

DRAFT

(April, 2015)

**FRANCHISE AGREEMENT
BETWEEN
COUNTY OF PLUMAS
AND
INTERMOUNTAIN DISPOSAL CO., INC.
FOR
COLLECTION & DISPOSAL SERVICES OF
SOLID WASTE AND
RECYCLABLE MATERIALS**

Proposed Term: to be determined by Board of Supervisors

Red text indicates language that has been added or modified

Yellow highlighting is used for all Agreement Sections so that they may be verified prior to completion of the Agreement

TABLE OF CONTENTS

<u>TITLE</u>	<u>PAGE NO.</u>
<u>RECITALS</u>	R-1
<u>ARTICLE 1: DEFINITIONS</u>	
1.01 Agreement Definitions	1-1
1.02 Statutory Definitions	1-1
<u>ARTICLE 2: REPRESENTATION AND WARRANTIES OF CONTRACTOR</u>	
2.01 Corporate Status	2-1
2.02 Corporate Authorization	2-1
2.03 Agreement Duly Executed	2-1
2.04 No Conflict with Applicable Law or Other Documents	2-1
2.05 No Litigation	2-1
2.06 Financial Condition	2-1
2.07 Ability to Perform	2-2
<u>ARTICLE 3: TERM OF AGREEMENT</u>	
3.01 Effective Date	3-1
3.02 Term	3-1
3.03 Extension of Term	3-1
3.04 Conditions to Effectiveness of Agreement	3-1
<u>ARTICLE 4: SCOPE OF AGREEMENT</u>	
4.01 Scope of Agreement	4-1
4.02 Limitations on Scope	4-1
4.03 Geographic Limits on Contractor's Operations	4-2
4.04 Administration by County	4-2
4.05 Enforcement by County	4-2
<u>ARTICLE 5: COLLECTION SERVICES</u>	
5.01 General	5-1
5.02 Solid Waste Collection	5-1
5.03 Targeted Recyclable Materials Collection	5-3
5.04 Construction and Demolition Debris (C&D) Collection	5-4
5.05 Collection for Large Venues and Events	5-5
5.06 Abandoned Waste Cleanup Collection Service.	5-5
5.07 Community Drop-Off Events	5-5
5.08 Green Waste Collection & Disposal	5-6
<u>ARTICLE 6: TRANSPORTATION</u>	
6.01 Transportation of Collected Materials	6-1
6.02 Transportation and Processing of Other Materials	6-1
<u>ARTICLE 7: DISPOSAL AND LANDFILLING</u>	
7.01 Disposal and Landfilling	7-1
<u>ARTICLE 8: OTHER SERVICES</u>	
8.01 Customer Billing	8-1
8.02 Customer Service	8-3
8.03 Public Education and Promotion	8-4

ARTICLE 8: OTHER SERVICES

8.04 Mandatory Commercial Recycling	8-4
8.05 Waste Generation/Characterization Studies	8-5
8.06 Provision of Emergency Services	8-5

ARTICLE 9: REQUIREMENTS FOR OPERATIONS, EQUIPMENT, AND PERSONNEL

9.01 Collection Hours and Schedules	9-1
9.02 Collection Standards	9-1
9.03 County-Owned Solid Waste Facilities	9-6
9.04 Contractor's Use of County-Owned Solid Waste Facilities	9-6
9.05 Vehicles	9-8
9.06 Containers	9-11
9.07 Personnel	9-12
9.08 Hazardous Waste Inspection and Handling	9-14
9.09 Communication and Cooperation with County	9-16
9.10 Buy-Recycled Policy	9-16
9.11 Annual Performance Hearing	9-16

ARTICLE 10: RECORD KEEPING AND REPORTING

10.01 General	10-1
10.02 General Record Keeping Provisions	10-1
10.03 Record Keeping Requirements	10-2
10.04 Operational Reporting Requirements-Quarterly Reports	10-5
10.05 Financial Reporting Requirements	10-6
10.06 Event-Specific Reporting	10-9
10.07 Upon-Request Reporting	10-10

ARTICLE 11: FRANCHISE FEE AND OTHER FEES

11.01 General	11-1
11.02 Franchise Fee	11-1
11.03 Time and Method of Payment	11-1
11.04 Adjustments to Fees; Additional Fees	11-1

ARTICLE 12: THE RATES

12.01 General	12-1
12.02 Initial rates	12-1
12.03 Refuse Rate Index - Adjustments to the Rates	12-1
12.04 RRI Financial Information	12-1
12.05 County or Contractor Requested Detailed Rate Review	12-2
12.06 County or Contractor Requested Special Rate Review	12-2
12.07 Rate-Setting Process	12-3
12.08 Notice of Rate Adjustments	12-4
12.09 Potential Rate Constraints	12-4

ARTICLE 13: INTERRUPTION OF SERVICES

13.01 Purpose	13-1
13.02 Conditions Authorizing County's Right to Collect and Transport	13-1
13.03 Notice to Contractor	13-1
13.04 Rights and Responsibilities of Parties	13-1

ARTICLE 14: INDEMNITY, INSURANCE, BOND

14.01 Indemnification	14-1
14.02 Hazardous Waste Indemnification	14-1
14.03 California Integrated Waste Management Act Indemnification	14-1
14.04 Insurance	14-2
14.05 Faithful Performance Bond	14-5
14.06 Alternative Security	14-5

ARTICLE 15: DEFAULT AND REMEDIES

15.01 Events of Deficiency	15-1
15.02 Events of Default	15-1
15.03 Contractor's Right to Hearing	15-2
15.04 Right to Suspend or Terminate Upon Default	15-2
15.05 Specific Performance	15-3
15.06 County's Right to Perform Service	15-3
15.07 Damages	15-4
15.08 County's Remedies Cumulative	15-4
15.09 County Default	15-4
15.10 Excuse from Performance	15-4
15.11 Assurance of Performance	15-5

ARTICLE 16: OTHER AGREEMENTS OF THE PARTIES

16.01 Relationship of Parties	16-1
16.02 Compliance with Law	16-1
16.03 Assignment	16-1
16.04 Subcontracting	16-3
16.05 Affiliated Entity	16-3
16.06 Contractor's Investigation	16-3
16.07 Notice	16-3
16.08 Representatives of the Parties	16-4
16.09 Duty of Contractor Not to Discriminate	16-4
16.10 Right of County to Make Changes in Services and Service Levels	16-4
16.11 Transition to Next Service Provider	16-4
16.12 Reports as Public Records	16-5
16.13 Plan of Operations for County-Owned Solid Waste Facilities	16-5
16.14 Report of Station Information for County-Owned Solid Waste Facilities	16-5

ARTICLE 17: MISCELLANEOUS PROVISIONS

17.01 Governing Law	17-1
17.02 Jurisdiction	17-1
17.03 Binding on Successors	17-1
17.04 Parties in Interest	17-1
17.05 Waiver	17-1
17.06 Attachments	17-1
17.07 Entire Agreement	17-1
17.08 Section Headings	17-1
17.09 Interpretation	17-1
17.10 Amendment	17-1
17.11 Severability	17-2
17.12 Costs and Attorneys' Fees	17-2
17.13 No Damages for Invalidation of Agreement	17-2
17.14 References to Laws	17-2

TITLE

PAGE NO.

EXECUTION

X-1

Attachments

A. Definitions	A-1
B. Service Area Map	B-1
C. List of Public Premises Locations	C-1
D. Rates	D-1
E. Refuse Rate Index	E-1
F. Detailed Rate Review Methodology	F-1
G. Special Rate Review Methodology	G-1
H. Guidelines for the Projection of Revenues and Expenses	H-1

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

This **FRANCHISE AGREEMENT** is made as of this ___th day of _____, 2015, by and between the **County of Plumas, CALIFORNIA**, an incorporated, political subdivision of the State of California (hereinafter referred to as "**County**"), and **Intermountain Disposal, Inc.**, a California corporation (hereinafter referred to as "**Contractor**").

RECITALS

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

A. That management of Solid Waste is a shared responsibility of the State and local governments.

B. That it is in the public interest for local governments to be authorized and required to provide adequate Solid Waste handling services.

C. That the amount of Solid Waste generated in California, coupled with diminishing landfill space, potential adverse environmental impacts from burying Solid Waste in landfills, and the need to conserve natural resources have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program.

2. The State of California, through the Act, has directed CalRecycle (formerly the California Integrated Waste Management Board) and all local agencies to maximize the use of feasible waste reduction, Recycling and composting options in order to reduce the amount of Solid Waste that must be disposed of in landfills.

3. Both **County** and **Contractor** are mindful of the Act and all other provisions of local, State and federal laws governing the safe Collection, processing, re-use, Recycling and Disposal of Solid Waste and Recyclable materials.

4. **County**, through its Board of Supervisors, recognizes that the responsibility for local Solid Waste management, i.e. the operation of the Plumas County Solid Waste Program, is a "shared responsibility between the State and local governments" per Section 40001(a) of the California Public Code.

5. **Contractor**, for a substantial period of years prior to the commencement of this Agreement, has provided Solid Waste Collection and related services to **County** under a previous contract with **County**. On the basis of the satisfactory history of **Contractor's** ability to provide these services, and in accordance with the *Plumas County Code*, Title 6, Chapter 10, **County** has determined that it is in the best interests of its Residents to enter into this Agreement with **Contractor** in order to further **County's** goal of regulatory compliance as set forth in the Act.

6. **County** has independently evaluated **Contractor's** past performance and has determined that **Contractor** is qualified and capable of providing Solid Waste handling services Including the Collection and processing of Recyclable Materials in a manner and on terms which are in the best interests of **County**, its Residents and businesses, taking into account the qualifications and experience of **Contractor** and the cost of providing such services.

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

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

ARTICLE 1 DEFINITIONS

1.01: AGREEMENT DEFINITIONS

Unless the context otherwise requires, terms used in this Agreement shall have the meanings set forth in the definitions contained in **Attachment A**. Additional definitions used in this Agreement are contained in Section 6-10.101 of the Plumas County Code.

1.02: STATUTORY DEFINITIONS

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

ARTICLE 2

REPRESENTATION AND WARRANTIES OF CONTRACTOR

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

2.01: CORPORATE STATUS

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

2.02: CORPORATE AUTHORIZATION

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

2.03: AGREEMENT DULY EXECUTED

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

2.04: NO CONFLICT WITH APPLICABLE LAW OR OTHER DOCUMENTS

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

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

2.05: NO LITIGATION

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

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

2.06: FINANCIAL CONDITION

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

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

2.07: ABILITY TO PERFORM

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

ARTICLE 3 TERM OF AGREEMENT

3.01: EFFECTIVE DATE

The Effective Date of this Agreement shall be July 1, 2015.

3.02: TERM

The term of this Agreement shall begin on the Effective Date and shall end at midnight on June 30, 2024, unless earlier terminated, or extended as provided in Section 3.03. Contractor's obligation to Collect Solid Waste, Including Targeted Recyclable Materials and Construction and Demolition debris (C&D) within a designated franchise area, and transport such Solid Waste, Including Targeted Recyclable Materials and C&D to a Designated Transfer, Processing and Disposal Site shall commence immediately as of the date that this Agreement is fully executed and shall continue for the remainder of the Term.

3.03: EXTENSION OF TERM

During Calendar Year 2024, the Parties shall meet and confer on the possible extension of the term. County reserves the right to offer or reject an extension of the Term of this Agreement in five (5) year increments not to exceed ten (10) years from the expiration date of this Agreement, based upon Contractor's satisfactory performance, including adherence to those conditions set forth in Section 3.04 of this Agreement.

3.04: CONDITIONS AS TO EFFECTIVE DATE OF THIS AGREEMENT

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

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

1. **Accuracy of representations.** The representations and warranties made by Contractor in Article 2 shall be true and correct on and as of the Effective Date.

2. **Performance bond.** Contractor shall have provided a performance bond meeting the requirements of Section 14.03.

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

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

ARTICLE 4

SCOPE OF AGREEMENT

4.01: SCOPE OF AGREEMENT

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

1. Solid Waste generated at Residential and Commercial Premises; and
2. Source Separated or Commingled Targeted Recyclable Materials generated at selected Residential and Commercial Premises, whether Collected by **Contractor** or transported by a Customer to a designated Targeted Recyclable Materials drop-off location within or adjacent to a Designated Transfer, Processing and Disposal Facility.
3. C&D generated at Residential and Commercial Premises

B. **County** has existing franchise contracts in place to perform the daily operations of the Solid Waste Program involving Collection and processing of Municipal Solid Waste (MSW) and Targeted Recyclable Materials. **Contractor** will clearly account for the continuing provision of such services. Subsidiary activities performed by **Contractor** that do not directly benefit the Solid Waste Program shall not be included in financial statements pertaining to **County's** Solid Waste Program.

4.02: LIMITATIONS ON SCOPE

County may permit the Collection, Recycling and/or Disposal at any legally permitted Designated Transfer, Processing and Disposal Facility of any of the following materials by Persons other than **Contractor** without seeking or securing any approval from **Contractor**:

- A. Solid Waste, C&D and Targeted Recyclable Materials which are transported personally by the Owner or Occupant of the Premises at which they are generated (or by his or her employees) to a permitted Transfer, Processing and Disposal Facility;
- B. Targeted Recyclable Materials which are Source Separated by the Generator and donated to youth, civic, or charitable organizations;
- C. Recyclable beverage containers delivered for Recycling under the California Beverage Container Recycling Litter Reduction Act, Section 14500 *et seq.* California Public Resources Code;
- D. Animal waste and remains from slaughterhouse or butcher shops, grease waste, and used cooking oil;
- E. By-products of sewage treatment Including sludge, sludge ash, grit, and screenings;

F. Hazardous Waste, Household Hazardous Waste (during Household Waste Disposal Events), and Infectious Waste with appropriate precautions at an approved Infectious Waste Facility;

G. Source Separated E-waste and Source Separated Universal Waste, Including Household Batteries, fluorescent light bulbs and mercury switches;

H. Materials generated by governmental Facilities (Including public schools), provided that the Generator has arranged services with the Person collecting same through a separate agreement;

I. Green Waste removed from Premises by a gardening, landscaping or tree trimming Company, using its own equipment and employees as an incidental part of the total service offered by the company, as opposed to a hauling service.

J. C & D, up to 500 pounds of material per week, that is incidentally removed from a single Residential or Commercial Premises by a duly-licensed construction or demolition company, as part of the total service offered by such licensed company and where the licensed company uses its own equipment and employees.

4.03: GEOGRAPHIC LIMITS ON CONTRACTOR'S OPERATIONS

A. **Contractor** shall provide Solid Waste services within Service Area Number 2 (see **Attachment B**).

B. **Contractor** shall offer Solid Waste Collection services within the route subscription area of Service Area Number 2 (see **Attachment C**).

C. **Contractor** may perform services for other communities or special districts so long as expenses associated with their operations are not included in **Contractor's** financial statements submitted to **County**.

4.04: ADMINISTRATION BY COUNTY

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

4.05: ENFORCEMENT BY COUNTY

The burden of enforcement of the provisions of this Agreement, the applicable **Sections** of the Plumas County Code found in Title 6, Chapter 10, the **California Integrated Waste**

Management Act of 1989, and all other pertinent local, State and federal laws pertaining to the Plumas County Solid Waste Program shall be borne by **County** as follows:

A. The Plumas County Department of Environmental Health shall oversee and be responsible for the enforcement of violations on all **public health and safety** Solid Waste matters concerning restaurant food wastes, biomedical wastes, pharmaceutical wastes including sharps, Hazardous Wastes, chemical wastes, radioactive wastes and all other environmental health-related waste issues. Determination as to whether a specific waste product is environmental health-related may be obtained by contacting the Director of Environmental Health.

B. The Plumas County Department of Public Works shall oversee and be responsible for the enforcement of violations on all Solid Waste matters concerning Municipal Solid Waste, Recyclables, Bulky Waste, e-waste, Universal Waste, White Goods, C & D and all other waste not described in **Section 5.05**.

C. The Plumas County Department of Public Works shall oversee and be responsible for the enforcement of all other facets of the Plumas County Solid Waste Program, including oversight and coordination with **County's** franchise contractors and the administration of this Agreement.

D. All Complaints regarding the Plumas County Solid Waste Program, whether submitted directly to (or by) **County** or **Contractor**, or to (or by) an intermediate agency such as the Plumas County Code Enforcement Office or any other local, State or federal law enforcement office shall be administered by the Department of Public Works (Administrator). The Administrator shall investigate the Complaint and determine the proper jurisdiction for the resolution of the Complaint and forward it to the appropriate agency.

E. A Complaint under this Section against **Contractor** resulting in a Determination of Violation of the terms of this Agreement shall result in a finding of default against the **Contractor**, and remedies available to **County** listed in **Article 15** of this Agreement shall be enforced.

F. A Complaint under this Section against a Person resulting in a Determination of Violation is an infraction and shall be enforced by any peace officer, as defined in the California Penal Code, the Plumas County Code Enforcement Officer or by the Environmental Health Director, and employees designated by the Director. Such designated employees are authorized to issue citations for violations of Title 6, Chapter 10 of the Plumas County Code.

G. **Contractor** has **Exclusive Franchise** rights for the Collection, removal, transport, use and **Disposal** of Solid Waste in **Contractor's** designated franchise area of the unincorporated portion of Plumas County per **Section 6-10.201** of the Plumas County Code, with the exceptions noted in **Section 4.02** of this Agreement. **County** shall use all reasonable remedies available to it to insure that those rights are enforced. **Contractor** may, after consultation with County, independently seek enforcement of those rights against third Party violators, including, but not limited to seeking injunctive relief. **County** shall use good faith efforts to cooperate with **Contractor** to enforce such rights.

ARTICLE 5 COLLECTION SERVICES

5.01: GENERAL

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

5.02: SOLID WASTE COLLECTION

Contractor acknowledges that **County** is committed to diverting materials from Disposal through the implementation of source reduction, reuse and Recycling and that **County** may, at some time in the future, implement, in accordance with **Section 16.10**, new programs that may impact the overall quantity or composition of Solid Waste to be Collected by **Contractor**. Any such changes to Collection that will affect the Rates may be a cause for a Special Rate Review as detailed in **Article 12**.

