardous waste collection Facility is located west of the transfer station office. The Facility opened in March of 1998 and operates under a permit from the Department of Toxic Substances Control. The Facility accepts household hazardous waste from the public, and conditionally exempts small quantity generators two days per week. Materials collected by RDC during their load check activities are delivered to the Facility for processing. The Authority has contracted with PSC Environmental Services for operation of the Facility.

Reuse, Drop-off, Buy-Back Recycling Center. The reuse and recycling center provides the public with a location to drop off recyclable materials, such as aluminum cans, glass, cardboard, newspaper, scrap metal and used oil, and to drop-off or purchase reusable materials such as furniture, or exercise equipment. The reuse and recycling center is located near the Facility entrance, on the west side of the access road. It consists of a 24,000 square foot asphalt pad, small office, metal storage building, roll-off bins for recyclables, and 1,000 gallon used oil collection tank.

Transfer Station Building. The transfer station building is a prefabricated, pre-engineered metal building that houses the primary activities. The self-haul and commercial stalls, tipping floor, and transfer trailer areas are all located in this 180 foot by 210-foot building. Reinforced concrete wainscot bearing walls are placed beneath the metal building sidewalls and around the steel columns to protect the metal from damage. Commercial and self-haul vehicles enter the building on the eastern side. Commercial traffic exits the building on the north side while self-haul traffic exits the building on the south side. All of these entrances and exit doors are automated overhead roll-up doors to allow the bays to be closed when necessary. The waste is removed through two slots in the floor and one slot in the wall along the west side of the building to containers at lower levels.

Right-of-Way. The only on-site right of way is for Devlin Road. Rights-of-way within 1,000 feet of the FACILITY include Caltrans (at Highway 29), Southern Pacific (railroad tracks on the western side of the site) Levitin Road (north of the site) and Devlin Road (north and on-site).

Mixed Construction and Demolition Debris (C&D) Operation. The C&D operation consists of an existing pad with no buildings and no large fixed equipment. It includes mobile equipment for processing and separation. The mixed C&D operation includes a concrete ramp for access to the Transfer Station Building. A new access road to the south of the Transfer Station Building located on the current permitted property boundary allows access to the operations. Authority will construct a new Construction & Demolition building, Project No. 17810, of approximately 130,000 square feet to move the C&D operations indoors. Contractor will provide its own equipment for sorting and recycling the material. Upon completion of the new building, the outdoor area currently used for C&D operation will be repurposed.

The maximum-engineered capacity of the DTRS is 1,440 TPD of incoming material for a single shift. The Facility is designed to handle twice the maximum daily average (720 TPD) load without impeding activities.

Vehicles entering the Facility must first approach the scalehouse. The scalehouse is located at the south end of the Facility, approximately 425 feet from Devlin Road. Upon entering the scale, the weight of the incoming vehicle is recorded. An electronic/computerized system is used to record material entering and leaving the Facility. The driver is asked where the material came from (i.e. City, County, other) and truck number in order to verify established tare weights. (**NOTE:** Most vehicles coming to the Facility are on a billing arrangement, and in such cases, the

scalehouse attendant simply enters in the truck number and a billing code as the truck is approaching the scale.) Loads determined to contain at least 50% mixed C&D materials are directed to the C&D operation to divert approximately 25 to 50 TPD.

The public tipping area is protected by an increased elevation difference of approximately 4 feet, railing and, safety gates. The commercial tipping area is located adjacent to the self-haul tipping area and does not have permanent safety barriers similar to the self-haul tipping area above. The upper self-haul tipping area includes permanent markings for 12 vehicle stalls and the commercial area will accommodate 6-12 temporary weekend stalls. The self-haul stalls located in the commercial tipping area are constructed as a temporary design to accommodate peak weekend self-haul vehicles. The temporary design is constructed by moveable posts with chains or large traffic cones. In utilizing this design the stalls can be constructed to allow for large or small vehicles from 6 to 12 stalls safely allowing for up to 24 stalls. Queuing of the vehicles on both tipping floors is assisted by a floor attendant.

