

**TULELAKE SOLID WASTE/RECYCLING FACILITY  
OPERATION AGREEMENT**

**May 2017**

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**EXHIBITS**

<b>Exhibit A</b>	<b>Siskiyou County User Fees</b>
<b>Exhibit B</b>	<b>Emergency Contacts</b>
<b>Exhibit C</b>	<b>Dry Creek Landfill’s Waste Acceptance Guidance Manual</b>
<b>Exhibit D</b>	<b>Non-Prevailing Wage Determination</b>
<b>Exhibit E</b>	<b>City Representative(s)</b>
<b>Exhibit F</b>	<b>County’s Inventory</b>

**TULELAKE SOLID WASTE/RECYCLING  
FACILITY OPERATION AGREEMENT**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of June , 2017, by and between **COUNTY OF SISKIYOU**, hereinafter called "County" and **CITY OF TULELAKE**, hereinafter called "City".

**WHEREAS**, pursuant to Siskiyou County Code Section 5-1.27, the Board of Supervisors of the County of Siskiyou, hereinafter called "Board", has determined that the public health, safety and welfare are best served by providing for the collection and disposal of residential and commercial garbage, rubbish and solid waste matter; and

**WHEREAS**, in the past various commercial haulers have transferred residential and commercial garbage, rubbish and solid waste matter collected in the County and in cities within the County to the facility previously known as the Tulelake Landfill; and

**WHEREAS**, the County wishes to ensure there is a facility to receive residential and commercial garbage, rubbish and solid waste; and

**WHEREAS**, County has constructed a transfer/recycling facility known as the Tulelake Solid Waste/Recycling Facility in the Tulelake area to provide for the collection, transport and disposal of residential commercial garbage, rubbish and solid waste; and

**WHEREAS**, County is desirous of entering into an Agreement with the City to provide operation of the transfer/recycling facility.

**WITNESSETH:**

That the parties hereto mutually agree to the terms and conditions hereinafter set forth.

**1.0 DEFINITIONS**

**A. "Agreement"** means this Transfer/Recycling Station Operations Agreement between the City and the County.

**B. "Applicable Law"** means all federal, State and local laws, regulations, rules, orders, judgments, degrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the collection of solid waste and recyclable materials that are in force on the effective date as they may be enacted, issued or amended during the term of the Agreement.

C. **“Board”** means the Board of Supervisors of the County of Siskiyou.

D. **“Collection”** means the act of collecting Solid Waste, Recyclable Materials and other material at the Transfer/Recycling Station.

E. **“Commercial Waste”** includes all types of Solid Wastes generated by commercial, industrial, governmental and other sources. The term **“Commercial Waste”** does not include Hazardous Wastes generated by commercial, industrial, governmental and other sources.

F. **“County”** means the County of Siskiyou, State of California.

G. **“Electronic Waste (E-Waste)”** is generated from homes and the workplace and contains hazardous substances like lead and mercury. Electronic waste includes, but is not limited to: cathode ray tube (CRT) devices (including televisions and computer monitors); liquid crystal display (LCD) desktop monitors; laptop computers with LCD displays; LCD televisions; plasma televisions; portable DVD players with LCD screens; and electronic devices (such as computers, stereos, copies, fax machines, videocassette recorders (VCRs), etc).

H. **“Hazardous Waste or Materials”** means any waste materials or mixture of wastes defines as such pursuant to the Resource Conservation and Recovery Act, 42 U.S.C Section 6901 et seq., or the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”, 42 U.S.C. Section 9601 et seq., and all future amendments to either of them, or as defined by the California Environmental Protection Agency or the California Department of Resources Recycling and Recovery (CalRecycle) or either of them. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction over Hazardous or Solid Waste, the term “Hazardous Waste” shall be construed to have the broader, more encompassing definition.

I. **“Green Waste”** means brush, lawn clippings, tree trimmings and other organics that will decompose and result in compost.

J. **“Permitted Waste”** means waste such as discarded material from dwelling places, households, apartments house, stores, office building, restaurants, hotels, institution and all commercial establishments, including waste or discarded food, animal and vegetable matter, paper, cardboard, wood, concrete, appliances, furniture, cans, glass, ashes, and boxes. Permitted waste also includes special waste, inert waste, commercial waste, residential waste, green waste and recyclables.

K. **“Recyclables”** the following materials, at a minimum, shall be considered recyclables: tin, appliances (white goods), ferrous and non-ferrous metals, aluminum, glass, wood wastes, metal cans (vegetable, fruit, bean, etc.) and electric motors.

L. **“Recyclable Commingled Materials”** defined and segregated into the

following categories: #1 polyethylene terephthalate (PET) plastic, #2 high density polyethylene (HDPE) plastic, #3 polyvinyl chloride (PVC) plastic, #4 low density polyethylene (LDPE) plastic, #5 polypropylene (PP) plastic, #6 polystyrene (PS) plastic, #7 other - any plastic not falling in the above categories. The above plastics shall be recycled as the market and infrastructure allows.

**M. "Residential Waste"** waste generated by accounts that are primarily dwelling units.

**N. "Special Waste"** Tires/Tires on rims, Freon appliances, electronic waste (e-waste), universal waste (u-waste), used oil, batteries, construction and demolition waste.

**O. "Transfer/Recycling Station"** means the County-owned solid waste transfer facility that will be operated by the City pursuant to this Agreement.

**P. "Universal Waste (U-Waste)"** is hazardous waste that is generated by several sectors of society, rather than a single industry or type of business. Universal waste includes, but may not be limited to, batteries, fluorescent bulbs and tubes (lamps), mercury wastes (thermometers, thermostats, and toys), non-empty aerosol cans, and ballasts (both those containing PCB and those without).

**Q. "Unpermitted Waste"** includes hazardous waste, contaminants which might be injurious to personnel engaged in solid waste handling, including but not limited to liquids, paints, burn barrel material, auto bodies, acids, explosives, radioactive materials and septic tank pumping, and shall include any materials that may be prohibited from dumping by the regulations of the California Regional Water Quality Control Board, the California Department of Resources Recycling and Recovery (CalRecycle), California Department of Toxic Substance Control (DTSC), Environmental Protection Agency (EPA), Enforcement Agency (Public Health) or any other public agency, or by operations of law, or wastes recycled or prohibited by County and the accepting landfill. **NOTE: Agricultural plastic will not be accepted at the Transfer site.**

## **2.0 SCOPE OF WORK**

The City shall have the exclusive right to operate solid waste and recycling services at the Transfer/Recycling Station. The City shall be responsible for the following services at the Transfer/Recycling Station:

- A. Receiving solid waste and recyclable materials from the public.
- B. Furnishing all labor, supervision, vehicles and other equipment necessary to perform its obligation under this Agreement.

- C. Maintaining all land and facilities associated with the Transfer/Recycling Station operations.
- D. Providing all services required by this Agreement in a thorough and professional manner so that residents, businesses and the County are provided timely, reliable, courteous and high-quality services at all times.
- E. Distribute information flyers, provided by the County, to all self-haul customers upon County request.
- F. Complying with all Applicable Laws.
- G. Performing or providing all other services necessary to fulfill its obligations under this Agreement.

### **3.0 TERM**

This Agreement shall become effective on April 16, 2017, and shall continue in effect until April 15, 2018, unless terminated earlier in accordance with Sections 18.0 or 19.0.

Notwithstanding the foregoing and the provisions of Section 19.0, after one year has expired from the commencement date of this Agreement, County or the City of Tulelake shall have the right to terminate said Agreement upon thirty (30) days written notice, with or without cause.

### **4.0 OPERATION OF TRANSFER/RECYCLING STATION**

- A. **General Provisions** - County has provided a transfer station/recycling facility. City will be responsible to pay all associated utility costs, including but not limited to electricity, phone services, drinking water, washing facilities, and heaters. A chemical toilet shall be provided for City's employees by the City. The restroom shall be made available for use by the public. All facilities shall be kept clean and provided with the necessary supplies at all times. The City shall staff the transfer station as needed to provide safe and efficient operations and uninterrupted service when open to the public. The City shall also inspect waste as collected to assure only permitted waste is accepted. The City shall provide and use equipment as needed to prevent damage to the facility. The City shall be responsible for any damage to the facility caused by City's mishandling of the waste. Access road shall be maintained by County

including snow removal.

