

MASTER CONTRACT

Integrated Solid Waste Management



CONTRACTOR and MONO COUNTY, California

Planning and Operation of Waste Transfer Station
Long-Haul Transportation
Disposal and Materials Management

Contract Date:

Expiration Date:

INTRODUCTION

This Master Contract is an “umbrella” or master agreement with the following Service Contracts attached and incorporated by this reference:

1. Transfer Services;

Long-Haul Transport;

2. Disposal;
3. Satellite Transfer Stations Operations;
4. County Facilities Waste Collection;
5. Materials Management Services;
 - a. Treated Wood Waste
 - b. Inerts
 - c. Recyclable C&D and Wood Waste
 - d. Green Waste and Clean Wood Waste
 - e. Tires
 - f. Scrap metal and White Goods
 - g. Recyclables:
 - i. Beverage Containers
 - ii. Corrugated Cardboard (OCC), and
 - iii. Mixed Paper;
 - h. Carpets
 - i. Mattresses
6. Such other services as County and Contractor may agree upon at a future date and incorporate into this Master Contract.

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PREAMBLE

Mono County, a political subdivision of the State of California (**County**) [INSERT NAME]. and [INSERT STATE] corporation, (**Contractor**) enter into this Master Contract on the contract date.

Contract date is the date identified on cover of this Master Contract.

FINDINGS.

The County Board of Supervisors determines and finds as follows:

1. **Solid Waste Management:** Adequate, reliable, and affordable solid waste management is fundamental to the health, safety, and welfare of the County’s public and the environment.
2. **Public Health & Safety:** The County must protect public health and the environment. The County is not only authorized but *required* to provide solid waste handling services to its citizens, including: source reduction; recycling and composting; and collection, transfer and disposal of solid waste within the County boundaries subject to its solid waste handling jurisdiction, under California Public Resources Code (PRC) §40057. (California Integrated Waste Management Act (sometimes referred to as “AB 939”; PRC §40000, *et seq.*). As of the contract date, the County provides waste management services including:
 - Solid waste collection through residential and commercial franchise agreements;
 - Solid waste disposal at **Benton Crossing Landfill**, currently operated by the County on land leased from the Los Angeles Department of Water and Power (**LADWP**) (lease expiring January 1, 2023);
 - Solid waste drop off at satellite transfer stations for disposal under 7-year contract:

- 1) **Pumice Valley Landfill:** C&D waste burial; clean wood waste processing / reuse; waste transfer.
 - 2) **Walker Landfill & Transfer Station:** C&D waste disposal; clean C&D, waste processing/reuse; transfer.
 - 3) **Paradise Transfer Station:** waste transfer.
 - 4) **Benton Transfer Station:** waste transfer.
 - 5) **Bridgeport Transfer Station:** waste transfer.
- Drop off collection of household hazardous wastes
3. **Solid Waste Diversion /AB 939:** Under the California Integrated Waste Management Act the County must provide recycling, organics diversion, and edible food waste reuse. It must maximize the use of source reduction, recycling, and composting, including the following law as of the contract date:
- 1) **Pumice Valley Landfill:** clean wood waste processing / reuse
 - 2) **Walker Landfill:** clean wood waste processing / reuse
 - 3) **At all County facilities:** drop off recyclables – glass, plastic, aluminum, and cardboard
- A. **75% Diversion / AB 341.** In addition, under AB 341 the State has set a goal to divert 75% of solid waste from disposal, this occurs by:
- Used oil and oil filter recycling: Certified Used Oil Collection Centers located at all County facilities
 - Recycling empty propane tanks
 - Accepting treated limited amounts of treated wood waste
 - Carpet recycling at Benton Crossing Landfill
 - Paint recycling at Benton Crossing Landfill
 - Plastic Waste Ban (SB 270)
- B. **Mandatory Commercial Recycling & Organics Diversion / SB 1826:** County must implement a mandatory organic waste recycling program for businesses and multi-family premises, including all of the following: education; outreach; monitoring; and reporting to CalRecycle. (AB 1826 Chesbro (Chapter 727, Statutes of 2014) PRC 42649.8 ff.). This occurs by:
- Recyclables and Organics collection by franchised haulers
- C. **Preparing for Organics Recycling / SB 1826 .** CalRecycle has granted the County an extension for compliance with SB 1826, to January 1, 20xx, with possible further extension, but this Master Contract now: helps County demonstrate its good faith efforts by creating the Integrated Materials Management Center (IMMC) IMMC to provide a site for organics handling and help meet County’s future organics recycling obligations.
- D. **Reducing Methane Emissions / SB 1383. .** County must generally reduce disposal of organic waste by targeted 50% of 2014 levels by 2020, and 75% by 2015, and specifically

20% of edible food by 2025. (CA Short-lived Climate Pollutants / Organic Waste Methane Emissions Reductions legislation, AB 1383 Lara [Chapter 395, Statutes of 2016] HSC 39730.6 ff).

4. **Reasons for Procurement.**

A. **Expiration of Benton Crossing Landfill Site Lease.** The site lease between the County and Los Angeles County Department of Water and Power expires on January 1, 2023. On the contract date Benton Crossing Landfill provides integrated waste management services, including:

- 1) solid waste disposal
- 2) C&D debris burial
- 3) Treated wood waste, processing, and reuse
- 4) Drop of recyclables: glass, aluminum, paper
- 5) Paint recycling
- 6) Carpet recycling

B. **Integrated Materials Management Center (IMMC).** The County is developing an integrated materials management program to replace the services provided at Benton Crossing landfill, including:

- 1) Waste transfer station development and operations under a Transfer Services Contract;
- 2) Diversion operations under Materials Management Contracts, such as:
 - a. C&D debris burial
 - b. Treated wood waste, processing and reuse
 - c. Drop off of recyclables: glass, aluminum, paper
 - d. Paint recycling
 - e. Carpet recycling
 - f. Propane tank recycling

5. **Multiple Contracts:** County has solicited proposals to provide a system of integrated waste management in the County through multiple contracts with potentially different contractors, such as the following:

- 1) **IMMC.** All services provided at Benton Crossing Landfill on the contract date, listed above, at an IMMC, including on this date:
 - **Transfer Station:** Providing and operating a waste transfer station to accept waste delivered by self-haulers, commercial haulers, and County Franchisees, and transfer of their waste into containers or trucks for long-haul transport;
 - **Recycling Operations:** Providing handling of recyclable materials currently managed at Benton Crossing Landfill.
- 2) **Transport.** Waste transport contracts to long-haul waste from the IMMC and/or transfer station for disposal.
- 3) **Disposal.** Waste disposal contract to dispose of transported waste.

- 4) **Satellite Transfer Station.** Operation of and waste transfer from six existing satellite transfer stations to the IMMC or transfer station location.
 - 5) **County Facilities Collection.** Collection of waste from County facilities.
6. **“Good faith effort”.** By entering into these contracts, County demonstrates “good faith effort” not only to comply with law but also to maximize diversion of solid waste from landfill disposal.
7. **Authorization.** The County is authorized to procure this Master Contract with or without competitive bidding and on a (non)exclusive basis (PUC 40059(1)(2)). County finds that competitively procuring this Master Contract and Service Contracts on an exclusive basis is in the best public interest.

GLOSSARY

Words in this Master Contract have the meanings given this Glossary, whether they are capitalized or in lower case font.

Defined Term	Definition / Section Cross-Reference
AB 939	California Integrated Waste Management Act, PRC 40,000 <i>et seq.</i>
affiliates	All persons (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to Contractor because of direct or indirect ownership interests or common management, including any or all of the following: <ul style="list-style-type: none"> • Subsidiaries: a business in which Contractor owns a direct or indirect ownership interest; • Parents: a business which has a direct or indirect ownership interest in Contractor; and • Siblings: a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Contractor.
amendments (to insurance)	12.01
Annual Report	10.02; Attachment 10.02
Bank	Attachment 12.02 (Letter of Credit)
Assurance of Performance	12.04
breach	13.01a
calendar year	January 1 through December 31
C&D	construction and demolition waste or debris
CED	4.08b
change order	3.03 (<i>see also “service change”</i>)

clean wood waste	material handled under the Materials Management Service Contract
CNG	See “DOE CNG”
Contract	This agreement, titled on its cover page, and Service Agreements incorporated in this agreement
contract date	The date on the cover page of this Master Contract.
contract fee	1.04
Contract Manager	Attachment 4.07 (Criminal Conduct) Contract “Contractor Representative” (contract performance)
contract obligations or contract service(s)	All Contractor’s obligations, requirements, responsibilities, duties, liabilities, and commitments to customers and County under this Master Contract and the Service Contracts, including; <ul style="list-style-type: none"> • Scope of services (Article 3), • Service standards (Article 4), • Keeping records (Article 9), giving reports (Article 1)), and other contract administration provisions, • Indemnifying County (Article 11), • Providing insurance and financial assurances (Article 12), and • Paying liquidated or compensatory damages (Article 13).
contract term	2.01, including any extensions
contract year	County’s fiscal year, July 1 – June 30 (contrast “calendar year”). <i>For example, used for annual service fee adjustment.</i>
Conviction	Attachment 4.07 (Criminal Conduct)
Contractor	Preamble; including Contractor’s subcontractors and its successors and assigns.
Contractor Representative	15.05 (see also “key personnel”) Contract “Contract Manager” (contract performance)
County	Preamble
County business day	4.03
County insureds	12.01b
County office hours	4.03
County Reimbursement Cost	Attachment 12.02 (Letter of Credit)
County Representative	15.05b (see “key personnel”)
CPI	8.02
Criminal Conduct	Attachment 4.07 (criminal conduct)
day	calendar day
default	14.05; Attachment 14.05

discretionary action	Defined Immediately following Glossary
Dispute Resolution Protocol	15.06
DOE CNG	Department of Energy / Compressed Natural Gas 8 See also CNG.
EIA LNG	Energy Information Agency / liquified national gas 8.02 See also LNG.
Event of default	13.02, Attachment 13.02
e-waste	4.08b
garbage	discarded materials that are putrescible; Contrast “trash”; see “refuse”.
green waste	Material collected under Materials Services Contract
Guarantor, Guaranty	The Guaranty attached to this Master Contract as Exhibit 12.03.
hazardous waste	4.08b
<ol style="list-style-type: none"> 1. herein 2. hereof 3. hereunder 4. hereinbefore 5. hereinafter 	<ol style="list-style-type: none"> 1. in this Master Contract, 2. of this Master Contract, 3. under this Master Contract 4. before the contract date 5. after the contract date
household hazardous waste	4.08b
IMMC	Integrated Materials Management Center: location, where refuse is transferred for transport to disposal facility and other materials, described in Findings 4B, are handled. Or where other materials are handled if refuse is transferred at another location.
Immediate Family	15.03b (Transfer)
including	“including, without limitation”, “including, but not limited to”
indemnification	11.03, including defense, hold harmless and indemnification
Indemnify	See “indemnification”
Inerts	Material handled under the Materials Management Contract
Independent MSW Expert	Attachment 8.03
inventory	9.02b
key personnel	4.05
law	4.04b
liabilities	11.03
liquidated damages	14.03b(2)
LNG	See “EIA LNG”
managed materials	Materials handled under the Materials Management Contract, on the contract date including: <ol style="list-style-type: none"> a. Treated wood waste

	<ul style="list-style-type: none"> b. Inerts c. Recyclable C&D and wood waste d. Green waste and clean wood waste e. Tires f. Scrap Metal and white foods g. Recyclables: beverage containers, mixed paper, OCC / old corrugated cardboard h. Carpets i. Mattresses
Master Contract	This Contract, including all exhibits, attachments, and the Services Contracts (that is incorporated by reference), as any or all may be amended.
materials	See “managed materials”
materials management center	See “IMMC”
materials management facility	See “IMMC”
Materials Management Contract	Contract by that name between County and one or more contractors to handle managed materials.
materials management site	Location of contractors’ operations under the Materials Management Service Contracts, where they, which may be within the County’s materials management center.
may	authorized, allowed, or permitted, but not obligated
<ul style="list-style-type: none"> • Notice (or Notify) • “due Notice” 	<ul style="list-style-type: none"> • Notice in form required under 15.02 (or to give Notice in that form). • Notice given under 15.02
organics	materials that are or were recently living, such as leaves, grass, agricultural crop residues, or food scraps; individual Service Contracts may define “organics” differently for reasons including compliance of regulations. Those definitions will govern over the definition in this Master Contract
Ownership	Defined only for 15.03b (Transfer)
parties	Contractor and County
permitted waste	discards that can be disposed in a Class II landfill (CA) see “unpermitted waste” Compare “transferable waste”
permits	4.04b
person	Means any of the following: <ul style="list-style-type: none"> 1. individual; 2. firm, association, organization; 3. partnership, corporation, joint venture; 4. trust; 5. the United States; 6. the State;

	7. the county, a municipality or special purpose district; or other entity.
Pleas	Attachment 4.07 6 (Criminal Conduct)
Position of Influence	Attachment 4.07 (Criminal Conduct)
processing	controlled separation, recovery, volume reduction, or recycling of solid waste, earthen materials, and inert debris, including <ul style="list-style-type: none"> • organized, manual, automated, or mechanical sorting; • chipping, grinding, shredding or baling; • the use of vehicles for spreading of waste for the purpose of recovery; and • the use of conveyor belts, sorting lines or volume reduction equipment, all consistent with 14 CCR 17381.
Processing facility	a facility that receives solid wastes and <ul style="list-style-type: none"> • temporarily stores, • separates, • converts, or • otherwise process materials in the solid wastes. Examples of solid waste that is processed includes recyclables, C&D debris, inert debris, scrap metal, appliances, tires and e-waste. “ processing facility ” excludes all of the following <ul style="list-style-type: none"> • facilities whose principal function is to receive, store, separate, convert, or otherwise process in accordance with state minimum standards, manure • wastes that have already been separated for reuse and are not intended for disposal, • storage incidental to the conduct of a refuse collection and disposal business • an EMSW conversion facility as defined in the Public Resources Code.
Quarterly Report	10.02a
reasonable	prudent, done in good faith, and corresponding to commonly accepted practices to one similarly situated.
Reasonable business efforts	Good faith efforts that are reasonable in the judgment of someone engaged in for-profit business, considering how much it costs.
Rate Adjustment Protocol (Changes in Service)	Attachment 8.02b

Rate Adjustment Protocol (Scheduled Annual Adjustment)	Attachment 8.02a
records	9.01
recyclable C&D and wood waste	Managed materials under the Materials Management contract
refuse	“trash” and “garbage”; See also “solid waste”
regulatory authority	4.04b
reimbursement costs	See “County reimbursement costs”
Related Party	Attachment 4.07
Representations and Warranties	Attachment 1.01
RFP	Request for Proposals issued by the County to procure this Master Contract, to which Contractor responded.
scrap metal	Managed material handled under the Materials Management Contract
services	See “contract services”
service asset documents	14.04h
service assets	14.04b
service change	3.03 (<i>see also change order</i>)
service contracts	Contracts between the County and one or more Contractors incorporated into this Master Contract by reference, listed in the Introduction.
Service day	Day when Contractor must provide service in each respective Service Contract.
service fee	8.01
Service Fee Adjustment Procedure	3.03b
service fee payment date	8.01
Service Fee Schedule	8.01 / Attachment 8.01 in Service Contracts
sole discretion	Immediately following Glossary
solid waste	<p>“Solid waste “defined in PRC 40191 that is discarded in the contract service area, including the following:</p> <ol style="list-style-type: none"> 1) refuse (rubbish and garbage); 2) recyclables discarded and mixed with other solid waste; 3) organics discarded and mixed with other solid waste; 4) bulky waste; and 5) construction & demolition debris. <p>The following are <i>not</i> solid waste:</p> <ol style="list-style-type: none"> 1) recyclables discarded separately from other solid waste; 2) organics discarded separately from other solid waste, and

	3) materials identified by the County that are difficult to handle.
solid waste facility or solid waste management	a solid waste transfer or processing station, a composting facility, a gasification facility, a transformation facility, an EMSW conversion facility, (defined in the PRC 40100 et seq., and a disposal facility.
solid waste handling	3.02 (see also “solid waste management”)
solid waste management	3.02 (see also “solid waste handling”)
State	State of California
Stated Amount	Attachment 12.02 (Letter of Credit)
subcontractors	4.08a
tires	Material handled under the Materials Management Contract
Transfer Transfer Costs Deposit	15.01b 15.01c
transferable waste	Permitted waste that can be delivered to the Transfer Station and loaded into transport trucks
trash	Discarded materials that are non-putrescible Contrast “garbage”; see “refuse”.
treated wood	Materials handled under the Materials Management Contract
Uncontrollable circumstances	Attachment 13.02
universal waste	4.08b
unpermitted waste	4.08 compare “permitted waste”
violation	Attachment 13.02
waste management facility	See “solid waste facility”
white goods	Managed material handled under the Materials Management Contract
year	A calendar year of January 1 through December 31, <i>unless</i> “contract year” is specified. (For an example of “calendar year” see provisions for liquidated damages and submitting reports.)