The weight of outbound vehicles for which a tare weight has not been established is recorded after the load has been emptied, in order to determine the actual weight of the waste material. If the customer has pre-arranged billing, the information is used for billing. If the customer does not have a billing arrangement, then a cash payment will be required at that time.

Weights of trucks carrying material for disposal at the Designated Disposal Facility will be taken by the compactor scales. The actual weight used to bill the disposal costs will be taken at the landfill and recorded through the electronic scale and recording equipment at that Facility; this information will be reported to the Authority.

The reuse and recycling center is outside the transfer station building. This is a separate area, which can be used independently of the transfer station building. A variety of clearly marked containers are available for use. See the materials handling section for further discussion. Two tanks (one for antifreeze, and another for motor oil, one drum (for oil filters) and three hazardous waste storage bins (one for latex paint, one for batteries and one for hazardous waste found during load checking) are situated against the walls for public drop-off of the materials in the self-haul portion of the transfer station building.

A small amount of salvaging will be done at the Facility. Since weekly commingled recyclables collection occurs throughout the Authority's service area for materials such as commingled glass, aluminum cans, tin cans, recyclable plastic bottles (#1 and #2), bundled newspapers, cardboard, and yard waste already is provided, no large scale resource recovery occurs at the transfer station building. The Napa Materials Diversion Facility, north of the Facility, processes all of these source-separated recyclables and compostables for Napa City, American Canyon City, and Napa County Solid Waste Zone 1. Only obvious materials such as, white goods, a load of 90% office paper, etc., will be salvaged once delivered to the transfer station building. These materials will be segregated and temporarily stored at the perimeter of the tipping floor until they can be transported to the Reuse and Recycling Center. Future self-separation of recyclable or compostable materials may be attempted on a trial basis to assist the Authority's member

jurisdictions with their mandated landfill diversion goals. Pilot programs for such activities in the transfer station building will be proposed separately for approval by the LEA.

The design of the Facility allows for the queuing of traffic on the on-site road. Waiting traffic does not extend onto Devlin Road. All incoming disposal traffic is routed through the scalehouse. Traffic for the reuse and recycling center and household hazardous waste collection Facility do not pass by the scalehouse. Traffic for the mixed C&D operation will pass through the scalehouse and be routed around behind the transfer station building to unload their material. The C&D operation only diverts existing traffic from the Transfer Station Building to the C&D operation for processing. No increase in traffic at the Facility occurs from the C&D operation.

EXHIBIT 5
CALIFORNIA PREVAILING WAGE REQUIREMENTS

Pursuant to California Labor Code sections 1720 and 1771, construction, alteration, demolition, installation, repair and maintenance work performed under this Agreement is “public works” subject to State prevailing wage laws. State prevailing wage laws require certain provisions be included in all contracts for public works. Contractor and any subcontractors shall comply with State prevailing wage laws including but not limited to the requirements listed below.

D.1 Payment of Prevailing Wages. Contractor and all subcontractors shall ensure that all workers who perform work under this Agreement are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including but not limited to inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the post-construction phases of construction, including but not limited to all cleanup work at the jobsite.

D.1.1 Copies of such prevailing rate of per diem wages are on file at the Napa County Public Works Department and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Contractor and all subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

D.1.2 The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Agreement. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Agreement in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Agreement, each successive predetermined wage rate shall apply to this Agreement on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Agreement, such wage rate shall apply to the balance of the Agreement.

D.2 Penalties for Violations. Contractor and all subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This is in addition to any other applicable penalties allowed under the California Labor Code.

D.3 Payroll Records. Contractor shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require all subcontractors to also comply with section 1776 to the extent they are performing public works. Contractor and all subcontractors shall furnish records specified in section 1776 on a monthly basis directly to the Labor Commissioner in the manner required by California Labor Code section 1771.4. Contractor and all subcontractors shall also furnish the records to County at County's request. Contractor shall ensure its subconsultants and subcontractors prepare and submit payroll records to the DIR and County as required by this paragraph.