A. **Single-Family Dwelling (SFD)**. **Contractor** shall Collect Solid Waste from SFD once per week from either Customer-owned Containers or **Contractor**-provided Carts **Contractor** shall Collect Containers Curbside unless:

1. The Occupant is provided a Special Handling Service exemption; or
2. The Customer has requested Backyard Collection Service and has agreed to pay the premium service rate approved by **County**.

The Rate charged by **County** shall be based on **Contractor's** cost. In such case, **Contractor** shall Collect Containers or Carts from and return Containers or Carts to the alternative service location (such as the side yard or backyard) specified by the Customer. **Contractor** shall make reasonable accommodations with regard to provision and servicing of Containers (e.g., Container size and type, placement of Containers for Collection, etc.) at no additional cost to Customers who meet the **County's** special handling criteria. New service recipients shall be notified upon signing up for service of the special handling and Backyard Collection Service options. Customers desiring special handling service will be required to submit an application, in a form approved by **County**. **Contractor** shall review applications to determine whether the Customer meets **County's** eligibility criteria and shall provide a written response within five (5) Business Days after receipt of the application. Unless otherwise directed by **County**, Customers are eligible if they provide:

1. Evidence of their “handicap status” by the California Department of Motor Vehicles or
2. Evidence that no Occupant of the Residential Premises is physically able to place Containers or Carts curbside for Collection.

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

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

1. **Individual Cart or Bin service.** **Contractor** shall allow each Commercial, Premises to use Carts, Bins or Drop Boxes for Solid Waste Collection. **Contractor** shall provide each Customer with a choice of one (1) or more Carts or Bins.

2. **Centralized Bin or Cart service.** **Contractor** shall allow each Commercial Premises to use Carts or Bins for Solid Waste Collection that are shared by the Occupants of two (2) or more adjacent Commercial Premises. In such case, **Contractor** shall provide one or more Carts or Bins as requested by the Customer(s) provided that no less than ninety-six (96) gallons of Container capacity is provided for every four (4) Commercial Premises. **Contractor** shall provide each Customer with a choice of one (1) or more Carts or Bins.

3. **Drop boxes.** **Contractor** shall allow a Customer to use a Drop Box for Solid Waste Collection to meet the Customer's Disposal needs. In such case, **Contractor** shall provide Customer with a choice of Container capacities ranging from ten (10) to forty (40) cubic yards (or similar sizes).

D. **Public Premises.** Public streets, parking lots and parks litter and Recycling receptacles. **Contractor** shall Collect Solid Waste from public litter and Recycling receptacles located on streets and in parking lots, and from public litter and Recycling receptacles in parks that are accessible for curbside Collection. **Contractor** shall also Collect Solid Waste from public Recycling receptacles in these locations. **Contractor** shall also collect Solid Waste that is contained in bags or boxes and placed adjacent to public litter receptacles. These Collections will be made between one (1) and seven (7) days per week, as determined by **County**. **Contractor** is responsible for notifying **County** if a public litter receptacle is inoperable within twenty-four (24) hours of observing or being notified of the defect. A list of existing public litter receptacles shall be established and agreed upon by **County** and **Contractor** prior to the Effective Date of this Agreement, and is provided in **Attachment C**, incorporating the number and sizes of Containers and the frequency of their Collection. Increases or decreases in the number of public litter receptacles thereafter shall warrant a modification to the Rates in accordance with **Section 12.06**. **Contractor** shall provide **County** with the Collection services described above at the service locations, service levels and frequencies as required to insure that the receptacles are available for public use. **Contractor** shall provide and maintain Collection Containers for **County's** use, with the exception of public litter (or Solid Waste) and public Targeted Recyclable Materials receptacles, which shall be provided and maintained by **County**. **Contractor** shall offer the type and size of Collection Containers that **Contractor** provides Commercial Customers pursuant to **Section 5.02.C**. **Contractor** may integrate Collection of Solid Waste and Targeted Recyclable Materials from public street, parks and parking lot litter and Recycling receptacles with other Collection services in the Service Area, provided that **Contractor** attributes estimated tonnage collected from Public street, parks and parking lot litter and Recycling receptacles separately from other Customers upon the **County's** request.

5.03: TARGETED RECYCLABLE MATERIALS COLLECTION

A. **Residential.** Residential Customers that subscribe to Solid Waste Collection service shall be entitled to Collection of Targeted Recyclable Materials on a bi-weekly basis at no additional charge. **Contractor** shall provide Customer with a 64 gallon Cart of a contrasting color from Solid Waste Carts, marked "Recyclables" or "Recycling Only", or some similar labeling. Customer-owned Containers for Targeted Recyclable Materials will not be Collected.

B. **Commercial.** **Contractor** shall Collect Targeted Recyclable Materials from designated Commercial Customers that have Source Separated the Targeted

Recyclable Materials from Solid Waste and placed these materials in the Customer's Recyclable Materials Collection Container for Collection by **Contractor**. Commercial Customers that subscribe to Solid Waste Collection service shall be entitled to Collection of Targeted Recyclable Materials **at no additional charge**, and **Contractor** shall provide the level of service required by Commercial Customers requesting Recyclable Materials Collection services. **Contractor** may tag and reject Containers of Targeted Recyclable Materials that contain contaminants or contaminated Targeted Recyclable Materials, and shall report such incidents to County. The level of service **Contractor** shall provide includes: Source Separated Collection of cardboard and mixed paper, in a manner that best suits the needs of the Commercial Customer. **Contractor** shall Collect Source Separated Recyclable Materials generated at Commercial Premises based upon the Collection needs of the Customer, but on a bi-weekly basis at a minimum, as scheduled by the **Contractor** provided that the Generator has Source Separated the Targeted Recyclable Materials from Solid Waste and placed the materials in the appropriate **Contractor**-provided container. **Contractor** shall Collect Targeted Recyclable Materials at the designated location agreed upon by **Contractor** and Customer. The designated Collection location, if disputed by Customer or **Contractor**, shall be determined by **County**.

1. **General.** Designated Commercial Customers that subscribe to Solid Waste Collection service shall be entitled to Collection of Targeted Recyclable Materials **at no additional charge**

2. **Collection Containers.** **Contractor** shall allow designated Commercial Customers to choose a Collection service method that best suits the needs of its Premises. Specifically, **Contractor** shall offer the following choices to Commercial Customers:

a. **Cart service.** **Contractor** shall provide Commercial Customers with a choice of one (1) or more Carts to use for Targeted Recyclable Materials Collection.

b. **Bin service.** **Contractor** shall provide Commercial Customers with a choice of one (1) or more Bins to use for Targeted Recyclable Materials Collection.

c. **Shared Cart or Bin service.** **Contractor** shall provide Commercial Customers one (1) or more Carts or Bins to use for Targeted Recyclable Materials Collection that are shared by the Occupants of two (2) or more Commercial Premises. In order to minimize the impact or occurrence of illegal dumping and theft of Recyclable Materials, **Contractor** will provide to Customer at no additional cost, "keyed-alike" locks for enclosures used to store containers or locks for Containers and ensure the enclosures or Containers are locked after providing Collection service upon Customer's request. Only **Contractor**, **County**, and the participating Customers will be provided with a key to the enclosures and access to the Containers. If the Carts or Bins are left "outside" in a designated area, each Container may be locked (keyed alike), and only **Contractor** staff, **County** staff, and the participating Customers will be provided with a key to access the Containers. At least once each Calendar Year, **Contractor's** route supervisor will visit each of the participating Commercial Customers with

shared Containers, respond to any questions or concerns, and check the areas for contamination, litter, or damage.

d. Drop Boxes. Contractor shall provide Commercial Customers with a choice of Container capacities to use for Targeted Recyclable Materials.

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

Contractor shall Collect C&D from Residential Customers and Commercial Customers that have Source Separated the C&D from Solid Waste and placed the C&D in roll-off Containers provided for Collection by Contractor at the rates established in accordance with Article 12 below. Contractor may tag and reject Containers of C&D that contain contaminants or contaminated C&D, and shall report such incidents to County. Contractor shall provide Collection in a manner that best suits the needs of the Customer. Contractor shall Collect C&D at the designated location agreed upon by Contractor and Customer. The designated Collection location, if disputed by Customer or Contractor, shall be determined by County.

5.05: COLLECTION FOR LARGE VENUES AND EVENTS

Contractor shall provide Collection services, upon request by Event sponsor, to any Venue and Event within its Service Area. Specifically, Contractor shall provide, at a minimum, Solid Waste and/or Targeted Recyclable Materials Collection services. Contractor shall provide Collection as frequently as requested by County or the Event organizer. Contractor shall provide an adequate number and type of Collection Container(s) for the Venue or Event and shall coordinate its Collection services with County or Event organizer. Containers shall be appropriately labeled to Collect Solid Waste and/or Targeted Recyclable Materials per the requirements specified by County. For Venues and Events which are required to comply with the Large Venues and Events Recycling Law, codified at **Public Resources Code Section 42648 et seq.**, Contractor shall assist the Venue or Event organizer in preparing a Waste Disposal and Recycling plan and reporting all information required by those provisions of the law at no cost to the Venue or Event organizer.

5.06: ABANDONED WASTE CLEANUP COLLECTION SERVICE

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

5.07: COMMUNITY DROP-OFF EVENTS

Upon request by County, but no more often than twice each Calendar Year, Contractor shall hold drop-off events at a location or locations selected by the County to allow Residential Customers to drop off acceptable materials. Acceptable materials, which shall be determined by the County, may include one or more of the following: E-waste, Bulky Waste, Universal waste, Recyclable Materials, Household Hazardous Waste. Tire drop-off or "tire amnesty" events, when held, shall be sponsored, administered and held by County per Section 5.06G.

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

signage; inspect materials delivered to the Event; separate materials; document each material type and quantity; transport Collected materials to reuse, processing or Disposal locations; and clean up the location at the end of the Event. **Contractor** shall not charge Customers delivering materials to the Event.

B. **Accepted materials.** Customers may deliver and **Contractor** shall accept Household Hazardous Waste, Major Appliances, Bulky Items and E-waste at the drop-off Events designated for those items. **Contractor** shall be allowed to reject: liquids or sludges; cement; dirt; asphalt; concrete; other Hazardous Wastes; or Infectious Waste. **Contractor** shall not establish a limit on the volume or weight of materials that a Customer may bring for Collection, but no Commercial waste will be accepted at these events.

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

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

E. **Recycling and reuse.** **Contractor** shall Collect materials in a manner that maximizes reuse, Recycling and diversion of materials from Disposal. **Contractor** shall make reasonable efforts to ensure that diversion goals are met or exceeded. **Contractor** shall transport separated Recyclable Materials to the Designated Transfer, Processing and Disposal Facility or an alternative processing site with advance authorization from **County**. **Contractor** shall coordinate with re-use vendor(s) where feasible to have a representative present at the drop-off Event to accept reusable items. Disposal of materials shall be **Contractor's** last option.

F. **Handling Major Appliances.** Major Appliances shall be reused, Recycled, or Disposed by **Contractor** in accordance with requirements of Applicable Law. Appliances shall be certified as having Hazardous Materials removed before they shall be accepted. Any changes to such regulations made after the Effective Date shall be addressed as though they are a change in law in accordance with **Section 16.02**.

G. **Tire Amnesty Events.** **County** shall promote, manage, staff, and operate annual Tire Amnesty Events, alternating the Event site from one franchise area to the next. **County** shall accept passenger car and similar-sized tires up to a maximum of nine (9) tires per customer, removed from rims. No Commercial tires will be accepted except during Tire Amnesty Events designated for such oversized tires.

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

ARTICLE 6 TRANSPORTATION

6.01: TRANSPORTATION OF COLLECTED MATERIALS

Contractor shall be responsible for, or shall arrange for transporting all Solid Waste, C&D, Targeted Recyclable Materials or other materials Collected by **Contractor** pursuant to this Agreement by **Contractor** to the Designated Transfer, Processing and Disposal Facility and/or the designated ultimate Disposal site(s). Once placed in Containers for Collection, such materials shall become the property of **Contractor**.

6.02: TRANSPORTATION AND PROCESSING OF OTHER MATERIALS

Upon request by **County**, **Contractor** shall be responsible for, or shall arrange for transporting, processing, Recycling, and/or reuse of Bulky Items, Major Appliances, and Specialty Recyclable or Reusable Materials or other materials Collected by **Contractor** pursuant to this Agreement to a commodities broker/re-sale agent/recycling collection center for the purposes of selling same.

ARTICLE 7 DISPOSAL AND LANDFILLING

7.01: DISPOSAL AND LANDFILLING

The Plumas County Board of Supervisors (Board) reserves the right to designate the ultimate disposal site(s) for **the Solid Waste Collected under this Agreement**. As of the Effective Date of this Agreement, **County's** Solid Waste is **currently being** transported by **Contractor** to the Lockwood Landfill in Lockwood, Nevada, with whom **Contractor, County and Feather River Disposal, Inc.** have an existing long-term contract, and that relationship shall continue unless modified or terminated by **County, Contractor and Feather River Disposal, Inc., on the one hand**, or the owners/operators of the Lockwood Landfill, **on the other**. **Contractor** shall provide a copy of such contract, and any extensions or modifications thereto, to **County**, and **each party** shall inform **the other** of any **proposed** changes or modifications thereto within 90 days thereof. Any change to the ultimate disposal site shall be the basis of Detailed Rate Review per **Attachment F** of this Agreement.

ARTICLE 8 OTHER SERVICES

8.01: CUSTOMER BILLING

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

1. **Frequency.** **Contractor** shall bill Single-Family Customers quarterly, in advance, amounts equal to the rate for service for a three (3) month period (i.e., using a quarterly format). The billing for Single-Family Customers shall be for the three (3) month period following the billing. Multi-family and commercial Customers shall be billed monthly for the one (1) month period following the billing. Commercial Customers using roll-off boxes shall be billed monthly for the one (1) month period prior to the billing.

2. **Records.** **Contractor** shall maintain, for inspection by **County**, copies of Customer billings and receipts, in chronological order, for a period of five (5) years after the date of service. **Contractor** shall maintain those records in electronic format. **County** staff or representatives shall be given access to such records upon one (1) business day notice.

3. **Rates.** **County** shall establish Rates for the types of service provided as described in **Article 12**. **Contractor** shall bill and collect at those rates. Under no circumstances shall Contractor bill for any Rates or services that have not been approved by **County** and documented on **County's** approved rate schedule, **Attachment D**, except as noted in **Section F** thereof, "Fees for Extra Services".

4. **Service stops.** **Contractor** shall allow Customers to suspend service and Billings when the Premises are unoccupied. Single-Family Residential Customers may suspend service for a minimum of one (1) month on a maximum of two (2) occasions each Rate Year. Commercial Customers may suspend service for a minimum of two (2) months on a maximum of two (2) occasions each rate year. Notification for service suspension shall be received by **Contractor** a minimum of ten (10) Days prior to the service suspension start date. Multi-family Customers may not suspend service without prior written approval from **County**. The Billings for both Residential and Commercial Customers shall be prorated by **Contractor** in accordance with Customer's requests to suspend service.

B. **Delinquent payment.** Single-Family Residential Customers will be considered delinquent sixty (60) days after start of the quarter in which Collection services are provided by **Contractor** and multi-family dwelling, Commercial Customers will be considered delinquent thirty (30) days after payment is due to **Contractor**. **Contractor** may assess a late fee, at a rate not to exceed twenty-five percent (25%) of the unpaid balance of Single-Family Residential Customer's bills, and at a rate not to exceed ten percent (10%) of the balance for multi-family Residential and Commercial Customers, monthly if payment is not received by **Contractor** within thirty (30) days after the account becomes delinquent. **Contractor** must provide all delinquent accounts with written notice of its intent to assess late fees at least fifteen (15) days prior to such

assessment. **Contractor** may use any other means of collection available under law to collect delinquent accounts, including, but not limited to termination of service, and shall be entitled to recover its costs of collection. **Contractor** must provide continuing delinquent accounts with written notice of Intent to Terminate Service at least fifteen (15) days prior to the termination of service. **Contractor** shall notify **County** of any delinquent accounts, including in such notification copies of the Delinquency Notice and the Intent to Terminate Service Notice that were sent to the Customer and a proof of delivery to same, prior to the termination of Customer's service.

C. **Local office.** **Contractor** shall maintain a local (within Plumas County) office within their Service Area for acceptance of in-person payment of bills. At the local office, **Contractor** shall accept as payment personal checks, money orders, and cashier's checks. The local office shall be open for business from 8:00 a.m. until 5:00 p.m. (except for the one-hour period between noon and 1 p.m. for lunch). Monday through Friday, exclusive of Holidays.

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

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

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

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

H. **Dividing invoices.** **Contractor** shall not be responsible for dividing, splitting or otherwise proportioning invoices to commercial Customers who are sharing waste Containers. Only one Customer shall be responsible for the payment of invoices for shared Disposal facilities, and only one billing name and address shall be entered into **Contractor's** billing records for such arrangement. **Contractor** shall, however, maintain an up-to-date record of all Customers using shared Disposal facilities, and shall provide such record to **County** upon request to assist County in ascertaining compliance with mandatory commercial Collection.

8.02: CUSTOMER SERVICE

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

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

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

1. Provide answers to frequently asked questions including, but not limited to: proper Container set-out instructions; list of acceptable Recyclable materials; Collection Days (in response to Customer input of service address); Billing issues, Customer Service telephone and e-mail contact information; and the Designated Transfer and Processing Site hours, directions, and acceptable materials.
2. Provide complete list of **County**-approved rates for all Customers.
3. Allow Customers to file Complaints and receive from **Contractor** e-mail responses to Complaints.
4. Provide a link to enable customers to email **Contractor**.