Presumed Reasonableness.

Each party will exercise any discretionary action in a manner that is reasonable, unless it reserves sole discretion.

discretionary action means approval, disapproval, or consent; option, election, or choice; opinion; determination; or discretion under this Master Contract or interpretation of this Master Contract.

Exercise of Discretion.

Recognizing that contract services are essential to public health and safety, where this Master Contract explicitly provides that County reserves sole discretion, Contractor will not question or challenge

County's exercise thereof and where Contractor reserves sole discretion, County will not question or challenge Contractor's exercise thereof.

sole discretion means that the exercise of any discretionary action is in a party's sole, exclusive or absolute discretion, control or judgment.

Gender.

Words stated (or implied) in the masculine gender include correlative words of the feminine and neuter genders, and vice versa. For example, *“he” and “she” are used interchangeably.* In addition, words relating to individuals in neuter gender include correlative masculine and feminine gender. For example, *“customer” refers to both men and women, whether the related adjective “his” or “her” is used; and “County Representative” includes both male and female staff.*

References.

References to “articles” or “sections” means sections in this Master Contract unless a Service Contract is explicitly stated. References to “subsections” means references to the section of which the subsection is a part.

ARTICLE 1 – CONTRACT RIGHTS and OBLIGATIONS

1.01 Exclusive, Limited, and Non-Exclusive Contracts.

Under a Service Contract County may grant Contractor and Contractor may accept exclusive, limited exclusive, or non-exclusive rights, including contract rights, and obligations to provide contract services described in that Service Contract, subject to exclusions. Contractor may enforce its right and privilege and act against anyone who is violating that right and privilege.

1.02 Contract Fee.

County may charge Contractor fees, including contract fees, under Service Contracts or contracts. In consideration for its Service Contract, Contractor will pay County the fee, if any, in the amount, at the time, and in the manner provided in that Service Contract.

1.03. Definition of Rights.

Contractor acknowledges the following:

- a. that this Master Contract does not grant Contractor any rights under PRC §49520 and
- b. the Contractor does not have the right to make any claim under PRC §49520 but only under this Master Contract.

Upon expiration or termination of this Master Contract, Contractor will stop providing contract services even if the expiration or termination occurs before the end of the period described in PRC § 49520. After expiration or termination of this Master Contract, County may re-procure one or more agreements for contract services with Contractor or other persons/entities. Those agreements may be exclusive, partially exclusive, or wholly exclusive contracts, licenses, permits or otherwise, with or without competitive bidding.

1.04 Representations and Warranties

Contractor and County make the representations and warranties in Attachment 1.04.

ARTICLE 2 - TERM

2.01 Term.

The term of this Master Contract begins on the contract date and ends upon the expiration or termination of the Service Contract, including any extension thereto.

2.02 Continuing Obligations.

a. Survival of Terms

The following provisions will survive the expiration or termination of this Master Contract:

- 1) **Indemnification, etc.:** All acknowledgments, representations, warranties, indemnities, defenses and releases, including the defined "Indemnification";
- 2) **Records and Reports:** Obligations with respect to records, reports and financial statements; and
- 3) Any other provisions of this Master Contract (including the Service Contracts) stated to survive the expiration or termination of this Master Contract.

b. Cooperation During Transition to New Contractor.

When this Master Contract expires or terminates Contractor will cooperate fully with County and succeeding contractor(s), licensee(s), permittee(s) or anyone else providing similar services.

c. Undepreciated Assets.

Contractor acknowledges that it has no right to recover an amount equal to the undepreciated value of assets it uses to provide contract services that might remain at the expiration or termination of this Master Contract, from either the County or customers, *except* for amounts that County must pay Contractor if County exercised any option to purchase assets under a Service Contract, such as operating equipment.

d. Future Agreements.

This Section does not preclude County, at its discretion, from entering into a succeeding agreement with Contractor to provide services like services under this Master Contract.

ARTICLE 3 - SCOPE OF SERVICES / SPECIFICATIONS

3.01 Services.

Contractor will provide contract services under its Service Contract. Contractor acknowledges that County is not responsible for supervising or performing contract services. Contractor has full freedom, discretion and responsibility to solely determine the manner of providing contract services. Contractor is responsible for the security and safety of all equipment, tools, product, and anything that it uses to provide services or keeps at the place where it provides services. County is not responsible for the damage, theft, or other misuse of Contractor's property.

3.02 Emergency Assistance

a. Services.

(i) **Requested by County.** Upon County request, in health and safety emergencies determined by County (such as an earthquake, mudslides, or fire) Contractor will promptly provide solid waste management services like contract services provided under its Service Contract. Contractor will charge County directly, no more than 20% of its then-existing service fee for such services, unless Contractor provides documentation satisfactory to the County that its actual costs exceeded the 20% surcharge.

(ii) **Emergency Plan.** Contractor will develop an emergency plan together with the Mono County Office of emergency service. It will give emergency contact communications means such as phones or computer applications so County can always reach Contractor all day, every day including holidays.

solid waste management or solid waste handling means collection, transportation storage, transfer or processing recyclables and organics and disposal of processing residue, and related tasks to protect the public from solid waste threats to health and safety.

b. Documentation.

Contractor will file information with County, State or Federal officials related to cost of providing the emergency services (such as number or quantity of vehicles, fuel, employees, tonnage, and disposal fees).

3.03 Change in Services / Change Order.

a. Direction / Request.

County may direct a change in contract services or a change order. Contractor may request a change in service or change order. Parties will follow the Service Fee Adjustment Procedure.

Service Fee Adjustment Procedure means the the process in Attachment 8.02b "Adjustments for Services / Change Orders: Plan Presentation, Review, and

Agreement” in this Master Contract and corresponding attachments in Service Contracts .

Parties may withdraw their request at any time, for any reason.

b. New Service.

The change in service might be an additional, new service that Contractor does not provide under its Service Contract. If County and Contractor cannot agree upon the service fee adjustment, if any, within the time required under the Service Fee Adjustment Procedure, County may implement proposed additional service itself or through others.

Examples of new services include:

- *transferring source- separated organics under a Transfer Contract;*
- *transporting organics to a processing facility under a Transport Contract;*
- *processing organics under a Disposal Contract.*

c. Change in Existing Service.

The change in service might be an existing service that Contractor provides under its Service Contract. If County and Contractor cannot agree upon the service fee adjustment, if any, within the time required under the Service Fee Adjustment Procedure, then

- either one may request review by the Independent MSW Expert; or
- if neither requests a review, County may implement the proposed change service itself, or through others. Contractor will cooperate in implementing the change.

d. Implementation of Change.

(1) **County-Initiated.** Contractor will implement change directed by County at the times provided in the plan that it submitted to County, upon occurrence of if either of the following:

- parties agree upon the change, or
- the Independent MSW Expert determines that the cost of the change is within the minimum amounts allowed under the Service Contract.

(2) **Contractor-Initiated.** Contractor will implement the change that it requested at the times provided in the plan that it submitted to County, upon occurrence of either of the following:

- County approves Contractor’s change, or
- if the County does not approve Contractor’s change in the amount determined by the Independent MSW Expert, *unless* Contractor withdraws its request at its sole discretion.

e. Unexcused Breach.

If Contractor's breach of this Master Contract directly or indirectly caused the need for a change order, the service fee will not be adjusted *unless* the breach is excused by an uncontrollable circumstance. Contractor will not be entitled to any compensation for implementing the change order change orders occasioned by noncompliance with this Master Contract.

3.04 Vehicles

Unless excepted by County, Contractor will meet requirements in this subsection with respect to its vehicles.

a. Air Emissions.

Unless waived by the County, as a contractual obligation (even if Contractor is not obligated to do so under law) Contractor will meet the State's Clean Air Regulations for Heavy Diesel Vehicles on Contractor's vehicles used within the State , including:

1. Idling limits
2. Performing annual smoke opacity tests or smog checks,
3. Using and maintaining particulate matter filters, including training drivers to understand the monitoring system / indicator lights, maintaining the proper engine duty cycle, complete regeneration cycles, and removing noncombustible ash.

b. Safety.

Promptly upon County request, Contractor will give County a copy of its vehicle maintenance log and any safety compliance report, including all of the following:

1. any report issued under Division 14.8 of the California Vehicle Code (Section 34500 *et seq.*), and
2. the biennial "BIT" inspections conducted by the California Highway Patrol; and
3. comparable logs and reports required under other applicable state law.

vehicle(s) means all rolling equipment used to transport materials from the IMMC to the materials management facility, whether owned or leased by Contractor.

c. Vehicle Identification.

1. **Lettering**

(i) Mandatory. Upon Contractor request, Contractor will place all of the following information on every vehicle in letters and figures at least three inches high in colors that contrast with the background:

- I. Contractor's name (not an affiliate's), *unless* Contractor immediately informs County that Contractor has substituted another vehicle without Contractor's name to temporarily provide collection when the vehicle that Contractor usually uses for collection in the County

- is undergoing repair;
- II. toll-free telephone number; and
- III. unique vehicle number.

(ii) **Prohibited.** Contractor will *not* place any other words (such as County name) or pictures (such as County logo) without County consent.

(iii) **Permit.** Contractor will clearly display its County permit in the front window of every service vehicle.

d. **Vehicle Maintenance.** Contractor will maintain vehicles in clean condition and good repair so that they operate properly and safely.

1. **Inspections.**

(i) **CHIP.** Contractor will have the California Highway Patrol or another state's comparable entity inspect each vehicle under law.

(ii) **County.** Contractor will conduct additional inspections (such as brake testing) within one week of County request. Contractor acknowledges that County may – but is not required to - inspect vehicles.

(iii) **Drivers.** Contractor's drivers will conduct pre-and post-route inspections daily.

2. **Oil Recycling, Re-refined Oil.** Contractor will recycle all used oil from its vehicle maintenance operations and make reasonable business efforts to use re-refined oil.

3. **Spare Vehicles.** Contractor will maintain a sufficient number of spare vehicles, fully fueled and ready to dispatch within 3 hours, to repair or replace any vehicle that breaks down on route so that service is minimally delayed.

e. **Auto Liability Insurance.** Contractor will list all vehicles that it uses to provide services on its auto liability policy.

3.05 Contractor Autonomy.

Contractor acknowledges that County is not responsible for supervising or performing contract services. Contractor has full freedom, discretion and responsibility to solely determine the manner of providing contract services.

ARTICLE 4 - SERVICE STANDARDS

4.01 Solid Waste Management.

Contractor will provide services in accordance with recommendations and best management practices of professional associations and the standards in the Service Contracts. Examples of professional

associations includes National County Engineers Association, National League of Cities, Solid Waste Association of North America, and National Waste and Recycling Association.

4.02 County Review.

At least 2 weeks prior to distribution, Contractor will give County copies of all materials that reference contract services, such as:

1. general customer correspondence, not relating to individual customer accounts
2. sales brochures
3. commercial advertisements; and
4. news releases.

County may comment on the materials and Contractor will respond to those comments. If Contractor finds materials satisfactory, Contractor may distribute them.

4.03 Responsiveness to County.

Contractor will:

1. **Calls:** Return telephone calls from County to the individual who made that call during County office hours no later than the next County business day;
2. **Meetings:** Meet with County during County office hours within one week of County's oral or written request, at the location directed by County;
3. **E-mails:** Respond to all e-mails from County within 48 business hours; and
4. **Correspondence:** Respond to written correspondence from County within one week of receiving it.

"County office hours" means hours that County administration building is open to do business with the public.

"County business day" means days that County administration building is open to do business with the public.

4.04 Compliance with Law.

a. Incorporation.

1. **Contractual Obligations.** Contractor will comply with all law applicable to this Master Contract, contract services, and Contractor's operations. Provisions of law are incorporated into this Master Contract by reference as Contractor's contractual obligations. As a contracting party, County may enforce those provisions as breaches of this Master Contract.
2. **Contract Compliance.** If Contractor does not comply with the County Code, County may:
 - I. Enforce the Code (subject to fines or penalties);
 - II. Treat such violations as breaches of this Master Contract (subject to remedies under this Master Contract); or

III. Both. County has no obligation to enforce law.

b. Examples.

This Master Contract contains examples of law, including County Code, ordinances, and rules and regulations issued by the County Health Department, subject to approval by the County Board, such as:

1. Accumulation of solid waste on private property, including residents' and businesses'; nuisances;
2. Frequency of removing solid waste, especially putrescible solid waste;
3. Transporting solid waste on County roads; and
4. Littering, dumping, and discarding solid waste.

law means any or all of the following enacted, adopted, promulgated, issued, ruled, ordained, determined or otherwise made by any regulatory authority with respect to Contractor's operations, services, this Master Contract, and Service Contracts:

- 1) laws, statutes,
- 2) rules, regulations,
- 3) guidelines, policies,
- 4) licenses, permits,
- 5) actions, determinations, orders or requirements,

including their future amendments, supplements, restatements, recodifications or replacements.

regulatory authority means any federal, state or local governmental unit (whether a separate entity or a department or division) that does any or all of the following:

- 1) **promulgates law** that is applicable to Contractor's operations, services, or this Master Agreement, and Service Franchises;
- 2) **regulates** franchise services or operations of Contractor, or
- 3) **enforces law** applicable to franchise services or operations of Contractor.

Examples of regulatory authorities include:

- 1) **transportation:** CA DOT, CA DMV,
- 2) **environment:** AQMD, water board,
- 3) **labor:** EDD, U.S. Immigration and Naturalization Services, federal and state departments of labor,
- 4) **taxation / financial affairs:** IRS, CA Franchise Tax Board, SEC, federal and state Departments of Justice,
- 5) **County,** and
- 6) **LEA:** The Local Enforcement Agency for the County.

"permit(s)" means any or all permits, orders, licenses, approvals, authorizations, consents and entitlements that are required under law with respect to contract administration and operations, and contract service.

c. Permits.

Contractor will attach copies of permits to the Services Contract(s).

d. Fines.

If any regulatory authority imposes fines, penalties, or other fees with respect to Contractor's service obligations, Contractor will pay County those costs, including reimbursement costs of addressing, protesting, or otherwise handling those fines, penalties, or other fees.