D.3.1 If Contractor and any subcontractors are exempt from the DIR registration requirement pursuant to paragraph D.9.3 below, then Contractor and any subcontractors are not required to furnish payroll records directly to the Labor Commissioner but shall retain the records for at least three years after completion of the work, pursuant to California Labor Code section 1771.4(a)(4).

D.3.2 County may require Contractor and its subcontractors to prepare and submit records specified in section 1776 to County and the Labor Commissioner on a weekly basis, at no additional cost to County.

D.4 Apprentices. Contractor and all subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices on public works projects. Contractor is responsible for compliance for all apprenticeable occupations pursuant to California Labor Code section 1777.5(n), and could be penalized for violations of its subcontractors pursuant to California Labor Code section 1777.7.

D.5 Working Hours. Contractor and all subcontractors shall comply with California Labor Code sections 1810 through 1815. Contractor and all subcontractors shall restrict the time of service of any worker on a public works project to eight hours during any one calendar day and forty hours during any one calendar week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay. Violations are subject to penalties of \$25 per worker per day pursuant to California Labor Code section 1813.

D.6 Required Provisions for Subcontracts. Contractor shall include, at a minimum, a copy of the following provisions in any contract they enter into with a subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1813, and 1815.

D.7 Labor Code Section 1861 Certification. In accordance with California Labor Code section 3700, Contractor is required to secure the payment of compensation of its employees. By signing the Agreement to which this is an exhibit, Contractor certifies that:

“I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and

I will comply with such provisions before commencing the performance of the work of this contract.”

D.8 Compliance Monitoring and Enforcement. This project is subject to compliance monitoring and enforcement by the DIR. County must withhold contract payments from Contractor as directed by the DIR, pursuant to California Labor Code section 1727.

D.9 Registration Requirements. Contractor and any subcontractors shall not engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5.

D.9.1 By signing the Agreement to which this is an Exhibit, Contractor is certifying that it has verified that all subcontractors used on this project are registered with the DIR in compliance with California Labor Code sections 1771.1 and 1725.5.

D.9.2 County may ask Contractor for the most current list of subcontractors (regardless of tier), along with their DIR registration numbers, utilized on this project at any time during performance of this Agreement, and Contractor shall provide the list within ten (10) working days of County’s request.

D.9.3 The registration requirement does not apply on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work, or on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work, pursuant to California Labor Code sections 1725.5(f) and 1771.1(n).

D.10 Stop Order. Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of California Labor Code sections 1725.5 or 1771.1, the Labor Commissioner must issue and serve a stop order prohibiting the use of the unregistered contractor or subcontractor on all public works until the unregistered contractor or subcontractor is registered. Failure to observe a stop order is a misdemeanor.

EXHIBIT 6
LOAD CHECKING AND TARPING POLICY

LOAD CHECKING PROGRAM

I. Random Selection of Vehicles

- A. Select a minimum of two (2) vehicles per day.
- B. Select them at different times during the day (Randomize selections each day for example, Monday at 1:00 pm and Tuesday at 9:00 am)
- C. Select an equal share of roll-offs, dump trailers and self-haul customers
- D. Record date and time of selection of load checking form.

II. Dumping Procedures

- A. Dump selected trucks apart from the other haulers in clean area of the station.
- B. Dumping area must be separated from the other site operations by traffic cones.
- C. Self-Haul customers can be inspected at the Self-Haul upper area stalls.

III. Sorting Procedure

- A. Each load will be visually inspected by a trained spotter.
- B. Loads will be spread out and items such as drums, 5-gallon containers, waste with DOT or other descriptive labels, sludges and liquids, soils and rags, to determine whether the item is hazardous.
- C. All containers large enough to contain other objects must be opened.