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

1. Date and time of Customer correspondence or contact with **Contractor** (e.g., phone call, email)
2. Date and time response was provided
3. Date and time resolution was provided

4. Customer's name and contact information (phone numbers and email addresses)
5. Account address
6. Service address
7. Occupant address
8. Service location information
9. Service issue, Complaint or Inquiry
10. Name of employee inputting the Complaint or Inquiry
11. Name of employee inputting the resolution

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

8.03: PUBLIC EDUCATION AND PROMOTION

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

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

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

8.04: MANDATORY COMMERCIAL RECYCLING

Mandatory Commercial Recycling assistance to County. As **County** adopts State-mandated policy and/or strategy to encourage or require Recycling at Commercial Premises, Multi-Family Premises and public entities, **it shall meet with Contractor to agree upon appropriate changes in Services and Rates before** implementing the policy and/or strategy. **Contractor** shall assist **County** with collecting related data from Commercial Premises, Multi-

Family Premises and public entities and facilitating outreach and education programs focusing on encouraging participation by all Customers in the voluntary or mandatory Recycling policy or strategy. **Contractor** shall use reasonable good faith efforts to assist **County** in ensuring that businesses generating more than four (4) cubic yards of Commercial Solid Waste per week, Multi-Family Residential dwelling complexes of five (5) or more units and public entities arrange for Recycling services on or after July 1, 2012. This provision is the result of the State passing Assembly Bill 341, which mandates that Commercial Premises, Multi-Family Residential complexes and public entities implement Commercial Recycling programs on or after July 1, 2012. Reasonable good faith efforts shall include contacting all applicable Commercial Customers, Multi-family Customers and public entities that do not currently have Recycling services within the first twelve (12) months after the Effective Date of this Agreement, and attempting to arrange for those Customers to retain Recycling services, unless those Customers have applied for or have been granted an exemption or exception to the provisions of **County's** Mandatory Commercial Recycling program. By April 1, 2014, **Contractor** shall provide a written report to the Contract Administrator identifying all applicable Commercial Customers, Multi-Family Customers and public entities who have not subscribed for Recycling services, the reason for such non-subscription, the efforts undertaken by the Contractor to arrange for Recycling services, and the name, title and telephone number of the applicable contact Person for each Customer. As part of their Annual Report, **Contractor** shall submit a Commercial account profile by April 1 of each Calendar Year listing each Commercial account and the weekly volume in cubic yards of Solid Waste and Targeted Recyclable Materials for the previous Calendar Year as specified in Section 9.05.

8.05: WASTE GENERATION/CHARACTERIZATION STUDIES

Contractor acknowledges that **County** may perform Solid Waste generation and characterization studies periodically, but no more often than once in any five-year period, to determine the composition of Collected materials. **Contractor** agrees to participate and cooperate with **County** and its agents and to accomplish studies and data collection and prepare reports, as needed, to determine weights and volumes of Solid Waste and/or Targeted Recyclable Materials and characterize materials generated, Disposed, transformed, diverted or otherwise handled/processed to satisfy requirements of the Act. **Contractor** shall also facilitate visual audits of multi-family dwelling, Commercial Cart and Bin service accounts. The visual audits will entail tipping the contents of Customers' Container on the tipping floor at the Designated Transfer, Processing and Disposal Facility and visually observing and documenting the contents (without pursuing a detailed weight-based characterization study). The materials will then be processed at the Designated Transfer, Processing and Disposal Facility.

8.06: PROVISION OF EMERGENCY SERVICES

Contractor shall provide emergency services at **County's** request in the event of major accidents, disruptions, natural calamities or other emergencies as designated by federal, State or local authorities. Emergency services may include, but are not limited to: assistance handling, salvaging, processing, composting, or Recycling materials; or disposing of Solid Waste following a major accident, disruption, or natural calamity. **Contractor** shall be capable of providing emergency services within twenty-four (24) hours of notification by **County** or as soon thereafter as is reasonably practical in light of the circumstances. Emergency services which exceed **Contractor's** obligations shall be compensated in accordance with **Article 12**. If **Contractor** cannot provide the requested emergency services, **County** shall have the right to temporarily take possession of the **Contractor's** equipment for the purposes of providing emergency services in accordance with **Article 13**.

ARTICLE 9

REQUIREMENTS FOR OPERATIONS, EQUIPMENT AND PERSONNEL

9.01: COLLECTION HOURS AND SCHEDULES

A. Hours of Collection.

1. **Residential.** Residential Solid Waste, and Targeted Recyclable Materials (including all such services provided to SFD and MFD Premises) shall be Collected on weekdays (i.e., Monday through Friday) on an established Weekly Pickup Schedule between 6:00 a.m. and 6:00 p.m. exclusive of Holidays.
2. **Commercial.** Commercial facilities Solid Waste and/or Targeted Recyclable Materials shall be collected on weekdays (i.e., Monday through Friday), on an established Weekly Pickup Schedule between 7:00 a.m. and 6:00 p.m., exclusive of Holidays. **County** may restrict or require modifications to hours for Collection from Commercial Premises to resolve noise complaints, and, in such case, the Administrator may restrict the allowable operating hours.
3. **Local Noise Ordinance.** If a **County** ordinance regulating noise limits is more restrictive regarding Collection schedule, than the preceding subsections, the terms of the ordinance shall govern.
4. **Holiday,** Collection shall take place on the following Business Day, unless Customers are notified otherwise in a publication of general circulation.

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

C. Contingency plan. **Contractor** is aware that unforeseen circumstances, including damage to their Facility(ies), equipment breakdowns, weather-related emergencies and other *Force Majeur* events, may require their participation in non-scheduled operations in order to provide continuous service to the public. **Contractor** hereby acknowledges that, under this Agreement, they are prepared to commit to participation in training for such emergency scenarios and to provide vehicles and personnel to maintain uninterrupted service during impairment or breakdown of **Contractor's** Facility or equipment, and in case of natural disaster or other emergency, including the events described in **Section 15.09**.

9.02: COLLECTION STANDARDS

A. Implementation of services. **Contractor's** implementation of the services required by this Agreement shall occur in a smooth and seamless manner so that Customers and/or Generators do not experience disruption in Collection services when services are initiated on the Commencement Date. **Contractor** shall be responsible for managing implementation of new Collection services and other related services.

B. Servicing containers and missed or refused pick-ups

1. **General. Contractor** shall Collect the contents and return each Container to the location where the Occupant properly placed the Container for Collection. **Contractor** shall place the Containers upright with lids properly closed and secured. **Contractor** shall use due care when handling Containers. **Contractor** shall not throw, roughly handle, damage, or break Containers. Upon Customer request, **Contractor** shall provide special services Including: unlocking and locking Containers; accessing locked Container enclosures (e.g., with a key or combination lock); and pulling or pushing Containers to the Collection vehicle. **Contractor** shall provide the special services described in this paragraph upon request from Customer and **Contractor** shall be entitled to bill Customer for any special services provided by **Contractor**.

2. **Missed Pick-Ups.** When notified of a Missed Pick-Up, **Contractor** shall Collect the Solid Waste and Targeted Recyclable Materials on the Day the notice is received, if possible, provided the Customer's Container was set out properly and in time to meet the normal Collection service for that location, In all cases, **Contractor** shall collect the Missed Pick-Up by 6:00 p.m. of the next Business Day following receipt of the Missed Pick-Up notification provided the Customer's Container is properly set out for **Contractor** on Contractor's return trip. **Contractor** shall retain the right to bill Customer as noted in **Attachment D, Section F**, "Fees for Extra Services" for returns for Missed Pick-Ups if Container was not set out for Collection during the normal Collection hours when **Contractor's** Collection vehicle ordinarily is present for Collection.

3. **Refused Pick-Ups.** **Contractor** may refuse to Collect Customer's Container under the circumstances described in **Section 9.02F**.

C. New Customers and change in service levels. **Contractor** shall deliver Containers and initiate Collection services for a new Customer within five (5) Business Days of the Customer's request for service. If an existing Customer requests a change in the number or size of their Solid Waste, C&D and/or Targeted Recyclable Materials Containers and/or frequency of Collection, **Contractor** shall deliver additional Containers and/or remove Containers and shall initiate changes in the Collection services within five (5) Business Days of the Customer's request for a change in service.

D. Separate collection of materials and allocation of County materials. **Contractor** shall separately Collect and segregate Solid Waste, C&D and Targeted Recyclable Materials from each other and shall not Comingle these materials at any time during the transportation or delivery of those materials to the ultimate Disposal facility. Solid Waste, C&D and/or Targeted Recyclable Materials collected in the county, which are combined with materials Collected from other agencies, shall be allocated by **Contractor** to **County's** Collection program based on volume or tonnage using a method approved by **County**.

E. Set out instructions to Customer. **Contractor** shall instruct Customers as to any preparation of Solid Waste, C&D and/or Targeted Recyclable Materials and the proper placement of Containers. If Customers are not adhering to **Contractor's** instructions, **Contractor** shall notify such Customers in writing. In cases of extreme or repeated failure to comply with the instructions, **Contractor** may decline to pick-up the Solid

Waste, C&D and/or Targeted Recyclable Materials provided that **Contractor** leaves no less than three (3) non-collection notices on the Container within a six (6) month period per **Section 9.02F**, indicating the reason for refusing to Collect the material. Such notices shall also identify the steps Customer must take to recommence Collection service.

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

1. Materials contain Hazardous Waste; or
2. The loaded weight of a Container exceeds fifty (50) pounds, except that a **Contractor**-provided waste wheeler may exceed fifty (50) pounds but may not exceed the maximum weight recommended by the waste wheeler manufacturer; or
3. A Container that is not set out in a location accessible to **Contractor**, and there is no agreement in place for Special Handling.

In such case, **Contractor** shall issue non-Collection notices stating the reason(s) the materials were not Collected. The non-Collection notice shall be affixed prominently onto the Cart to ensure that it is not inadvertently removed from Cart due to weather conditions. The non-Collection notices must be protected from rain, if precipitation is present or forecasted, by placing the notice in a clear plastic bag prior to affixing to Cart. **Contractor** shall document the use of non-Collection notices by recording the date and time of issuance, address of service recipient, reason(s) for issuance, name of employee who issued the notice, and truck and route numbers. The notice shall conform to the requirements specified in **Section 6.03.A**, be at least two inches by six inches (2" x 6") in size and shall be approved by **County**. The non-Collection notices must identify the steps the Generator must take to recommence Collection service. Customer shall be assessed a fee approved by **County** for Collection of the Container as Solid Waste by **Contractor**. This additional fee charged to Customer may include:

1. A return trip charge, and
2. An extra Solid Waste Collection charge. **Contractor** shall report monthly to **County** any non-Collection notices issued. **Contractor** shall take direction from **County** with regard to termination or reinstatement of service to a service recipient due to numerous non-Collection notices issued to the same Customer.

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

H. **Collection of excess materials (Overages).** **Contractor** shall direct its employees to collect Overages. **Contractor** must provide a notice to Customer documenting the Overage in order to assess an Overage fee to the Customer. **Contractor** shall document

said Overage with a photograph and send the Customer a letter within five (5) Business Days notifying them of the Overage collected. The Overage fee billed by **Contractor** to Customer for Overage events is specified in **Attachment D**. **County** reserves the right to require the Customer to subscribe to additional Collection service.

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

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

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

J. Litter abatement.

1. *Minimization of spills.* If any Solid Waste and/or Targeted Recyclable Materials are spilled or scattered during Collection or transportation operations, **Contractor** shall immediately, at the time of occurrence, clean up all spilled and scattered materials. **Contractor** shall use due care to prevent vehicle oil, vehicle fuel, or other liquids from being spilled during Collection or transportation operations including maintenance of the Collection vehicles to minimize and correct any leaks. Equipment oil, hydraulic fluids, spilled paint or any other liquid or debris resulting from **Contractor's** Collection operations or equipment repair shall be covered immediately with an absorptive material and removed from the street surface. When necessary, Contractor shall apply a suitable cleaning agent to the street surface to provide adequate cleaning, and shall notify the Administrator and applicable Hazardous Materials management agencies within two (2) hours of such a spill or leak. Contractor shall meet or exceed National Pollutant Discharge Elimination System (NPDES) permit requirements for Hazardous Materials handling, cleanup and reporting.

2. *Clean-up.* During Collection operations, **Contractor** shall clean-up litter in the immediate vicinity of any Container storage area (including the areas where Containers are delivered for Collection) if **Contractor's** actions are the cause of the litter. Each Collection vehicle shall be equipped with protective gloves, a

broom, and shovel at all times for cleaning up litter. Absorbent material shall be carried on each Collection vehicle at all times and used by **Contractor** for cleaning up liquid spills. **Contractor** shall document and discuss instances of repeated spillage not caused by it with the Customer where spillage occurs, and **Contractor** shall report such instances to **County**. If **Contractor** has attempted to have a Customer stop creating spillage but is unsuccessful, **County** will attempt to rectify such situation with the Customer.

3. **Covering of loads.** **Contractor** shall cover all open Drop Boxes with an industry-approved cover at the Collection location before transporting materials to the Designated Transfer, Processing and Disposal Facility.

4. **Transferring loads.** **Contractor** shall not transfer loads from one vehicle to another on any public street unless it is necessary to do so because of mechanical failure, emergency (e.g. combustion of material in the vehicle) accidental damage to a vehicle, or unless approved by **County**,

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

L. **Route books and route maps.** For each Collection route, **Contractor** shall maintain a route book and route map that documents each Customer on the route, their service address, service level, and the order in which Customers shall be serviced (e.g., the order in which routes shall be driven). **Contractor** shall distribute new route books and route maps to its Collection vehicle drivers as frequently as necessary; and each driver shall note differences in the service levels shown in the route book, adding and subtracting Customers and service levels, as necessary. Route supervisors shall periodically check the routes to ensure that drivers are providing service in accordance with their route books. **Contractor** shall provide **County** with route books and maps within ten (10) Business Days of request.

M. **Change in Collection schedule.** **Contractor** shall notify **County** a minimum of sixty (60) Business Days prior to a change in the Residential Collection schedule and shall request approval of **Contractor's** notice to Residential Customers a minimum of thirty (30) business days prior to a change in Service Day, unless this requirement is waived in writing by **County**. **Contractor** shall notify Owners and Occupants of Residential Premises by telephone and/or newspaper or other printed medium not later than ten (10) Business Days prior to any change in Residential Collection operations which results in a change in the Day on which Solid Waste and/or Targeted Recyclable Materials Collection occurs. **Contractor** shall not permit any Customer to go more than five (5) Business Days without service in connection with a Collection schedule change.

9.03: COUNTY-OWNED SOLID WASTE FACILITIES

County owns Solid Waste facilities on the following **County**-owned or **County**-leased lands within Service Area Number 2:

A. **Delleker Transfer Station (Facility No. 32-AA-0031):** A 2 acre parcel of **County**-owned land located on Industrial Way in Delleker, in the northeast quarter of Section 3, Township 22 North, Range 13 East, MDM. This medium-volume Transfer Station is in Solid Waste Franchise Area 2, and is operated by a Solid Waste franchise contractor.

All permanent structures, fences, paving and other surface improvements located on site are, and shall remain property of **County**. (*Note: the Delleker Recycling Facility, operated and owned by Intermountain Disposal, Inc., is westerly of and immediately adjacent to the Delleker Transfer Station*)

B. Graeagle Transfer Station (Facility No. 32-AA-0006): A 2.7 acre parcel of **County**-owned land located on County Road 521 in the northeast quarter of Section 15, Township 22 North, Range 12 East, MDM. This limited-volume Transfer Station is in Solid Waste Franchise Area 1, and is operated by a Solid Waste franchise contractor. All permanent structures, fences, paving and other surface improvements located on site are, and shall remain property of **County**.

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

A. In exchange for monthly rents paid to County per **Section 9.04 C**, **Contractor** shall have the exclusive right and duty for the Term of this Agreement to use **County**-owned Designated Transfer, Processing and Disposal Facility(ies) as described in this Section that are located on **County**-owned or **County**-leased land within its Service Area for the Collection and handling of all Targeted Recyclable Materials, C&D and Solid Waste collected by **Contractor** in Plumas County. **Contractor** shall be required to unload at the Designated Transfer, Processing and Disposal Facility and/or designated landfill(s) or other ultimate Disposal sites all materials from its Collection vehicles by its own personnel. **Contractor** shall be required to ensure that unloaded materials are properly placed in the designated areas. For example, **Contractor** shall be required to deposit at the Designated Transfer, Processing and Disposal Facility batteries and Cell Phones, Used Motor Oil and Used Motor Oil Filters in the Containers designated for storage of these materials.

1. **County's rights.** **County** shall have the right to enter and inspect the Premises of any **County**-owned Designated Transfer, Processing and Disposal Facility at any time, whether during normal operating hours or not, or for any other purpose required by **County**.

2. **Contractor's rights.** **Contractor** shall have the right to utilize, for Solid Waste, C&D and Targeted Recyclable Materials Collection and handling purposes, all of the property, buildings and appurtenances designated by **County** as Premises for its Designated Transfer, Processing and Disposal Facility.

3. **County's responsibilities.** **County** shall be responsible for ordinary maintenance of property, buildings and appurtenances and repairs thereto necessitated by normal wear and tear. **County** shall not be responsible for damages or extraordinary wear to its Facility caused by **Contractor's** active negligence or intentional misconduct. **County** shall construct, where necessary, fences, walls, paving or appurtenances as may be necessary for the collection, sorting and handling of all Targeted Recyclable Materials, C&D and Solid Waste collected by **Contractor**. **County** shall provide snow removal and roadway sanding within the Designated Transfer, Processing and Disposal Facility as described below:

a. Snow removal and/or sanding by **County** will be scheduled to coincide with regularly scheduled snow removal and/or sanding activities in the vicinity of the Designated Transfer, Processing and Disposal Facility. **Contractor**

reserves the right to temporarily close or delay opening Designated Transfer, Processing and Disposal Facilities in the case of delayed snow removal during heavy snowfall events.

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

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

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

4. **Contractor's responsibilities.** **Contractor** shall be responsible for keeping **County**-owned Designated Transfer, Processing and Disposal Facility in a clean and workable condition at all times during the term of this Agreement. **Contractor** shall not be responsible for any repairs to buildings, grounds and appurtenances on the Premises during the Term of this Agreement, except to the extent the damage was caused by the **Contractor's** active negligence or intentional misconduct. **Contractor** shall be responsible for the payment of all utility charges and fees connected to the operation of the Designated Transfer, Processing and Disposal Facility. **Contractor** shall provide, and have complete responsibility for all necessary personnel, vehicles, equipment and containers necessary for the Collection and handling of all Targeted Recyclable Materials, C&D and Solid Waste collected by **Contractor** under this Agreement. **Contractor** shall be responsible for transferring all material received at transfer stations to the Designated Transfer, Processing and Disposal Facility. **Contractor** shall be responsible for any other intended **Contractor** requirements related to the transfer stations not specifically addressed in **Section 9.04 A 3**, **County** responsibilities.