4.05 Key Personnel.

a. Identity of Key Personnel.

Contractor acknowledges that providing contract services is personal in nature, since it requires all of the following:

1. Continuous and extensive communication between Contractor's personnel and County staff;
2. Knowledge of County roads, terrain, and weather conditions; and
3. Familiarity with detailed contract requirements under this Master Contract (such as reporting) and Service Contracts.

Contractor will identify its key personnel in either or both Attachment 4.05 and in Service Contracts. Contractor may identify back-ups for key personnel when key personnel are unable to provide services, such as if ill, on vacation, or leave.

b. Background Check of Personnel.

1. **All Personnel.** Contractor will conduct a thorough background check of each person before that person begins work under this Master Contract.
2. **Key Personnel.** Contractor will not designate anyone a key person if it knows of, or if that person's background check discloses, a felony conviction or other matter which casts any reasonable doubt on the competency, reliability or honesty of that person; or if he or she is a person of Influence, has engaged in Criminal Conduct.

c. Contractor Change.

No less than 30 days before any Contractor-directed change in key personnel, Contractor will use reasonable business efforts to notify County. In its notice, Contractor will include the name and professional qualifications of the replacement personnel.

d. All Employees. Contractor will take all of the following actions:

1. give employee operational and safety training to perform services and the procedure to follow upon discovery of hazardous waste.
2. keep complete training records,
3. carry out drug and alcohol testing, and keep complete testing records,

4. ensure that every employee has in full force and effect a valid license or certification required by law and keep copies of licenses and certifications, and
5. furnish employees with personal protective equipment and instruct them as to its proper use.

4.06 Subcontractors

a. Acknowledgements.

Contractor acknowledges that the experience and performance record of Contractor's subcontractors were of utmost importance to the County in the County's evaluation of Contractor's response to a request for proposals, its selecting Contractor for negotiations and executing this Master Contract.

subcontractor is individual or entity that Contractor engages to conduct contract services.

b. Identification.

1. **Contract Date.** Therefore, Contractor represents that it has listed all its subcontractors as of the contract date in the attachment provided in the Service Contract.
2. **After the Contract Date.** Contractor will notify County of any proposed addition to or replacement of the subcontractors with which Contractor contracts or engages under this Master Contract a Service Contract. Following County acceptance, Contractor will update the subcontractor attachment in the Service Contract.

c. Emergencies.

In an emergency, upon immediate telephonic or other oral notice to the County followed promptly by notice, Contractor may hire additional or substitute subcontractors for up to 7 consecutive days without asking County. After 7 days, Contractor may continue engaging those subcontractors only with County consent.

d. Obligations.

Contractor is responsible to ensure that Subcontractors provide their subcontracted services in the same manner as the corresponding materials management services in this Master Contract whether "subcontractor" is referenced explicitly to ensure that subcontractors comply with this Master Contract as Contractor must comply. Contractor will further meet all of the following obligations:

1. Contractor will not enter into any subcontracts or other agreements that conflict or do not comply with provisions in this Master Contract.
2. Contractor will timely pay its all subcontractors, materialmen, suppliers, employees, and anyone else that Contractor engages.

3. Contractor will coordinate, schedule, manage, and supervise its officers, employees and subcontractors. Contractor remains responsible to the County for their performance, including errors, deficiencies or failures.
4. Contractor will only hire subcontractors that are licensed as required under law to perform their subcontracted work. The Contractor will remain liable for the full and complete performance of its obligations under this Contract.
5. Contractor will include both the following provisions in all contracts with subcontractors or other documentation for materials or services:
 - Acknowledge that County is not liable for any obligations under that subcontract, including paying compensation; and
 - Protect and preserve all County’s rights under this Master Contract.

Using the explicit words “contractor and subcontractors” in some, but not all text, does not imply that using the one word, “contractor”, excludes “subcontractor”. “Contractor and subcontractor” may be used for emphasis or clarity.

e. Subcontracts.

Contractor will attach a copy of its subcontract with each subcontractor in the Service Contract.

4.07 Criminal Conduct.

a. Notice.

1. **Contractor Representative etc.** Contractor will immediately inform County of any Convictions or Pleas with respect to Criminal Conduct by any Contractor Manager described in Items 1-4 of the definition of “Contractor Manager”.

Conviction means any or all of the following:

1. a criminal conviction,
2. a permanent mandatory or prohibitory injunction, or
3. a final judgment or order

from a regulatory authority of competent jurisdiction with respect to any Criminal Conduct.

Pleas means either or both of the following,

1. pleading “guilty”, or
2. entering a plea of “nolo contendere” or “no contest”

to Criminal Conduct.

Criminal Conduct means any or all of the following:

1. **fraud or criminal offense** (other than offenses constituting infractions) in

connection with obtaining, attempting to obtain, procuring or performing a public or private agreement related to recyclables, organics or solid waste services of any kind (including collection, hauling, transfer, processing, composting or disposal), including this Contract,.

2. **bribery** or attempting to bribe a public officer or employee of a local, state, or federal agency by Contractor or by any Contractor Manager in that Contractor Manager's official capacity,
3. **embezzlement**, extortion, racketeering, false claims, false statements, forgery, falsification or destruction of records, obstruction of justice, knowingly receiving stolen property, theft, or misprision (failure to disclose) of a felony,
4. **unlawful disposal of hazardous or special waste**, the occurrence of which Contractor or any of its Contract Managers knew or should have known,
5. **violation of antitrust laws**, including laws relating to price-fixing, bid-rigging and sales and market allocation, or
6. **violation of unfair and anti-competitive trade practice laws**, including the inflation of waste collection, hauling or disposal service fees, and predatory pricing.

2. **Position of Influence.** Contractor will use reasonable business efforts to immediately inform County of any Convictions or Pleas with respect to Criminal Conduct by any Contractor Manager described in Item 5 of the definition of "Contractor Manager".

Contractor Manager means any or all of the following:

- 1) Contractor,
- 2) Contractor is the Contractor Representative under this Master Contract
- 3) Contractor officers and directors,
- 4) the officers and directors of any direct or indirect parent corporation of Contractor, or
- 5) anyone in a Position of Influence

Position of Influence means the authority or responsibility to directly or indirectly administer, manage, direct, supervise, monitor or oversee contract services or this contract, including any or all of the following:

1. **Contract administration:** reviewing or negotiating Contractor's contracts (including this Contract),
2. **Legal services:** providing in-house legal services with respect to contract services or this Contract,
3. **Budgeting:** preparing or overseeing Contractor's operating and capital budget, or
4. **Policies / Procedures:** establishing policies and procedures related to the Criminal Conduct.

- b. **Cure.** Contractor must do either of the following upon the occurrence of any Conviction

or Plea of one or more Contractor Managers with respect to Criminal Conduct:

1. **Terminate from employment** or remove from office either or both:
 - the offending Contractor Manager who is an individual, or
 - with respect to a Contractor Manager that is not an individual (such as an affiliated corporation), each individual responsible for the Criminal Conduct), *unless*:
 - otherwise directed or ordered by regulatory authority of competent jurisdiction and/or authority, or
 - termination would subject Contractor, an affiliate or any of its Contractor Managers to substantial liability for breach of any labor agreement entered into after the Contract date, or
 3. **Terminate the participation** from a Position of Influence any or all of the Contractor Managers described in the preceding subsection a,
 4. **No Subversion.** Contractor will not place anyone who is the subject of any Conviction or Plea under this Master Contract to a position (for example, in another affiliate) where that person would continue to be in a Position of Influence.
- c. **County Remedy.** County in its sole discretion may terminate this Master Contract or may impose other sanctions that it deems proper (including financial, temporary suspensions or any other condition County deems appropriate), in any or all of the following events:
- Contractor or any affiliate fails to implement the cure under the preceding Subsection, or
 - the Criminal Conduct is related to this Master Contract or to the County, or
 - the Criminal Conduct is both of the following:
 - a felony, and
 - is related to this Contract,
 - unless
 - the Criminal Conduct is described in Item 4 of the definition of “Criminal Conduct” with respect to unpermitted waste, and
 - Contractor did not have actual knowledge of that Criminal Conduct.

Contractor must be given the opportunity to present mitigating evidence during the preceding notice period. County will consider that evidence.

Contractor will comply with its obligations under Attachment 8.06 to identify anyone in a Position of Influence and notify County if they have engaged in Criminal Conduct under this Contractor or a Service Contract.

4.08 Unpermitted Waste Handling.

a. Unpermitted Waste Handling Protocol.

Contractor will follow its protocol for handling unpermitted waste, including hazardous waste, under the Service Contracts.

b. Delivery / Inadvertent Acceptance.

If Contractor delivers unpermitted solid waste to any facility (such as a contract hauler to a disposal facility or recyclables handler to a processing facility), or if Contractor accepts unpermitted solid waste (such as a disposal contractor at its landfill), Contractor will take the following actions:

1. **Identity:** make a reasonable business effort to determine who discarded the unpermitted waste; and
2. **Disposal:** cooperate with the facility owners or operators, or person delivering the unpermitted solid waste, to arrange for proper disposal under law.

unpermitted waste means materials that cannot be disposed of in a Class II landfills described in 27 CCR 20250, such as any or all the following:

- 1) **hazardous waste,**
- 2) **e-waste, or**
- 3) **universal waste**

hazardous waste means materials regulated under the following or other laws:

- 1) **CA PRC:** "hazardous waste " defined in Section 40141 of the California Public Resources Code,
- 2) **CA HSC:** materials regulated under:
 - Chapter 7.6 (commencing with Section 25800) of Division 20 of the California Health and Safety Code (CA H&SC), or
 - Section 25100 et seq. of the CA H&SC,
- 3) **California Hazardous Waste Control Act:** all substances defined as hazardous waste, acutely hazardous waste, or extremely hazardous waste under Sections 25110.02, 25115, and 25117 of the CA H&SC,
- 4) **CA Regulations:** 23 California Code of Regulations Sections 2521 and 2522,
- 5) **RCRA:** materials regulated under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., (including the Solid Waste Disposal Act Amendments of 1980), and related federal, State and local laws and regulations,
- 6) **Toxic Substances:**
 - a. materials regulated under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq.
 - b. California Toxic Substances Account Act, CA H&SC 25300 et seq.,
- 7) **CERCLA:** materials regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq.,
- 8) **household hazardous waste:** household hazardous waste, and

- 9) materials regulated under any future additional or substitute laws pertaining to the identification, transportation, treatment, storage or disposal of toxic substances or hazardous waste.

If two or more governmental agencies having concurrent or overlapping jurisdiction over hazardous waste adopt conflicting definitions of "hazardous waste", for purposes of collection, transportation, processing and/or disposal, the more stringent definition is used under this Contract.

household hazardous waste means any hazardous waste generated incidental to owning or maintaining a place of residence, excluding any hazardous waste generated during operation of a business concern at a residence, under Section 25218.1 of the California Health and Safety Code.

e-waste means waste that is powered by batteries or electricity (such as

- 1) Computers and calculators,
- 2) telephones, answering machines,
- 3) radios, stereo equipment, tape players/recorders, phonographs, videocassette players/recorders, compact disc players/recorders, and calculators), including

CEDs (a covered electronic device as defined in California Public Resources Code Section 42463) such as the following:

- 1) cathode ray tube (CRT) device (including television and computer monitor)
- 2) LCD desktop monitor, laptop computer with LCD display. LCD television,
- 3) plasma television,
- 4) any other covered electronic devices listed in the regulations adopted by the California Department of Toxic Substances Control pursuant to California Health and Safety Code Section 25214.10.1(b including household hazardous waste)

universal waste means materials that which the California Department of Toxic Substances Control considers universal waste, including materials listed in 22 CCR 66261.9, such as the following:

- batteries
- aerosol cans
- certain mercury-containing devices
- thermostats, lamps, cathode ray tubes,
- computers, calculators,
- telephones, answering machines,
- radios, stereo equipment, tape players/recorders, phonographs, video cassette players/recorders, compact disc players/recorders, and
- some appliances.

[ARTICLE 5 – RESERVED OR INTENTIONALLY OMITTED.]

[ARTICLE 6 – RESERVED OR INTENTIONALLY OMITTED.]

ARTICLE 7- OWNERSHIP OF SOLID WASTE; DISCLAIMERS.

7.01 Ownership.

a. Prior to Delivery.

Under this Master Contract the parties deem that the customer or other person delivering materials to Contractor's service site, operations, or facilities owns those materials until that customer or other person discards them at those operations or facilities.

b. Upon Discard.

Upon discard at Contractor's operations or facilities under this Master Contract or other time provided under the Service Contract, ownership of permitted solid waste passes to Contractor.

c. Unpermitted Waste.

Neither Contractor nor County accept ownership of unpermitted waste under this Master Contract.

d. Recyclables.

Ownership of recyclables becomes the property of the party designated in a Service Contract, or if the Service Contract does not make provision, ownership is determined under law.

e. Disclaimer.

(1) Disclaimer. County makes no representations or warranties with respect to character, content, weight, or volume of any material; any material characterization study; or projections by material type. County makes no representation or warranty that materials handled under this Master Contract do not contain unpermitted waste. County expressly disclaims any representations and warranties, either express or implied, as to the merchantability or fitness of materials for any purpose.

(2) Diversion Rights. County may develop, encourage and participate in waste diversion activities, including source reduction, recycling and recovery that may reduce the amount of materials managed under this Master Contract. Contractor will use reasonable business efforts, or other standard in the service contract, to divert materials from landfill disposal

f. No Contractor Claims.

Contractor will not make any claim against County based on any estimates, statements or interpretations made by any officer, employee, agent, or consultant of County in connection with the procurement of this Master Contract, including the County's Request for Proposals, which differ from the actual operations under this Master Contract.

ARTICLE 8 - SERVICE FEES.

8.01 Service Fees Versus Gate Fees.

- a. Service Fees.** County and Contractor will bill and pay service fees in the amount, manner, and time under the Service Contracts.
- b. Gate Fees.** Contractor acknowledges that County has expenses and legal obligations associated with other County landfill sites, state solid waste reporting, recycling/diversion programs and contract management, etc. (i.e., continuing administration costs). The costs to perform these obligations have traditionally been, and will continue to be, integrated into rates charged upon materials accepted at an STS, IMMC, or Transfer Station ("gate fees" or "tipping fees") and a portion of gate fees for specified waste streams at any site will be reserved or paid to the County to enable it to continue to meet its obligations under Applicable Law and to administer the countywide solid waste program.

The additional charge will be applied to the following waste streams: MSW, C&D, Aggregate, Clean Wood, and Organics and will fluctuate based on actual County costs. The County will continue to develop and adopt gate fees in accordance with legal standards, and such fees will be determined at the County's sole discretion. The gate fees may or may not equal the rates per ton paid to Contractor for the provision of services and established in the Master Contract/any Service Contract. Gate fees may match, increase, or decrease the individual waste stream rates found in the Contract, and any such changes will be at the County's sole discretion.

8.02 Adjustment.

Service fees will be adjusted under Attachment 8.02 and the Service Contracts.

8.03 Offsets.

If Contractor has not paid County any amounts due and payable to County 10 days prior to the service fee payment date, then County may deduct that amount from service fees. If Contractor disputes County's right to deduct any amounts, County may nevertheless make the deduction pending conclusion of dispute resolution. County will pay Contractor within 30 days of dispute resolution any amounts that County is determined to owe Contractor, plus interest thereon at the rate of 1% per month from the time originally due until paid. Examples of amounts that Contractor might owe County include:

- 1) **Damages:** unpaid damages; and
- 2) **Reimbursements:** unpaid reimbursement and direct costs.