IV. Handling Suspected Hazardous Waste

- A. If hazardous waste is found:
 1. If the transporter is still on the premises:
Contain materials and obtain a driver's license number, vehicle license number, vehicle identification number, and bin number if roll-off.
Notify: Napa County Department of Environmental Management.
 2. If transporter is identified, but has already left the facility:
 - a. Transporters' company should be contacted and notified of findings.
 - b. Transport trucks from that company may be subject to regular inspection.
 3. If transporter is not identified:
The Contractor is liable for disposal (becomes the generator).
- B. Procedure for Handling Hazardous Waste
 1. Any type of hazardous waste situation should be handled by the Napa County Hazardous Response Team, consisting of one or more employees trained in the handling of hazardous waste. Personal Protective Equipment

must be worn for hazardous waste clean ups. Any acutely hazardous waste should be isolated and handled as an emergency.

2. If emergency, such as spills, fires or explosions, immediately call:
 - a. 911
 - b. : (name)
 - c. Office of Emergency Services at _____.
 - d. The Napa County Department of Environmental Management at _____
3. For non-emergencies
 - a. If waste can be easily moved to storage area, temporarily set aside identifiable material according to the following categories:
 - flammable and combustible
 - oxidizers
 - poisons
 - poisons containing heavy metals
 - corrosives (acids)
 - corrosives (bases)
 - b. If waste is not easily moved:
 1. Barricade and isolate area with rope or cones, so it will not interfere with transfer operations. Supervisor will determine severity of spill.
 2. For non-emergencies the Napa County Hazardous Response team will wear appropriate Personal Protective Equipment and will clean up and move the hazardous waste.
 3. If the supervisor classifies the spill as an emergency, 911 will be called _____.
 - c. Leaking containers must be placed in an overpack drum and taken to the storage area immediately.
4. If material is unidentifiable, it will be segregated and stored pursuant to applicable requirements. It will be transported off-site by an EPA-approved hazardous waste transportation company.
5. Any hazardous material remaining on site overnight must be stored in the hazardous waste storage area.

C. Notification

Every hazardous waste incident should be documented.

D. Regulating agencies to contact with questions:

1. _____
2. _____

NOTE:

The Devlin Road Recycling and Transfer Facility has a Household Hazardous Waste Facility that is open on Friday and Saturday from 9:00 am to 4:00 pm every week. All suspected hazardous waste that is found during load inspections is stored in the HHW storage container and

is manifested and delivered to the HHW facility operator. The current HHW facility operator is Clean Earth. Clean Earth is a certified HHW facility operator, and their staff catalogs all HHW materials, packages and ships out of all HHW materials based upon the procedures below.

V. Packaging Procedures

- A. Small containers of the same hazardous class can be packed in the same drum (lab packs).
- B. All lab packs must contain enough absorbent material (Vermiculite or similar approved packing material) to contain liquids if there is a spill and prevent breakage.
- C. Steps
 1. Pack a few inches of absorbent material at bottom of drum.
 2. Pack more absorbent around each small container placed in the drum
 3. Drums for corrosive acid storage to be protected with plastic liner prior to adding absorbent and waste.
 4. Each drum is to be assigned a number which is clearly marked on the drum body and lid.
 5. Log sheet should be taped to the lid and should be marked with facility location, drum number and hazard category.
 6. Hazardous waste labels should be filled out and affixed to the drum.
 7. Affix proper hazard category label.
- D. Packing compatibility
 1. Only chemically compatible materials can be packaged together. DON'T MIX: ACID AND BASES, CYANIDE COMPOUNDS AND ACIDS, OXIDIZERS AND FLAMMABLE (bleach is an oxidizer, though often marked poison).
 2. If there is any doubt as to hazard class, call Department of Health Services of CUPA/Hazardous Materials Division.

VI. Labeling and Record Keeping

- A. Log Sheet: Enter the following information on a log sheet – to be used later to prepare manifest.
 1. waste category
 2. list as much information about the chemical as possible (including the brand name).
 3. number of containers
 4. volume or weight of each container.
- B. Manifest: Must be prepared if waste is to be transported (manifest forms available from the Department of Health Services or Hazardous Waste Hauler).
- C. Training Records: Including Health and Safety Certifications.
- D. Inspection Reports.
- E. Spills or emergency incident reports.