Commercial waste received shall be weighed off site and the haulers will be charged by the City in accordance with County established fees. The City shall provide the weight slips from the off-site scale facility.

- B. Receipt of Permitted Waste** - During Transfer/Recycling Station receiving hours, City shall only accept permitted waste. County shall assume ownership of and title to all permitted waste delivered to the station. Nothing in this Agreement shall be construed to mean that County guarantees that delivered materials shall comprise permitted waste or that County guarantees to deliver or cause to be delivered any specified tonnage of permitted waste. City warrants that it will use its best efforts to identify and reject any materials other than permitted waste.
- C. Screening and Removal of Unpermitted Waste** - City shall not accept unpermitted waste at the Transfer/Recycling Station. City acknowledges that it has indemnified County for releases of hazardous waste. City may implement an unpermitted waste exclusion program in accordance with permits and applicable law in order to attempt to prevent acceptance of unpermitted waste at the transfer/recycling station. The terms and conditions of this program are subject to approval by the County prior to implementation. However, implementation of any such program shall not relieve City of such indemnification obligations. City shall remove all unpermitted waste from the tipping floor for safe disposal by City at the City's expense.
- D. Used Oil Facility** - City shall operate the used oil facility in accordance with the California Oil Recycling Enhancement Act, Sections 48600 through 48691 of the Public Resources Code. City shall receive from the public used oil, free of contaminants, during operating hours. Upon request, the public shall be paid the current rate per quart set forth by CalRecycle. Reimbursement from the State shall be City's responsibility. Cost incurred by City for removal of non-contaminated used oil by a licensed used oil recycler shall be paid by County. County agrees to provide for City's use a double containment 1,000-gallon tank (or equivalent) onsite for storage of used oil received from the public.
- E. Hours of Operation/Office Hours** - The site shall be open to the public Thursday through Saturday from 11:00am to 4:00pm, except New Year's Day, Memorial Day, Fourth of July, Thanksgiving Day and Christmas Day. When the closure on New Year's Day, Memorial Day,

Fourth of July, Thanksgiving Day or Christmas Day would result in closure of the transfer/recycling station for two consecutive days, the transfer/recycling station shall be open on the next succeeding day.

- F. User Fees** - City shall collect user fees in accordance with fees set forth in Title 5 Chapter 6 of the Siskiyou County Code attached hereto as **Exhibit A**. All fees collected shall be the property of the County. City shall make a weekly deposit into a bank of the County's choosing. City shall provide receipts to the public for all transactions. All office supplies required for the collection of County and City user fees will be the responsibility of City with the exception of the cash register, cash register maintenance, cash register tape and ribbon, those will be provided by the County.

No fees may be charged by City other than those approved by the County.

- G. Frequency of Removal Service** – Under separate contract between the County and a third party vendor, refuse shall be transported at County's expense once during each calendar week from the Transfer/Recycling Station in accordance with the State law.

## **5.0 PERMITTED USES**

City shall not use or permit the use of the Transfer/Recycling Station for any purpose other than that contemplated by this Agreement without written consent of County. City shall not store on site any equipment or materials that are not necessary for the operation of the work contemplated by this Agreement.

## **6.0 GENERAL TERMS AND CONDITIONS**

- A. Turnaround Time of Waste Collection Vehicles** - City shall ensure that vehicles delivering permitted waste do not disrupt the flow of traffic. City shall manage traffic between the separate self-haulers from commercial vehicles and protect City's employees who are working on the tipping floor from all vehicles delivering materials.
- B. County Right to Inspect Facilities** - County shall have the right, but not the obligation, to observe and inspect Transfer/Recycling Station operations. In connection therewith, County and its representatives authorized by County shall have the right to access the

Transfer/Recycling Station at any time and speak to any of City's employees; provided that they shall comply with City's reasonable safety and security rules and shall not interfere with the work of the City. Upon County request, City shall make specified personnel available to accompany County employees on inspections. City shall ensure that its employees cooperate with County and respond to County's inquiries. County shall have the right but not obligation to inspect the Transfer/Recycling Station operations records at any time.

- C. Security** - City shall maintain security at the site during the term of the Agreement to protect County's property including buildings and equipment. City will be responsible for ensuring the entry gate, fee collection building and lockable bins are locked when the station is not open to the public. The County will not be responsible for vandalism to City owned equipment.
- D. Repair and Maintenance of Facilities** - City shall diligently maintain the Transfer/Recycling Station in good working order and make any needed repairs in a timely manner. City shall maintain the aesthetic appearance of the Transfer/Recycling Station.
- E. Personnel** - City shall hire and train qualified and competent employees sufficient to perform City's obligations under this contract. City shall train its staff to perform their work in a safe and efficient manner and ensure that each staff person treats permitted users, including self-haulers, County representatives, commercial haulers and other members of the public with courtesy. City shall comply with applicable laws prohibiting employment discrimination including equal employment opportunity requirements. No person shall be denied employment by the City by reason of sex, race, color, national origin, ancestry, or religion. County shall have the right to require the removal of any of City's employees who are habitually wanton, profane, negligent or discourteous in the performance of their duties. The Transfer/Recycling Station shall be staffed by the City on a full time basis when the facility is open to the public.
- F. Non-Prevailing Wage Determination** - The City will not be required to pay prevailing wage for the operation of the transfer/recycling station. A copy of this determination is included as Exhibit D.
- G. Emergency Operations** - The City may have an emergency generator on site but it will not be required. County will maintain the current solar power system in place.

- H. Safety** - City acknowledges that worker safety and fire prevention is of critical importance to the County and shall conduct transfer/recycling station operations in a safe manner, in accordance with applicable law, and standard practices in the waste management industry. City will require that all personnel wear safety equipment as required by applicable law. City will train all employees in safety procedures. City shall direct traffic at the site to assure safe travel, unloading, and exiting. City shall provide and maintain all necessary and appropriate fire extinguishers. In the event of a fire, City shall notify emergency personnel and the County immediately. The City shall require employees to wear uniforms that are kept neat and convey professional appearance to the public. Uniforms shall display the name of the City and the employee name. City shall train staff in accordance with applicable laws and maintain safety logs/manuals. The County has the right but not obligation to inspect safety logs/manuals.
- I. Non-Resident Contractor** - The State of California Franchise Tax Board requires that whenever payments are made to a non-resident, independent City in excess of \$1,500 for services rendered, 7 percent (7%) of the gross amount must be withheld. A non-resident is anyone who is not a resident of California. A corporation is also subject to the withholding requirements if it is neither incorporated nor qualified to do business in the State of California. Unless the Franchise Tax Board has authorized a reduced rate or waiver of withholding and County is provided evidence of such reduction/waiver, all non-resident City's will be subject to the withholding. It is the responsibility of City to submit the Waiver Request (Form 588) to the Franchise Tax Board as soon as possible in order to allow time for the Franchise Tax Board to review the request.
- J. Complaints** - City shall promptly and politely respond to complaints, including complaints from County's collection haulers, County staff, or the public at large, related to City's performance or non-performance and use reasonable business efforts to resolve such complaints. City shall keep a log of all complaints, whether such complaint was written or oral. The complaint log shall indicate the date and time of such complaint, the nature of the complaint, the name and telephone number of the complainant, to whom the complaint was made and what action was taken, if any, to address the complainant's concerns. A copy of this complaint log shall be furnished to County on a monthly basis commencing with the first full month of operation under this Agreement and continuing thereafter for the entirety of this Agreement or any extensions thereof.

- K. Accidents and Emergencies** - City shall retain responsibility for all injuries, accidents, and other mishaps associated with its performance obligations including personal injury resulting in in-patient or out-patient medical treatment, death, or damage to any real or personal property. City shall promptly report personal injury, death or personal property damage to County orally, followed by written notice no later than three working days, including details of witness statements, if any.

City shall develop and implement an emergency operations plan and amend from time to time as necessary but no less than annually, following opportunity for County review and comments. City shall design such plan to mitigate and correct hazards that may arise due to accident or disruption of transfer/recycling station operation, transport or disposal services including property damage and traffic disruption and shall include any business plan for emergency response to the release or threatened release of hazardous material in accordance with applicable law.

The parties shall designate persons who shall be available on a twenty four hour basis, including their telephone numbers, as named in **Exhibit B**.