8.04 Payment.

- a. **Protocol.** Contractor will submit its invoices in the following manner, unless provided differently in a Service Contract.
- b. **Performance Certification.** Contractor will warrant that it provided all services and/or work performed at time of payment.
- c. **Contractor.** Contractor will submit its monthly invoice in form satisfactory to the County, including supporting documentation, on the 10th day of the next calendar month.
- d. **County.** County will pay the invoice monthly on a day specified in County's monthly payment schedule for purchase orders that occurs nearest to the 20th of each month. This day is referred to in this Master Contract as the "**service fee payment date**". County will pay the service fee based on records submitted by Contractor satisfactory to the County, including weigh records generated at the transfer station/IMMC when Contractor removes materials and waste from the site and, as corroboration, weigh tickets generated at the solid waste management facility where Contractor delivers the materials and waste.

ARTICLE 9 - RECORDS.

9.01 Acknowledgements.

Contractor acknowledges County's right to obtain and audit records for reasons including:

- a. **Tonnage:** Determining diversion and quantity of solid waste diverted, recycled and other information that County must report to CalRecycle;
- b. **Monetary Amounts:** Corroborating the amount of any contract or franchise fees, or other monetary amounts owed or paid to County;
- c. **Contract Compliance and Enforcement:** Monitoring Contractor's performance and enforcement of its obligations under this Master Contract and the Service Contracts;
- d. **Pollution claims:** Responding to claims (including superfund claims under CERCLA) with respect to materials that Contractor handled under this Master Contract and Service Contracts; and
- e. **Correspondence with Regulators:** All correspondence between Contractor and regulatory authorities, including notices of permit violations or areas of concern.

9.02 Maintenance.

a. Contractor will keep accurate records in form, media, and two formats satisfactory to County, with respect to:

- 1) contract services, and
- 2) Contractor as a corporate entity.

Records means information in print or electronic media, such as with respect:

- 1) customer orders or subscriptions,
- 2) billing files,
- 3) complaints logs,
- 4) regulatory inspections and correspondence,
- 5) permits and licenses of Contractor, and as required by law, its employees
- 6) employee testing, such as for criminal records.
- 7) financial books,
- 8) tonnage receipts,
- 9) information Contractor must include in its reports to County,
- 10) information County must submit to CalRecycle, and
- 11) correspondence related to contract services.

b. **Inventory** Contractor will maintain a current Inventory

inventory means assets used to perform services identified in in each Service Contract.

c. **Back-up.** Contractor will keep copies of records in a location separate from the primary storage location.

9.03 Retention.

Contractor will keep records for the following amounts of time:

Financial	4 years following the close of Contractor’s last fiscal year of the contract term.
Disposal	Continually, unless Contractor gives County the option to take over possession of the records.
Other	The contract term plus 4 years

9.04 County Rights.

a. **Inspection.**

County, its staff and outside auditors may inspect, audit, and copy records at Contractor's office between the hours of 8:00 a.m. to 5:00 p.m. on County business days, after notifying Contractor by telephone or in writing 5 days in advance, or lesser time if County determines it is in the public’s best interest. If Contractor’s office is outside the County, promptly upon County request Contractor will bring records to County’s offices.

b. Audit Costs.

Within 30 days of County request, Contractor will reimburse County for the County Reimbursement Cost of audit and copying expenses if the audit reveals a discrepancy of the greater of 3% or \$500 between following:

- 1) the amount contained in the records (such as the tons of recyclables diverted and processing residual disposed), and
- 2) the amount reported or paid to County (such as contract fees); or representation of any amount that Contractor made or information that it submitted to County.

c. Requests and Copies.

Contractor will give County copies of records without charge (except charges for records copied during an audit), by the following times:

RECORDS	TIME
Regarding customer waste management facility complaints:	Immediately (no longer than two hours after receipt).
In electronic form:	Same day as requested.
Other:	Within two service days

d. Destruction. Contactor will give County notice before destroying any records and give them to County if requested.

e. Expiration or Termination. Upon expiration or termination of this Master Contract, Contractor will notify County of the general contents of records that Contractor has in Contractor’s possession. It will offer to give County any or all those records, or copies of those records, upon County request without charge.

ARTICLE 10 - REPORTS.

10.01 Service Contracts.

Contractor will give County reports under the Service Contracts.

10.02 Timing, Form and Content.

a. Quarterly Report.

Within 30 days following the end of each quarter of a calendar year, Contractor will submit a report for that quarter including the information in Attachment 10.02a.

Quarterly Report means the report described in this subsection.

b. Annual Report.

Within 30 days following the end of each calendar year, Contractor will submit a report for that year, containing a summary of the information in the Quarterly Report in Attachment 10.02b.

Annual Report means the report described in this subsection.

c. Operations Report.

Within 10 days give County Health Department requested operations reports.

d. Form.

Contractor will draft reports in format, media and content satisfactory to County.

10.03 Statements and Information.

a. Representation

Contractor represents that the information and documentation submitted by, or on behalf of, the Contractor to County in connection with the application for and securing of County licenses and permits; the procurement and negotiation of this Master Contract; was correct and complete in all material respects at the time originally submitted and on the date of this Master Contract.

b. RFP / Procurement.

Contractor will not make any claim against County based upon any estimates, statements or interpretations of information in connection with the Request for Proposals and procurement of this Master Contract, including materials or solid waste quantities or characterization. In this paragraph "County" includes any officer, employee, agent, or consultant of County.

10.04 Financial Statements.

Contractor will give County 3 copies of its financial statements in a form acceptable to County annually within 60 days after the close of Contractor's fiscal year, with the following attachments:

- a. Representation of a certified public account that she has audited Contractor's financial statements in accordance with Generally Accepted Auditing Principles; and
- b. The accountant's following opinion that the statements: have been prepared in accordance with Generally Accepted Accounting Principles consistently applied; and fairly present the financial position, the results of operations and the cash flows of the Contractor; and
- c. Either of the following statements of Contractor's Chief Financial Officer:
 - 1. A representation that no events subsequent to the preparation of the last financial statement submitted under this Master Contract have materially changed Contractor's financial status or condition; or
 - 2. A description of any material changes in Contractor's financial status or condition since the preparation of the last financial statement.

Contractor will allow County and its representatives to review the accountant’s audit plan and work papers. Within 2 weeks of County’s request, Contractor and its accountant(s) will meet with the County and its representatives to discuss the audit. If Contractor provides a guaranty in form required by the County of a related entity satisfactory to the County, Contractor may give County copies of that guarantor entity’s audited financials to comply with this Section.

10.05 Requests Under the Public Records Act.

If County receives a request under the California Public Records Act for material which Contractor has marked “confidential”, County will provide notice to Contractor prior to the release of those documents and will allow Contractor to provide legal authority that supports Contractor's position that the material is exempt from disclosure. If County determines that the material is not exempt from disclosure, County will inform Contractor of its finding and give Contractor an opportunity to seek a court order enjoining that release. If County determines that the material is exempt from disclosure and that determination is ultimately challenged in court, County will inform Contractor and will not oppose a motion by Contractor to intervene in the action. Contractor must either intervene in the action or accept the release of the material. County is not obligated to defend the action and may release the material sought without any liability.

ARTICLE 11 – INDEMNIFICATION, HOLD HARMLESS AND DEFENSE

11.01 Obligations.

a. Indemnification.

Contractor will indemnify County from and against any and all liabilities arising out of, or in any way connected to, the contract services, including reimbursing County for County liabilities to someone other than Contractor (such as damages resulting from a suit against County by a customer).

b. Release and Hold Harmless.

Contractor will release and hold harmless County from and against any and all liabilities arising out of, or in any way connected to, the contract services, including refraining from seeking reimbursement from County for Contractor's liability to someone else (such as damages resulting from a suit against Contractor by a customer).

c. Defense.

Immediately upon commencement of any lawsuit, claim, complaint, cause of actions or other demand brought against County for liabilities arising out of or in any way connected to contract services, Contractor will either:

1. defend County with counsel approved by County; or
2. fund County Reimbursement Costs of defense. County may retain co-counsel at its own cost and expense and Contractor will direct Contractor's counsel to assist and cooperate with County co-counsel.

d. Intent.

The County and Contractor intend that Contractor’s obligations in this Section constitute an agreement pursuant to 42 U. S. C. Section 9607(e) and California Health and Safety Code Section 25364, to insure, protect, hold harmless, and indemnify County from Liability.

11.02 County Sole Negligence Excluded.

Contractor is not obligated to indemnify, release and hold harmless, or defend County if:

- a. County is found solely negligent or to have breached this Master Contract with respect to the Liabilities incurred, by a court of competent jurisdiction after County has exhausted all appeals; or
- b. if County is determined by a regulatory authority to have breached law with respect to the Liabilities incurred after the County has exhausted all appeals.

11.03 Definitions.

In this Article, “County” includes everyone described in the definition of "County Insureds".

Liabilities includes:

- 1) Lawsuits, claims, complaints, cause of actions and other demands;
- 2) Citations, fines and other penalties;
- 3) Investigations (such as costs of audits) related to another type of liability (such as a fine);
- 4) Judgments, liens, cleanup orders, and damages in contract or tort, including personal injury or death and property damage; and
- 5) Losses, injuries, costs and expenses (including all costs and expenses of litigation, mediation or arbitration), including but not limited to: attorneys’ fees, whether County Attorney or Contractor's staff attorneys or outside attorneys; accountants’ fees, whether County Finance Director or outside accounts; appraisers’ fees; and expert witness fees.

Reference to “**Indemnification**” or “**Indemnity**” in this Master Contract includes the indemnification, release, hold harmless or defense under this Article and the Service Contracts.

11.04 Scope of Liabilities.

For purposes of this Indemnification, “liabilities” must meet all the following conditions:

- a. be paid, incurred or suffered by, or asserted against, County;
- b. arise from, or be attributable to, any repair, cleanup or detoxification pursuant to, or preparation and implementation of and of the following plans:
 - any removal, remedial, response, closure, or other (regardless of whether undertaken due to governmental action),

- which concern any unpermitted waste at any place owned or operated by Contractor, where Contractor delivers, stores, processes, recycles, composts or disposes of solid waste
- c. be caused to an extent by any of the following:
- **Contractor Negligence or Misconduct:** Contractor’s wrongful, willful or negligent act, error or omission, or misconduct; or
 - **Non-customer Materials:** Contractor’s handling of any materials, including unpermitted waste, which are generated by someone other than customers or collected from premises other than customers' premises; or
 - **Failure to Comply with Hazardous Waste Protocol:** Contractor’s or any subcontractor’s failure to undertake unpermitted waste training procedures required by law with respect to their employees or the Unpermitted Waste Handling Protocol, whichever is more stringent; or
 - **Contractor-identified Unpermitted or Hazardous Waste:** Contractor's improper or negligent handling of unpermitted waste that it collects and identifies.

County acknowledges that the mere presence of household hazardous waste in the solid waste does not constitute negligence and create any Liability on the part of Contractor absent any of the circumstances described in this section.

ARTICLE 12 INSURANCE AND FINANCIAL ASSURANCE.

12.01 Insurance.

a. Insurer.

Contractor will carry insurance under Attachment 12.01 and the Service Contract unless the Contractor is self-insured. Contractor will give County evidence of insurance on the contract date and promptly upon renewal, amendment, or cessation of coverage.

amendment with respect to insurance policies mean all of the following:

- Alterations, such as change in terms of policies;
- Additions, such as increasing the amount of coverage or securing riders; endorsements, or new coverage;
- Deletions, such as reductions in coverage either either in types of policies procured or terms of policies; removal of riders or endorsements;
- Any other change.

12.02 Letter of Credit.

a. Term.

Contractor will provide to County a letter of credit under Attachment 12.02 until the last to occur of the following events:

1. This Master Contract has expired or terminated for a period of 180 days or other preference period provided under law with respect to bankruptcy or insolvency of Contractor;
2. Contractor has substituted an alternative letter of credit or other security document acceptable to County in County's sole discretion; or upon expiration or termination of this Master Contract Contractor does not owe County any money;
3. Contractor does not owe County any money, including the following:
 - liquidated or compensatory damages assessed by County;
 - County Reimbursement Costs under County's invoice for those costs; and
 - any contract fees.

b. Amount.

The letter of credit must be in the stated amount provided in the Service Contract. If the Contractor is a party to more than one Service Contract, it may aggregate the stated amounts under each Service Contract.

c. Draw.

The County may draw on the letter of credit including the terms prescribed in Attachment 12.02 in one or more drawings, in any of the following events:

1. Contractor does not provide all contract service under this Master Contract or a Service Contract, and County determines in its sole discretion, without waiting to declare a default, that to protect health and safety of the public it will draw on the letter of credit to pay for substantially the same services itself or through contract.
2. Contractor does not timely pay County any monetary obligation, including the following:
 - liquidated or compensatory damages assessed by County;
 - County Reimbursement Costs under County's invoice for those costs; and
 - Any contract fees;
3. Contractor does not pay any self-insured retention under any insurance policy;
4. Contractor does not replace an expiring letter of credit (including expiration for nonrenewal) with a new letter of credit at least 90 days before the expiration date;
5. Contractor does not honor an Indemnification;
6. Someone, such as a trustee in bankruptcy, recovers from the County money that Contractor has previously paid County; or
7. An event of default.

Instead of a letter of credit, County may accept performance bonds with content and in sureties with financial ratings satisfactory to County.

12.03 Guaranty.

If in its proposal responding to the RFP, Contractor submitted financial information from another entity, such as a corporate parent, Contractor must provide a financial guaranty from that entity in form that is satisfactory to County.

12.04 Further Assurances.

In addition to all other rights and remedies it may have, within 5 days of County request, Contractor will provide reasonable assurances that Contract can timely and fully meet its contract obligations any or all of in the following events:

- a. Contractor is the subject of any labor unrest (including work stoppage or slowdown, sick-out, picketing and other concerted job actions);
- b. Contractor does not pay wages owed to its employees, including prevailing wages if applicable; provide workers' compensation insurance required by law; or pay employment –related taxes or fees;
- c. Contractor does not regularly pay its bills when due, which In the County's judgment, jeopardizes Contractor's ability to timely and fully meet contract obligations;
- d. equipment that is indispensable to performing contract service is seized, attached, or levied upon and not placed back in service in 2 days.
- e. Criminal Conduct with respect to a Contractor Representative.

Assurance of Performance means any or all of the following actions, as County requests in its sole discretion:

- 1) Reduction or elimination of insurance deductibles or self-insured retentions;
- 2) Increasing the size of a letter of credit; or
- 3) Providing an additional performance bond, certificate of deposit, or another instrument.

ARTICLE 13 BREACHES AND DEFAULTS.

13.01 Breach.

a. Procedure.

1. **Notice:** If County determines that Contractor is in breach of this Master Contract or a Service Contract, County will give Notice to Contractor identifying and describing the breach.
2. **Conference:** County will hold a conference with Contractor within 5 days of Contractor's request.
3. **Cure:** Contractor will cure the breach within 30 days of receipt of the Notice; a shorter period directed by County if County determines public health and safety require; or a longer period, determined by County, also in its sole discretion. Contractor may request additional time to correct the breach, but County may accept or reject that request. Either the County Board of Supervisors or the County Representative may make the determination, or the acceptance or rejection. All County determinations in this subsection are in County's sole discretion

breach means any failure by Contractor to meet one or more of its obligations under this Master Contract or a Service Contract.

b. Reimbursement Costs.