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

C **Use fees; rent; property taxes.** **County** shall allow **Contractor** the use of its Designated Transfer, Processing and Disposal Facilities in exchange for a rent of five hundred dollars (\$500.00) per month per Facility for the Delleker Transfer Station and three hundred dollars (\$300.00) per month for the Graeagle Transfer Station.

Contractor shall also be responsible for the payment of annual property taxes due to a possessory interest in the property and improvements. Rents and property taxes shall be considered a Pass-Through Cost by **Contractor** and shall be construed as such in calculations within **Contractor's** Annual Compiled Financial Statement or Triennial Audited Financial Statement. Facility rents and property taxes may be adjusted from time to time during the Term of this Agreement. Any such changes to facility rental rates and/or property taxes that will affect **Contractor's** compensation may be a cause for a Special Compensation Review as detailed in **Section 12.05**

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

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

9.05: VEHICLES

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

B. General vehicle specifications

1. All vehicles used by **Contractor** in providing Solid Waste, C&D and/or Targeted Recyclable Material services shall be registered with the California Department of Motor Vehicles.
2. All Collection vehicles shall have leak-proof bodies designed to prevent leakage, spillage and/or overflow and shall be designed so that Collected materials are not visible.

3. All vehicles shall comply with California Environmental Protection County (Cal/EPA) noise emission regulations and California Air Resources Board air quality regulations and other applicable pollution control regulations.

4. All Collection vehicles shall be capable of unloading materials in the Designated Transfer, Processing and Disposal Facility buildings taking clearance heights into consideration.

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

C. Vehicle identification. Contractor's name, local telephone number, and a unique vehicle identification number designated by **Contractor** for each vehicle shall be prominently displayed on all four (4) sides of the vehicles, in letters and numbers with a maximum five (5) digit sequence, that are no less than two and one-half (2.5) inches in height. **Contractor** shall not place any other information or logo on **Contractor** vehicles, unless approved in writing by **County**. Vehicles shall be clearly labeled to indicate the materials Collected by that vehicle, specifically; "Solid Waste," "Recyclables," as directed by **County**.

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

E. Cleaning and maintenance.

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

2. **Cleaning.** Vehicles used in the Collection of Solid Waste or Targeted Recyclable Materials shall be thoroughly washed, and thoroughly steam cleaned periodically so as to present a clean appearance. **County** may inspect vehicles at any time to determine compliance with this Agreement. **Contractor** shall also make vehicles available to **County** staff for inspection, at any frequency it requests.

3. **Maintenance.** Contractor shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles which are not operating properly shall be removed from service until repaired and operating properly. **Contractor** shall perform all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule or in accordance with California Highway Patrol standards, whichever are more stringent. **Contractor** shall keep accurate records of all vehicle maintenance, recorded according to date and mileage and shall make such records available to **County** upon request. Hydraulic oil, engine oil, and other spills from Collection vehicles in the Service Area are a concern to **County**. **Contractor** shall include as part of maintenance activities a process for tracking the number and nature of automotive spills (type of fluid, amount lost, failure point) and diagnosing the cause of those spills.

Based on the results of the process, **Contractor** shall implement appropriate corrective actions to address issues that are contributing factors to vehicle spills (e.g., revise specifications for specific part failures, revise preventative maintenance schedule to address timing of failures), so that each occurrence is controlled and minimized.

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

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

F. Operation.

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

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

3. **Noise.** **Contractor** equipment used for Solid Waste, C&D and/or Targeted Recyclable Materials services shall be registered with the California Department of Motor Vehicles. Equipment shall comply with US EPA noise

emission regulations, currently codified at 40 CFR Part 205 and other applicable noise control regulations, and shall incorporate noise control features throughout the entire vehicle.

4. **Vehicle Tare Weights.** Annually, **Contractor** shall have each Collection vehicle weighed to determine the unloaded weight (“tare weight”) of the vehicle. Upon a major repair that could affect the Collection vehicle tare weight, **Contractor** shall have the Collection vehicle reweighed to establish a new tare weight.

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

9.06: CONTAINERS

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

B. Container Specifications

1. **Sizes.** The Container sizes to be provided to Single-Family, Multi-Family and Commercial Customers shall be specified by Administrator.

2. **Color.** The colors of the containers provided to Single-Family, Multi-Family and Commercial Customers shall be green for Solid Waste and blue or green with a blue lid for Targeted Recyclable Materials.

3. **Loading.** Allowable loading requirements for the Bin and Drop Box contents shall be based on the manufacturer’s load limits.

C. **Cleaning and painting.** **Contractor** shall be responsible for steam cleaning and repainting all Containers, except Carts, to present an aesthetically pleasing clean appearance and to ensure this equipment is safely maintained and operationally sound. **Contractor** shall repaint used Containers on an as needed basis. **Contractor** shall steam clean all Solid Waste and Targeted Recyclable Materials Containers (or exchange existing Containers with clean Containers) on an as-needed basis, except Carts provided to Residential Premises, which **Contractor** is not obligated to clean or exchange. **Contractor** shall offer additional cleaning (or clean Container exchange) to Customers requesting such service and shall be entitled to bill Customers for such cleaning (or Container exchange). **Contractor** shall be responsible for cleaning Containers at no additional charge to Customer, provided that Customer is not placing uncontained putrescible waste in the Container, to ensure that nuisance or public health concerns associated with vectors are addressed within five (5) Business Days after

receipt of notification of said condition. If any Container is impacted by graffiti, **Contractor** shall remedy the situation within five (5) Business Days of being notified.

D. **Repair and replacement.** **Contractor** shall repair or replace all Containers damaged by Collection operations (e.g., vehicle apparatus interface) within five (5) Business Days of being notified by Customer or observing the damaged Container. If the repair or replacement cannot be completed within five (5) Business Days, **Contractor** shall notify Customer and provide a Container of the same size or larger until the original Container can be replaced. At no additional cost, **Contractor** shall replace Customer Carts that have been stolen, lost, damaged or destroyed within five (5) Business Days unless Container is damaged or destroyed due to Customer's negligence, i.e. placed in front of, or within a snow berm during winter road maintenance operations. In such case, **Contractor** shall be entitled to bill Customers for the cost of a replacement Container and its delivery per **Attachment D**. **Contractor** shall allow Customer to exchange Containers for a Container of a different size at no additional cost, except for the delivery charge, and shall replace Containers within five (5) Business Days of Customer request. **Contractor** shall allow Customers to rent additional Carts and shall be entitled to bill Customers based upon the number of Containers set out for Collection.

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

9.07: PERSONNEL

A. **General.** **Contractor** shall furnish such qualified drivers, mechanical, supervisory, Customer service, clerical and other personnel as may be necessary to provide the services required by this Agreement in a safe, thorough, professional and efficient manner and shall provide, at a minimum, the number and type of personnel necessary for same. All personnel furnished by **Contractor** shall be subject to the "relationship of Parties" provisions of **Section 15.01**.

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

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

D. **Customer service representative training.** Customer service representatives shall be trained on specific **County** service requirements. A **County** information sheet shall

be provided to each Customer service representative for easy reference of **County** requirements and general Customer needs.

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

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

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

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

9.08: HAZARDOUS WASTE INSPECTION AND HANDLING

A. **Inspection program and training.** **Contractor** is required to inspect Solid Waste, C&D and/or Targeted Recyclable Materials and other materials put out for Collection and may reject Solid Waste, C&D and/or Targeted Recyclable Materials and other materials observed to be contaminated with Hazardous Waste and not collect Hazardous Waste put out with Solid Waste, C&D and/or Targeted Recyclable Materials. **Contractor** shall develop a load inspection program that Includes the following components:

1. Personnel and training

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

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

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

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

C. Response to Hazardous Waste identified at Designated Transfer, Processing and Disposal Facility. **Contractor** shall not knowingly deliver unpermitted material to the Designated Transfer, Processing and Disposal Facility. In the event that unpermitted material is delivered to the Designated Transfer, Processing and Disposal Facility, **Contractor** shall be entitled to pursue whatever remedies, if any, it may have against the Generator or Person(s) bringing such unpermitted material to the Designated Transfer, Processing and Disposal Facility provided that in no case shall **County** be

considered the Person bringing such unpermitted material to the Designated Transfer, Processing and Disposal Facility. If the Unpermitted Materials are delivered to the Designated Transfer, Processing and Disposal Facility by **Contractor** and unloaded at the Facility before their presence is detected, and the Generator cannot be identified or fails to remove the material after being requested to do so, **Contractor** shall arrange for and/or pay for its proper Disposal. **Contractor** shall make reasonable efforts to identify and notify the Generator. **Contractor** shall make a good faith effort to recover the cost of any transportation and Disposal from the Generator, and the cost of this effort, as well as the cost of Disposal shall be chargeable to the Generator, if appropriate documentation, as deemed necessary by the **County**, is provided to **County** within five (5) Business Days of the occurrence.

D. **Reporting, regulations, and record keeping.** **Contractor** shall comply with emergency notification procedures required by Applicable Laws and regulatory requirements. **Contractor** shall notify all appropriate agencies, including the California Department of Toxic Substances Control and Local Emergency Response Providers and the National Response Center of reportable quantities of Hazardous Waste found or observed in Solid Waste, Targeted Recyclable Materials, Electronic Waste, Universal Waste, and Construction and Demolition Debris (C&D) anywhere within its Service Area. In addition to other required notifications, if **Contractor** observes any substances which it or its employees reasonably believe or suspect to contain Hazardous Wastes unlawfully Disposed of or released on any **County** property, including storm drains, streets or other public rights of way, **Contractor** will immediately notify **County**. All records required by regulations shall be maintained at **Contractor's** facility. These records shall include: waste manifests, waste inventories, waste characterization records, inspection records, incident reports, and training records. **Contractor** shall maintain records showing the types and quantities, if any, of Hazardous Waste found in Solid Waste, C&D and/or Targeted Recyclable Materials which were inadvertently collected from Customers within its Service Area, but diverted from landfilling.

9.09: COMMUNICATION AND COOPERATION WITH COUNTY

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

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

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

employees on inspections and shall provide electronic copies of records stored in electronic media.

9.10: BUY-RECYCLED POLICY

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

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

B. **Recycled paper.** **Contractor** shall use Recycled paper for all correspondence with Customers and **County**, including invoices, bills, reports, and public education materials. **Contractor** shall state on all materials prepared with post-consumer recycled content the following: *“Printed on Recycled Paper.”*

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

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

9.11: ANNUAL PERFORMANCE HEARING

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

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

1. **Recommended changes or new services.** Changes and/or new services may be recommended to improve **County's** ability to meet and/or exceed **County's** waste reduction and Recycling goals and those of the Act.

2. **Complaint records.** The reports required by this Agreement regarding Complaints shall be used as one basis for review. **Contractor** may submit other relevant performance information and reports for consideration. **County** may request **Contractor** to submit specific information for the hearing. In addition, any Person may submit comments or Complaints during or before the hearing, either orally or in writing, and these shall be considered.

3. **Action plan.** **Contractor** shall prepare and submit an action plan for improving and/or modifying its Collection services and other services if requested. Not less than ten (10) Business Days prior to the scheduled hearing date, **County** and **Contractor** shall exchange any written reports and other documents that will be provided or presented at the hearing. Not less than five (5) Business Days before the scheduled hearing date, **County** and **Contractor** shall ensure their availability to discuss the content and underlying support for such reports. **County** and **Contractor** shall attend and participate in the performance hearing. **Contractor** may be required to present an oral report on its performance at the performance hearing. **Contractor's** failure to attend and participate in the performance hearing and provide an oral presentation upon request; provide a written response to the questions or request for a self-assessment report submitted by **County**; or submit an action plan if requested by **County** may be sufficient cause for **County** to seek remedies as described in **Article 14**. Within sixty (60) days after the conclusion of each performance hearing, **County** may issue a report. As a result of the review, **County** may require **Contractor** to provide expanded or new services within a reasonable time frame and for reasonable compensation; and **County** may direct **Contractor** to take corrective actions for any performance inadequacies.

ARTICLE 10 RECORD KEEPING AND REPORTING

10.01: GENERAL

Contractor shall compile and maintain records related to its performance as necessary to develop the reports required by this Agreement. **Contractor** agrees to conduct data collection, record keeping, and reporting activities that are reasonably necessary to meet the reporting and Solid Waste program management needs of **County**, and to comply with the Act, other Applicable Laws (Including those specified in **Sections 16.01 & 16.14**), and the requirements of this Agreement. Record keeping and reporting requirements specified in this Agreement shall not be considered a comprehensive list of reporting requirements. In particular, **Article 9** is intended to highlight the general nature of records and reports and their minimum content and is not meant to comprehensively define the scope and content of the records and reports. **Contractor** shall provide other information **that is reasonably** related to this Agreement that may not be specifically identified in this Section if requested by **County**, **provided that it can be obtained and delivered at a reasonable cost**. Upon written direction or approval of **County**, the records and reports required by **Contractor** in accordance with this and other articles of the Agreement shall be adjusted in number, format, or frequency. **Contractor** shall maintain all records necessary to allow **County** to determine **Contractor's** compliance with the terms of the Agreement and compliance with the performance standards presented in this Agreement Including those related to the quality of Collection services and Customer service. The records shall be maintained in a manner that allows for easy verification of **Contractor's** performance.

10.02: GENERAL RECORD KEEPING PROVISIONS

A. **General.** **Contractor** shall maintain records required to conduct its operations, to support requests it may make to **County** for any major changes to operations or anticipated future changes to operations, to support the need for anticipated major expenses likely to be incurred in the future, and to respond to requests from **County**. All records shall be maintained for five (5) years after the expiration or early termination of this Agreement. In order to set the Rates pursuant to **Article 11**, it is necessary for **Contractor** to maintain accurate, detailed financial and operational information in a consistent format and to make such information available to **County** in a timely fashion, and in accordance with reporting requirements specified in this Article.

B. **Inspection of records.** **County** shall have the right to inspect or review **at Contractor's office**, the payroll tax reports, specific documents or records required expressly or by inference pursuant to this Agreement, or any other similar records or reports of **Contractor** that **County** shall deem, in its sole discretion, reasonably necessary to evaluate annual reports, Rate adjustment Applications provided for in this Agreement, and **Contractor's** performance or other matters related to this Agreement. **County**, its auditors and other agents selected by **County**, shall have the right, during regular business hours, to conduct unannounced on-site inspections and review of the records and accounting systems of **Contractor** and to make copies of any of **Contractor's** documents relevant to this Agreement. Upon request, **Contractor** shall arrange for records of Related Party Entities to be made available to **County** and its official representatives for review, to the extent such records are reasonably necessary to evaluate annual reports, Compensation Applications, **Contractor's** performance, or other matters related to this Agreement; **provided, however, that no copies of such records may be made by County or its representatives.**

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

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

10.03: RECORD KEEPING REQUIREMENTS

A. Maintenance of financial and operational records.

1. **General.** In order to set the Rates pursuant to **Article 11**, it is necessary for **Contractor** to maintain accurate, detailed financial and operational information in a consistent format and to make such information available to **County** in a timely fashion. This information, along with any other known factors currently used or proposed to be used as the basis for allocating revenues and expenses, will be utilized to support **Contractor's** requests for any proposed changes to the methodologies involved in allocating future revenues and expenses.

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

- a. Clearly identify the methods used to allocate revenue and expense line items among the **County** franchise and the company's other divisions (**Triennial Audited Financial Statement only**).

- b. Illustrate the methodologies used to allocate revenues and expenses among Related Party Entities.
- c. Report any changes to the methodologies used to allocate revenues and expenses in the allocation percentages from the prior year.
- d. Track and report the costs associated with each expense item that has contractual limitation and provide an accounting of those expenses against their contractual limitation.
- e. Provide a rate-of-return calculation with any adjustments against contractual limitations. This rate-of-return calculation will be used in **identifying potential adjustments to the Rate** for the following year.
- f. Provide a variance analysis between the current year and prior year revenues and expenses, along with an explanation for any significant variances.

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

1. Customer and Billing information including, but not limited to, the following for each Customer:
 - a. Names, addresses, and phone numbers of Customer, Billing contact Person, and, if appropriate, for property manager or on-site contact Person;
 - b. Solid Waste service level, C&D service level, Targeted Recyclable Materials service level, (where service level includes the number of Containers, size of each Container, and the Collection frequency of each Container);
 - c. Number of tenants or living units at Multi-Family Residential Complexes;
 - d. Service exemptions for SFD premises (if applicable);
 - e. Special services (e.g., backyard and special handling Collection for SFD Premises, push/pull charges, lock/unlock charges, etc.). **Contractor's** Customer and Billing system shall allow for information to be compiled easily and separately for each Service Sector.
2. Weight and volume of material collected by type (e.g., Solid Waste, C&D and/or Targeted Recyclable Materials). Where possible, information shall be provided separately for each Service Sector.
3. Facilities, equipment and personnel used.
4. Facilities and equipment operations, maintenance and repair.

5. Tonnage of Solid Waste, Targeted Recyclable Materials, C&D and Universal Waste, listed separately by materials type and Service Sector and the Facility where materials were delivered (e.g., Designated Transfer, Processing and Disposal Facility).

6. Tonnage of Solid Waste and/or Targeted Recyclable Materials Collected from Venues and Events reported separately by material type Collected and reported separately for each Venue and Event as the total tonnage of each material type for each Venue or Event monthly.

7. Volume of Used Motor Oil and number of Used Motor Oil filters Collected by **Contractor** reported separately for each Facility where materials were delivered.

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

1. Plans, tasks, and milestones; and
2. Accomplishments Including activities conducted, dates, quantities of products used, produced or distributed, and numbers of participants and responses.