## **7.0 NUISANCES**

- A. Litter, Rodent, Insects and Animals** - In the event of rodent, insect or animal activity, City shall notify the County within 24 hours detection.

City shall be responsible for all cleanup of litter and debris on site and along roads near the site, including waste left at the site entrance gate, and keep the facility site in a neat, clean and orderly condition at all times. City shall use reasonable business efforts to minimize the blowing of litter during wind or weather events.

- B. Odor** – To minimize odors, City will direct all users to discharge permitted waste inside designated bins.
- C. Noise** - City shall muffle all on-site vehicles/equipment operated by City as required by applicable law.
- D. Dust** - City shall diligently suppress dust as required by applicable law to

protect the health and safety of all persons on site including users and City's employees.

## **8.0 SPECIAL WASTE**

City shall handle special wastes in accordance with County and State requirements.

## **9.0 RECYCLING**

- A. The following materials, at a minimum, shall be recycled by the City: tin, appliances, ferrous and non-ferrous metals, aluminum, glass and wood wastes. The public shall be directed by City to designated unloading areas for disposal of recyclables. City shall comply with any and all State mandated recycling programs. The County will be responsible for removal of recycled items.
- B. Revenue generated from the sale of recyclables will be retained by County.
- C. It is the express intention of the parties that City is an independent contractor and not an employee, agent, joint venture or partner of County. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between County and City or any employee or agent of Contractor.

## **10.0 RECORDS AND REPORTING**

### **A. Records**

- 1. **General Requirements** – City shall keep such records as required by the County. At any time during normal business hours and as often as County may reasonably deem necessary, City shall make available to County for examination all of City's data and records with respect to all matters covered by this Agreement and will permit County to audit, examine and make excerpts or transcripts from such data and records and to make audits of all invoices, materials, payroll, records of personnel and other data relating to all matters covered by an Agreement. City shall maintain such data and records in an accessible location.
- B. **Reports** - City shall submit to County a daily cash register report (z tape) of transactions that have occurred or if business occurs on a weekend the following Monday.

- C. **Inventory** – The only inventory the City owns that will be located at the Transfer/Recycling Station is the City vehicle operated by the City employee for mode of transportation between Tulelake and the Transfer/Recycling Station.

## 11.0 INSURANCE

### A. Types of Insurance Coverage

City shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the City, his agents, representatives, and employees:

1. Insurance Services Office Commercial General Liability coverage (Occurrence Form CG0001 185 or Insurance Services Office Form Number GL 0002) covering Comprehensive General Liability and Insurance Service Office form Number GL 0404 covering Broad Form Comprehensive General Liability.
2. Insurance Services Office Business Auto Coverage Form Number CA 0001 0187 covering Automotive Liability, Code 1 “any auto”.
3. Workers Compensation Insurance as required by the Labor Code of the State of California and Employers Liability Insurance.
4. Environmental Impairment Liability

### B. Minimum Liability Limits

1. **General Liability:** Two Million Dollars (\$2,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is issued, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrent limits.

The insurance required by this subsection shall include:

- a. Premises operations;
- b. Independent City’s Protective;
- c. Products and Completed Operations, protecting against

possible liability resulting from use of recyclable materials by another person;

- d. Personal Injury Liability with Employment Exclusion deleted
- e. Broad Form Blanket Contractual with no exclusions for bodily injury, personal injury or property damage

2. **Automobile Liability:** Two Million Dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.
3. **Worker's Compensation and Employers Liability:** Worker's Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$2,000,000 per accident.
4. **Environmental Impairment Liability:** Three Million Dollars (\$3,000,000) Bodily injury caused by pollution conditions; Property damage, including damage to tangible property, the loss of use of such property that has not been physically injured or destroyed, and the diminished market value of a third party's property; Remediation expenses, including investigating the extent and nature of the pollutant, monitoring, removing and disposing of the pollutant; and Defense costs incurred in the investigation, adjustment settlement and defense of a claim.

**C. Policy Endorsements - The following endorsement must be attached to the policy:**

The County of Siskiyou, its agents, officers, and employees shall be named as additional insured with regard to general liability and automobile coverages. The City's insurance coverage shall be primary insurance as respect to the County and accepting landfill, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be in excess of the City's insurance and shall not contribute to it.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided or canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the County.

**D. Deductibles and Self-Insured Retention** - Any deductibles or self-insured retention must be declared to and approved by the County. At the option of the County, either the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the County, its officers, officials, employees and volunteers, or the City shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**E. Acceptability of Insurers** - Insurance is to be placed with insurers admitted to do business in the State of California and possess at least a Best's A: VII rating or be with a company acceptable to the County of Siskiyou. The policy shall not contain the so-called "x", "c" or "u" exclusions.

The cost of providing insurance shall be at City's expense. Evidence of all insurance and additional insured endorsement shall be furnished to County at the time City executes this Agreement. The County reserves the right to require complete, certified copies of all required insurance policies at any time.

**F. No Liability for Loss or Damage** - In the event City's equipment located on the premises is damaged, irrespective of the cause, or in the event City is unable to perform the obligations hereunder due to the events set forth in Section 27, County shall not be liable therefore and City shall have no claim or right against County for the costs of repair, replacement, or loss of business. This clause is intended as a complete release of liability in favor of County, including without limitation all claims whether known or unknown, liquidated or unliquidated, contingent or absolute. City has knowledge of and understands the terms and effect of California Civil Code Section 1542, and voluntarily waives the benefit of the terms of that statute.

## **12.0 INDEMNIFICATION AND DEFENSE**

**A. Indemnification** - City shall indemnify and hold County harmless against any and all liability imposed or claimed, including attorney's fees and other legal expenses, arising directly or indirectly from any act or failure of City employees including all claims relating to the injury or death of any person or damage to any property. City agrees to maintain a policy of liability insurance in the minimum amount of (\$1,000,000) One

Million Dollars, to cover such claims or in an amount determined appropriate by the County Risk Manager. If the amount of insurance is reduced by the County Risk Manager such reduction must be in writing. City shall furnish a certificate of insurance evidencing such insurance and naming the County as an additional insured for the above-cited liability coverage prior to commencing work. It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by County of insurance certificates and endorsements required under this Contract does not relieve City from liability or limit City's liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Contract, City acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

- B. Hazardous Waste** - Without limiting City's obligation to indemnify County in accordance with Subsection B above, City shall indemnify, hold harmless, protect, and defend County with legal counsel acceptable to County or co-counsel selected by County at City's sole cost, from and against all liabilities as defined in Section 13, paid, incurred, or suffered by, or asserted against County in a judicial, administrative or regulatory forum, or otherwise, whether well founded or not, arising or resulting in whole or in part, directly or indirectly, from actions or inactions of City or City's related parties as defined in Section 13 or of County and/or County's related parties for any condition of the transfer/recycling station, (including the land upon which such transfer/recycling station is located,) containers (including transfer trucks, or other vehicles transporting such containers), related to hazardous or toxic substances, including any one or more release or threatened release of any materials (including hazardous waste), excepting known pre-existing conditions, if any. This indemnity by City is intended to operate as 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 liabilities in accordance with this Section. County does not waive or surrender any other indemnity or remedy available to it under applicable law and City shall be strictly liable to County for

hazardous materials conditions including any repair, cleanup, or detoxification thereof or preparation and implementation of any removal, remedial, response, closure, or other plan with respect thereto as required by applicable law.

### **13.0 DEFINITIONS FOR PURPOSES OF DEFENSE AND INDEMNIFICATION**

**“County and County’s Related Parties”** includes County and its members, and their elected officials, officers, employees, consultants, agents, assigns and volunteers and each and every one of them.

**“Liabilities”** means liabilities, lawsuits, claims, judgments, demands, clean-up orders, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs, expenses, loss, penalties, and other detriments of every nature and description whatsoever, including all costs and expenses of litigation or arbitration, attorney’s fees (whether County’s or City’s staff attorneys or outside attorneys) and court costs, whether under State or Federal law except for liabilities caused by the sole negligence or willful misconduct of the indemnified party.

**“City Activities”** means City’s performance obligations including loading of permitted waste into containers, operation and supervision of City’s equipment activities; load checking to prevent unpermitted waste from entering containers; operation and supervision of container storage and movement on site; transporting of permitted waste to disposal facility; environmental impacts of transportation, operation and supervision of disposal facility; environmental impacts of disposal facility; and all other activities of City or City related parties in connection with this Agreement.