VII. Storage Procedures

- A. Lab packed drums are to be stored in rear storage area (must be stored on pavement).
- B. Drums containing flammable, poisons, corrosives (bases) must be separated from drums with corrosives, acids and oxidizers.
- C. Containers must be closed except when being packed.
- D. Hazardous waste area to be fenced and secured.
- E. Signs in English and Spanish (if required) posted around storage area (s) reading:
DANGER: HAZARDOUS WASTE STORAGE AREA.
ALL UNAUTHORIZED PERSONS KEEP OUT.
KEEP LOCKED WHEN NOT IN USE.

VIII. Disposal Procedures

- A. Each lab pack must be inspected by a site supervisor experienced in waste identification and categorization before it is sealed.
- B. Each sealed drum must be labeled as to hazard class (according to CFR 40 and 49).
- C. Hazardous waste cannot accumulate for more than 90 days, otherwise we must secure a permit.
- D. Obtain an EPA IS# from the CUPA/California EPA.
- E. Manifest must be prepared if waste is to be transported.
 - 1. Manifest forms are available from CUPA
 - 2. Prepare five copies:
 - Transfer Station keeps two (2)
 - One (1) copy to hazardous waste transporter
 - Legible copy to California EPA with 30 days of each shipment
 - 3. With 35 days of shipment, Facility must receive copies of the manifest signed by the operator of the disposal facility. If not, Facility must contact the facility (If not received within 45 days, an exception report of the pertinent manifest and cover letter describing efforts made to locate shipment, must be submitted to the Authority).
 - 4. The facility will keep copies of manifests for three (3) years at a minimum.
 - 5. Transporter – Only EPA – permitted facilities can transport hazardous wastes.

HAZARDOUS WASTE LOAD CHECKING TRAINING PROGRAM

I. Training Personnel

- A. Pickers: Only those trained in the use of personal protective equipment, emergency response, identification of hazardous materials and proper handling and procedures are allowed to sort refuse.
- B. Training is required at the time of the employees' INITIAL ASSIGNMENT AND WHENEVER A NEW HAZARD IS INTRODUCED into the workplace.
- C. Supervisors will train regarding specific aspects of the load checking program.

D. Training is to be reinforced once a year.

II. Personal Protective Equipment

A. Respiratory Protection:

- Training required before workers are allowed to wear respirators,
- Site manager is responsible for ensuring all site workers are respirator certified and
- Certificates must be kept up to date/renewed annually, and copies must be kept available for inspection.

B. Eye Protection:

- Safety glasses or goggles must be worn when handling hazardous wastes, and
- Packers must wear full face shield.

C. Body Protection

- Disposable coveralls or Tyvec sleeve, Nitril gloves, neoprene aprons, and steel-toed boots.

D. Dust Masks:

- Must be provided and additional protection must be available upon request.

TARPING AND LITTER CONTROL PROGRAM PURPOSE

The facility promotes a clean environment through a Litter Control Program which encourages all vehicles to properly cover (or tarp) their loads while traveling to and from the Facility. The Facility has set a positive example by ensuring that all self-haul, commercial and transfer vehicles loads are properly covered to minimize the potential of litter on and around the property.

Program Components

The four components of the Litter Control Program for the Facility are as follows:

1. Tarping requirements
2. Containment of litter
3. Site and facility clean-up
4. Monitoring and recording

TARPING REQUIREMENTS

All loads entering the facility must be tarped or otherwise covered to control litter or other materials from escaping along any of the identified collection truck routes leading to the site. The following measures are implemented:

- A sign is posted at the entrance at each scale house which states that all refuse loads (inbound and outbound) must be covered
- All haulers/customers are initially given a copy of a printed notice stating the requirements of the Litter Control Program.