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

1. Number of calls received on a quarterly basis;
2. Number of calls answered on a quarterly basis;
3. Names of all Customer service representatives employed.

E. **Comprehensive Environmental Response, Compensation and Liability Act of 1982 (CERCLA) defense records.** **County** views the ability to defend against CERCLA and related litigation as a matter of great importance. For this reason, **County** regards the ability to prove where Solid Waste collected in **County** area was taken for transfer or Disposal, to be matters of concern. **Contractor** shall maintain data retention and preservation systems which can establish where Solid Waste collected in the Service Area was delivered for transfer or Disposal. This provision shall survive the expiration of this Agreement.

F. **Compilation of information for State law purposes.** **Contractor** shall compile information on amounts of Solid Waste delivered to the Designated Transfer, Processing and Disposal Facility and to other locations, as well as other information which the **County** may reasonably request. **Contractor** shall maintain these records for a minimum of ten (10) years after expiration or earlier termination of the Agreement. **Contractor** shall provide these records to **County** (upon request or at the end of the record retention period) in an organized and indexed manner rather than destroying or disposing of them.

10.04: OPERATIONAL REPORTING REQUIREMENTS – QUARTERLY REPORTS

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

1. Determine needs for adjustment to programs and cost for such changes
2. Evaluate Customer service and Complaints
3. Provide Collected waste and recyclable tonnage amounts for **County** records and State reporting.

B. **Report format.** **County** shall propose report formats that are responsive to the objectives and audiences for each report and are achievable through **Contractor's** data systems. **Contractor** agrees to submit a copy of all reports to **County**. **Contractor** shall provide a certification statement, under penalty of perjury by the responsible **Contractor** official, that the report being submitted is true and correct to the best knowledge of such official after their reasonable Inquiry.

C. **Submittal schedule and instructions.** **Contractor** shall submit Operational Reports on a quarterly basis within thirty (30) days after the end of the reporting quarter. **Contractor** shall submit (via mail and/or e-mail) all reports to the Person(s) designated by **County**.

D. **Failure to report.** The refusal or failure of **Contractor** to file any required reports, or to provide required information to **County**, or the inclusion of any materially false or misleading statement or representation by **Contractor** in such report shall be deemed a **Contractor** default as described in **Section 14.01** subject to the notice and cure provisions of that Section and shall subject **Contractor** to all remedies which are available to **County** under the Agreement or otherwise.

E. **Accuracy of reports.** The failure of **Contractor** to file accurate and timely Operational Reports, proposal(s), information or correspondence to **County**, or the inclusion of any inaccurate or misleading data, statement or representation by **Contractor** in such report(s), proposal(s), information or correspondence to **County** shall be deemed a **Contractor** default as described in **Section 14.01** subject to the notice and cure provisions of that Section and shall subject **Contractor** to all remedies which are available to **County** under the Agreement or otherwise

F. **Tonnage information.** **Contractor** shall provide the tonnage information requested below by Service Sector on a monthly and year-to-date basis. Each year's fourth quarter report shall serve as the annual tonnage report for that Calendar Year, and shall include a trend profile of annual tonnages from past years

1. **Solid Waste.** Total Solid Waste tonnage Collected and Disposed. Solid Waste Collected by **Contractor** as well as Solid Waste self-hauled to Designated Transfer, Processing and Disposal Facilities shall be allocated by **Contractor** to its correct jurisdiction/contract.

2. **Targeted Recyclable Materials services.** Total Targeted Recyclable Materials tonnage Collected and delivered for processing by Service Sector, listed separately by material type collected (e.g., Targeted Recyclable Materials, Source Separated cardboard, Source Separated paper, Single Stream Targeted Recyclable Materials, Used Motor Oil, Used Motor Oil filters, etc.).

3. **C&D.** Total C&D tonnage Collected and Disposed. C&D tonnages may be combined with Solid Waste tonnages unless Source-Separated. C&D Collected by **Contractor** as well as C&D self-hauled to Designated Transfer, Processing and Disposal Facilities shall be allocated by **Contractor** to its correct jurisdiction/contract

G. **Hazardous Waste records.** **Contractor** shall provide a summary or copy of the Hazardous Waste records required under **Section 8.08 D.**

H. **Other information.** **Contractor** shall provide other operational information or reports that **County** may reasonably request or require be added to quarterly reporting. These requests may include information regarding Used Motor Oil and Used Motor Oil filter Collection, and large Events and Venues Collection.

10.05: FINANCIAL REPORTING REQUIREMENTS

A. Annual Compiled Financial Statement.

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

1. Contractor's Personnel.

a. Organizational chart

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

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

a. Amount, specific to each Related Party Entity

b. Basis of amount (how amount was determined and comparable quoted rates from non-Related Parties to be used as comparison)

c. Description of the allocation methodology used to allocate any common costs.

Amounts shall be reconciled to the Related Party Entity disclosures made in **Contractor's** annual financial statements referred to in this Section, and any

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

3. Revenues from all contract-related sources;

- a. Commercial
- b. Residential
- c. Transfer Stations
- d. Recycling
- e. Interest Income
- f. Bad Debts Recovered
- g. Miscellaneous Income

4. Expenses for all contract-related operations

- a. Payroll
- b. Recycling Buy-Back, excluding labor
- c. Drop-Off Events, excluding labor
- d. Fuel and Oil
- e. Equipment Maintenance, excluding labor
- f. Parts, including tires
- g. Facilities Maintenance and Repair, excluding labor
- h. Insurance, including Worker's Compensation
- i. Employee Drug Testing
- j. Utilities (water, sewer, telephone, internet, electricity, heating) @
Facilities
- k. Tipping Fees
- l. Facility Rental
- m. Equipment Rental/Lease

- n. Equipment Depreciation
- o. Vehicle Depreciation
- p. **Contractor**-Owned Facility (office, etc.) Depreciation
- q. Legal Fees
- r. Bookkeeping/Accounting Fees
- s. Professional Consulting (Computer, etc.) Fees
- t. Office Supplies/Postage
- u. Signs and Striping, excluding labor
- v. Business tax and License
- w. Employee Benefits
- x. Contributions
- y. Association Dues
- z. Travel and Lodging
- aa. Interest on Loans
- bb. Entertainment
- cc. Advertising, Promotion and Publications
- dd. Bad Debts
- ee. Amortization
- ff. Miscellaneous
- gg. Penalties and Fines
- hh. Bank Fees and Charges
- ii. Taxes Paid

5. **RRI Financial Information.** For ease of calculation of the annual Refuse Rate Index, expenditures shall also be grouped into the following categories:

- a. Labor (all costs)
- b. Diesel Fuel

- c. Vehicle Replacement
- d. Vehicle Maintenance (all costs, including parts, maintenance, tires, etc)
- e. All Other Costs
- f. Disposal (or tipping) fees

B. Triennial Audited Financial Report. In addition to the information presented in the Annual Financial Statement, **Contractor** shall present the following financial information in an audited financial report to be submitted prior to **April 15, 2018, and** on a triennial basis (every three (3) years) **thereafter:**

1. Contract-Related Assets:

- a. Current Assets
- b. Property and Equipment (less accumulated depreciation)
- c. Capitalized Assets
- d. Other Assets

2. Contract-Related Liabilities

- a. Current Liabilities
- b. Long-Term Liabilities
- c. Stockholder Equity including Stocks & Retained Earnings

3. Cash Flow Statement

4. Non-Cash Investing and Financing

10.06: EVENT-SPECIFIC REPORTING

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

A. Report of accumulated Solid Waste; unauthorized dumping. As required by **Section 7.07**, **Contractor** shall report:

- 1. The addresses of any Premises at which the driver observes that Solid Waste, C&D or Targeted Recyclable Materials is accumulating.
- 2. The address, or other location description, at which Solid Waste, C&D or Targeted Recyclable Materials has been dumped in an apparently unauthorized manner.

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

B. **Hazardous waste.** As required by **Section 8.08 D**, **Contractor** shall notify **County** and the Department of Environmental Health of any Hazardous Waste identified in Containers or left at any Premises within twenty-four (24) hours of identification of such material.

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

10.07 UPON-REQUEST REPORTING

County reserves the right to request additional reports from **Contractor**, and **Contractor** shall deliver such reports within twenty-five (25) Business Days of such request provided that such information is similar in nature to the required elements of the quarterly or annual reporting requirements described in this Section.

ARTICLE 11

FRANCHISE FEE AND OTHER FEES

11.01 GENERAL

The fees described in this Article shall be treated as Pass-Through Costs as detailed in Attachment F for the purposes of determining **Contractor's** Compensation and shall be recoverable through the Rates that **Contractor** charges to Customers.

11.02 FRANCHISE FEE

In consideration of the exclusive franchise granted to **Contractor** by this Agreement, and to reimburse **County** for costs incurred in administering this Agreement, **Contractor** shall pay to **County** a Franchise Fee of five percent (5%) of Gross Receipts. This fee may be adjusted from time to time during the Term of this Agreement. Any such changes to franchise fees that will affect the Rates shall be a Pass-Through Cost.

11.03: TIME AND METHOD OF PAYMENT

On or before the twentieth (20th) Business Day after the end of March, June, September and December, **Contractor** shall pay to **County**:

A. The amount of the Franchise Fees due on Gross Receipts Billed during the immediate previous quarter,

B. One-fourth of any other fee established by **County**. Any such additional **County** fees that will affect the Rates shall be a Pass-Through Cost.

Contractor shall provide, concurrently with the payment of fees, a statement showing the calculation of each fee, including the Gross Receipts from Customers in each Service Sector for that quarter. The statement shall be in a format, and contain the level of detail, specified by **County**. Payments from **Contractor** to **County** shall be made by method authorized by **County**. If a fee is not paid on time, **Contractor** shall pay a late payment charge equal to six percent (6%) of the fees due for that quarter. In addition, **Contractor** shall pay an additional six percent (6%) on any unpaid balance for each ninety (90) Day period a portion of the fee due remains recovered through the Rates.

11.04: ADJUSTMENTS TO FEES; ADDITIONAL FEES

County may from time to time adjust the amount of the fees described in this Article and may establish other fees. Any change in the total amount of fees remitted to **County** shall be a Pass-Through Cost.

ARTICLE 12 THE RATES

12.01: GENERAL

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

12.02: INITIAL RATES

The Rates that are in place as of the Effective Date of this Agreement are the Initial Rates that will be used as the base Rates for Year One.

12.03: REFUSE RATE INDEX - ADJUSTMENTS TO THE RATES

A. Adjustments to Service Using the Refuse Rate Index (RRI). Beginning on July 1, 2016, and annually thereafter, **Contractor** shall, subject to compliance with all provisions of this Article, receive an annual adjustment in of the Rates as set forth in **Attachment D** of this Agreement.

B. RRI Adjustment. Beginning on July 1, 2016, and annually thereafter during the Term of this Agreement, the Rates then in effect shall be adjusted by the RRI adjustment set forth below. In any year that the calculation of the RRI results in a negative number, there shall be no adjustment in the Rates. Instead, the negative RRI number shall be added to the result of the subsequent years RRI calculation and the result shall be the RRI adjustment for that subsequent year.

C. 12-Month Annual Average. The RRI adjustment shall be the sum of the weighted percentage change in the 12-month annual average of each RRI index number between the base year, which shall be the prior preceding Calendar Year ending December 31st and the preceding Calendar Year ending December 31st as contained in the most recent release of the source documents listed in **Attachment E**, ("Refuse Rate Index") which is attached to and included in this Agreement. Therefore, the first Rate adjustment under this Section will be based on the percentage changes between the 12-month Annual Average of the RRI indices for the Calendar Year 2014 and the Annual Average of the RRI indices for the Calendar Year ending 2015. The RRI shall be calculated using the RRI methodology included in **Attachment E**.

12.04: RRI FINANCIAL INFORMATION

On or before **April 15, 2016**, and annually thereafter during the Term of this Agreement, **Contractor** shall deliver to **County** compiled or audited financial information per **Section 10.05** for the specific services performed under this Agreement for the preceding Calendar Year. Such financial information shall be in the format as set forth in **Attachment E**, or as may be further revised by **County** from time to time. If **Contractor** fails to submit the financial information in

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

A. Annual Adjustments shall be made only in units of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making adjustments. The indices shall be truncated at four (4) decimal places for the adjustment calculations.

B. If **Contractor's** failure to submit the required financial information by April 15th is the result of extraordinary or unusual circumstances as demonstrated by **Contractor** to the satisfaction of **County**, **County** at its sole discretion, may extend its review period to consider the request for the annual RRI rate adjustment.

C. As of May 15, 2016, and annual thereafter during the Term of this Agreement, **County** shall notify **Contractor** of the RRI adjustment to the affected Rates to take place on July 1st of that year.

12.05: COUNTY OR CONTRACTOR REQUESTED DETAILED RATE REVIEW

Notwithstanding Section 12.03 above, and in addition to the Rate adjustment described in Section 12.02 above, **County** or **Contractor** may request a detailed Rate review to be conducted following the procedures as specified in Attachment F to this Agreement. However, a detailed Rate review shall not be conducted more than once every three (3) Calendar Years. A request for a detailed Rate review shall be made in writing at least four (4) months prior to the beginning of the Fiscal Year in which the results for the detailed Rate review are to be applied. **Contractor** shall pay all reasonable costs for each detailed Rate review whether incurred by **Contractor** or **County**, and the cost of such a detailed Rate review shall be an allowable Pass-Through Cost.

12.06: SPECIAL RATE REVIEW

A. **Eligible items.** Notwithstanding Sections 12.03 and 12.05 above, either **Contractor** or **County** may request consideration of a special Rate review. If costs of providing Service hereunder result in an increase in or decrease to **Contractor's** Gross Receipts by two percent (2%) or more for the then-current Rate year:

1. Flood, fire, earthquake, or other similar catastrophic event affecting **County** which is beyond the control of and not the fault of **Contractor**, and that requires the provision of emergency services by **Contractor** per Section 8.06.
2. Change in law or regulation occurring after the effective date.
3. Unforeseen changes in Disposal or tipping fees, including the addition of, or change to a designated Disposal Site.
4. Changes in Services and/or Service levels pursuant to Section 16.10.

5. Migration of Customers from Services for which **Contractor** charges hereunder to Services for which **Contractor** does not charge, or charges less, hereunder.

6. Changes in any allowable Pass-Through Costs as defined in **Attachment A** to this Agreement..

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

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

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

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

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

G. **Cost of review.** The party requesting the special Rate review shall bear all reasonable costs incurred by the other Party, including labor and materials, of a special Rate review which it has requested up to a maximum of twenty-five thousand dollars (\$25,000). Costs of a review requested by **Contractor** may neither be included in the Rates nor charged to **County** or Customers.

12.07: RATE-SETTING PROCESS

A. **General.** **County** shall be solely responsible for establishing and adjusting Rates as described in this Article. Rates shall be adjusted only after joint discussions and **agreement** between **County** and **Contractor**, a review by the Administrator and the PCIWMTF, and approval of the Board.

B. **Annual review process.** The Rates shall be reviewed annually by **County**, commencing with Rate Year one (2015) and continuing through the remaining Term Including any extension periods.

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

12.08: NOTICE OF RATE ADJUSTMENTS

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

12.09: POTENTIAL RATE CONSTRAINTS

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

- A. A majority protest prevents a proposed rate increase from being adopted,
- B. A court rules that Rates adopted by **County** are not consistent with Article 13.D, or
- C. An initiative reduces Rates from those in effect. After any such event, the Parties shall promptly meet and confer in good faith to consider modifications to service levels and/or reductions in the Franchise Fee and other governmental fees and charges, commensurate with the Rates that **Contractor** may legally charge. If **County** and **Contractor** are unable to reach agreement about such a modification or reduction, then **Contractor** may terminate this Agreement upon two hundred and seventy (270) calendar days prior written notice to **County**, in which case **Contractor** and **County** shall each be entitled to payment of amounts due for contract performance through the date of termination but otherwise will have no further obligation to one another pursuant to this Agreement after the date of such termination.

ARTICLE 13

INTERRUPTION OF SERVICES

13.01: PURPOSE

The Parties recognize:

A. That frequent and continuous Collection of Solid Waste and/or Targeted Recyclable Materials is an essential public service and an important element of public health in Plumas County, and

B. That even a temporary interruption in the Collection and transport services entrusted to **Contractor** may threaten the public health and safety, as well as cause serious financial harm to business operations in Plumas County. The purpose of this Article is to provide **County** with the ability to respond to such threats to the public health, safety and welfare by either using its own personnel and equipment or authorizing another Collection and transport contractor, either within Plumas County or outside, to perform such Collection and transport services until such time as **Contractor** is able to resume services. This Article applies to any interruption of services, regardless of whether or not **Contractor's** failure to perform is excused under **Section 15.10**.

C. That an interruption of services may occur in either of Plumas County's two solid waste franchise areas, and that past practices under the previous franchise agreement **between Contractor and County dated February 21, 1995** to maintain continuous Collection and transport services have involved the use of the other in-County franchise contractor's personnel and/or equipment to fulfill **Contractor's** obligations under **Article 18. Franchisee Default** of that agreement. This Article is intended to extend and include that previous mutual aid clause within this Agreement.

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

If **Contractor**, for any reason, fails, refuses or is unable to Collect Solid Waste and/or Targeted Recyclable Materials at the times and in the manner required by this Agreement, and transport them to the Designated Transfer and Processing Facility, for more than **five (5) Business Days**, **County**, **at its sole discretion**, may invoke **any of the provisions of Section 15-06**.

13.03: NOTICE TO CONTRACTOR

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

13.04: RIGHTS AND RESPONSIBILITIES OF PARTIES

In the event that **County** invokes its right to perform Collection and transport services and authorize a third Party to do so pursuant to **Section 15.06**, **County** shall compensate such third Party under the terms of the agreement with **Contractor**, and the third Party shall otherwise carry out **Contractor's** contract obligations as if the third Party were the original contracting Party. If at the end of ninety (90) Days, **Contractor** is unable to resume Collection and transport operations, **County** shall have the right to terminate this Agreement and retain another

solid waste franchise contractor to perform such services. **County's** exercise of its rights under this Article does not limit its ability to seek any of the remedies available to it under **Article 15**.