**“City and City’s Related Parties”** includes City, guarantor, and their respective officers, directors, shareholders, members, partners, agents, employees, consultants, licensees, invitees, or affiliates.

**“Affiliates”** means a person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, City where construction or interpretation of “control” shall be governed by Rule 144 of the Securities Act of 1933. City shall use best efforts, or cause such persons to use best efforts, to provide County’s legal counsel all reasonably necessary information relevant to such persons including proper and legal corporate names and relationship (or lack thereof) to City articles of incorporation, certificates of good standing, and other documentation related directly or indirectly to alleged liabilities.

#### **14.0 CRIMINAL ACTIVITY**

Should City or any of their respective employees, officers or directors have criminal conviction of any offense relating to solid waste activities from a court of competent jurisdiction with respect to any of the following:

- A. Civil fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private Agreement,
- B. Bribery or attempting to bribe a public officer or employee of a local, State, or Federal agency in that officer or director's or City's employee's official capacity,
- C. Embezzlement, racketeering, false claims, false statements, forgery, falsification, or destruction of records, obstruction of justice, receiving stolen property, or theft,
- D. Conviction for any other crime indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of City or its officers or directors or should City or any of its respective officers or directors have made an admission of guilt or pled nolo contendere to the conduct described in A-D above, which is a matter of record, then City shall give County notice of such event and each employee, officer, or director, as the case may be, of City responsible for such proscribed conduct shall be promptly replaced and shall not be employed, hired, or retained in any other business relationship with County. City shall have fifteen days' notice and opportunity following such conviction to present evidence in mitigation thereof and on and after such fifteenth day if such employee, officer or director is not promptly terminated or replaced, sanctions, temporary suspensions, or any other condition deemed appropriate short of termination shall be imposed by County as it shall deem proper.

County further reserves the right to pursue any and all appropriate remedies that may be available to it including, but not limited to, false claims actions.

## **15.0 CONTRACT PRICE/PAYMENT PROCEDURES**

- A. Contract Price** – Compensation shall be paid to the City to perform the services listed in this Agreement shall not exceed \$8,166.66 (eight thousand one hundred sixty six dollars and sixty six cents) for FY 16/17 and \$40,833.34 (forty thousand eight hundred thirty three dollars and thirty four cents) for FY 17/18 for a total contract amount no to exceed \$49,000 (forty nine thousand dollars).
- B. Payment Procedure** – Compensation shall be paid to the City in twelve (11) equal monthly payments of \$4,083.33 and (1) payment of \$4,083.37 on or before the tenth of the month following the month in which the work was performed. Failure of County payment to the City of Tulelake within the month after services are performed will terminate the contract.

## **16.0 FAILURE TO MEET PERFORMANCE OBLIGATIONS**

If City does not perform in accordance with the terms contained in this Agreement, it shall pay County compensatory damages as set forth below. County may offset them from any additional compensation that may be payable by County to City under the terms of this Agreement. If City does not perform its performance obligations and fails to cure non-performance within a thirty (30) day period following notice by County then County may exercise its remedies listed in Section 18C, including terminating this Agreement in whole or in part, suspending this Agreement, assessing compensatory damages, seeking specific performance of City's performance obligations, or bringing suit against City. County may also terminate or suspend the Agreement upon the additional events listed in Section 19A. Upon termination, City is obligated to vacate the transfer/recycling station and remains liable to pay outstanding damages in accordance with Section 19C(2). During suspension of the Agreement, County retains the right to perform City's performance obligations in accordance with Section 19B.

## **17.0 COMPENSATORY DAMAGES, DEFAULTS AND REMEDIES**

### **A. Failure to Meet Certain Performance Obligations**

- 1.0 Certification** - On or before the 15<sup>th</sup> day of each month during the term of this Agreement or any extension thereof, City shall certify to County that it has met its daily performance obligations for the preceding calendar month together with supporting documentation and calculations. If

City cannot so certify City shall pay compensatory damages, as follows:

- (a) Any consequential fines and penalties assessed on County, including those by the California Integrated Waste Management Board and other regulatory agencies, resulting from City's failure to meet requirements of permits and applicable law with respect to transfer/recycling station operations, transport services and/or disposal services
- (b) Any damages, loss, liability, penalty, and fines incurred by County as a result of any declaratory or injunctive relief action claimed by a third party as a result of City's failure to meet its daily performance obligations.

If City does not pay any such damages set forth in (a) or (b) above to County within fifteen (15) days after written notice to City by County, County may (i) withhold such amounts from any additional compensation monthly payments that may be due City or (ii) declare a City default.

#### **B. Default**

Each of the following shall constitute an event of default hereunder:

1. **Bankruptcy, Insolvency, Liquidation.** City files a voluntary claim for debt relief, or other similar law now or hereafter in effect, or shall consent to the appointment of or taking of possession by a receiver, liquidator, assignee, trustee, custodian, administrator (or similar official) of City for any part of City's operating assets or any substantial part of City's property, or shall make any general assignment for the benefit of City's creditors, or shall fail generally to pay City's debts as they become due or shall take any action in furtherance of any of the foregoing.

A court having jurisdiction enters a decree or order for relief in respect of this Agreement in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or City consents to or fails to oppose any such proceeding, or any such court enters a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of City or for any part of City's operating equipment

or assets or orders the winding up or liquidation of the affairs of the Contractor.

2. **Breach of Representations or Warranties.** Any representation or warranty of City is untrue as of the date or bring down thereof City knowingly makes, causes to be made, or condones the making of any false entry in its books, accounts, records, and reports hereunder.
3. **Compensatory Damages.** Failure of City to pay any compensatory damages as may be due pursuant to the provisions of Section 17A.
4. **Equal Opportunity Employment.** City fails to comply with equal employment opportunity requirements.

#### **C. Remedies upon Default**

Upon occurrence of a City default, County shall have the following remedies, together with any other remedies available at law or in equity:

1. **Termination:** to terminate this Agreement by giving City notice as stated in Section 18A.
2. **Suspension:** to suspend this Agreement in accordance with Section 19A and, at County's option, perform City's obligations hereunder in accordance with Section 18B.
3. **Damages.**
4. **Injunctive Equitable Relief.**

D. **Waiver** - Either party's waiver of any breach or default shall not be deemed to be a waiver of any other breach or default including ones with respect to the same obligations hereunder. The subsequent acceptance by either party of any damages or other money paid by the other party shall not be deemed to be a waiver by such party of any pre-existing or concurrent breach or default. Failure to object to a breach or event of default is not and shall not be construed as a waiver of such provision.

E. **Force Majeure** - Neither party shall be in default of its obligations under this Agreement in the event, and for so long as, it is impossible or extremely impracticable for it to perform its obligations due to an "Act of God" (including, but not limited to, flood,

earthquake or other catastrophic events), war, insurrection, riot, labor unrest of other than the party's employees (including strike, work stoppage, slowdown, sick out, picketing, or other concerted job action), or other similar cause not the fault of, and beyond the reasonable control of, the party claiming excuse. A party claiming excuse under this section must (i) have taken reasonable precautions, if possible, to avoid being affected by the cause, and (ii) notify the other party in writing within five (5) days after the occurrence of the event specifying the nature of the event, the expected length of time that the party expects to be prevented from performing, and the steps which the party intends to take to restore its ability to perform. The party claiming excuse under this section shall use its best efforts to remedy its inability to perform as quickly as possible.

## **18.0 SUSPENSION OR TERMINATION**

**A. County's Right to Suspend or Terminate** - County shall have the right to terminate this Agreement or direct City to cease performing any portion of its performance obligations upon reasonable notice upon the occurrence of any of the following events:

1. City Default.
2. Nonperformance by City for two (2) days or more, even if excused by Force Majeure.
3. Criminal Activity of City: City fails or is unable to replace persons engaged in any behavior as set forth in Section 15.
4. Dishonesty: City fails to follow honest, fair and equitable business practices in a manner and according to the industry standards.

Suspension or termination shall not give rise to a cause of action by City against County.