Contractor will pay County within 5 days of County's request, County Reimbursement Costs relating to:

1. conducting a non-routine investigation of any declared breach,
2. incurred as a consequence of any breach.

County's waiver of any specific breach is not a waiver of any other breach of that same provision.

c. Waiver

County's waiver of any specific breach is not a waiver of any other breach of that same provision. County's failure to enforce this Master Contract is not a waiver of any breach.

13.02 Default.

Events of default are listed in Attachment 13.02.

event of default means each item listed in the table in Attachment 13.02 and any additional items in Service Contracts.

Article 14 ENFORCEMENT OF AGREEMENT/REMEDIES

14.01 Remedies

a. Under Law.

Either party may avail itself of any remedy available under law.

b. Scope of Remedies.

County may enforce this Master Contract or Service Contract in any or all of the following ways:

1. If Contractor's breach is a default, execute alternative agreements to provide contract services like those under this Master Contract or Service Contract;
2. Seek to obtain injunctive relief and/or damages; and/or
3. Assess damages. County's choice of enforcement does not limit its option to exercise other remedies available under this Master Contract, in law or at equity; or
4. Suspend or terminate this Master Contract or a Service Contract.

14.02 Injunctive Relief.

Contractor acknowledges that County's remedy of damages for breach may be inadequate for many reasons, including any or all of the following:

1. The urgency of timely, continuous and high-quality contract service, including collection, transportation and/or transfer for disposal of putrescible wastes which constitute a threat to public health;
2. The long time and significant investment of money and personnel (both County staff and private consultants, including financial advisors, procurement counsel, and elected County officials) that would be required to again request and evaluate qualifications and

proposals for replacement service comparable to contract service for the price under this Master Contract, and to negotiate new agreements for those service;

3. County reliance on Contractor's technical solid waste management expertise; or
4. Contractor's mishandling of unpermitted waste increases County risk of liability for environmental damage due to release or threatened release of hazardous or toxic substances, petroleum products and other materials, including any or all of the following:
 - Water or ground water contamination;
 - Replacement or restoration of natural resources; or
 - Repair, cleanup or detoxification of the solid waste management facility and any related removal, remedial, response, closure or other plan, whether under Section 107(e) of CERCLA Section 9607(e). California Health and Safety Code Section 25364 or other law.

Consequently, County is entitled to all available equitable remedies, including injunctive relief.

14.03 Damages.

a. Compensatory.

1. Substitute Services. Contractor will pay compensatory damages:

- in an amount sufficient for County to provide waste management services comparable to those under this Contract and the Service Contracts,
- any specific compensatory damages under the Service,
- any other amount equal to liabilities incurred or losses suffered following Contractor's failure to provide any or all contract services.

2. Fines and Penalties. Contractor will pay County damages in amounts equal to the County's reimbursement costs for fines or penalties levied by regulatory agencies, including for damages listed on Attachment 14.03b.

b. Liquidated.

1. Acknowledgements. The parties acknowledge the following:

- That County incurred considerable time and expense procuring this Master Contract to secure an improved level and quality of waste management, recycling, and compliance with solid waste diversion mandates;
- Consistent and reliable contract services are of the utmost importance to County's compliance with law relating to the diversion of solid waste; and
- The following liquidated damages represent a reasonable estimate of the amount of damages, that County, considering all the circumstances existing on the contract date, including: the relationship of the sums to the range of harm to

County that County reasonably could anticipate; and anticipation that proof of actual damages would be costly or inconvenient.

2. **Payment.** Therefore, Contractor will pay any or all of the following liquidated damages. Within 5 days of County’s notice its intent to charge liquidated damages, Contractor may confer with County. Following that conference, if County assesses liquidated damages, Contractor will pay them within 7 days of County’s request, or longer period allowed by County. Events of default are not subject to the notice-and confer requirements of this subsection.

Reference to "failure" refers to each occurrence of specified breach (such as for each customer and each container order, record entry, or complaint) and not for aggregate occurrences of those breaches (such as for all customers on a given day).

SECTION	FAILURE(s) Under Cited Sections	LIQUIDATED DAMAGES
4.02; Through- out	Give County documentation to review or comment or obtain any County satisfaction, approval, consent, or other permission	Either or both \$300/day until given to County; and until retraction / correction of misinformation and approval
4.03	return County calls or e-mails more than twice/year	\$500 day
4.03	meet timely with County more than twice/year	\$500/day
4.06	follow Unpermitted Waste Handling Protocol	\$500/failure
9.05; 9.06	allow County to inspect, audit or copy records	\$150/day of delay
Throughout This Master Contract and Service Contracts	Submit complete and correct information or reports on time, to complete or correct information within 5 days of County’s first request, or to complete or correct information following County’s second or subsequent request, 1) quarterly 2) annual 3) AB 939, or 4) other	Until corrected or completed 1. \$200/day 2. \$300/day 3. \$150/day 4. \$100/day For example 1. A report is due on the first of the month but Contractor submits it on the 4 th of the month (\$650 due), 2. County asks Contractor on to supply incomplete information the 8 th of the month (\$0 due), and 3. Contractor submits corrected report on the 11 th day of the month(\$300)= total \$950

		<ul style="list-style-type: none"> • Contractor gives it to County on the 25th day of the preceding month. • The report is missing required information. • The report is not deemed submitted until Contractor returns the report to the County with the missing information.
Any other breach	Failure to meet any obligation under this Contract	\$50/day

By signing this Master Contract, each party specifically confirms the accuracy of the statements made in this subsection; and that it has had ample opportunity to consult with legal counsel and obtain an explanation of liquidated damage provisions prior to signing this Master Contract.

- c. Documents.** In all service asset documents, Contractor must allow the County to:
1. Possess the assets and use them, and
 2. Acquire the assets upon expiration or termination of this the applicable Service Contract.

service asset documents means documentation establishing a security interest to or by the Contractor encumbering or limiting the Contractor’s interest in items under this Section, including any replacement or substitute equipment. Examples include:

1. a lease,
2. rental agreement,
3. installment purchase contract,
4. financing contract,
5. acquisition over time,
6. mortgage or
7. other instrument.

Contractor will give County a copy of any service asset document promptly upon County request.

14.04 County Right to Provide Service

County may exercise its rights under this Section and any additional rights described in the Service Contracts in following event:

- Contractor fails to perform any or all service; and
- County determines that public health and welfare is jeopardized.

- a. Performance.** The County may perform, or contract for the performance of, any or all Contractor’s performance obligations. If County’s costs (including the costs of back-up services)

exceed the service fees that County would owe Contractor if Contractor had satisfied its contract obligations, then Contractor will pay County the amount of County's reimbursement costs that exceed the service fee the County would have paid.

b. Taking Possession of Service Assets. Upon giving Contractor notice in accordance required under of this Master Contract, County may take possession service assets. Contractor will fully cooperate with County to transfer possession of each item to the County. The County may use them. County will have absolute and exclusive control over them as though the County were their absolute owner.

service assets means all items necessary or convenient to provide services listed on the Service Contract.

1. **Maintenance.** County is responsible for maintenance of service assets while County possesses them. It will keep them in good repair and condition, including, providing vehicles with fuel, oil and other maintenance. It will maintain them in the same condition as they were in when Contractor transferred them to the County (unless Contractor maintains them under the following paragraph). County will return them to Contractor in the same condition as received, normal wear and tear excepted.

Contractor will provide maintenance upon County request.

2. **Period of Use.** County has no obligation to continue possession or use of any service asset. It may at any time, in its sole discretion, discontinue either possession or use, or both. However, County's right to either continue possession and use, or both, will continue until either:

- Contractor can demonstrate to the County's satisfaction that Contractor is ready, willing and able to resume timely and full service, or
- County terminates the Contract.

c. Maintaining Insurance. While County uses service assets subject to a liability insurance policy, such as automotive vehicles, Contractor will maintain in full force and effect all insurance (and any financial assurances related to self-insured retentions or increased deductibles) required under this Master Contract. By signing this Master Contract, Contractor will do all the following:

1. Make County a permitted user for purposes of liability insurance policies that Contractor must procure and maintain under this Master Contract, and
2. If County and Customers have possession and use of vehicles, Contractor will execute whatever documentation its liability insurers require to ensure that County is protected and covered by Contractor's general and automobile policies, including requesting and executing endorsements to those policies. Contractor is not obligated to pay any additional cost including costs to make the County an additional insured endorsements, or premiums or other costs *unless* County reimburses Contractor for its direct cost of premium increase. Contractor will promptly

determine what, if any, documentation or actions are necessary to achieve protection satisfactory to County. By executing this Master Contract, Contractor directs and authorizes its insurance broker or agent, and its insurers, to cooperate with and take direction from County. Contractor will not rescind that direction or authorization without County consent.

Contractor acknowledges that County's use and possession of items is not intended to be and is not transfer of ownership for purposes of any liability policies.

d. Contractor's Personnel. When it notifies Contractor, the County may immediately provide (with its employees) or engage others (including Contractor's employees) to provide, all or a portion of services, including operating any equipment, or driving any vehicles. Contractor may notify Contractor, followed by Notice. Promptly upon County request, Contractor will make its employees available to the County, including drivers, management, and office personnel. County is not obligated to hire Contractor's employees.

e. Records and Reports. Upon County request, Contractor will give County immediate either access to, or possession of, or all records, including records related to routing, transport and both materials (permitted unpermitted waste) disposed by Contractor.

f. Costs.

1. Uncontrollable Circumstance. If the Contractor is not providing services because of uncontrollable circumstances, then County will reimburse Contractor for the following costs that Contractor is not otherwise then being compensated, including through insurance proceeds or service fees:

- I. additional premiums or other costs related to maintaining insurance coverage;
- II. rental fees for County's use and possession service assets equal to their market value as determined by an independent appraiser selected by the parties in the same manner as they select the Independent MSW Expert to determine disputes under this Master Contract;
- III. Contractor's direct costs of fueling, as applicable; and maintaining service assets, if County asks Contractor to provide maintenance; and Contractor's direct cost of making Contractor's personnel available to County.

Not Uncontrollable Circumstances. If the Contractor is not providing services for causes that are not uncontrollable circumstances, then County will not be obligated to pay or reimburse Contractor for any costs.

g. Stipulations. Contractor stipulates that County's exercise of rights under this Section does not:

1. constitute a taking of private property for which County must compensate Contractor;

2. create any liability on the part of County to Contractor; or
3. exempt Contractor from any indemnity, hold harmless or defense obligations under this Master Contract, which parties intend to extend under this Master Contract. However, Contractor is not required to indemnify County against claims and damages arising from the negligence of County personnel (but not Contractor's employees) and agents driving transport containers or vehicles.

14.05 Suspension or Termination of Contract.

Together with any other rights that County may have under this Master Contract, the County may suspend or terminate this Master Contract, in whole or in part, in the following events:

a. Suspension:

In event of a default, immediately upon Notice or later date prescribed by County. The suspension will continue only until the following, whichever occurs first:

- Passage of 45 days following Notice; or
- Before those 45 days have passed, if Contractor demonstrates to County's satisfaction that Contractor can once again fully perform its obligations under this Master Contract.

b. Termination.

- **Default.** Upon the occurrence of an event of default (or period following the occurrence of the default specified by the County), and Notice to Contractor, County may terminate one, a few, or all Service Contracts to which County is a party with Contractor at the times provided in the table of defaults in Attachment 14.05.

c. Convenience. Termination for convenience if provided under the Service Contract.

14.06 Lawsuits, Venue, Service of Process.

a. Jurisdiction: Exclusive California Court Jurisdiction.

Parties will bring any lawsuits arising out of this Master Contract in California courts, which will have exclusive jurisdiction over those lawsuits.

b. Venue.

Venue is made in and will be performed in courts sitting in Mono County. Parties will conduct every hearing or action regarding this Master Contract, whether arbitration or non-judicial, in Mono County.

c. Service of Process.

Contractor will accept service of process at any the following addresses:

1. **Notice:** the address where it receives Notices under this Master Contract or the Service Contract,
2. **Corporate Headquarters:** the administrative headquarters of the Contractor,

3. **COI or Business License:** Contractor's address on its certificate of incorporation filed with the Secretary of State, or on its business license issued by the County,
4. **Contractor Representative** the address of the Contractor Representative. If Contractor has not kept the name and address of the Contractor Representative current as required in Attachment 15.04. Contractor will accept service of process upon the person succeeding the prior-named Contractor Representative(s) as evidenced by correspondence from Contractor. Correspondence need not use the words "Contractor Representative" if it clearly informs County that that person will be contract manager, contact, and liaison with County.

ARTICLE 15 GENERAL PROVISIONS

15.01 Independent Status.

Contractor and Subcontractors are independent entities and are not officers, agents, servants or employees of the County. This Master Contract is between County and Contractor and is not intended, and cannot be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association between County and Contractor, nor County and subcontractors, including for purposes of Workers' Compensation. Contractor is solely responsible for the acts and omissions of its officers, agents, employees and subcontractors.

15.02 Notices.

When capitalized in this Master Contract, "**Notices**" (or other variations thereof, such as "Notify", using capital letter "N") must:

- (1) be in writing;
- (2) be delivered by personal delivery (effective immediately), registered or certified mail, return receipt requested, (effective 3 days after mailing), or commercial delivery service that provides written receipt (effective on day of receipt); and
- (3) be addressed as specified under Exhibit 15.02 (or to other address provided by a party, dated and acknowledged by the other party).

15.03 Transfer of Contract.

a. County Transfer.

County may Transfer this Master Contract and any Service Contract to another public entity succeeding to the major portion of County's solid waste management rights and obligations under this Master Contract. County may Transfer this Master Contract to anyone else if it determines that the transferee is financially capable of meeting County obligations under this Master Contract.

b. Contractor Transfer.

County states and Contractor acknowledges that County entered into this Master Contract for reasons including Contractor's experience, references, financial strength, environmental

record, key individuals, labor relations and other criteria. By entering into this Master Contract with Contractor for solid waste management services, County has trusted Contractor to protect the health and safety of the public. Therefore, Contractor will not Transfer this Master Contract, or any rights or duties under it, in whole or in part, whether voluntarily or involuntarily, without County's prior consent exercised in County's sole discretion.

Transfer means an action (or inaction) that has any of the following direct (or indirect) effects:

- 1) **Control:** The effective control of any of the following has changed: contract; contract services;
 - this Master Contract and its corresponding Service Contract(s); or
 - assets used to provide contract services (including subcontracting any part of contract services without County consent) *unless* Contractor proves to County's satisfaction that effective control has not changed more than 10%;
- 2) **Ownership:** Ownership interest has changed, changing all or a portion of ownership interest (actual or constructive) of Contractor (including buyout, merger, acquisition, consolidation, recapitalization, stock (re)issuance, voting trust, pooling agreement, escrow arrangement, dissolution, or liquidation, unless Contractor proves to County's satisfaction of County that ownership has changed less than 50%; but excluding change of control or ownership interest to a corporation that in which Waste Management, Inc. owns 100% of the shares);
- 3) **Assets:** The ownership (actual or constructive) of assets used to provide contract services has changed, *except* for sales or transfers to the Immediate Family or trust created primarily to benefit the Immediate Family; or
- 4) **Substitute Service Provider:** Someone other than Contractor performs contract services or assumes the obligation to provide contract services (including substitution of someone else by a surety company providing a performance bond, contract assignment, transfer, conveyance, or sublease or licensing). For purposes of this definition, an action or inaction includes any or all of the following: assignment by operation of law, such as insolvency or bankruptcy; making assignment for the benefit of creditors; writ of attachment of an execution, or appointment of a receiver taking possession of any of Contractor's tangible or intangible property.