- Each incident of an uncovered load is logged by date, the customer's name and vehicle license numbers are documented.
- Repeat violators may be refused entry.

CONTAINMENT OF LITTER

Litter can be generated by activities at the Facility (receipt and processing of waste and recyclables) or from vehicles using the facility.

FACILITY CONTAINMENT

Litter is controlled primarily by restricting waste unloading and processing operations to inside the building. If litter blows out of the building, a six-foot-high fence surrounds the facility, providing a secondary barrier and preventing any litter from blowing off site. Baled recyclables are stored inside the building and hauled to market on a regular basis.

VEHICLE CONTAINMENT

Transfer Vehicles

- Each transfer trailer has screen covering to prevent refuse from escaping the trailer while traveling to or from the landfill. After the transfer vehicles are loaded, they move forward from the loading area. The vehicle driver will then properly place the covers over the load and remove any extraneous refuse from the vehicle which might blow off while traveling. The driver will again inspect the truck for loose refuse before leaving the landfill. Napa County LEA is responsible for annual inspections of all transfer trucks/trailers.

Collection Vehicles

- All vehicles arriving at the Facility with uncovered loads are logged by date, their company name and vehicle license number in the Litter Control Reporting Log. Repeat offenders may be restricted from the facility.

Transport Vehicles

- Vehicles removing materials, wood, and yard waste will be visually inspected as they leave the station. Drivers of vehicles having uncovered loads will be informed that they must cover their load before leaving the station. Violator's will be documented in the Litter Control Reporting Log. Repeat offenders may be restricted from entering the facility.

SITE AND FACILITY CLEAN-UP

The facility and surrounding areas are cleaned daily by an automated sweeper. Tipping areas, driveways, internal roads, yard area, and the immediate perimeter of the facility are swept daily, or as needed.

MONITORING AND RECORDING

Scale house employees are trained in monitoring vehicles to ensure the loads are properly covered. Any loaded transfer, commercial or self-haul vehicle entering or exiting the facility without proper covering will be asked to cover their load and the company name and vehicle numbers will be documented in the Litter Control Reporting Log. Repeat offenders may be restricted from entering the facility.

All records are stored in the administrative office and available for inspectors upon request. The appropriate agencies will be notified of all vehicles that have been refused permission to use the facility.

LITTER CONTROL REPORTING LOG

Date & Time	Company Name	Vehicle License	Comments

EXHIBIT 7
LIQUIDATED DAMAGES

The following liquidated damages shall be levied for Contractor's failure to meet specific Contractor's Obligations due to Contractor's fault during Facility Operations. The amounts for liquidated damages will be adjusted annually to reflect changes in CPI in the manner described in Article 8.

The Parties acknowledge that consistent, efficient Facility Operation is of utmost importance to the Collection Contractor(s) and the Authority; that failure to Operate the Facility in accordance with Obligations in the Agreement and failure to allow for Vehicles to efficiently unload at the Facility increase the Authority's and/or its Collection Contractor(s)' costs; and the Authority has considered and relied on Contractor's representations as to its quality of service commitment in entering into this Agreement. The Parties further recognize that quantified standards of performance are necessary and appropriate to ensure consistent and reliable service. The Parties further recognize that if the Contractor fails to fulfill Contractor's Obligations, the Authority and its residents and businesses will suffer damages and that it is and will be impracticable and extremely difficult to ascertain and determine the exact amount of such damages. Therefore, the Parties agree that the following liquidated damages represent a reasonable estimate of the amount of such damages, considering all of the circumstances existing on the date hereto, including the relationship of the sums to the range of harm to the Authority that reasonably could be anticipated and anticipation that proof of actual damages would be costly or inconvenient. The Contractor agrees to pay (as liquidated damages and not as a penalty) the amounts listed in the table below for failure to perform the specified events of failure listed in the table due to the Contractor's fault.