**B. County's Right to Perform** - If County suspends this Agreement or any portion of City's performance obligations due to a City default, County may perform or contract for the performance of any or all of City's performance obligations. If County's performance costs, including procurement of labor, equipment, and materials and all other expenses necessary to perform such performance obligations but excluding any damages paid in accordance with Section 18, exceed the amounts which could have been payable to City hereunder had City fully performed, then

City shall pay the amount of such excess to County. County may also make claim against any performance bond.

CITY'S LIABILITY FOR SUCH PAYMENTS SHALL SURVIVE THE TERMINATION HEREOF IN ACCORDANCE WITH SECTION 36.

**C. City's Obligations upon Termination**

**1. Vacate Transfer/Recycling Station and Return County Property** - Upon effectiveness of notice of termination from County in accordance with Section 19A City shall immediately vacate the Tulelake Solid Waste/Recycling Facility and deliver possession to County, together with all furnishings, equipment, spare parts, patents, licenses and personal belongings of County; maintenance and supply contracts; City permits; operations and maintenance manuals; and all records relating to transfer/recycling station development and transfer/recycling station operations. City and City's affiliates and employees, shall cooperate with County and regulatory authorities in effectuating the transfer of permits to County including executing documents, attending meetings, and providing administrative support.

City shall further leave the site and transfer/recycling station in clean and functional condition operable by other persons.

THIS SUBSECTION SHALL SURVIVE THE TERMINATION OF THE AGREEMENT IN ACCORDANCE WITH SECTION 33.

**2. Pay Outstanding Damages** - City shall pay County any damages including damages accrued and payable during the then current contract year or portion thereof which would have otherwise become payable.

CITY LIABILITY FOR SUCH PAYMENTS SHALL SURVIVE THE TERMINATION HEREOF IN ACCORDANCE WITH SECTION 33.

**19.0 REMEDIES CUMULATIVE**

County's remedies are not exclusive and County's exercise of one such right shall not constitute an election of remedies. Rather they shall be in addition to any and all other legal and equitable rights and remedies that County may have, including a legal action for damages, including

incidental, consequential and/or special damages.

## **20.0 CITY SERVICE ASSETS UPON TERMINATION**

At the expiration or earlier termination of this Agreement, City, at its own expense, shall cooperate fully with County as necessary, to ensure an orderly transition to any and all new service providers. City hereby grants to County a license to use any equipment or material on site which may be necessary for such transition on a temporary basis. Said temporary license shall be available to County for a period not in excess of thirty (30) days.

## **21.0 ADMINISTRATION OF AGREEMENT**

- A. City is Independent Contractor** - The parties intend that City shall perform the services required by this Agreement as an independent Contractor engaged by County and not as an officer or employee of County nor as a partner of or joint venture of County. No employee or agent of City shall be deemed to be an employee, agent, subagent or servant of County. City shall have the exclusive control over the manner and means of performing its obligations hereunder. City shall be solely responsible for the acts and omissions of its officers and employees,. Neither City nor its officers and employees, shall obtain any rights to retirement benefits, workers compensation benefits, or any other benefits which accrue to County employees. Nothing herein shall be construed as creating the duty of County to supervise or control the acts or omissions of City or any person performing performance obligations hereunder.
- B. Parties in Interest** - Nothing in this Agreement, whether expressed or implied, is intended to confer any rights on any persons other than the parties and their representatives, successors, and permitted assigns.
- C. Binding on Successors** - The provisions of this Agreement shall inure to the benefit of and be binding on the successors and permitted assigns of the parties.

## **22.0 ASSIGNMENTS AND AMENDMENTS**

- A. County Assignment** - County may assign this Agreement to another entity succeeding to the major portion of County's solid waste management rights and obligations if in the exercise of

reasonable judgment County determines that such assignee is financially capable of meeting County's obligations hereunder.

**B. City Assignment** - City or City's guarantor shall not assign its rights or delegate or otherwise transfer its obligations hereunder to any other person without the prior written consent of County granted in its sole discretion. Any such assignment made without the consent of County shall be void. City shall submit its request for County consent to County together with documentation County may request. For the purpose of this Section, assignment includes:

1. Selling, exchanging, or otherwise transferring to a third party effective control of City or Guarantor management (through sale, exchange or other transfer or outstanding equity interests of City or guarantor or otherwise) or any of City's or guarantor's assets dedicated to performance obligations in any single transaction or cumulative in multiple transactions at different times unless such assets are promptly replaced with assets of greater or equal value and equivalent function.
2. Issuing new equity interests or selling, exchanging, or otherwise transferring ten percent (10%) or more of the then outstanding equity interests of City or guarantor in any single transaction or cumulatively in multiple transactions at different times to a person other than the shareholders owning said equity interests as of the date hereof. Upon execution of this contract, City shall provide County with the names of its current owners, partners, and/or shareholders.
3. Any dissolution, reorganization, consolidation, merger, recapitalization, stock issuance or re-issuance, voting trust, pooling Agreement, escrow arrangement, liquidation, or other transaction or transactions which results or result, either individually or cumulatively, in a change of ownership or control of City or guarantor;
4. Any assignment by operation of law, including insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment of any execution, being levied against this Agreement, appointment of a receiver taking possession of any of City's or guarantor's property, or transfer occurring in the event of a probate proceeding;
5. Any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the

effect of any such transfer or change of ownership or change or control of City's

6. City shall not have the right to subcontract any part of its obligations under this agreement.

### **23.0 DESTRUCTION OF PREMISES**

In the event the transfer/recycling station premises, or any part thereof, are at any time damaged or destroyed by fire, casualty or other cause, then said facilities shall be restored or rebuilt, or not restored or rebuilt, in accordance with the following terms and conditions, to wit:

- A. If the premises are damaged or destroyed to the extent of 50 percent or more of the replacement cost thereof, County shall have the right to terminate this Agreement by giving notice to City within thirty (30) days after the date of the occurrence and thereupon the term of this Agreement shall expire on the thirtieth day after such notice is given and the City shall vacate the premises and surrender the same to County.
- B. If the premises are damaged or destroyed to the extent of less than 50 percent of the replacement cost thereof, or if the County determines to restore or rebuild the premises and if the insurance proceeds payable as a result of said damage or loss are sufficient for the purpose, the County shall, restore the premises to as good a condition as the premises were in immediately prior to such destruction of damage. If the insurance proceeds exceed the cost of such restoration or rebuilding, the excess shall be retained by the County.
- C. If the County determines to restore the premises pursuant to subparagraph(B) above and the insurance proceeds are not sufficient to cover the cost of restoration or rebuilding, then the following alternatives shall be available:
  1. County may within thirty (30) days from the date of such damage or destruction notify City in writing of its election to terminate this Agreement, in which event all insurance proceeds shall be retained by the County; or
  2. County may notify the City in writing of its election to restore or rebuild the premises, and the County, at its own cost and expense to the extent that the insurance proceeds are not sufficient for the purpose, shall restore and rebuild the premises to the same condition as the premises were in prior to such

damage or destruction. City shall have no right to retain user fees or to receive any additional compensation that may be payable to it by County under Section 16A until the facility is operable and City undertakes to perform the duties hereunder. City shall have no obligation to pay any additional compensation that may be payable from it to County under Section 16A until the facility is operable and City undertakes to perform the duties hereunder.

**24.0 NOTICES, CONSENTS, APPROVALS, ETC.** - All demands, directions, selections, option exercises, orders, requests, proposals, comments, acknowledgments, approvals, consents, certifications, waivers, Agreements, and other communications made hereunder shall be in writing and shall either be personally delivered to a representative of the parties at the address below or be deposited in the United States mail, first class postage prepaid (certified mail, return receipt requested), addressed as follows:

County: Siskiyou County Public Works  
190 Greenhorn Road  
Yreka, CA 96097

City: City of Tulelake  
591 Main Street  
Tulelake, CA 96134

The address to which communications may be delivered may be changed from time to time by a notice given in accordance with this Section.

**25.0 PARTY REPRESENTATIVES**

**A. County Representative** - Responsibility to act on behalf of County may be delegated to the Director of Public Works as the County may direct in writing. Should the County delegate such responsibility to the Public Works Director, his statements, representations, actions, and commitments shall fully bind County to the extent permitted by applicable law.