Ownership means the state or fact of being the direct or indirect, actual, or constructive owner of property, such as a parent holding corporation owning stock of a subsidiary corporation that in turn owns stock in its own subsidiary corporation or corporations.

Immediate Family means any or all of the following:

- 1) individuals having a shareholder or other equity interest in Contractor;
- 2) parent; grandparents; siblings; children; and grandchildren of those individuals

Any Transfer or attempted Transfer of this Master Contract by Contractor or any rights and duties under it, made without County consent, is null and void at County option.

c. Transfer Costs.

Contractor must request County’s consent in the manner prescribed by County. Contractor will pay County a Transfer Costs Deposit before County is obligated to consider Contractor’s request. County will return to Contractor any amount of Transfer Costs Deposit greater than the Transfer costs that County incurred. Within 30 days of County request, Contractor will further pay County the County’s additional Transfer Costs greater than the Transfer Deposit, whether County consents to the Transfer. Within 30 days of County request Contractor will pay County the County’s Reimbursement Costs for fees and investigation costs that County deems necessary to enjoin the Transfer or to otherwise enforce this provision.

Transfer Costs Deposit means County Reimbursement Costs for
1) considering and reviewing Contractor request for Transfer,
2) investigating the suitability of the transferee, or
3) determining whether or not to give consent to the Transfer,
including fees of consultants and attorneys necessary to analyze the application and to prepare the documents to effectuate the Transfer as well as County staff costs.

15.04 Amendments.

a. Changes to Documentation.

Following Notice to County, the Contractor Representative may make factual changes to the types of documentation that Contractor gives to County under this Master Contract, such as updating identified key personnel, improving the Unpermitted Waste Handling Protocol, or changing the designated Contractor Representative.

b. Mutual Consent.

Following mutual consent, County Director of Public Works and Contractor may make

1. changes to the Contractor’s obligations under this Master Contract that do not result in a service fee adjustment,
2. or those immaterial changes in contract services (such as changing the date that a report is due).

c. Amendments.

The following changes are effective only upon approval and execution of a written amendment to this Master Contract by the County Board of Supervisors, including

1. any warranties by the parties;
2. Changes in contract services that result in a service fee adjustment; and
3. Material changes in contract services such as changes to County remedies for contract breach; or the definition of “Events of Default” or “uncontrollable circumstances”.

15.05 Representatives.

a. County Representative.

County delegates to County Representative the authority to administer this Master Contract and to exercise County rights, remedies, and options under this Master Contract except with respect to extending the term or the Contract; suspending or terminating the agreement; approving or disapproving Transfer of this Master Contract; or exercising any delegation of authority contrary to law.

County Representative means the Public Works Director, or designee, and someone else named in County's Notice to Contractor.

b. Contractor Representative.

Contractor delegates authority to administer this Master Contract to Contractor Representative. Contractor Representative must have at least 5 years' experience in solid waste management services prior to being named Contractor Representative.

Contractor Representative means the individual named under this Master Contract, or with respect to Service Contracts, the individual named under those Service Contracts.

Within 10 days of a request from County, Contractor will replace the Contractor Representative.

15.06 Dispute Resolution Protocol.

Disputes shall be resolved in accordance with the protocol in Attachment 15.06.

ARTICLE 16 DEFINITIONS AND INTERPRETATION OF AGREEMENT

16.01 Inconsistencies.

a. Within Contracts.

If any provision in the body of this Master Contract or in the body of the Service Contracts is inconsistent or conflicts with any of the Contracts' respective Attachments or Exhibits, then the body of those Contracts will govern unless the County determines that is contrary to the public interest. The "body" of the contract means text from beginning on the cover and ending at the signature page.

b. Between Contracts.

If any provision in both this Master Contract and a Service Contract is inconsistent or conflicts, then the Service Contract governs unless:

1. the County determines that is contrary to the public interest, or the Service Contract explicitly over-rides this Master Contract, such as with respect to adjusting the service fee.

16.02 Integration.

This Master Contract, which includes the Service Contracts, contains the entire agreement between the parties and all their rights and responsibilities under this Master Contract, *except* with respect to incorporation of law by reference. This Contract completely and fully supersedes:

- all prior oral and written understandings and agreements between the parties with respect to those rights and responsibilities, such as the County’s Request for Proposals,
- Contractor’s proposal, and
- correspondence exchanged between County and Contractor during the procurement and negotiation of this Master Contract.

16.03 Governing Law.

This Master Contract is governed by and construed and enforced in accordance with the laws of the State of California, without giving effect to the State's principles of conflicts of laws.

16.04 Severability.

If any provision of this Master Contract is ruled illegal, invalid, nonbinding, or unenforceable by any court of competent jurisdiction, it will be severed from this Master Contract and this Master Contract will be construed as if it did not exist.

16.05 Interpretation.

This Master Contract will be interpreted and construed neither for, nor against, either party, regardless of the degree to which either party participated in its drafting. Contractor acknowledges that it determined to provide contract services and to enter into this Master Contract:

- upon its own choice and initiative,
- following its opportunity to made comments on this Master Contract and Service Contracts, ask questions about those Contracts, take exception to those Contracts’ provisions, and
- negotiating the terms and any conditions of those Contractor with assistance from their own counsel. Each party represents and warrants that it and its counsel have reviewed this Master Contract.

ARTICLE 17 EXECUTION OF AGREEMENT

17.01 Execution in Counterparts.

The Parties may sign any number of original counterparts of this Master Contract. Counterparts constitute one and the same agreement.

17.02 Authority to Execute.

Each party respectively warrants that it has duly authorized the individual below to sign this Master Contract on its behalf and that the individual has the full right, power, and authority to bind its related party to this Master Contract.

IN WITNESS WHEREOF, by due authorization and direction of its County Board of Supervisors, the Chairman of the Board has signed this Master Contract as of the contract date. By due authorization and direction, Contractor's officers have signed this Master Contract, as of the contract date.

MONO COUNTY
By (signature):
Type or Print Name:
Chair of the Board of Supervisors
ATTEST:
Type or Print Name:
County Clerk of the Board

CONTRACTOR
By (signature):
(Name of Officer):
Type or Print Name:
ATTEST:
Type or Print Name:
Secretary

ATTACHMENT 1.04 REPRESENTATIONS AND WARRANTIES

CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

- (1) **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.
- (2) **Authority.** Contractor has full legal right, power, and authority to execute and deliver this Master Contract and meet its performance obligations.
- (3) **Authorization.** This Contract has been duly executed and delivered by the Contractor and constitutes a legal, valid, and binding obligation of the Contractor enforceable against the Contractor in accordance with its terms.
- (4) **Statements and Information in Proposal.** Contractor's Proposal to the County dated XXX on which County has relied upon in entering into this Master Contract, is correct and complete in all material respects at the time originally submitted to the County.
- (5) **No conflicts.** Neither the execution or delivery by the Contractor of this Master Contract, the performance by the Contractor of its performance obligations, nor the fulfillment by the Contractor of its contractual terms and conditions:
 - conflicts with, violates or results in a breach of any law;
 - conflicts with, violates or results in
 - a breach of any term or condition of any judgment,
 - order or decree of any court, administrative agency, or other governmental authority, or
 - any agreement or instrument to which the Contractor is a party or by which the Contractor or any of its properties or assets are bound, or
 - constitutes a default thereunder; or
 - will result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the properties or assets of the Contractor.
- (6) **No approvals required.** No approval, authorization, license, permit, order or ask of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency, or instrumentality is required for the valid execution and delivery of this Master Contract by the Contractor, except those that have been duly obtained from its Board of Directors or other governing individual or entity.
- (7) **No litigation.** There is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of the Contractor's knowledge, threatened, against the Contractor wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by the Contractor of its obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this

Master Contract or any other agreement or instrument entered into by the Contractor in connection with the transactions contemplated hereby.

COUNTY'S REPRESENTATIONS AND WARRANTIES

(1) Status. County is a political subdivision of the State, duly organized and validly existing under the Constitution and laws of the State.

(2) Authority and Authorization. County has full legal right, power, and authority to execute, deliver, and meet its obligations hereunder. This Contract has been duly executed and delivered by County and constitutes a legal, valid, and binding obligation of County enforceable against the in accordance with its terms.

(3) No conflicts. Neither the execution nor delivery by County of this Master Contract, the performance by the County of its contractual obligations, nor the fulfillment by County of the contractual terms and conditions hereof:

- conflicts with, violates or results in a breach of law; or
- conflicts with, violates or results in a breach of any term or condition of
 - any judgment, order or decree of any court, administrative agency, or other governmental authority, or
 - any agreement or instrument to which County is a party or by which County or any of its properties or assets are bound, or
- constitutes a default under this Master Contract.

(4) No approvals. No approval, authorization, license, permit, order or ask of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery of this Master Contract by County, except such as have been duly obtained from the County Board of Supervisors.

(5) No Litigation. There is no: action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of County's knowledge, threatened, against County wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate,

- would materially adversely affect the performance by County of its obligations under this Master Contract or in connection with the transactions contemplated hereby, or
- which, in any way, would adversely affect the validity or enforceability of this Master Contract or any other agreement or instrument entered into by County in connection with the transactions contemplated by this Master Contract.

(6) No Warranty Regarding Waste Characterization. County makes no warranties regarding the volume or characterization of waste in the Request for Proposals (RFP)[or any waste disposal characterization study or projections by material type distributed to Contractor together with the RFP]. County expressly disclaims any warranties, either express or implied, as to the merchantability or fitness for any particular purpose of solid waste delivered to the transfer station.

ATTACHMENT 4.03 SERVICE CHANGES and CHANGE ORDERS

a. Proposed Plans.

(1) County's Request for Plan. Prior to directing a change order County will submit a request for plan to Contractor, including drawings and specifications, as applicable. County may withdraw its request at any time, for any reason, including receipt of a plan from Contractor unsatisfactory to County. Contractor shall provide a plan within 10 working days of County's request (or longer period that County allows).

(2) Contractor's Proposed Plan. Contractor may comment on a County plan or request for plan and will submit its plan to implement those changes or improvements, including an implementation schedule and the impact, if any, on a scheduled project completion date, operations, performance standards, and adjustments in service fees, within 10 working days (or longer period that County allows). Contractor will include documentation substantiating its cost estimate.

Contractor's plan will be deemed Contractor's offer to County to implement the change orders under the terms of that plan. A plan will be binding for 30 days. County may reject Contractor's plan at its sole discretion.

b. County's Review of Contractor Proposal.

(1) Unresponsive. Within 20 working days of receiving Contractor's proposed plan, County will review, approve, or disapprove that plan and comment thereon. County may rely upon service fees. If County does not respond within that time, its approval will be deemed not given and Contractor's time for satisfying a related obligation will be extended for each day of non-response. If County does not respond within 30 days, Contractor may submit the matter to the Independent MSW Expert for determination.

ATTACHMENT 4.05 KEY PERSONNEL

a. Contractor Representative

Name	
Telephone number	
e-mail address	
Mailing address	
Contractor office address	

b. Individual in Contractor's financial accounting department responsible for submitting reports to County with respect to invoices.

Name	
Telephone number	
e-mail address	
Mailing address	
Contractor office address	

Acknowledgment: Contractor has submitted, and County has received, this list of key personnel as of the later of the following dates:

1. The contract date, evidenced by each of their signatures on the Contract, or
2. With respect to subsequent changes, the following date, as evidenced by their following signatures:

County Representative: Signature Typed or Printed Name Date
--

Contractor Representative Signature Typed or Printed Name Date

c. Changes

1. Updates

Contractor and County will update this information when their Representative changes, for example moving to a different position, leaving employment, moving, illness, or death. They will do all of the following, as applicable:

- give copies to their Contract Representative under this Master Contract;
- Keep a copy with the contract they personally use most frequently, for example in their own office or the transfer station; and
- County Representative will give an executed copy to the County Clerk to file with the executed Contract in her records.

2. Acknowledgements

County and Contractor acknowledge that it is important to update this Exhibit for reasons including:

- providing both routine communication with individuals authorized to make administrative and operational decisions under this Master Contract, such as reviewing and accepting reports,
- and prescribed Notices under this Contract.

ATTACHMENT 4.07 CRIMINAL CONDUCT: CONTRACTOR'S RELATED PARTIES

Contract Manager means any or all of the following:

1. Contractor,
2. Contractor Representative,
3. Contractor officers and directors,
4. the officers and directors of any direct or indirect parent corporation of Contractor, or
5. anyone in a Position of Influence.

Position of Influence means the authority or responsibility to directly or indirectly administer, manage, direct, supervise, monitor or oversee Contract services or this Agreement, including any or all of the following:

1. **Contract administration:** reviewing or negotiating Contractor's contracts (including this Agreement),
2. **Legal services:** providing in-house legal services with respect to Contract services or this Agreement,
3. **Budgeting:** preparing or overseeing Contractor's operating and capital budget, or
4. **Policies / Procedures:** establishing policies and procedures related to the Criminal Conduct.

RELATED PARTY

Name	
Position	

RELATED PARTY

Name	
Position	

RELATED PARTY

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Position	

Acknowledgment: Contractor has submitted, and County has received, the attached list of Contract Managers as of the later of the following dates:

1. The contract date, evidenced by each of their signatures on this Master Contract, or
2. With respect to subsequent changes, the following date, as evidenced by their following signatures:

County Representative: _____
 Date: _____

Contractor Representative _____ Date: _____

ATTACHMENT 8.02 SERVICE FEE ADJUSTMENTS

The service fee includes all Contractor's costs of providing contract services, such as labor, fuel, capital depreciation, maintenance, tipping fees, and any contract fee.

a. Scheduled Annual Adjustments.

CPI means C-CPI-U the Chained Consumer Price Index for All Urban Consumers: COI-all items US City average (CUUR000A), published by the Bureau of Labor Statistics at the time of fee adjustment. [Consumer Price Index \(CPI\) Databases: U.S. Bureau of Labor Statistics \(bls.gov\)](https://www.bls.gov/databases/)

CNG means the price index for compressed natural gas (West Coast), in the preceding 4 quarterly reports, ending with the most recently published report in the

US Department of Energy/ Energy Efficiency and Renewable Energy Administration
Clean Cities Alternative Fuel Price Report

[Clean Cities Alternative Fuel Price Report, October 2020 \(energy.gov\)](https://www.energy.gov/clean-cities/alternative-fuel-price-reports)

For example, if the service calculation is made in April 2025, effective July 1 2025, the average price is based on the four quarters from July 2024, October 2024, January 2024, and March 2025, or if March is not yet published, from March 2024.

LNG means the price index for liquid natural gas (LNG) West Coast in the preceding 4 quarterly reports, ending with the report most recently published price in the

US Department of Energy/ Energy Efficiency and Renewable Energy Administration
Clean Cities Alternative Fuel Price Report

For example, if the service calculation is made in April 2025, effective July 1, 2025, the average price is based on the four quarters from July 2024, October 2024, January 2024, and March 2025, or if March is not yet published, from in March 2024.

diesel means average price of the preceding 12 months published in the

US Department of Energy
Energy Information Administration
Petroleum & Other Liquids
Weekly Retail Gasoline and Diesel Prices

Diesel (On-Highway) - All Types

At [California Gasoline and Diesel Retail Prices \(eia.gov\)](https://www.eia.gov/diesel/)

The service fee will be adjusted (increased or decreased) annually effective each July 1, under this Subsection and the Service Contracts for changes in any or all of the CPI, CNG, LNG, and diesel indices. The service fee will be adjusted only if both of the following occur:

1. the Contractor submits its calculations of the adjustment at least 30 days prior to July 1 for County review, and
2. County verifies the calculations.