ARTICLE 14

INDEMNITY, INSURANCE, BOND

14.01: INDEMNIFICATION

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

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

The foregoing indemnity shall not apply to the extent that a claim is caused solely by the active negligence or intentional misconduct of the indemnitees, but shall apply if the claim is caused by the joint negligence of **Contractor** and other Persons, Including an indemnitee.

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

14.02 HAZARDOUS WASTE INDEMNIFICATION

Contractor shall indemnify, defend and hold harmless the indemnitees against all claims, of any kind whatsoever paid, incurred or suffered by, or asserted against indemnitees arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Wastes released, spilled or disposed of by **Contractor** pursuant to this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, ("CERCLA"), 42 U.S.C. Section 9607(e), and California Health and Safety Code Section 25364, to defend, protect, hold harmless and indemnify indemnitees from liability and shall survive the expiration or earlier termination of this Agreement. Notwithstanding the foregoing, **Contractor** is not required to indemnify the indemnitees against claims arising from **Contractor's** delivery of Solid Waste, C&D and/or Targeted Recyclable Materials to the Designated Transfer, Processing and Disposal Facility, or their subsequent delivery to other processing locations or the ultimate Disposal Site, unless such claims are due to **Contractor's** negligence or willful misconduct.

14.03: CALIFORNIA INTEGRATED WASTE MANAGEMENT ACT INDEMNIFICATION

Contractor agrees to indemnify and hold harmless the indemnitees against all fines and/or penalties imposed by CalRecycle or the Local Enforcement County (LEA) based on **Contractor's** failure to comply with laws, regulations or permits issued or enforced by CalRecycle or the LEA or caused or contributed to by **Contractor's** failure to perform obligations under this Agreement. This indemnity obligation is subject to the limitations and

conditions in *Public Resource Code* Section 40059.1 but is enforceable to the maximum extent allowable by that Section. This indemnity shall survive the termination or earlier expiration of this Agreement.

14.04: INSURANCE

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

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

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

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

- a. Premises operations (Including use of owned and non-owned equipment);
- b. Personal injury liability with employment exclusion deleted;
- c. Broad-form blanket contractual with no exclusions for bodily injury, personal injury or property damage (Including coverage for the indemnity obligations contained herein);
- d. Owned, non-owned, and hired motor vehicles;
- e. Broad-form property damage.

The comprehensive general liability insurance shall be written on an "occurrence" basis (rather than a "claims made" basis) in a form at least as broad as the most current version of the Insurance Service Office Commercial general liability occurrence policy form (CG0001). If occurrence coverage is not obtainable,

Contractor must arrange for “tail coverage” on a claims-made policy to protect **County** from claims filed within four (4) years after the expiration or earlier termination of this Agreement relating to incidents that occurred prior to such expiration or termination.

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

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

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

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

1. **Workers’ Compensation and Employers’ Liability Policy.**

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

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

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

2. **Comprehensive General Liability Policy; Automobile Liability Policy; Pollution Liability Policy; and Hazardous Materials Policy.**

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

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

b. The County of Plumas, its officers, employees, and agents are additional insureds on this policy.

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

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

D. Deductibles and self-insured retentions. The liability policies described in **Sections 14.02.A(2) and (3)** may contain a deductible or self-insured retention not to exceed \$500,000 per occurrence. This amount may not be increased without **County's** prior written consent. **Contractor** remains responsible for the payment of all losses and investigation, claim administration and defense expenses, Including those of **County**.

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

F. Other insurance requirements.

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

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

3. If **Contractor** fails to procure and maintain any insurance required by this Agreement, **County** may take out and maintain such insurance as it may deem proper and may require **Contractor** to reimburse it for the cost incurred within thirty (30) Days and/or deduct the cost from any monies due **Contractor**. **County** may also treat the failure as a **Contractor** default.
4. **County** is not responsible for payment of premiums for or deductibles under any required insurance coverages.
5. Any excess or umbrella policies shall be written on a "following form" basis.

14.05: FAITHFUL PERFORMANCE BOND

On or before the Effective Date, **Contractor** shall file with **County** a bond securing the **Contractor's** faithful performance of its obligations under this Agreement. The principal sum of the bond shall be no less than Two Hundred Thousand Dollars (\$200,000.00). The form of the bond shall be approved as to form by the Plumas County Counsel. The bond shall be executed as surety by a corporation admitted to issue surety bonds in the State of California, regulated by the California Insurance Commissioner, and with a financial condition and record of service satisfactory to **County**. The Term of the bond shall be twenty-four (24) months. The bond shall be extended, or replaced by a new bond in the same principal sum (adjusted by the percentage change in the Consumer Price Index), for the same Term (i.e., twenty-four (24) months) and in the same form, bi-annually thereafter. Not less than ninety (90) Days before the expiration of the initial, or any subsequent, bond, **Contractor** shall furnish either a replacement bond or a continuation certificate substantially in a form approved by County Counsel, executed by the surety. It is the intention of this Section that there be in full force and effect at all times a bond securing **Contractor's** faithful performance of the Agreement, throughout its Term.

14.06: ALTERNATIVE SECURITY

County may, in its sole discretion, allow **Contractor** to provide alternative security to the Faithful Performance Bond described above in the amount set forth in **Section 14.03**, in the form of (a) a prepaid irrevocable standby letter of credit in form and substance satisfactory to **County**, approved by the County Counsel and issued by a financial institution acceptable to **County**, or (b) a certificate of deposit in the name of **County** and in a form and with a Term satisfactory to **County**, accompanied by an agreement giving **County** the right to draw on the funds deposited satisfactory to **County** and with a financial institution acceptable to **County**. Interest on the certificate of deposit will be payable to **Contractor**.

ARTICLE 15

DEFICIENCY, DEFAULT AND REMEDIES

15.01: EVENTS OF DEFICIENCY.

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

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

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

1. The first event of an unexcused deficiency as defined above in a Calendar Year shall result in liquidated damages of Five Hundred dollars and no cents (\$500.00) to be paid by **Contractor** to **County**. Such liquidated damages are to be considered neither pass-through costs nor business expenses that may be recovered through the Rates.
2. The second event of an unexcused deficiency as defined above in a Calendar Year shall result in liquidated damages of One Thousand dollars and no cents (\$1000.00) to be paid by **Contractor** to **County**. Such liquidated damages are to be considered neither pass-through costs nor business expenses that may be recovered through the Rates.
3. The third event of an unexcused deficiency as defined above in a Calendar Year shall be considered as an event of default. **Contractor** shall be subject to **County's** remedies in the case of default as described in Sections 15.03 through 15.07, below.

15.02: EVENTS OF DEFAULT.

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

- A. **Contractor** fails to perform its obligations under **Articles 5 through 8** of this Agreement and its failure to perform is not cured within thirty (30) Business Days after written notice from **County** specifically describing such failure.
- B. **Contractor** fails to perform its obligations under any other Article of this Agreement and its failure to perform is not cured within thirty (30) Business Days after written notice

from **County** specifically describing such failure, provided that if the nature of the failure is such that it will reasonably require more than thirty (30) Business Days to cure, **Contractor** shall not be in default so long as it promptly commences the cure and diligently proceeds to completion of the cure, and provided further that neither notice nor opportunity to cure applies to events described in **the following subsections C through I.**

C. **Contractor** ceases to provide Collection and transportation services for a period of **five (5)** Business Days for any reason within **Contractor's** control, including labor unrest such as strike, work stoppage or slowdown, sickout, picketing, or other concerted job action by **Contractor's** employees.

D. **Contractor** files a voluntary petition for relief under any bankruptcy, insolvency or similar law.

E. An involuntary petition is brought against **Contractor** under any bankruptcy, insolvency or similar law which remains un-dismissed or un-stayed for ninety (90) Days.

F. **Contractor** fails to furnish a replacement bond or a continuation certificate of the existing bond not less than ten (10) days before expiration of the performance bond, as required by **Section 14.03** or fails to maintain all required insurance coverage in force.

G. **Contractor** fails to provide reasonable assurance of performance when required under **Section 15.11.**

H. A representation or warranty contained in **Article 2** proves to be false or misleading in a material respect as of the date such representation or warranty was made.

I. Repeated unexcused deficiencies exceeding limits set forth in **Section 15.01.**

15.03: CONTRACTOR'S RIGHT TO HEARING

No deficiency or default shall be deemed unexcused unless the Administrator reasonably so determines after giving Contractor the right to be heard and to present exculpatory evidence.

15.04: RIGHT TO SUSPEND OR TERMINATE UPON DEFAULT.

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

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

15.05: SPECIFIC PERFORMANCE

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

15.06: COUNTY RIGHT TO PERFORM SERVICE

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

B. If such work is assigned to another franchise contractor within the County, that contractor shall fulfill **Contractor's** obligations under this Agreement as if that contractor were the original contracting Party until such time as **Contractor** is able to resume its contractual obligations, or until such time that **County** has made other arrangements for the provision of such services... Likewise, if the other franchise contractor within the County fails, refuses or is unable to Collect, transport or Dispose of any or all Solid Waste, Targeted recyclables, C&D or other discarded materials which are required by their Agreement with **County**, **Contractor** shall be obligated to fulfill the terms of their Agreement as if **Contractor** were the original contracting Party until such time as the other franchise contractor is able to resume their contractual obligations, or until such time that **County** has made other arrangements for the provision of such services..

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

D. Such failure to act by **Contractor** shall be deemed by **County** as a public health emergency, and shall empower the **County**, per **Article 13** of this Agreement, to perform, or cause to be performed, such services itself with its own or other personnel **and its own or other** equipment, including, **but not limited to Contractor's equipment**.. In such an event, **Contractor** shall immediately make **Contractor's Collection equipment and** a listing and description, including street names and addresses of all of **Contractor's** service Collection routes within **Contractor's** Franchise Area **available to County**. **County** shall have the right to continue to perform such services until other

suitable arrangements can be made for the provision of such services, which may include the award of a contract to another service provider.

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

15.07: DAMAGES

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

15.08: COUNTY'S REMEDIES CUMULATIVE

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

15.09: COUNTY DEFAULT

County shall be in default under this Agreement ("**County** default") in the event **County** commits a material breach of the Agreement and fails to cure such breach within thirty (30) days after receiving notice from **Contractor** specifying the breach, provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, **County** shall not be in default so long as **County** promptly commences the cure and diligently proceeds to completion of the cure. In the event of an asserted **County** default, **Contractor** shall continue to perform all of its obligations hereunder until a court of competent jurisdiction has issued a final judgment declaring that **County** is in default.

15.10: EXCUSE FROM PERFORMANCE

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

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

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

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

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

1. **County** shall have the right to make use of **Contractor's** Facilities and equipment in accordance with **Article 13** in the event of non-performance for more than three (3) Business Days excused by *force majeure*;

2. If **Contractor's** failure to perform by reason of *force majeure* continues for a period of one hundred and eighty (180) days or more, **County** shall have the right to immediately terminate this Agreement;

3. If **Contractor** is unable to collect and transport Solid Waste, C&D and Targeted Recyclable Material as required by this Agreement for a period of three (3) or more consecutive Business Days as a result of *force majeure*, **County** shall have the right to make use of **Contractor's** property in accordance with **Article 13**, and

4. If **Contractor's** inability to Collect and transport Solid Waste, C&D and Targeted Recyclable Material continues for five (5) days or more from the date by which **Contractor** gave or should have given notice under **Subsection C**, **County** may terminate this Agreement.

15.11: ASSURANCE OF PERFORMANCE

If Contractor:

A. Is the subject of any labor unrest including work stoppage or slowdown, sickout, picketing or other concerted job action;

B. Appears in the reasonable judgment of **County** to be unable to regularly pay its bills as they become due;

C. Is the subject of a civil or criminal proceeding brought by a federal, State, regional or local County for violation of an Environmental Law in the performance of this Agreement, or

D. Performs in a manner that causes **County** to be uncertain about **Contractor's** ability and intention to comply with this Agreement,

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

ARTICLE 16

OTHER AGREEMENTS OF THE PARTIES

16.01: RELATIONSHIP OF PARTIES

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

16.02: COMPLIANCE WITH LAW

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

16.03: ASSIGNMENT

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

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

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

B. **County consent required.** **Contractor** shall not assign its rights or delegate or otherwise transfer its obligations under this Agreement to any other Person without the prior written consent of **County**. Any such assignment made without the consent of **County** shall be void and the attempted assignment shall constitute a **Contractor** default. Assignment of this Agreement to another corporate subsidiary or affiliate of **Contractor**, where there is no change in ownership or control shall not require **County's** consent.

C. **Assignment defined.** For the purpose of this Section, "assignment" shall include, but not be limited to:

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

"Change in control of **Contractor**" for purposes of this Section shall mean a change in the ownership or control of more than fifty percent (50%) of the voting stock of **Contractor** (excluding transfers to revocable trusts for estate-planning purposes).

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

1. **Contractor** shall pay **County** its reasonable expenses for attorneys' fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment;
2. **Contractor** shall furnish **County** with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years;
3. **Contractor** shall furnish **County** with satisfactory proof:
 - a. That the proposed assignee has at least ten (10) years of Solid Waste/Recycling management experience on a scale equal to or exceeding the scale of operations conducted by **Contractor** under this Agreement.
 - b. That in the last five (5) years, the proposed assignee has not been the subject of any administrative or judicial proceedings initiated by a federal, State or local County having jurisdiction over its operations due to an alleged failure to comply with federal, State or local laws or that the

proposed assignee has provided **County** with a complete list of such proceedings and their status.

c. That the proposed assignee conducts its operations in a safe and environmentally conscientious manner, in accordance with sound Solid Waste management practices in full compliance with all federal, State and local laws regulating the Collection and Disposal of Solid Waste and all Environmental Laws.

d. Of any other information required by **County** to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

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

16.04: SUBCONTRACTING

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

16.05: AFFILIATED ENTITY

Contractor will not form or use any Affiliate to perform any of the services or activities which **Contractor** is required or allowed to perform under this Agreement, other than as a Subcontractor approved by **County** under **Section 16.04**. If **Contractor** enters into any financial transactions with an Affiliate for the provision of labor, equipment, supplies, services, or capital related to the furnishing of service under this Agreement, that relationship shall be disclosed to **County**, and in the financial reports submitted to **County**. In such event, **County's** rights to inspect records and obtain financial data shall extend to records and data of such Affiliate that are relevant to those specific financial transactions.

16.06: CONTRACTOR'S INVESTIGATION

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

16.07: NOTICE

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

If to County:

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

If to Contractor:

**Intermountain Disposal, Inc.
Attention: Candice Ross, President
185 N. Beckwith Street
Portola, CA 96122**

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

16.08: REPRESENTATIVES OF THE PARTIES.

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

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

16.09: DUTY OF CONTRACTOR NOT TO DISCRIMINATE

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

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

County may, without amending this Agreement, request **Contractor** to cease performing one or more types of service described in **Articles 5, 6 or 7**, may request **Contractor** to modify the scope of one or more such services, may request **Contractor** to perform additional Solid Waste, C&D and/or Targeted Recyclable Materials handling services, or may otherwise request **Contractor** to modify its performance under any other Section of this Agreement. **Contractor** shall promptly and cooperatively comply with such request, provided that if such changes cause an increase or decrease in the cost of performing the services or related revenues, an equitable adjustment in the Rates shall be agreed to by the parties pursuant to **Article 12**, before such changes take effect.

16.11: TRANSITION TO NEXT SERVICE PROVIDER

At the expiration of the Term or the earlier termination of the Agreement, or upon **County's** approval of a proposed assignment, **Contractor** shall cooperate fully with **County** to ensure an orderly transition to any and all new service providers. **Contractor** shall provide, within ten (10) Business Days of a written request by **County**, then-current route lists, which identify each Customer on the route, its service level (number of Containers, Container sizes, frequency of Collection, scheduled Collection Day), any special Collection notes, and detailed then-current Customer account and Billing information. **Contractor** may, but is not required to, sell Collection vehicles and Containers to the next service provider. **Contractor** shall direct route supervisors to provide "ride-alongs" so that the new service provider's employees may ride with

drivers in Collection vehicles during Collection operations. **Contractor** will direct its drivers and other employees to provide accurate information to the new provider about routing and Customers.

16.12: REPORTS AS PUBLIC RECORDS

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

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

Contractor agrees to maintain at least one (1) copy of the most current **County**-produced Plan of Operations in **Contractor's** local office for each Designated Transfer and Processing Facility within **Contractor's** Solid Waste Franchise Area. In addition, **Contractor** shall maintain at least one (1) copy of the most current Plan of Operations for each Designated Transfer and Processing Facility within **Contractor's** Solid Waste Franchise Area in **Contractor's** local office. **Contractor** shall use the Plan of Operations as a reference for questions that might arise concerning the day-to-day operations of the Designated Transfer and Processing Facility. Issues and concerns for which answers cannot be readily obtained from the Plan of Operations shall be addressed to the **County's** Administrator.

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

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

ARTICLE 17

MISCELLANEOUS PROVISIONS

17.01: GOVERNING LAW

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

16.02: JURISDICTION

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

17.03: BINDING ON SUCCESSORS

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

17.04: PARTIES IN INTEREST

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

17.05: WAIVER

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

17.06: ATTACHMENTS

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

17.07: ENTIRE AGREEMENT

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

17.08: SECTION HEADINGS

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

17.09: INTERPRETATION

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

17.10: AMENDMENT

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

17.11: SEVERABILITY

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

17.12: COSTS AND ATTORNEYS' FEES

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

17.13: NO DAMAGES FOR INVALIDATION OF AGREEMENT

If a final judgment of a court of competent jurisdiction determines that this Agreement is illegal or was unlawfully entered into by **County**, neither Party shall have any claim against the other for damages of any kind (Including loss of Profits) on any theory.

17.14: REFERENCES TO LAWS

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

ATTACHMENT A

DEFINITIONS

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

Affiliate

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

Annual Compiled Financial Statement

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

Annual Compiled Financial Statement

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

Application

"Application" means the Application prepared and submitted by **Contractor** for determination of **Contractor's** Compensation for the following Rate Year.