**B. City Representative** - City acknowledges that it is important to County to have a City representative at the transfer/recycling station who is authorized and empowered by City to serve as liaison between City and County and make operational decisions with respect to Tulelake Solid Waste/Recycling Station operations. Responsibility to act on behalf of City is hereby delegated to the person or persons named in Exhibit E as amended from time to time, including at least one person assigned to the transfer/recycling

station and such person's or persons' statements, representations, actions, and commitments shall fully bind City. All oral directions or instructions and notices given by County to such named persons shall bind City as if delivered to City personally.

## **26.0 JURISDICTION/ VENUE**

This Agreement has been executed and delivered in the State of California, and the validity, enforceability, and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. All duties and obligations of the parties created hereunder are performable in Siskiyou County and that County shall be the County for venue in any action or proceeding that may be brought or arise in connection with this Agreement.

## **27.0 COMPLIANCE WITH APPLICABLE LAW**

City shall perform all of its performance obligations hereunder and shall in accordance with accepted practice for comparable facilities, sound management and operations practice, the Operations and Maintenance Manual, applicable law (including permits), the provisions hereof, and covenants, conditions and restrictions pertaining to the site. City shall be solely liable for all fines and penalties that may be imposed on City to the extent that such fines and penalties are the result of City's violations of applicable law (including City permits).

## **28.0 COMPLIANCE WITH ENVIRONMENTAL LAWS**

City shall at all times in all respects comply with all environmental laws and any amendments thereto affecting City's use and operations on the premises, including all federal, state and local laws, ordinances and regulations relating to Hazardous Material. City shall provide County with copies of Material Safety Data Sheets (MSDS) from the manufacturer on each product. As used herein, the term Hazardous Material means any hazardous or toxic substance, material or waste which is or becomes regulated by any local government authority, the State of California or the United States government. The term Hazardous Material includes, without limitation, any material or substance which is (1) defined as "Hazardous Waste", "Extremely Hazardous Waste" or "Restricted Hazardous Waste" under Section 25115, 25117 or 25122.7 or listed pursuant to Section 25140 of the California Health and Safety Code (Hazardous Waste Control Law); defined as a "Hazardous Substance" under Section 25316 of the California Health and Safety Code, (Carpenter-Presley-Tanner Hazardous Substance Account Act); (3) defined as a "Hazardous Material" or "Hazardous Substance" or

"Hazardous Waste" under Section 25501 of the California Health and Safety Code (Hazardous Materials Release Response Plans and Inventory); (4) defined as a "Hazardous Substance" under Section 25281 of the California Health and Safety Code (Underground Storage of Hazardous Substances); (5) petroleum or petroleum containing compounds; (6) asbestos; (7) listed under Article 9, or defined as Hazardous Wastes or Extremely Hazardous pursuant to Article 11 of Title 22 of the California Code of Regulations, Division 4 Chapter 20; (8) designated as a "Hazardous Waste" pursuant to Section 311 of the Federal Water Pollution Control Act (33 USC Section 1317);(9) defined as "Hazardous Waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 USC Section 6901 et seq (42 USC Section 6903); or (10) defined as a "Hazardous Substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC Section 9601 et seq. (42 USC Section 9601).

## **29.0 GUARANTY**

Concurrently with its execution of this contract, County may, at its sole discretion, require City to furnish a guaranty of its performance under this Agreement in a guaranty Agreement acceptable to County.

## **30.0 AGREEMENT INTERPRETATION**

- A. Integration.** - This Agreement contains the entire Agreement between the parties with respect to the transactions contemplated hereby. This Agreement shall completely and fully supersede all prior understandings and Agreements between the parties with respect to such transactions including those contained in the request for proposals and City's proposal. The proposal submitted to County by City and information submitted to County supplementary thereto, if any, on which County has relied in entering into this Agreement does not contain any untrue statement of a material fact nor omit to state a material fact necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading.
- B. Governing Law** - This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California.
- C. Execution in Counterparts** - This Agreement may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Agreement.
- D. Authorization to Execute** - County warrants that the Chair of the

Board of Supervisors and Clerk have been duly authorized to execute this Agreement on behalf of County. City warrants that the person executing this Agreement has been duly authorized by City to do so on behalf of City.

**E. Severability** - If any clause, provision, subsection, or section hereof or exhibit hereto shall be ruled invalid by any court of competent jurisdiction, then the parties shall:

1. Promptly meet and negotiate a substitute for such Agreement provision which shall, to the greatest extent legally permissible, effect the intent of the parties therein;
2. If necessary or desirable to accomplish preceding item (1) above, apply to the court having declared such invalidity for a judicial construction of the substituted portion of this Agreement; and,
3. Negotiate such changes in, substitutions or additions to the remaining provisions hereof as may be necessary in addition to and in conjunction with preceding items (1) and (2) above to effect the intent of the parties in the invalid Agreement provision.

The invalidity of such Agreement provision shall not affect any of the remaining provisions hereof and this Agreement shall be construed and enforced as if such invalid Agreement provision did not exist.

### **31.0 DUE DILIGENCE**

Parties acknowledge that County may be subject to fines for failure to cause the transfer/recycling station to be operated and permitted waste to be transported in accordance with applicable law and that waste management is a public health and safety concern. City shall exercise due diligence in the performance of any of the terms and conditions of this Agreement in a manner so as to avoid assessment of any such fines. Any such fines, penalties, assessments or costs of any nature to which County may be subject as a result of City's failure to exercise due diligence shall be the responsibility of City.

### **32.0 FURTHER ASSURANCES**

Each party agrees to execute and deliver any instruments and to perform any acts as may be necessary or reasonably requested by the other in order to give

full effect to this Agreement.

### **33.0 SURVIVAL OF CERTAIN PROVISIONS**

All representations and warranties of the parties herein, and all indemnifications provided for herein, and any other rights and obligations of the parties expressly stated to survive the termination of this Agreement, shall survive such termination, including:

- A. Delivery by City of all records and other materials to County upon termination of the Agreement in accordance with Section 10A.
- B. Delivery by City of equipment, and clean and functional site and Tulelake Waste/Recycling Station upon termination of the Agreement in accordance with 19C1 ; and
- C. Payment of any amounts due and owing by either party to the other party at the time of termination, including amounts owed in accordance with Sections 16, 19B, 19C(2) and indemnification in accordance with Section 12.0.

### **34.0 ACTIONS OF COUNTY IN ITS GOVERNMENTAL CAPACITY**

Nothing herein shall be interpreted as limiting the rights and obligations of County in its governmental or regulatory capacity.

### **35.0 CITY'S OBLIGATIONS PERFORMED AT ITS SOLE EXPENSE**

As compensation for performing its performance obligations the City shall perform its performance obligations for the compensation expressly provided for herein.

### **36.0 EXERCISE OF OPTIONS**

Except as otherwise provided, the parties' exercise of any approval, disapproval, option, discretion, election, or choice hereunder shall be reasonable unless this Agreement specifically provides that such exercise is in each respective party's independent, sole, exclusive, or absolute control, discretion, or judgment.

### **37.0 NO PERSONAL LIABILITY**

This Agreement is not intended to create or result in any personal liability for any elected official, employee, agent or City of County or its members.

This Agreement shall not be construed to create or result in such liability.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date set forth above

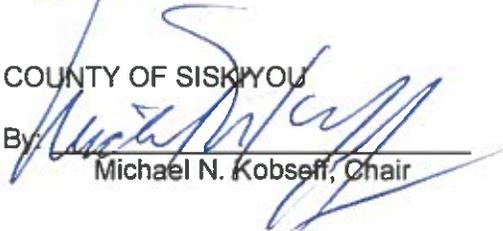
CITY OF TULELAKE:

By: 

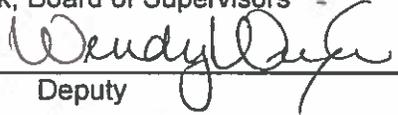
TAXPAYER I.D. on file

5/18/2017  
Date

COUNTY OF SISKIYOU

By:   
Michael N. Kobseff, Chair

ATTEST:  
COLLEEN SETZER  
Clerk, Board of Supervisors

By:   
Deputy

ACCOUNTING:  
Fund 5350 Organization 404010 Account 728210

## EXHIBIT A

# WASTE DISPOSAL FEES

### Garbage

Minimum fee:	\$5.00
1-33 gallon bag/can	\$2.00
45 gallon bag / 55 gallon can	\$3.00
Loose waste	\$6.75/cubic yard
Compacted waste	\$27.00/cubic yard*
Commercial compacted waste	\$58.00/ton*
	or \$27.00/cubic yard
	<i>(when scales are not working)</i>
	<i>*Plus Fuel Surcharge</i>

### Tires

#### Commercial      Residential

Car/light truck up to 17" (without rim)	\$3.00	\$1.00
Car/light truck up to 17" diameter (with rim)	\$4.00	\$3.00
Truck 17.5" to 24.5" (without rim)	\$6.00	\$4.00
Truck 17.5" to 24.5" (with rim)	\$7.00	\$6.00

### Construction & Demolition Debris

\$6.75/cu. yard OR \$58.00/ton\*  
*\*Plus Fuel Surcharge*

### Green & Wood Waste (clean)

Bark, hay, manure, grass clippings	\$57.00/ton
Yard debris, brush, wood waste	\$6.75/cubic yard

### Appliances

Household appliances (washer, dryer, oven, water heater, etc.)	\$5.00
Refrigeration units w/ Freon (refrigerators, air conditioners, freezers)*	\$25.00
<i>*Doors must be removed from refrigerators &amp; freezers before disposal</i>	

### Furniture

Price is for each couch, mattress, box springs, armchair, etc.