Service fees will be increased only if no event of default exists. The total adjustment, whether upward or downward, may not exceed 5% in any one fiscal year (July 1 – June 30). If any index is discontinued or revised, County and Contractor will substitute another index that they agree is comparable.

b. Adjustments for Service Changes / Change Orders.

The service fee will be adjusted for changes under this subsection and the Service Contracts.

1. Process.

Upon either party’s request for either or both change in service and adjustment in the service fee, the parties will comply with the following protocol.

Examples of request include: Contractor’s request for an increase in service fees following:

- **Change in Law:** a change in law that mandates changes in the manner or means of providing contract service, such as adding food waste collection to a contract for collecting waste at County facilities, but excluding the imposition of host fees charged by another jurisdiction if Contractor’s facilities are located outside of Mono County; or
- **Change in Service:** County’s request for change in scope of services, such as a adding a new program for composting organics in an anaerobic digester.

CHANGE IN SERVICES (RATE ADJUSTMENT PROTOCOL)		
County	Contractor	Response Time (or longer period agreed upon by parties)
County Direction. for change in services	Contractor Request for change in services, including any adjustment in the service fee, describing Contractor’s reasons for its request, such as: <ul style="list-style-type: none"> • Incorporating new developments in collection technologies and techniques that save operating costs; • Implementing changes necessitated by a change in law. Response to either County-directed or Contractor-requested change: Give County	Response. 15 business days. In an uncontrollable circumstance, Contractor and County will use their best efforts to agree upon a change orders rapidly to avoid service interruptions and threats to public health and safety.

	<p>an implementation plan including impacts on:</p> <ul style="list-style-type: none"> • performance specifications / Operations • Schedules, • Performance standards, • Capital investment, and • The service fee and on Contractor’s calculations of the cost of the change. <p>For both County’s direction and Contractor-requested change, give County all its financial and other records and those of affiliates that are related to implementing the change, such as providing administrative support or operational overhead.</p>	
<p>Request Additional Information from Contractor or Contractor’s affiliates.</p>	<p>Response. Contractor gives County requested information.</p>	<p>10 business days.</p>
<p>Review and Determination. After County review and audit of the requested information, and upon approval of the Board of Supervisors. County may adjust the service fee as of July 1, in its sole discretion, subject to Contract Dispute Resolution Protocol.</p>	<p>Reach agreement, or dispute determination.</p>	<p>15 days</p>

c. Calculations. All calculations are rounded to the nearest 1/100th decimal place (for example, 101.9656% to 101.97%, or 101.9637% to 101.96%). The decimal 5 is rounded down (for example, 101.965% to 101.96%). Adjustments to the service fee are rounded to the nearest penny (for example, \$25.34).

ATTACHMENT 9.02 RECORDS

SECTION	RECORD
<p>3.01 Scope of Services / Specifications: tonnages</p> <p>9.01 Records Diversion</p>	<p>Information required in a Service Contract with respect to operations and services, including weigh records (and tonnage receipts 9.02):</p> <ol style="list-style-type: none"> 1) tons of permitted (or transferable) waste or materials that Service Contractor removed from the IMMC or its materials management site; 2) tons of permitted (or transferable) waste or materials that Service Contractor delivered to a waste management facility. 3) diversion and quantity of solid waste diverted, recycled and other information that County must report to CalRecycle (9.01)
<p>3.02 Emergency Services</p>	<p>Information regarding any emergency services provided to County.</p>
<p>3.04 Vehicles</p>	<ol style="list-style-type: none"> 1) annual smoke opacity / smog checks 2) vehicle maintenance logs 3) safety compliance reports (including BIT inspections) 4) testing requested by County (such as brake tests) 5) receipt for recycling used oil 6) any receipts for purchasing re-refined oil 7) status of spare vehicles 8) list of vehicles used and covered under auto insurance policies
<p>3.05 a / b / c Routes</p>	<p>Any change from primary transport route to backup transport route, including:</p> <ol style="list-style-type: none"> 1) events causing change, including evidence of any uncontrollable circumstance causing change (such as road closures)
<p>3.05d Waste management facilities</p>	<p>Any change from a primary service (such as transport or a waste management facility) to back-up service (or waste management facility), including:</p> <ol style="list-style-type: none"> 1) events causing change, including evidence of any uncontrollable circumstance causing change (such as road closures) 2) miles to primary facility 3) miles to back-up facility
<p>4.03 County communications</p>	<p>Calls, meetings, e-mails and other correspondence with County</p>
<p>4.04 Compliance with law</p>	<ol style="list-style-type: none"> 1) permits and licenses of Contractor, and as required by law, its employees (9.02)

	<ul style="list-style-type: none"> 2) regulatory inspections (9.02) 3) areas of concern, notices of violations, and violations of laws; fines and penalties (and 13.02) 4) correspondence with regulatory agencies (9.02)
4.05b Personnel	<ul style="list-style-type: none"> 1) background checks (such as for criminal records) (9.02) 2) records of operational and safety training 3) records of drug and alcohol testing 4) other employee testing (9.02) 5) valid driver's licenses if employee's services include driving 6) Safety manuals, policies, and procedures, including use of personal protective equipment
4.06 Subcontractors	<ul style="list-style-type: none"> 1) Subcontracts, including <ul style="list-style-type: none"> a. acknowledgement that County is not liable for any obligations under subcontract, including paying compensation; and b. obligation to protect and preserve all County's rights under this Master Contract 2) Copies of subcontractor's required licenses 3) Copies of subcontractor's required insurance under 12.01
4.07 Criminal Conduct	<ul style="list-style-type: none"> 1) Records regarding Convictions and Pleas of Criminal Conduct by Contractor Manager and anyone in a Position of Influence 2) Pollution claims (including under CERCLA) with respect to materials Contractor handled under this Master Contractor of any Service Contract.
8.02 Service fees 9.02 Billing files 9.02 Financial books	<ul style="list-style-type: none"> 1) Service fees 2) Billing files (9.02) 3) Financial books (for contract services, and for Contractor)
9.01 Monetary Amounts	Amount of any monetary amounts owed or paid to County
Unpermitted waste incidents 9.01 Pollution Claims	<ul style="list-style-type: none"> 1) documentation regarding unpermitted waste, if any, discovered and handled during operations 2) Responding to claims (including CERCLA) with respect to materials that Contractor handled under this Master Contract and Service Contracts
9.02 Formats	Records in 2 formats, with respect to: <ul style="list-style-type: none"> 1) contract services 2) Contractor as a legal entity
9.02 Orders	1) Any customer orders or subscriptions
9.02 For County reports	Information Contractor must include in its reports to County

9.02 For CalRecycle reports	information County must submit to CalRecycle
9.02 Complaint logs	complaints logs
9.02 Correspondence	Correspondence related to contract services
9.02b Inventory	Inventory of assets used to provide contract services, including guaranties and warranties, maintenance manual and records
11.02 Liabilities	Records of Liabilities regarding unpermitted waste caused by negligence, misconduct, failure to comply with Unpermitted Waste Handling Protocol, or mishandled Unpermitted Waste
12.01 Insurance	<ol style="list-style-type: none"> 1) copies of policies, including amendments 2) claims made regarding operations and services under this Master Contract 3) percent of total paid and reserved claims against policies' limits
14.03c Service asset documents	<p>service asset documents that establish a security interest to or by the Contractor encumbering or limiting the Contractor's interest in service assets, Examples include:</p> <ul style="list-style-type: none"> • a lease, • rental agreement, • installment purchase contract, • financing contract, • acquisition over time, • mortgage or • other instrument. <p>Including both these provisions:</p> <ul style="list-style-type: none"> • county right to possess and use service assets, and • County right to acquire service assets upon expiration or termination of this Master Contract
	additional information related to this Master Contract and Service Contracts requested by County

ATTACHMENT 10.02a QUARTERLY REPORTS

In its Quarterly report, Contractor will include, at a minimum, the following information and statements.

SECTION	REPORT
3.01 Scope of Services / Specifications: tonnages 9.01 Records Diversion	Summary of weight, volume, amount of solid waste and materials handled
3.05 a / b / c Routes	Route changes
3.05d Waste management facilities	Service changes
4.04 Compliance with law	Notices of non-compliance of law or other regulatory action
4.07 Criminal Conduct	Occurrence of any Criminal Conduct
9.01 Pollution Claims	Filing of any pollution claims
9.02 For CalRecycle reports	information County must submit to CalRecycle
12.01 Insurance	80% or more percent of total paid and reserved claims against policies' limits
Any Changes	4.05 Key Personnel 4.06 Subcontractors 12.01 Insurance coverage
	any extraordinary occurrences affecting operations and compliance with contract obligations, including occurrences at the IMMC or materials management site, during transport to the waste management facility, and at the waste management facility
	discussion of service or operational problems and their resolution or planned resolution
	additional information related to this Master Contract and Service Contracts requested by County

Contractor may use the following report in substantially this form, as may be changed by County, including to contain all information required in the preceding table.

[MONO COUNTY CONTRACTOR QUARTERLY REPORT

Submitted by: _____ (Contractor)

FOR THE YEAR OF **20** _____

- 1st Quarter (January, February, March) (due by May 1)
- 2nd Quarter (April, May, June) (due by August 1)
- 3rd Quarter (July, August, September) (due by November 1)
- 4th Quarter (October, November, December) (due by February 1)

1. Changes in Operations	1) Route change 2) Service change 3) Violation of law 4) Criminal Conduct 5) Pollution claims; unpermitted waste incidents 6) Insurance claims paid & reserved over 80% of policy limits	1) <input type="checkbox"/> None <input type="checkbox"/> See Attached 2) <input type="checkbox"/> None <input type="checkbox"/> See Attached 3) <input type="checkbox"/> None <input type="checkbox"/> See Attached 4) <input type="checkbox"/> None <input type="checkbox"/> See Attached 5) <input type="checkbox"/> None <input type="checkbox"/> See Attached 6) <input type="checkbox"/> None <input type="checkbox"/> See Attached
2. Tonnage (Volume) handled	Tonnage information required for reporting to CalRecycle or requested by County. Attach spread sheet with tonnage (or volume): <ul style="list-style-type: none"> ● removed from IMMC or materials management site ● delivered for reuse or to a waste management facility including <ul style="list-style-type: none"> ○ reuse, ○ recycling, ○ processing, ○ composting, ○ disposal 	
3. Discussion	Describe any extraordinary occurrence (attached) Discuss any service problems / resolutions (attached) Additional requests by County (attached)	

<p>4. Certifications</p>	<p>I represent and warrant, under penalty of perjury, that [CONTRACTOR] has met its performance obligations for the Quarter noted above. OR,</p> <p>· Name</p> <p>· Title</p> <p>· Signature</p>	<p>During the Quarter noted above, [CONTRACTOR] did <u>not</u> meet all of its performance obligations and will pay to County liquidated damages for each failure as noted on the attached sheet.</p> <p>· Name</p> <p>· Title</p> <p>· Signature</p>
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ATTACHMENT 10.02b ANNUAL REPORTS

In the Annual Report, Contractor will include, at a minimum, a collated summary of the information contained in Quarterly Reports, a reconciliation of any adjustments from prior Quarterly Reports, and the information and statements in the following form of Annual Report, Annual Reports may be made on Form 10.02b which is attached to this Exhibit

FORM 10.02b

MONO COUNTY CONTRACTOR ANNUAL REPORT FOR 20____

Submitted by: _____ (Contractor)

(Due by February 15)

1. Total information contained in Quarterly Reports for the year	Including Discussions and Certifications	<input type="checkbox"/> See Attached
2. Service Asset Inventory	See Attached.	
3. Subcontractors	See Attached. <ul style="list-style-type: none"> • the names of all Subcontractors, • the scope and amount of services or goods Subcontractors provide to Contractor, and • a description of Contractor’s relationships to each Subcontractor (including “Ownership” interests, defined in the Master Contract) 	
4. Pending litigation Statement	See Attached: A declaration describing the current status of any criminal or civil litigation pending against Contractor, Contractor’s parent company, or any subsidiaries of the parent company, if any, which relates to solid waste handling, collection, recycling or disposal, including any Criminal Activity defined in the Master Contract).	
5. Financial Status Statement	I represent and warrant, under penalty of perjury, that in the prior Contract Year there have been no material changes in [CONTRACTOR]’s financial status or condition. Name Title (CEO or Principal) Signature	I represent and warrant, under penalty of perjury, that in the prior Contract Year, those changes to [CONTRACTOR]’s financial status or condition listed on the attached sheet which is labeled “Material Changes to [CONTRACTOR]’s Financial Status or Condition” have occurred. Name Title (CEO or Principal) Signature

ATTACHMENT 12.01 INSURANCE – COVERAGE REQUIREMENTS

a. **Insurance Requirements.** Without limiting its Indemnities, Contractor will secure and maintain insurance coverage meeting the requirements in this Attachment or under law, whichever is greater *unless* it is self-insured. County Risk Manager or County Board may modify requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstance to protect health and safety of the public. When the change increases Contractor’s insurance premium the service fee will be adjusted if Contractor demonstrates to County’s satisfaction that the increase is due to changes in the insurance market and not the adverse claim record of Contractor.

b. **Self-Insured Retentions (SIRs).**

1. **Contractor Declaration / County Approval.** Contractor must declare SIRs to the County, subject to County approval in its sole discretion. County may require the Contractor to do either or both of the following:

- reduce or eliminate self-insured retentions as respects the County Insureds; or
- provide a financial guarantee satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and defense expenses within the retention.

2. **Payment of SIR.** The policies subject to SIRs must provide, or be endorsed to provide, that the self-insured retention may be satisfied by either:

- the named insured, or
- County.

County Insures means the County, its elected officials, staff and employee, contractors, consultants, and agents.

3. **Defense.** Without limiting its Indemnification under this Master Contract, Contractor assumes all obligations of the insurer providing insurance to defend County (which might be broader than Contractor’s Indemnification under this Master Contract):

- beginning immediately upon filing any action against County that the insurer would be required to defend,
- until the deductible or SIR has been met and the insurer does defend County.

Upon County request, Insurance must provide either or both of the following:

- apply insurer’s defense costs to reduction of deductible or SIR; and
- give County right to approve a claims settlement and receive payments directly.

c. Subcontractors. Contractor will ensure each subcontractor provides evidence that subcontractor is maintaining insurance required by Section 12.01 and this Attachment protects Contractor and County interests against liabilities caused by the acts, errors or omissions of the subcontractor.

d. Compliance with Terms of Insurance. Contractor must comply with all terms of insurance and insurers. However, the insurance must obligate the insurer to pay County claims that are covered under the policy even if Contractor does not comply with all policy requirements or duties such as:

- failing to report an incident or claim in a timely manner,
- complying with law,
- allowing operations not permitted under the policy, or
- making misrepresentations.

Contractor will institute a comprehensive accounting system satisfactory to County that monitors all insurance requirements under this Master Contract, including those of its subcontractors.

e. Claims Paid or Reserved. If total claims (both paid and reserved) against any policy of any subcontractor’s insurance (except with respect to Workers’ Compensation) exceed more than 80 percent of the required aggregate policy limits, Contractor will immediately report the excess to County. In that event, Contractor must obtain additional Insurance or provide County with financial assurance satisfactory to County to maintain those required policy limits.