Business Days

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

Calendar Year

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

CAO

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

Change in Law

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

- (a) The enactment, adoption, promulgation, issuance, modification, or written change in administrative or judicial interpretation on or after the Effective Date of any Applicable Law; or
- (b) The order or judgment of any governmental body, on or after the Effective Date, to the extent such order or judgment is not the result of willful or negligent action, error or

omission or lack of reasonable diligence of **County**, or of **Contractor**, whichever is asserting the occurrence of a Change In Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute such a willful or negligent action, error or omission or lack of reasonable diligence.

Collection Costs

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

Commencement Date

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

Contractor Pass-Through Costs

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

Day

“Day” means Calendar Day unless otherwise specified.

Determination of Violation

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

Disposal Costs

“Disposal Costs” means **Contractor’s** costs to deposit Solid Waste Collected under this Agreement at the designated Disposal Site. See also “Tipping Fee”.

Effective Date

“Effective Date” means the date identified in Section 3.01.

Fiscal Year

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

Fuel Costs

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

Gross Receipts

“Gross Receipts” means the total revenue actually received in cash by **Contractor** for all services provided to Customers during the Rate Year in question. Revenues are billed by the

Contractor to Customers. Gross receipts also include any revenue received by **Contractor** from the sale of Targeted Recyclable Materials, C&D or other Recyclable Materials

Gross Revenue Billed

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

Includes (or Including)

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

Inquiry

“Inquiry” means a written or orally communicated request for information, request for Collection services, or request for change in Service Level made by members of the public, Customers, Owners, or Occupants of properties served by Contractor, or by officers, employees or agents of **County**.

Line of Business

“Line of Business” means the individual types of Collection service provided by **Contractor** to each Service Sector, including Recyclable Materials Collection service and Solid Waste Collection service.

Missed Pick-Up Collection Event

“Missed Pick-Up Collection Event” means Events whereby **Contractor** failed to Collect Solid Waste or Targeted Recyclable Materials on or before the Business Day following **Contractor’s** receipt of the Missed Pick-Up initial complaint. The only exceptions to this definition include: Missed Pick-Up initial Complaints for which **Contractor**:

(a) documented in its Customer service system the Customer’s failure to properly set out Container or that the Containers were blocked for Collection based on the route driver’s report; and,

(b) coded the call for a recollection request or courtesy pick-up prior to receiving a Missed Pick-Up Initial Complaint.

Missed Pick-Up Initial Complaint

“Missed Pick-Up Initial Complaint” means Complaints received by **Contractor** or **County** for Missed Pick-Up of Solid Waste or Targeted Recyclable Materials with the exception of Missed Pick-Up Complaints for which **Contractor**:

(a) documented in its Customer service system the Customer’s failure to properly set out Container or that the Containers were blocked for Collection based on the route driver’s report; and,

(b) coded the call for a recollection request or courtesy pick-up prior to receiving a Missed Pick-Up Complaint on that same day.

On-Call Service

“On-Call Service” means Collection service provided by **Contractor** that is not regularly scheduled or is scheduled more than twenty-four (24) hours in advance. On-Call Service is initiated by Customer by calling, emailing, or requesting the service in person at **Contractor’s** office.

Operating Cost

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

Operating Ratio

“Operating Ratio” means the ratio, expressed as a percentage, of the net operating costs actually incurred by **Contractor**, divided by **Contractor’s** net income, exclusive of Pass-Through Costs, as produced by the Rates that are applied to the Services provided under this Agreement. The Operating Ratio for this Agreement shall range from 8% to 12%, and the Rates shall be adjusted as necessary through the RRI, Special Rate Review or Detailed Rate Review to maintain an Operating Ratio within that range.

Party or Parties

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

Pass-Through Cost (or Costs)

“Pass-Through Cost” (or Costs) means a cost to which no element of overhead, administrative expense, or Profit is added, such that the specific amount of such cost is included without modification in the calculations or reports prepared in implementing this Agreement, including, without limitation, tipping fees, assessments and other charges at any Designated Transfer and Processing Facility or Disposal Site, Franchise Fees, other fees payable by **Contractor** to **County** or any other government agency on the Services, **Including** rent payments **and property taxes paid for the use of County**-owned facilities.

Processing Costs

“Processing Costs” means **Contractor’s** costs to process recyclables Collected under this Agreement at the Designated Transfer and Processing Facility or Facilities.

Profit

“Profit” means **Contractor’s** Profit for providing services described in this Agreement.

Public Records

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

Rate Year

“Rate Year” means the twelve-month period, commencing July 1 of one Calendar year and concluding June 30 of the next Calendar year, for which **Contractor’s** Compensation is calculated.

Regulatory Costs

“Regulatory Costs” means all regulatory and other governmental fees and charges incurred by **Contractor** in connection with providing the services described in this Agreement, including Franchise Fees payable to **County**.

Related Party Entity

“Related Party Entity” means any affiliate which has financial transactions with **Contractor** pertaining to this Agreement.

Service Opportunity

“Service Opportunity” means each individual opportunity **Contractor** has to Collect Solid Waste and Targeted Recyclable Materials from a Customer’s Container which is equivalent to the required Single-Family, Multi-Family and Commercial lifts.

Term

“Term” means the term of this Agreement.

Triennial Audited Financial Statement

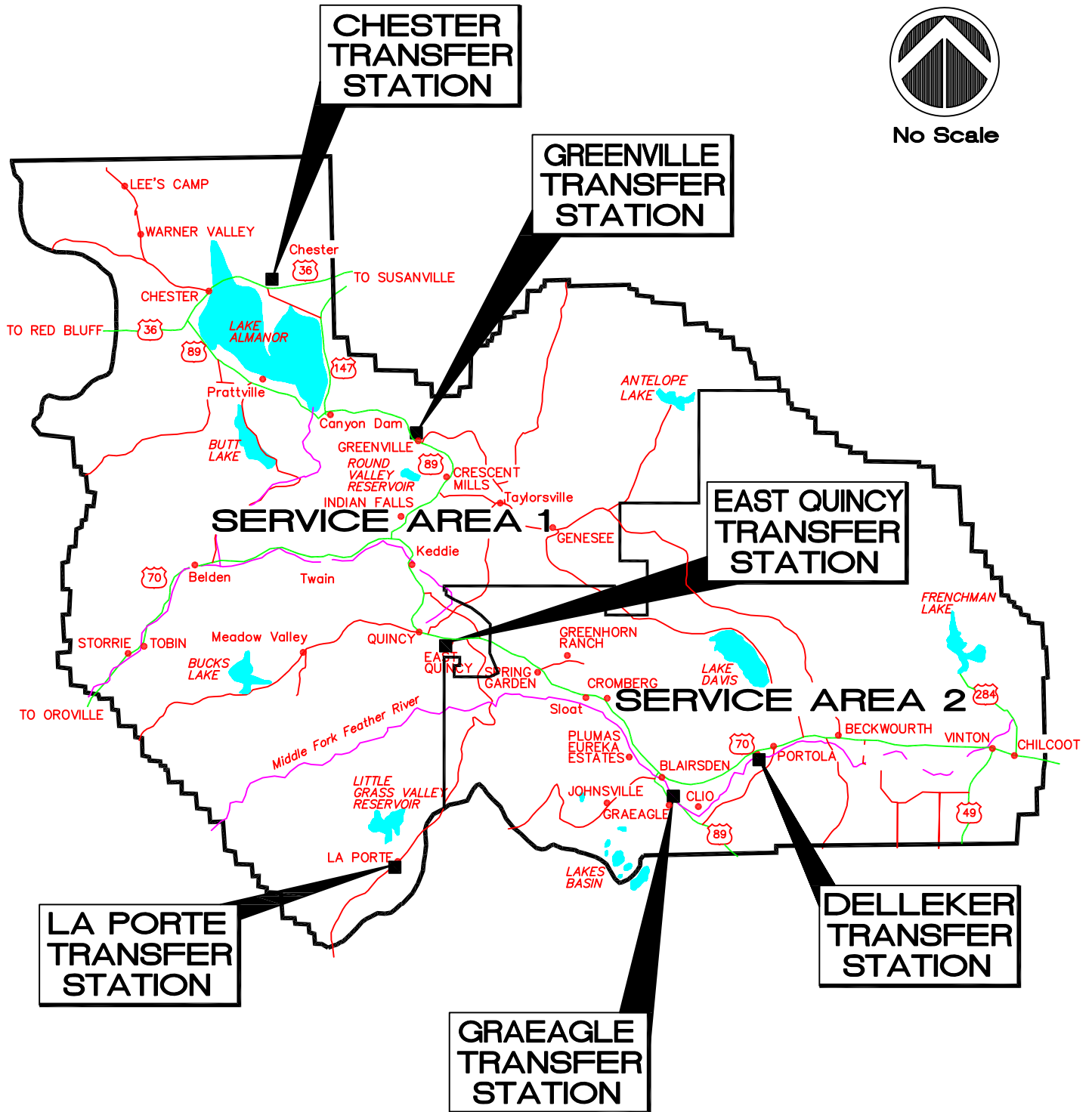
“**Triennial Audited Financial Statement**” means an audited financial statement conforming to **Section 9.05B** of this Agreement that is prepared by **Contractor’s** auditor and submitted to **County** on or before **April** 15 on a triennial basis (every third year).

ATTACHMENT B

NORTH



No Scale



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

ATTACHMENT C
LIST OF PUBLIC PREMISES LOCATIONS

None

ATTACHMENT D

INTERMOUNTAIN DISPOSAL RATES

A. Collection fees. The base Rate for Collection shall cover door-to-door Collection, transfer, hauling, and ultimate Disposal activities: Upon any rate adjustment, the new rates shall be rounded to the nearest \$0.50 per item.

1. Residential base Rate. The monthly charge for:

- a. One (1) can per week shall be \$20.51.
- b. Two (2) cans per week shall be \$27.15.
- c. Three (3) cans per week shall be \$32.71.
- d. Four (4) cans per week shall be \$38.23.
- e. A 32-gallon waste-wheeler shall be \$21.74 for one collection per week
- f. A 64-gallon waste-wheeler shall be \$30.46 for one Collection per week.
- g. A 96-(or 100-) gallon waste-wheeler shall be \$36.04 for one Collection per week.

2. Residential large items.

- a. Each washer, dryer, standard-size refrigerator, single-bed mattress, and similar-size object shall be charged a maximum of \$19.45 each per Collection.
- b. Each deep freezer, double-bed mattress, and similar-size object shall be charged a maximum of \$38.76 each per Collection.
- c. Each tire shall be charged per Collection:
 - i. \$4.03 - sixteen (16") inches or less.
 - ii. \$8.24 - more than sixteen (16") inches but less than twenty (20") inches.
 - iii. \$19.45 - more than twenty (20") inches.

3. Residential Billing. Each new residential Collection account shall be charged an \$8.00 start-up fee to cover the administrative costs of arranging for new and/or seasonal service **in addition to Container start-up fees/Container deposit(s) per the following schedule:**

- a. One (1) can service start-up fees shall be \$70.00
- b. Two (2) can service start-up fees shall be \$90.00
- c. Three (3) can service start-up fees shall be \$106.00
- d. Four (4) can service start-up fees shall be \$123.00
- e. Thirty-two (32) gallon waste-wheeler start-up fees shall be \$92.00

- f. Sixty-four (64) gallon waste-wheeler start-up fees shall be \$112.00
- g. Ninety-six (96) gallon waste-wheeler start-up fees shall be \$128.00
- h. Additional residential fees include:
 - i. There shall be a one-time waste-wheeler delivery charge of \$12.00 for each waste-wheeler delivered, regardless of size.
 - ii. There shall be a fee for the replacement of a lost or damaged waste-wheeler that is due to Customer negligence. This fee shall be the actual cost of the Container, including tax and shipping, delivered to **Contractor's** offices, plus 15%, plus a \$12.00 delivery charge to Customer's Premises.
 - iii. Back yard (or non-curbside) Collection surcharge shall be \$11.00 per month.
 - iv. A fee of \$29.00 shall be charged for one-time Collection of residential cans (from one (1) to four (4) cans.
 - v. An Off-Day Return Service surcharge of \$26.00 shall be charged for return Collection services provided on days other than regular Collection days.
 - vi. A Same-Day Return Service surcharge of \$11.00 shall be charged for return Collection services provided on regular Collection days.
 - vii. A fee of \$25.00 shall be charged for returned (NSF) checks.

The Residential base Rate shall be billed to the Customer one (1) month in arrears of the service performed, provided that no account shall be considered delinquent by the franchisee if payment for a month's service is received by the fifteenth day of the following month.

4. Commercial base Rate.

- a. Commercial can service shall be charged a monthly fee of:
 - i. \$26.74 for one can Collected per week
 - ii. \$32.71 for two (2) cans Collected per week
 - iii. \$38.76 for three (3) cans Collected per week
 - iv. \$44.47 for four (4) cans Collected per week
 - v. \$50.00 for five (5) cans Collected per week
 - vi. A 32-gallon waste-wheeler shall be \$30.00 for one collection per week
 - vii. A 64-gallon waste-wheeler shall be \$36.00 for one Collection per week.
 - viii. A 96-(or 100-) gallon waste-wheeler shall be \$40.00 for one Collection per week.

- b. A one cubic-yard (1 CY) Bin shall be charged a monthly fee of:
 - i. \$86.55 for one Collection per week.
 - ii. \$162.95 for two (2) Collections per week
- c. A one and a half cubic-yard (1.5 CY) Bin shall be charged a monthly fee of:
 - i. \$130.00 for one Collection per week.
 - ii. \$260.00 for two (2) Collections per week
- d. A two cubic-yard (2 CY) Bin shall be charged a monthly fee of:
 - i. \$174.00 for one Collection per week.
 - ii. \$348.00 for two (2) Collections per week
- e. A three cubic-yard (3 CY) Bin shall be charged a monthly fee of:
 - i. \$261.00 for one Collection per week.
 - ii. \$522.00 for two (2) Collections per week
- f. A four cubic-yard (4 CY) Bin shall be charged a monthly fee of:
 - i. \$348.00 for one Collection per week.
 - ii. \$696.00 for two (2) Collections per week
- g. A five cubic-yard (5 CY) Bin shall be charged a monthly fee of:
 - i. \$435.00 for one Collection per week.
 - ii. \$870.00 for two (2) Collections per week
- h. A six cubic-yard (6 CY) Bin shall be charged a monthly fee of:
 - i. \$522.00 for one Collection per week.
 - ii. \$1044.00 for two (2) Collections per week
- f. An eight cubic-yard (8 CY) Bin shall be charged a monthly fee of:
 - i. \$696.00 for one Collection per week.
 - ii. \$1392.00 for two (2) Collections per week
- g. A single delivery and pick-up of a Bin shall be charged:
 - i. \$81.00 for a one cubic yard (1 CY) Bin

- ii. \$92.00 for a One and one-half cubic yard (1½ CY) Bin
 - iii. \$104.00 for a two cubic yard (2 CY) Bin
 - iv. \$128.00 for a three cubic yard (3 CY) Bin
 - v. \$151.00 for a four cubic yard (4 CY) Bin
 - vi. \$176.00 for a five cubic yard (5 CY) Bin
 - vii. \$199.00 for a six cubic yard (6 CY) Bin
 - viii. \$248.00 for an eight cubic yard (8 CY) Bin
- h. Special (additional) Bin Pick-Up Charges shall be:
- i. \$25.00 for a one cubic yard (1 CY) Bin
 - ii. \$36.00 for a One and one-half cubic yard (1½ CY) Bin
 - iii. \$47.00 for a two cubic yard (2 CY) Bin
 - iv. \$72.00 for a three cubic yard (3 CY) Bin
 - v. \$95.00 for a four cubic yard (4 CY) Bin
 - vi. \$120.00 for a five cubic yard (5 CY) Bin
 - vii. \$142.00 for a six cubic yard (6 CY) Bin
 - viii. \$186.00 for an eight cubic yard (8 CY) Bin
- i. Commercial Customers shall be charged \$50.00 for the delivery of a Roll-off box and a service (one (1) delivery and one (1) pick-up) shall be charged as follows:
- i. A ten cubic yard (10 CY) Roll-Off box without lid for six (6) Calendar Days shall be \$288.00
 - ii. A twelve cubic yard (12 CY) Roll-Off box without lid for six (6) Calendar Days shall be \$347.00
 - iii. A twelve cubic yard (12 CY) Roll-Off box with lid for six (6) Calendar Days shall be \$401.00
 - iii. A twenty cubic yard (20 CY) Roll-Off box without lid for six (6) Calendar Days shall be \$496.00.
 - iv. A twenty cubic yard (20 CY) Roll-Off box with lid for six (6) Calendar Days shall be \$551.00.
 - v. A twenty-five cubic yard (25 CY) Roll-Off box without lid for six (6) Calendar Days shall be \$588.00

- vi. A thirty cubic yard (30 CY) Roll-Off box without lid for six (6) Calendar Days shall be \$719.00
- vii. A forty cubic yard (40 CY) Roll-Off box without lid for six (6) Calendar Days shall be \$934.00
- viii. A fifty cubic yard (50 CY) Roll-Off box without lid for six (6) Calendar Days shall be \$1150.00

j. Additional commercial fees include:

- i. A one-time waste-wheeler delivery charge of \$12.00 for each waste-wheeler delivered, regardless of size.
- ii. A one-time Bin delivery charge of \$55.00 for each Bin delivered, regardless of size.
- iii. A one-time surcharge of \$17.00 for Bins with locking lids, regardless of size.
- iv. Bin rental - rental fees for bins that are in Customer's possession but not being Collected:
 - A. One cubic yard to 2 cubic yards (1CY-2CY): \$14.00 per week.
 - B. Three cubic yards to 8 cubic yards (3CY-8CY): \$43.00 per week.
- v. Each additional cubic yard per Bin Collection shall be charged \$23.24, including any fraction of a cubic yard such as when waste is heaped above the top of a Bin.
- vi. Each additional cubic yard per Roll-Off Collection shall be charged \$23.24, including any fraction of a cubic yard such as when waste is heaped above the top of a Bin.
- vii. Commercial can/waste-wheeler service rates shall be double the rates shown in Section 4a if Collection is twice per week.
- viii. A fee of \$25.00 shall be charged for returned (NSF) checks.
- ix. Demurrage (rent) for Roll-Off Containers shall be:
 - A. \$13.00 per Calendar Day after the first 6 Calendar Days.
 - B. \$39.00 per Calendar Day after the first 14 Calendar Days
- x. A relocation fee of \$28.00 shall be charged for the relocation of Bins.
- xi. A relocation fee of \$36.00 shall be charged for the relocation of Roll-Off Containers.
- xii. Any additional labor costs associated with the delivery, pick-up or relocation of a Bin or Roll-Off Container that is beyond ordinary services provided by **Contractor** shall be charged to the Customer at a rate of \$90.00 per hour.

xiii. An Off-Day service surcharge of \$23.00 shall be charged for unscheduled pick-ups of commercial Containers.