#### Commercial

\$20.00

#### Residential

\$10.00

### Electronic Waste

Includes televisions, computers, stereos, printers, scanners, fax machines, etc.

**FREE**

### Universal Waste

Includes car batteries, household batteries, CFLs, fluorescent light tubes, and ballasts\*

**FREE**

*\*Only for residential customers*

### Used Oil

Includes oil filters

**FREE**

### Scrap Metal

**FREE**

### Load Separation

Separating the different materials is mandatory and is the responsibility of each customer. Save yourself the time and hassle of separating a mixed load by planning ahead.

### Hazardous Waste

Chemicals and hazardous liquids are NOT accepted at any Transfer Station in Siskiyou County.

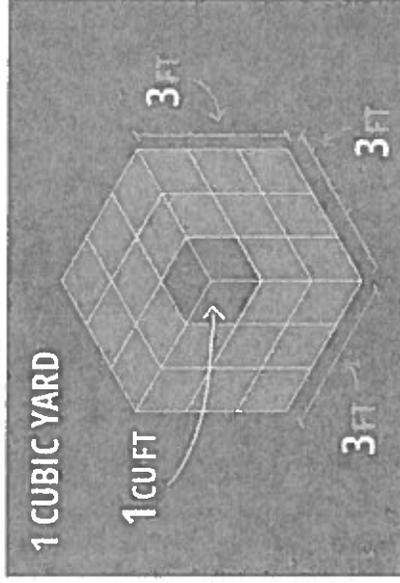
### Charging of Loads by Weight

County reserves the right to weigh all waste and charge by the compacted per ton fee when attendant estimates the density of waste is greater than 300 lbs per cubic yard

### Charging of Loads by Volume

Gate attendants will estimate the load and calculate the disposal fees. Attendants will measure load if requested.

Formula is: (length x height x width) feet divided by 27 = # of cubic yards



### Senior Days:

The minimum fee of \$5.00 is waived\* for residents over 55 years of age on the following days:

Black Butte & Oberlin Road Stations:  
 Wednesday

Happy Camp & Tulelake Stations  
 Thursday

*\*Regular waste fees still apply.*

**EXHIBIT B**  
**EMERGENCY CONTACTS**

**County Representatives:**

**Scott Waite, Director of Public Works**  
1312 Fairlane Road  
Yreka, CA 96097  
(530) 842-8250 Work  
(530) 925-2629 Cell

**OR**

**Mike Reusze, Solid Waste/ Flood Control Supervisor**  
190 Greenhorn Road  
Yreka, CA 96097  
(530) 842-8220 Work  
(530) 598-1894 Cell

**EXHIBIT C**

**DRY CREEK LANDFILL**

**Waste Acceptance Guidance Manual**

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## INTRODUCTION

The U.S. Environmental Protection Agency (EPA) and the Oregon Department of Environmental Quality (DEQ) have implemented and are enforcing strict regulations for treatment, storage, and disposal facilities that accept various wastes. These regulations, described in the Code of Federal Regulations (40 CFR Part 265) and in the Oregon Administrative Rules (OAR 340-104), are somewhat complicated and difficult to interpret. This manual is intended to provide clear, easy-to-follow guidelines, consistent with the above regulations, that will help Dry Creek Landfill, Inc. (DCL) personnel screen hazardous wastes from the landfill. It does not contain complete information about complying with all hazardous waste regulations.

### USING THIS MANUAL

In step 1 DCL obtains a description of the waste from the generator and compares it with established criteria for nonhazardous wastes. If the waste meets these criteria, it is accepted. If not, step 2 procedures must be followed.

In step 2 DCL screens the waste by determining whether the generator knows that the waste is hazardous or whether the waste source is designated hazardous by the DEQ and EPA. If the waste and its source are not considered hazardous, DCL provides the generator with a waste profile form that must be completed and reviewed before further action is taken. In this step DCL also receives additional information from the generator (i.e., a DEQ letter of approval, a chain-of-custody form, and laboratory test results).

In step 3 DCL first determines whether the generator has provided all of the required laboratory testing documentation for the waste. If all appropriate tests have been performed, DCL compares the results for each toxic constituent present with the DEQ and EPA regulatory levels. If all tests have not been performed, the generator must retest the waste.

If the laboratory data shows concentrations equal to or above the regulatory levels, the waste is considered hazardous and is not acceptable. If the concentrations are below these levels, the test data must be evaluated as follows:

- Compare the data with ignitable, corrosive, and reactive criteria as established by the EPA.
- Determine whether the waste is classified as an Oregon state hazardous waste.

If all criteria for nonhazardous waste are met, the waste is acceptable for landfilling at DCL.

## **PROCEDURES**

### **Step 1: Review Acceptable Waste Criteria**

Determine whether the waste meets the following EPA, Oregon Department of Energy, DEQ, and Oregon Health Division criteria for nonhazardous waste.

- Household refuse and scrap appliances that do not contain liquid chemicals, such as Freon (a refrigerant)
- Nonhousehold rubbish, such as unusable paper and cardboard, wood, and plastic scrap
- Construction or demolition debris, such as gravel, scrap wood, plastic, and metal, that does not contain polychlorinated biphenyls (PCBs) or liquid chemicals
- Recycled domestic or commercial scrap not contaminated with industrial chemicals
- Containers, such as drums, pails, and tanks, that have been triple-rinsed and are free of chemical residue
- Nonhazardous liquids less than 25 gallons
- Friable or nonfriable asbestos waste inside double-lined 6 mil plastic bags, in fiber or metal drums, or in plastic-lined drop box containers (see Appendix A for a description of DCL's asbestos disposal policy, chain-of-custody record, and DEQ's required ASN-4 Form)
- Noncompacted medical (or biological laboratory) sharps (i.e., IV-tubing with needles, scalpel blades, lancets, broken glass and syringes) only when containerized in a leakproof, rigid, puncture resistant container which is tightly closed or lidded to prevent loss of contents.

A landfill can accept the above itemized waste categories without chemical or physical analyses or waste certification documentation.

If the waste does not meet these criteria, go to step 2.

## **Step 2: Conduct Preliminary Hazardous Waste Screening**

### **2-1 Waste Profile Form**

Provide the waste generator with an DCL waste profile form (see Appendix B). The form must be completed and returned by all waste generators with industrial, commercial, agricultural, or petroleum wastes. Review each completed form. Also obtain the following additional documentation (when provided by the generator):

- DEQ letters of approval to dispose of the waste
- Chain-of-custody forms
- Laboratory test results

*DCL's cost for evaluating this form is \$25. The fee must be paid by the generator before DCL reviews the waste profile.*

Most industrial, commercial, agricultural, and petroleum wastes will require testing before DCL can accept them for landfilling.

If items 7 or 9 on the waste profile form (see Appendix B) are answered yes, the waste cannot be accepted at DCL. If the answers to 7 and 9 are no, the remaining criteria on the waste profile must be met before the waste can be accepted. These criteria are explained below.

### **2-2 Unacceptable Waste Sources**

Review the waste source information, items 5 and 6. If the source of the waste is listed below, the waste is hazardous and cannot be accepted. If it is not listed, go to step 3.