	Form	Coverage (at least as broad as the following) ¹	Endorsements	Amount (millions) (minimum limits / no less than) ²	
Commercial General Liability (CGL)	(1) Insurance Services Office (ISO) Form CG 00 01 covering CGL on an “occurrence” basis; or (2) occurrence, not claims made (3) for later revisions, to Contractor’s insurance, endorsements in the following forms: <ul style="list-style-type: none"> • at least as broad as 	Including the following extensions, if not included in basic coverage: <ul style="list-style-type: none"> • Products and completed operations. • Property damage • Bodily injury • Advertising and 	Additional Insureds. Under both Contractor’s and subcontractors’ policies, County Insureds must be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the either or both Contractor and Subcontractors including: <ul style="list-style-type: none"> • materials, parts, or equipment furnished in connection with 	Per occurrence; aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit. County	\$2/\$4

	<ul style="list-style-type: none"> ○ ISO Form CG 20 10, CG 11 85 or ○ both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; ● and CG 20 37. <p>Subcontractors: at least as broad as form CG 20 38 04 13.</p>	personal injury.	<p>such work or operations</p> <ul style="list-style-type: none"> ● and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. <p>Contractor must verify subcontractors' coverage.</p> <p>Waiver of Subrogation. Waiver of rights to subrogation that an insurer may acquire from Contractor with respect to payment of any loss.</p>	Risk Manager may reduce to \$1/\$2.	
Automobile Liability³	Insurance Services Office Form CA 0001 covering Code 1 (any auto)	<ul style="list-style-type: none"> ● Bodily injury ● Property Damage⁴ 	Subrogation. Waiver of rights to subrogation that an insurer may acquire from Contractor with respect to payment of any loss.	per accident; County Risk Manager may waive this requirement if no part of services require driving on-road vehicles (including subcontractors)	\$1
Workers' Compensation	As required by the State of California, with Statutory Limits	Waiver of subrogation in favor of the County for all work performed by the Contractor, its employees, agents and subcontractors.		As required by the State of California, with Statutory Limits	

1. Primary. Coverage must be primary.
Breadth. Coverage must be at least as broad as ISO CG 20 01 04 13 with respect to County Insureds.
Non-contributory. Any insurance or self-insurance maintained by the County Insureds will be excess of the Contractor's insurance and will not contribute with it.
2. County Match. County Insureds must be entitled to either or both broader coverage and higher limits. Excess proceeds must be available to County Insureds.
Excess. Contractor may use a combination of primary and excess insurance coverage to satisfy these requirements, but excess policies must meet all of the terms and conditions of the policy beneath it ("follow form"). If the excess policy conflicts with the underlying policy, the underlying policy governs.

3. Contractor must list all vehicles used to provide contract services on its automobile liability policy.
4. Claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors.

f. Verification of Coverage.

1. County Counsel Approval.

i. **Documentation.** As of the contract date, Contractor will give County Counsel and Risk Management (or other individuals named by the County) all of the following, for County approval:

- original Certificates of Insurance, including endorsements, schedules, brokers' letters, and signature verification;
- a certified copy of the provisions in each blanket policy, if any that provides evidence satisfactory to County that the policy meets the requirements of this Master Contract in the absence of an endorsement;
- evidence that either:
- Contractor is maintaining required insurance protecting Contractor and County interests against liabilities caused by the acts, errors or omissions of the Subcontractor, or
- the subcontractor is maintaining that insurance itself. and
- with respect to the CGL policy, a copy of the Declarations and Endorsement Page listing all policy endorsements.

ii. **Timing.** Contractor will give the County those copies, at all the following times:

- on or before the contract date,
- within one week of a policy's renewal, and
- within 10 County business days of County request.

iii. **Waivers.** Neither County failure to do either of the following can be construed as a waiver of any of Contractor's obligations under this Master Contract:

- obtain a certificate of insurance, or
- object to a non-complying certificate of insurance, endorsement, or any other insurance documentation or information provided by any of the following:
 - Contractor or subcontractors,
 - Contractor insurance broker(s), or insurer(s).

iv. **Filing with the Public Works Director.** Contractor will file those copies or certificates with the Public Works Director annually, or whenever they change or are renewed.

ATTACHMENT 12.02 LETTER OF CREDIT

a. Stated Amount.

Contractor will provide County with a letter of credit presentable to the Bankⁱ for the Stated Amountⁱⁱ. During the first contract year the “**Stated Amount**” is listed in each Service Contract.

b. Term.

The term of the Letter of Credit must be either the same as the Service Contract term plus 180 days, or renewable annually or at other period up to the contract term plus 180 days.

ⁱ “**Bank**” means a financial institution satisfactory to County, having at least one of the following minimum ratings:

1. Moody’s A2 or better LT Issuer Credit and B or better for Bank Financial Strength,
2. Standard and Poor’s: A or better for LT Issuer Credit,
3. Bauer Financial: 4 Stars or better,
4. TheStreet.com Ratings: B or better.

ⁱⁱ “**Stated Amount**” means the maximum number of dollars that County may draw from the Letter of Credit as indicated on its face, calculated each contract year as follows:

1. During the first contract year of each Service Contract the Letter is in the amount stated in the Service Contract for which it is providing performance assurance.
- b. During the second and following contract years of this Master Contract
 - the monthly average of gross receipts during the prior 6 months
 - 110% of any amounts payable by Contractor to County during the prior 12 months that remain unpaid, including:
 - Unpaid contract fees,
 - Liquidated damages, plus
 - Unpaid County Reimbursement Costs.

County Reimbursement Costs means County direct costs of goods purchased or services retained, plus 35% for costs related to work by County employees, including taxes and benefits.

c. Transfer. The Letter of Credit must be transferable to any successor or assign of County. Contractor may substitute another letter of credit acceptable to County.

[ATTACH LETTER OF CREDIT TO THIS EXHIBIT OR EXHIBIT IN SERVICE CONTRACT]

ATTACHMENT 12.03 GUARANTY

[Attach form of guaranty]

ATTACHMENT 13.02 – EVENTS OF DEFAULT

EVENT OF DEFAULT		TERMINATION DATE (# days following County Notice to Contractor of default OR longer time specified by County in its sole discretion)
(1) Uncured breach	<p>Unless due to uncontrollable circumstances-</p> <p>(1) Contractor does not cure any warranty, or breach of, this Master Contract or any Service Contract other than breaches listed as specific defaults in this table, within 30 days after County Notice of that breach, or longer time allowed by County in its sole discretion.</p>	<p>10 days</p> <p>For example:</p> <ul style="list-style-type: none"> • County sends Contractor a Notice of breach on March 1; • Contractor fails to cure breach by March 31; • County sends Contractor Notice of default on April 1; • County terminates April 11.
(2) Payments to County	<p>Contractor does not fully and timely pay County any amounts under this Master Contract (such as payment of any contract fees, liquidated damages, and County Reimbursement Costs):</p> <p>(1) More than twice in any year;</p> <p>(2) Within 30 days of dated correspondence from the County stating that payment is due; or</p> <p>(3) With respect to payment of a shortfall in contract fees, within 30 days of dated correspondence from the County identifying the shortfall.</p>	<p>10</p> <p>For example:</p> <ul style="list-style-type: none"> • County sends Contractor a bill (or identifies a shortfall) on March 1; • Contractor fails to pay County by March 31; • County sends Contractor Notice of default on April 1; • County terminates April 11.
3) Repeated violation of law (4.04)	<p>(1) Contractor does not remedy a material violation of law, related to performance under this Master Contract, to the satisfaction of the applicable regulatory authority (including County when acting as a regulatory authority), within 30 days of</p>	<p>Immediately</p>

	<p>the regulatory authority’s notice, assessment, or determination of that violation. The County in its sole discretion shall determine materiality.</p> <p>(2) If Contractor is entitled to and does contest a notice, assessment, or determination of a violation by proceedings conducted in good faith, no default is deemed to have occurred until a final decision adverse to Contractor is entered.</p> <p>“Violation” means any written notice, assessment or determination of non-compliance with law from any regulatory authority to Contractor, whether or not a fine or penalty is included, assessed, levied or attached.</p>	
(4) Failure to meet insurance obligations (12.01)	Contractor does not meet its obligations with respect to insurance	Immediately
(5) Default under the Guaranty (12.03)	Grantor defaults under the Guaranty.	Immediately
(6) Insolvency or bankruptcy	<p>(1) Contractor becomes insolvent or files a voluntary petition to declare bankruptcy;</p> <p>(2) a receiver or trust is appointed for Contractor; or</p> <p>(3) Contractor executes an assignment for the benefit of creditors.</p> <p>Contractor is deemed to be "insolvent" if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether Contractor has committed an act of bankruptcy and whether Contractor is insolvent within the meaning of the federal bankruptcy law or not.</p>	Immediately
(7) Fraud, misrepresentation, or breach of warranties (such as 1.04)	<p>During the procurement of this Master Contract or after the date of this Master Contract, Contractor does any of the following with respect to this Master Contract or the County:</p> <ol style="list-style-type: none"> 1. Committed (or commits or attempts to commit) any fraud or deceit; 2. Made (or makes) any intentional or material misrepresentations; or <p>Made or (or makes) any false or misleading statement, representation, or warranty.</p>	30 days

uncontrollable circumstances means each of the three pre-conditions are met:

a. Events. The occurrence and continuance of any of the following events:

- 1) Riots, war, or emergency affecting the County declared by the President of the United States, Congress of the United States, the Governor of California, or the County Board;
- 2) Sabotage, civil disturbance, insurrection, explosion;
- 3) Natural disasters such as floods, earthquakes, landslides and fires that are not reasonably anticipated weather conditions in the County;
- 4) A change in law that meets both of the following conditions:
 - It is enacted by County,
 - Although County is not required to enact it for compliance with any state, federal law or order, or regulatory agency.
- 5) A change fees or assessments charged by any regulatory agency or government (excluding host fees assessed by the jurisdiction in which the solid waste management facility is located, which are the sole responsibility of Contractor), AND
- 6) The failure of any public or private utility provider to provide water or electricity to the Contractor office or maintenance facility, AND

b. Impact. The uncontrollable event prevents Contractor from complying with an identified, significant contract obligation with respect to handling solid waste, recyclables, organics, or other materials) AND

c. Mitigation. Contractor uses best efforts to mitigate the impact and comply with its obligation using alternative or additional manners and means.

Natural disasters excludes wind and precipitation that in any given month exceed the 10-year average of monthly levels established by the National Oceanic and Atmospheric Administration (“NOAA”) at the site nearest the area in which Contractor provides contract service.

change in law means any or all of the following:

- 1) The adoption, promulgation, modification, or change in law (including County’s change in or addition of contract fees) or change in judicial or administrative interpretation of the law occurring after the date this contract is first signed by either party;
- 2) Any order or judgment of any regulatory authority issued after the date this agreement is first executed by a party if the order or judgment is not also the result of the willful misconduct or negligent action or inaction of either of the party relying thereon, or anyone for whom that party is directly responsible; and the party relying on the order or judgment makes reasonable business efforts to contest that order or judgment, unless the other party excuses it from contest; or

3) A regulatory authority imposes any new or different material conditions in connection with the issuance, renewal, or modification of any permit after the contract date; or

4) A regulatory authority fails to issue or renew permit or suspends, interrupts or terminates any permit after the contract date and the regulatory authority's actions is not also the result of the willful misconduct or negligent action or inaction of the party relying thereon or anyone for whom that party is directly responsible.

Change in law excludes any imposition of, or increase in, Host fees charged by a jurisdiction in which solid waste facilities are located.

ATTACHMENT 15.02 NOTICES: ADDRESS

a. Contractor

Contractor	
Name	
Phone Number	
e-mail Address	
Mailing Address	
Physical Address	

Acknowledgment: Contractor has submitted, and County has received, this list of key personnel as of the later of the following dates:

1. The contract date, evidenced by each of their signatures on the Contract, or
2. With respect to subsequent changes, the following date, as evidenced by their following signatures.

Date: _____

b. County

County Representative: _____

Contractor Representative _____

c. Changes

1. Updates

Contractor and County will update this information when their Representative changes, for example moving to a different position, leaving employment, moving, illness, or death. They will do all of the following, as applicable:

- give copies to their Contract Representative under this Master Contract;
- Keep a copy with the contract they personally use most frequently, for example in their own office or the transfer station; and
- County Representative will give an executed copy to the County Clerk to file with the executed Contract in her records.

2. **Acknowledgements**

County and Contractor acknowledge that it is important to update this Exhibit for reasons including:

- providing both routine communication with individuals authorized to make administrative and operational decisions under this Master Contract, such as reviewing and accepting reports, and
- and prescribed Notices under this Contract.

d. **Warranties.**

1. **County**

County warrants that it duly authorized individual listed below who has the authority and has been duly authorized to execute this Exhibit on behalf of the County.

2. **Contractor**

Contractor warrants that it duly authorized the individuals listed below to execute this Master Contract on behalf of the Contractor.

ATTACHMENT 15.06 DISPUTE RESOLUTION PROTOCOL

Dispute Resolution Protocol. County and Contractor may seek resolution of their dispute under this Attachment. They may revise the protocol following agreement (such as extending response times). The existing service fee limit will remain in effect until parties resolve the dispute.

1. **Termination.** If the determination requires a service fee adjustment, or capital or operating cost adjustment above the limit established in the Service Contracts, either County or Contractor may terminate this Master Contract within 30 days of the determination or other date agreed to by the County and Contractor.

ACTION	TIMING
<p><i>Examples of disputes include:</i></p> <ul style="list-style-type: none"> ● Breach. County claims that Contractor has breached a truck turn-around performance standard under the Transfer Contract and assess liquidated damages. Contractor denies the breach and the damages. ● Service Fee Adjustment. Contractor claims that a service fee adjustment for transferring source separated organics should be an additional \$x.xx / ton. County believes that the adjustment should be less, only an additional \$y.yy / ton. <p>Independent MSW Expert.</p> <ol style="list-style-type: none"> (1) County and Contractor will select independent individuals or entities having experience in solid waste, recycling and construction and demolition debris collection, as applicable in the parties' dispute. (2) The 2 selected individuals or entities will pick a 3rd independent individual with that same experience who will be the Individual MSW Expert. <p>Parties will each pay the Expert for the services that the Expert provides them individually during "Information Exchange", below, such as costs of requesting and reviewing their documentation. They will and split the Experts' costs incurred during "Determination", below.</p>	<p>(1) 5 days</p>
<p>Information Exchange.</p> <ol style="list-style-type: none"> (1) County and Contractor will forward information provided during prior rate adjustment protocol. (2) Independent MSW Expert asks for additional information or documentation. (3) Parties give Independent Expert requested items and simultaneously give other the party a copy. Information or documentation that sends to the Expert absent request they will simultaneously give the other party a copy. 	<p>(1) 3 days (2) 5 days (3) 10 days</p>

Determination. The Independent MSW Expert will make its determination of the dispute based on the parties' submissions, the provisions of this Master Contract, its experience with similar services and disputes, and other factual determinations it may make regarding the dispute. A rate adjustment should reflect considerations including any increase (or decrease) in Contractor's:

- (1) Capital investments (*such as additional trucks or containers, recyclables processing equipment, landfill construction*), and
- (2) Labor costs (*such as more drivers, recyclables pickers or landfill employees / slower recyclables sorting, longer shifts*).
- (3) **Binding: No change.** Determinations that do not require a service fee adjustment will be binding.
- (4) **Binding: change less than maximum limits.** Determinations that do *not* require a capital investment, additional operating costs, or service fee increase larger than maximum limits established in the Service Contracts, will be binding, unless otherwise provide in the Service Contract.
- (5) **Non-Binding: change more than maximum limits.** Determinations that *do* require a capital investment, additional operating costs, or service fee increase larger than maximum limits established in the Service Contracts, will be non-binding

15 days