5. Commercial Recycling. There shall be no fees or charges for commercial recycling, except that a one-time delivery charge shall be charged to the Customer for their Container per the delivery charge schedule above. Commercial recycling shall be subject to the following:

a. Waste contaminants found in recyclable glass shall be charged to the Customer at a rate of \$40.00 per Ton of Collected recyclable glass that is found to be contaminated.

b. Waste contaminants found in commingled recyclables shall be charged to the Customer at a rate of \$83.00 per Ton of Collected commingled recyclables that is found to be contaminated.

6. Commercial large items. The same Rates as for Residential large items shown in subsection 2 above shall apply.

B. Commercial Billing. The commercial base Rate shall be billed to the Customer one month in advance of service for cans, waste-wheelers or bins, but shall be billed one month in arrears for roll-off boxes or guaranteed by an equivalent sum in the form of a security deposit or letter of credit. Containers rented for a single, or one-time use such as an Event shall be paid for in advance, including the delivery charge.

C. Special travel charge for Collection. In addition to the Residential and Commercial base Rates, special travel shall be charged to the Customer by the franchisee in the following manner: If the service requested does not fall on a regular Service Day for that Service Area, or that Service Area has no regular Service Day, the reasonable time and mileage costs of the franchisee shall be charged to all Customers served during the special travel. Time and mileage costs shall be based on the distance from the last regular Customer in the area, or if none, from the franchisee's yard. The costs, not to exceed \$90.28 per hour, shall be divided among the Customers served during the special travel in proportion to the volume of waste collected from each Customer. "Regular service" is defined as year-around service on at least a weekly basis.

D. Bin delivery charge. In addition to the Residential and Commercial base Rates, Bin delivery shall be charged to the Customer in the following manner. For each bin a delivery fee of \$55.55 shall be charged to cover the round trip cost of delivery and eventual removal of the Bin by the franchisee. This charge may be made payable in advance of delivery. This charge may be increased by any special travel charge applicable to the Customer's request for delivery.

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

1. Minimum fee. The minimum fee for unloading at Transfer Sites shall be:

a. \$9.07 for the equivalent of two (2) cans or standard Containers.

b. \$13.82 for the equivalent of three (3) cans.

c. \$17.95 for the equivalent of four (4) cans.

2. Vehicle unloading fee. When waste is unloaded from vehicles and such waste exceeds in amount the equivalent of four (4) cans or standard Containers, then the following charges shall apply on the basis of vehicle size:

- a. Station wagon: \$18.44.
- b. Compact pickup truck: \$22.94.
- c. Compact pickup truck with sideboards: \$28.99.
- d. Standard-sized pickup truck: \$27.98.
- e. Standard-sized pickup truck with sideboards: \$34.62.
- f. Larger trucks: \$20.15 per cubic yard maximum.

3. Fee for unloading large and restricted items. Unusually large items increase the time and effort of Disposal, and the following charges shall apply:

- a. A washer or dryer, standard-sized refrigerator, single bed mattress, or similar sized object: \$15.65.
- b. A standard-sized deep freezer, double-bed mattress, or similar sized object: \$28.99 maximum
- c. Tires (dismounted from rims), each (by rim diameter):
 - i. Sixteen (16") inches or less: \$3.44.
 - ii. Seventeen (17") inches to twenty (20") inches: \$6.88.
 - iii. More than twenty (20") inches: \$15.17.
- d. Cathode ray tubes, computer monitors and televisions: \$3.73.
- f. Other large items not included in this Section shall be charged pursuant to Subsection F of this section.

4. Compacted loads. Compacted loads shall be permitted only at transfer sites, and only if the hauler weighs the truck before and after tipping at the site. Compacted loads shall be charged at the rate of \$83.35 per ton.

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

F. Fee for extra services. Services for which no fee is specified in this chapter shall be considered extra services by the franchisee, and the charges for such services shall be negotiated by the franchisee and Customer, subject to being fair and equitable as provided in Subsection A of this Attachment.

G. Fee for Overages.

1. Residential Overage Collections. As defined in Section 8.02G, overages for residential Customers shall be charged out at the rate of \$5.00 for each 16-gallon bag or (up to) one-half (1/2) of a 32-gallon Container, and \$10.00 for each 32 gallon bag or 32-gallon Container, and \$25.00 for each 96- or 100-gallon container, except that no overage Containers will be Collected over 32 gallons unless they are waste-wheelers.

2. Commercial Overage Collections. As defined in Section 8.02G, overages for commercial Customers shall be charged out at the rate of \$10.00 for each 32-gallon bag or (up to) 33-gallon Container, and \$18.00 for each 64 gallon bag or 64-gallon Container, and \$25.00 for each 96- or 100-gallon container, except that no overage Containers will be Collected over 32 gallons unless they are waste-wheelers.

H. Overweight Containers. Bins and Roll-off boxes shall have a maximum weight capacity posted on the side of the Container. Customers who overload Commercial Containers beyond the posted capacity shall be liable for any additional fees and/or fines that may be incurred by Contractor during loading, transport and Disposal of such Containers.

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

ATTACHMENT E

REFUSE RATE INDEX

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

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

<u>Cost Category</u>	<u>Index</u>
Labor	Series ID: ceu6056210008 Professional and business services – waste collection
Diesel Fuel	California No 2 Diesel Ultra Low Sulfur (0-15 ppm) http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp Vehicle Replacement Series ID: pcu336211336211 Motor vehicle body manufacturing
Vehicle Maintenance	Series ID: pcu333924333924 Industrial truck, trailer and stacker mfg.
All Other	Series ID: cuusx400sa0 Consumer Price Index, All Urban Consumers, All Items; West – Size Class B/C
Disposal	The actual tip fee charged to the Contractor by the Disposal Facility.

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

Operating Cost Statement - Description

- Labor:** List all administrative, officer, operation and maintenance salary and benefit accounts.
List payroll tax accounts directly related to the above salary accounts.
List employee group medical and life accounts directly related to the above salary accounts.
List employee retirement or profit sharing contributions accounts directly related to the above salary accounts.
- Diesel Fuel:** List all diesel fuel accounts.

Vehicle Replacement:

List all Collection and Collection-related vehicle depreciation accounts.

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

Vehicle Maintenance:

List all Collection or Collection-related vehicle parts accounts.

All Other:

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

Disposal:

List all Disposal costs related to the provision of Collection services.

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

An Example RRI Calculation:

In this example, the Refuse Rate Index is 2.58% (i.e., rates would be increased by 2.58%)

Item #	Category	Data Source	Percent Change ⁽¹⁾	Category Weight ⁽²⁾	Weighted Percentage Change ⁽³⁾
1	Labor	Series ID: ceu6056210008 Professional and business services – waste collection	2.19%	39.05%	0.85%
2	Diesel Fuel	California No 2 Diesel Ultra Low Sulfur (0-15 ppm) http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp	4.74%	13.15%	0.62%
3	Vehicle Replacement	Series ID: pcu336211336211 Motor vehicle body manufacturing	6.79%	2.57%	0.17%
4	Vehicle Maintenance	Series ID: pcu333924333924 Industrial truck, trailer and stacker mfg.	0.16%	13.46%	0.02%
5	All Other	Series ID: cuusx400sa0 Consumer Price Index, All Urban Consumers, All Items; West – Size Class B/C	1.70%	18.75%	0.32%
6	Disposal	Average of Change in Disposal Facility Tip Fees	4.60%	13.02%	0.60%
Example RRI				100%	2.58%

⁽¹⁾ The percentage change in the indices from year to year.

⁽²⁾ Each Category's percentage of the **Contractor's** total operating costs.

⁽³⁾ The product of Percentage Change x Category Weight.

ATTACHMENT F

DETAILED RATE REVIEW METHODOLOGY

In the event that either **County** or **Contractor** requests a Detailed Rate Review, as provided for in **Section 12.05**, the Detailed Rate Review shall be based on evidence or data presented by **County** or **Contractor** contained within the compiled or audited financial statements for the preceding complete Calendar Year for the required franchise services. The Party that requests the Detailed Rate Review shall be responsible for the associated costs of providing any additional compiled or audited financial statements, if any, that may be required to complete the Detailed Rate Review.

Overview of Detailed Rate Application Process

The detailed Rate review process is as follows:

1. Identify the reason(s) for the Detailed Rate Review request;
2. Establish the actual financial results for the prior Calendar Year, which shall consist of all franchised revenues and expenses as reported in **Contractor's** audited financial statements. It is expected that any revenues and/or expenses attributed to non-franchised services shall be clearly reported in the financial statements, along with the basis used to assign or allocate such revenues and expenses;
3. Make any appropriate adjustments to the actual costs to account for established non-allowable costs and/or to exclude or reduce any costs that were not reasonably and necessarily incurred in the performance of the services provided in accordance with the Agreement;
4. Project revenues and expenses for the next Rate Year (See **Attachment G**);
5. Apply a proposed targeted Operating Ratio to projected allowable expenses (not including Pass-Through Costs) for current Calendar Year to determine the current Calendar Year revenue requirement; and
6. Calculate rate adjustment required to achieve calculated revenue requirement.
7. Complete and submit a Detailed Rate Review application to the other Party.
8. Confer with the other Party to determine whether the requested Rate modification is in conformance with the provisions of **Section 12-05**; and
9. Jointly approve and sign the Application and submit the Application to the PCIWMTF for concurrence and recommendation to the Board of Supervisors.

Detailed Rate Review Application

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

1. The reason(s) for the Detailed Rate Review application;
2. Line item revenue and expenses for the franchised services as reported in **Contractor's** compiled or audited financial statement;
3. Variance analyses of revenues and expenses for the prior five years, along with explanations for significant variances;

4. Projected revenues and expenses for the next Rate Year, based upon Attachment G of this Agreement, "**Guidelines for the Projection of Revenues and Expenses**", which includes the supporting basis for any adjustment factors applied to the prior Calendar Year to project revenues and expenses from the current Calendar Year forward (e.g., projected changes to depreciation schedule, required union wage rate increases, projected increase in disposal tipping fee, etc.);
5. Calculated revenue requirement based upon the current Operating Ratio;
6. Requested Rate adjustment required to achieve calculated revenue requirement; and
7. Signed letter(s) from **County's** Administrator and **Contractor's** Management stating that they have reviewed the Application and attest to the accuracy and completeness of the Application.

Non-Allowable Costs

County may adjust the actual costs in two ways: (1) by excluding any non-allowable costs, as set out below, and (2) by excluding and/or reducing any costs that were not reasonably or necessarily incurred in the performance of the services provided in accordance with the Agreement, as determined by **County**.

Costs that may be deemed non-allowable include, but are not limited to:

- a) Aggregate annual officer salary and benefits¹ in excess of \$146,124 for two officers, adjusted annually by the labor index².
- b) Officer life insurance costs.
- c) Director costs.
- d) Promotional, business development and business-related travel expenses in excess of \$2,500.00 aggregate per Calendar Year, as adjusted annually per the CPI³.
- e) Payments to repair damage to property of **County** or other parties, including **Contractor**, for which **Contractor** is legally liable.
- f) Fines or penalties of any nature, including any liquidated damages that may be assessed under this Agreement, but only those for which **Contractor** is legally liable.
- g) Charitable donations/goodwill.
- h) Political donations.
- i) Any amount of rental or lease charges for leasing vehicles longer than six months that is greater than the cost of acquisition, plus interest costs, of the vehicles depreciated over seven (7) years.
- j) State or federal income taxes.
- k) Attorneys' fees and other expenses incurred by **Contractor** in any court or adversarial proceeding in which **Contractor** and **County** are adverse parties, unless **Contractor** is

¹ All benefits included except Social Security, Worker's Compensation and group health insurance premiums offered to all employees.

² Series ID: ceu6056210008 Professional and Business Services – Waste Collection

³ Series ID: currx400sa0 Consumer Price Index, All Urban Consumers, All Items; West – Size Class B/C.

the prevailing party in such proceeding and **Contractor** fails to recover such fees as a result of that litigation.

- l) Attorney's fees and other expenses incurred by **Contractor** in any court proceeding in which **Contractor's** own negligence, violation of law or regulation, or other wrongdoing, are in issue and occasions in part the attorney's fees and expenses claimed. Such attorney's fees, however, will be allowed to the extent **Contractor** can demonstrate they were a reasonable and necessary cost of doing business, and were not the result of any intentional or willful misconduct by **Contractor** or its employees. Also non-allowable are any attorney's fees and expenses incurred by **Contractor** in a court proceeding in which the legal theory or statute providing a basis of liability against **Contractor** also provides for separate strict liability for **County** arising from the action of its citizens or ratepayers (such as in a CERCLA lawsuit).
- m) Payments to related party entities for products or services, in excess of the fair market value for those products or services.

Operating Ratio

As defined in **Attachment A**, the "Operating Ratio" shall be a ratio of projected net revenues to **Contractor's** projected allowable expenses, excluding Pass-Through Costs, and shall fall within a range of 88% to 92%.

Pass-Through Costs⁴

Pass-Through Costs shall include:

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

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

⁴ "Pass-Through Cost" means a cost to which no element of overhead, administrative expense, or profit is added, as defined in **Attachment A**.

ATTACHMENT G

SPECIAL RATE REVIEW METHODOLOGY

In the event that either **County** or **Contractor** requests a Special Rate Review, as provided for in Section 12.06, the Special Rate Review shall be based on evidence or data presented by **County** or **Contractor** that a singular and/or unexpected occurrence has occurred within the past 12 months that has effected and will continue to have a significant¹ financial effect on **Contractor's** revenues and/or expenses and that **Contractor's** costs for the required franchise services have undergone and will continue to undergo a significant increase or decrease due to this occurrence. The Party that requests the Special Rate Review shall be responsible for the associated costs of providing any data or other information, if any, that may be required to complete the Special Rate Review.

Overview of Special Rate Application Process

County and/or **Contractor** shall:

1. Identify the occurrence which has significantly affected **Contractor's** revenues and/or expenses.
2. Review supporting evidence or data supporting the request for a Rate modification.
3. Calculate the impact to **Contractor's** costs by projecting revenues and expenses for the next Rate Year without consideration of a successful rate modification request versus a projection of revenues and expenses for the next Rate Year that includes a successful rate modification request.
4. Calculate a revenue requirement needed to achieve a 90% Targeted Operating Ratio.
5. Calculate the Rate adjustment required to achieve calculated revenue requirement that will, in turn, result in a 90% (ninety percent) Targeted Operating Ratio.
6. Complete and submit a Special Rate Review application to the other Party.
7. Confer with the other Party to determine whether the requested Rate modification is in conformance with the provisions of Section 12.06; and
8. Jointly approve and sign the Application and submit the Application to the PCIWMTF for concurrence and recommendation to the Board of Supervisors.

Special Rate Review Application

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

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

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

¹For this Section, "significant" shall be defined as an occurrence having a material effect totaling 2% (two percent) or more annually on the total annual costs for the then-current Rate period.

ATTACHMENT H

GUIDELINES FOR THE PROJECTION OF REVENUES AND EXPENSES

These projections are to be used solely for the establishment and/or adjustment of the Operating Ratio.

Revenue Projections

Revenues shall be projected as follows:

1. **Solid Waste and C&D Revenues:** To be projected by applying the current Rates to a projected Customer base, which in turn shall be derived from the current number of Customers within the **Contractor's** Franchise area that has been adjusted by a Plumas County Growth Projection factor, as calculated from the California Department of Transportation's County Level Economic Forecast, 2010-2035, the California Department of Finance's Population Projections by Race Ethnicity, Gender and Age for California, Table P-3, and The 2010 US Census, Summary File 1;BAE, 2011.
2. **Recycling Revenues:** To be projected by utilizing **Contractor's** prior year actual recycling gross revenue amounts, adjusted by the actual 12-month percentage changes in recyclable commodity prices paid to **Contractor** from January 1 of the prior year to January 1 of the current year.

Expense Projections

Expenses shall be projected to conform to indexed percentage changes or to known future changes, whichever is greater, for the following items, excluding those items listed as Non-Allowable Costs in Attachment F of this Agreement:

1. **Tipping (disposal) fees:** Per the current contract with Waste Management for the Lockwood Landfill in Lockwood, Nevada, including any projected changes.
2. **Other fees:** Franchise and other fees paid to **County**, including any projected changes.
3. **Rents:** Rents paid to **County**, including any projected changes.
4. **Wages and salaries:** Employment Cost Index (NAICS); Series ID: cis201s00000000i (B,H) Seasonally Adjusted; Compensation: Total Compensation; Sector: Private Industry; Periodicity: Index Number; Industry Occupation: Service-providing industries.
5. **Fuel:** California No. 2 Diesel Ultra Low Sulphur (0-15 ppm)
<http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp>
6. **Repairs and Maintenance:** PPI Industry Data, series ID pcu333924333924; Not Seasonally Adjusted; Industry: Industrial truck, trailer and stacker mfg.; Base Date: 197912.
7. **Depreciation:** To be obtained from **Contractor's** actual fixed asset schedules adjusted for known equipment disposals and acquisition.

8. **Insurances (commercial, vehicle, health, Worker's Compensation):** Contractor shall provide projected premium costs as calculated by **Contractor's** insurance carrier(s).
9. **Other Items:** Other items not specifically identified herein, but listed in Section 10.05 A 4 of this Agreement: CPI – All Urban Consumers; Series ID: cuur0000sa0; Not Seasonally Adjusted; Area: US City Average; Items: All Items; Base Period: 1982-84=100.