- Wastewater treatment sludges from all electroplating operations; exceptions are aluminum, tin, and zinc plating (e.g., chrome, nickel, gold, and copper plating)
- Wastewater treatment sludges from paint production operations

- Industrial solvent sludges containing methylene chloride, Freon, trifluoroethane, trichlorofluoromethane, xylene, acetone, ethyl acetate, ethylbenzene, ethyl ether, methyl isobutyl ketone, butyl alcohol, cyclohexanone, methanol, cresylic acid toluene, carbon disulfide, isobutanol ethoxyethanol, and nitropropane.
- Radioactive (or nuclear) wastes, unless exempted by the Oregon Department of Energy as listed in the following categories (ref: OAR 345, Div. 50-025):

(1) Radioactive material which has been incorporated into a consumer product manufacture under a license issued by the Nuclear Regulatory Commission, or an Agreement State and for which the agency licensing such manufacturer has determined that the possession, use, transfer, and disposal of such consumer product by all persons is exempt from regulatory requirements.

(2) Radium-bearing materials containing less than 5 picocuries of radium-226 per gram of solid, regardless of quantity.

(3) Radium-bearing material containing a total radium-226 activity of less than 10 microcuries, regardless of concentration.

(4) Thorium-bearing materials containing less than 20 picocuries of radium-228 per gram of solid, providing that the radium-228 is present with the parent thorium-232, regardless of quantity.

(5) Thorium-bearing materials containing a total radium-228 activity of less than 100 microcuries, providing that the radium-228 is present with the parent thorium-232, regardless of concentration in the solid.

(6) Medical, industrial and research laboratory wastes contained in small, sealed, discrete containers in which the radioactive material is dissolved or dispersed in an organic solvent or biological fluid for the purpose of liquid scintillation counting and experimental animal carcasses which are disposed of or treated at a hazardous waste disposal facility licensed by the Department of Environmental Quality.

(7) Wastes generated before June 1, 1981 through industrial or manufacturing processes which contain only naturally occurring radioactive isotopes and for which a site certificate has been issued by the council in accordance with ORS 469.375 and OAR 345-60-040 through OAR 345-50-130.

(8) Maintenance of radioactive coal ash at the site of a thermal power plant for which a site certificate has been issued.

- Lead or cadmium batteries
- Cyanide plating or heat treating wastes from copper, silver, zinc, or gold processes

- Chemical residues and tank sludges from chlorinated aliphatic operations (e.g., dichlorobutane and dichlorohexane manufacturing)
- Incinerator ash residues from hazardous waste treatment operations
- Tank residues from organic and inorganic chemical production operations (e.g., waste trichloroethane, toluene, and ethylene-dibromide)
- Wastewater treatment sludges and by-products from pesticide manufacturing operations (e.g., creosote sludge and chlordane baghouse dust)
- Wastes from the production of explosives
- Petroleum refining sludges and residues
- Metal refining sludges and dusts from copper, lead, zinc, and aluminum operations
- Dusts and sludges from iron and steel manufacturing and finishing operations
- Medical and pharmaceutical wastes defined by the Oregon Health Division in the following categories (Ref.: OAR 333-18-040 through 333-18-070):

"(1) 'Biological Waste' (i.e., blood and blood products, excretions, exudes, secretions, suctioning and other body fluids that cannot be directly discarded into a municipal sewer system, and waste materials saturated with blood or body fluids, but does not include diapers soils with urine or feces).

(2) 'Cultures and Stocks' (i.e., etiologic agents and associated biological, including specimen cultures and dishes and devices used to transfer, inoculate and mix cultures, wastes from production of biological, and serums and discarded live and attenuated vaccines. "Cultures" does not include throat and urine cultures).

(3) 'Pathological Waste' (i.e., biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals. "Pathological waste" does not include teeth or formaldehyde or other preservative agents)."

- Ink formulation sludges
- Coking operation wastes
- Nerve agents
- Electrical switches containing arsenic, barium, cadmium, chromium, lead, mercury, selenium, or silver.
- Electrical transformers containing PCB liquids
- Containerized liquids with detectable concentrations of toxic metals or organics (see Table 3-2)

### **Step 3: Evaluate Physical and Chemical Laboratory Testing Information**

#### **3-1 Laboratory Test Requirements**

Obtain and review laboratory test results supplied by the generator.

Compare the laboratory test methods on the analytical test sheets provided by the generator with the required EPA test methods listed in Table 3-1. If all appropriate tests have been performed, go to step 3-2. If they have not, require additional testing from the generator, then go to step 3-2.

#### **3-2 Toxicity Constituent Evaluation**

Compare laboratory test results for each toxic constituent (items 8 and 11 on the waste profile) with the DEQ and EPA regulatory levels (see Tables 3-2 and 3-3). If the laboratory concentrations are equal to or above the regulatory levels, the waste is considered hazardous and is not acceptable. If the results are below these concentrations, go to step 3-3.

When comparing the data to the regulatory levels make sure that the test results are reported in milligrams per kilogram (mg/kg), milligrams per liter (mg/L), or parts per million (ppm). If they are not, convert them; that is, divide test results reported in parts per billion (ppb), micrograms per kilogram (ug/kg), or micrograms per liter (ug/L) by 1,000 to convert to ppm.

## **DRY CREEK LANDFILL ASBESTOS DISPOSAL POLICY**

After June 1, 1988, all asbestos-containing waste material shall be disposed of at a disposal site authorized by the DEQ.

1. Authorization will be obtained from the DEQ before asbestos waste is disposed of. Additionally, all generators are required to complete and submit (to DEQ and DCL-) the ASN-4 Form (see attachment ).
2. Records of disposal, including type and volume of waste and whether it has been approved for disposal by the DEQ, will be maintained by both the waste generator and landfill operator for a minimum of 3 years. The generator must complete and submit an DCL chain-of-custody record form (see attachment).
3. The landfill operator will be notified 24 hours before asbestos waste is brought to the disposal site.
4. Asbestos waste (friable and nonfriable) will be brought to the landfill in leak-tight labeled containers, such as:
  - 6 mil plastic bags (doubled)
  - Fiber or metal drums

Note: Friable asbestos will only be accepted if double-bagged. Nonfriable asbestos will be accepted if sealed in a plastic bag contained in an enclosed drop box.

5. Asbestos waste will be off-loaded at a designated location away from the solid waste disposal area.
6. Asbestos waste will be covered with at least 2 feet of soil, or 1 foot of soil and 1 foot of waste
7. Asbestos waste will be off-loaded in a manner that will prevent containers from rupturing and exposing the material to the air.
8. No open storage or accumulation of asbestos waste will be allowed; waste must be covered daily.
9. All landfill employees will be dressed in asbestos-handling coveralls, respirators, gloves, and goggles when handling waste

There are no exceptions to the above rules.

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

Office of the Director  
455 Golden Gate Avenue, 10<sup>th</sup> Floor  
San Francisco, CA 94102

ADDRESS REPLY TO

San Francisco P.O. Box 420603  
CA 94142-0603

EXHIBIT D

August 21, 2003

Roger Cummins, General Services Manager  
Siskiyou County Department of Public Works  
305 Butte Street  
Yreka, CA 96097

Re: Prevailing Wage Information  
Operation of a Solid Waste Transfer Station

Dear Mr. Cummins:

This is in response to your letter dated July 9, 2003, asking whether the operation of a solid waste transfer station is covered under the Prevailing Wage Law.

The Department of Industrial Relations and the Attorney General have repeatedly held that the operation of a transfer station is not a public work. Enclosed please find precedential public works decision 2001-002 finding the operation of a transfer station not covered that you may find useful.

If you have any further questions, please contact the Prevailing Wage Unit at the address above, or call (415) 703-4774.

Sincerely,



Chuck Cake  
Acting Director

Enclosure

**EXHIBIT E**

**City Representative(s)**

**City Representatives:**

**Brett Nystrom, Director of Public Works**

**PO Box 847**

**Tulelake, CA 96134**

**(541) 810-1915**

**EXHIBIT F**  
**COUNTY'S INVENTORY**

**Owner of everything on site except City of Tulelake's:**

- **Hand tools,**
- **Commuter vehicle**
- **Drinking water and hand wash station**
- **Portable toilet**