In signing this Agreement, the Contractor specifically confirms the accuracy of the statements made in this Exhibit with respect to liquidated damages for all events of failure listed below and the fact that it had ample opportunity to consult with legal counsel and obtain an explanation of such liquidated damage provisions at the time that this Agreement was made.

Event	Liquidated Damage
Failure to achieve Throughput Guarantee	\$100 per ton
Failure to meet Vehicle Turnaround Guaranty <ul style="list-style-type: none"> a. If Turnaround is 16-35 minutes b. If Turnaround is 36-59 minutes c. If Turnaround is more than 60 minutes 	\$25 per event \$50 per event \$75 per event
Failure to request approval from Authority to use of Subcontractor in accordance with Section 3.11 of Contractor's Obligations as defined in Section 3.11 without consent of Authority	\$1,000 per incident
Failure to make records available upon request	\$500 per request
Failure to submit reports	\$50 per report per day
Failure to Operate during Facility Receiving Hours	\$250 per hour
Charging greater than Facility Tipping Fee	Reimbursement of Fee plus \$500 per incident per customer
Failure to remedy litter problem following a complaint within time frame included in Article 8	\$500 per incident
Unresolved complaints	\$50 for every complaint unresolved within 24 hours
Failure to maintain complaint log	\$250 per event

EXHIBIT 8

DESIGNATED DIVERSION FACILITIES

Oil – Safety Kleen
Cooking oil – Smart Alternative Fuels
E Waste – ERI Electronic Recyclers International
Tires – Lakin Tires
Mattress – Cal Recycle Mattress Recycling Council of California
Carpet – La Fiber
Dirt – Various/Potrero Hills
ADC – Potrero Hills
Wood chips – Woodland Biomass
HHW - Clean Earth
Metal – Schnitzer Steel
Gravel – Various/ NVWMA construction projects

Buy Back Area

Cardboard – City of Napa
Glass – City of Napa
Mixed paper - City of Napa
Aluminum – City of Napa
PET – City of Napa
Plastic – City of Napa
Baled Milk Cartons – City of Napa
Polypropylene – City of Napa
Clean wood – City of Napa

EXHIBIT 9 REPORTING FORMAT EXAMPLES

The format for monthly reports shall be substantially similar to the format used for the report from Contractor to Authority dated July 15, 2025, incorporated by reference as if fully set for the herein.

EXHIBIT 10

Base Haul Rate and Fuel Surcharge Adjustment to Transport Component

Base Haul Rate: The Base Haul Rate shall be established by the following procedure:

1. No later than 90 days prior to the end of any waste hauling subcontract, Contractor shall obtain competitive bids or competitive proposals from at least two waste hauling companies capable of providing the necessary services to Transport Residue and Other Permitted Materials to the Designated Disposal Facility. All bids or proposals shall be submitted on a per-Ton basis to Contractor in writing and shall be for a subcontract term of no less than three years and no more than six years. Bids or proposals shall be for services commencing on January 1 for purposes of coordinating CPI increases for other components of the Service Fee. Bids or proposals must incorporate the Fuel Surcharge Calculator included with this Exhibit instead of any other methodology to account for increases in the cost of fuel.
2. Within ten (10) working days of receiving bids or proposals, Contractor shall submit bid results and Contractor's recommended subcontractor to the Executive Director for review and approval. The recommendation shall summarize both costs and subcontractor qualifications.
3. Within ten (10) working days of receiving Contractor's recommendation, the Executive Director shall review and either approve or reject the recommendation. The Executive Director may, in their sole discretion (to be reasonably exercised) reject any Contractor recommendation that conflicts with provisions of the Agreement or is otherwise defective or inadequate in some manner.
4. If the Executive Director approves the Contractor's recommendation, and the net change in the Transport Component of the Service Fee resulting from the proposed new hauling subcontract is less than ten percent (10%) of the current rate, the Executive Director shall revise Exhibit 1 of the Agreement to reflect a change in the calculation of the Transport Component for the term of the new hauling subcontract.
5. If the Executive Director approves the Contractor's recommendation and the net change in the Transport Component of the Service Fee resulting from the proposed new hauling subcontract is greater than ten percent (10%) of the current rate, the Executive Director shall submit a proposed revision to Exhibit 1 to the Agreement to the Authority's Board of Directors for consideration.

6. If approved, the bid or proposal from the waste hauling subcontractor(s) shall be the new Base Haul Rate. The new Base Haul Rate shall be adjusted by CPI every January 1 until a new competitive process is completed.

Fuel Surcharge Adjustment: Fuel Surcharge is the adjustment to the Base Haul Rate per Ton to Transport Residue and Other Permitted Materials to the Designated Disposal Facility. It reflects a weekly increase in diesel fuel prices above a base of \$4.50 per gallon, which increase is established by the Energy Information Administration (EIA) California average diesel fuel price. There shall be no adjustment if fuel falls below \$4.50 per gallon. The EIA fuel price can be found at <https://www.eia.gov/petroleum/gasdiesel/>

The invoice for Fuel Surcharge shall contain written verification and documentation of the specific Fuel Surcharge Costs incurred and paid.

The methodology of calculating the Fuel Surcharge is detailed on the attached page and the Base Haul Rate shall be increased by that percentage as indicated on the attached. By way of example:

If the current published diesel fuel rate is between \$4.850 - \$4.899 per gallon then the Base Haul Rate shall be increased by 4% per load.

Fuel Surcharge Calculator

Diesel Price Index		Fuel Surcharge	Diesel Price Index		Fuel Surcharge
Up to	\$4.500	0.00%	\$5.750 -	\$5.799	13.00%
\$4.500	\$4.549	0.50%	\$5.800 -	\$5.849	13.50%
\$4.550 -	\$4.599	1.00%	\$5.850 -	\$5.899	14.00%
\$4.600 -	\$4.649	1.50%	\$5.900 -	\$5.949	14.50%
\$4.650 -	\$4.699	2.00%	\$5.950 -	\$5.999	15.00%
\$4.700 -	\$4.749	2.50%	\$6.000 -	\$6.049	15.50%
\$4.750 -	\$4.799	3.00%	\$6.050 -	\$6.099	16.00%
\$4.800 -	\$4.849	3.50%	\$6.100 -	\$6.149	16.50%
\$4.850 -	\$4.899	4.00%	\$6.150 -	\$6.199	17.00%
\$4.900 -	\$4.949	4.50%	\$6.200 -	\$6.249	17.50%
\$4.950 -	\$4.999	5.00%	\$6.250 -	\$6.299	18.00%
\$5.000 -	\$5.049	5.50%	\$6.300 -	\$6.349	18.50%
\$5.050 -	\$5.099	6.00%	\$6.350 -	\$6.399	19.00%
\$5.100 -	\$5.149	6.50%	\$6.400 -	\$6.449	19.50%
\$5.150 -	\$5.199	7.00%	\$6.450 -	\$6.499	20.00%
\$5.200 -	\$5.249	7.50%	\$6.500 -	\$6.549	20.50%
\$5.250 -	\$5.299	8.00%	\$6.550 -	\$6.599	21.00%
\$5.300 -	\$5.349	8.50%	\$6.600 -	\$6.649	21.50%
\$5.350 -	\$5.399	9.00%	\$6.650 -	\$6.699	22.00%
\$5.400 -	\$5.449	9.50%	\$6.700 -	\$6.749	22.50%
\$5.450 -	\$5.499	10.00%	\$6.750 -	\$6.799	23.00%
\$5.500 -	\$5.549	10.50%	\$6.800 -	\$6.849	23.50%
\$5.550 -	\$5.599	11.00%	\$6.850 -	\$6.899	24.00%
\$5.600 -	\$5.649	11.50%	\$6.900 -	\$6.949	24.50%
\$5.650 -	\$5.699	12.00%	\$6.950 -	\$6.999	25.00%
\$5.700 -	\$5.749	12.50%	\$7.000 -	\$7.049	25.50%