

**CITY OF UKIAH
CITY COUNCIL AGENDA
Regular Meeting
CIVIC CENTER COUNCIL CHAMBERS
300 Seminary Avenue
Ukiah, CA 95482
October 7, 2015
6:00 p.m.**

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. PROCLAMATIONS/INTRODUCTIONS/PRESENTATIONS

4. PETITIONS AND COMMUNICATIONS

5. APPROVAL OF MINUTES

- a. Minutes of September 16, 2015, a Regular Meeting.

6. RIGHT TO APPEAL DECISION

Persons who are dissatisfied with a decision of the City Council may have the right to a review of that decision by a court. The City has adopted Section 1094.6 of the California Code of Civil Procedure, which generally limits to ninety days (90) the time within which the decision of the City Boards and Agencies may be judicially challenged.

7. CONSENT CALENDAR

The following items listed are considered routine and will be enacted by a single motion and roll call vote by the City Council. Items may be removed from the Consent Calendar upon request of a Councilmember or a citizen in which event the item will be considered at the completion of all other items on the agenda. The motion by the City Council on the Consent Calendar will approve and make findings in accordance with Administrative Staff and/or Planning Commission recommendations.

- a. Appointment of Strategic Planning Ad Hoc and Disbandment of *City Manager Appointment Process and Development Impact Fee Deferral Program* Ad Hocs.
- b. Notification to City Council of Expenditure for General Engineering Services for the Lake Mendocino Hydroelectric Plant and the Orchard Substation to Patterson & Dewar Engineers, Inc., in the Amount of \$16,400 (EUD).

8. AUDIENCE COMMENTS ON NON-AGENDA ITEMS

The City Council welcomes input from the audience. If there is a matter of business on the agenda that you are interested in, you may address the Council when this matter is considered. If you wish to speak on a matter that is not on this agenda, you may do so at this time. In order for everyone to be heard, please limit your comments to three (3) minutes per person and not more than ten (10) minutes per subject. The Brown Act regulations do not allow action to be taken on audience comments in which the subject is not listed on the agenda.

9. COUNCIL REPORTS

10. CITY MANAGER/CITY CLERK REPORTS

11. PUBLIC HEARINGS (6:15 PM)

12. UNFINISHED BUSINESS

- a. Authorize Contract Amendment for Bidding Assistance Services with Ann Baker Landscape Architecture in an Amount of \$53,805 for Grace Hudson Nature Education Grant Project.
- b. Introduction of Ordinance By Title Only to Defer Water and Sewer Connection Fees Until the Certificate of Occupancy.
- c. Receive Status Update from City of Ukiah's Liaisons to the Mendocino County Health and Human Services Advisory Board and Authorize City Manager to Negotiate and Execute an Agreement for the Release of \$30,000 to the Mendocino County Aids/Viral Hepatitis Network for the Operation of an Emergency Winter Shelter Contingent Upon Demonstration of Readiness.
- d. Discussion and Possible Approval of Curbside Food Waste Collection Program, and to Implement the Program, First Amended and Restated Waste Collection Contract and Second Amended and Restated Transfer Station Agreement.
- e. Annual Rate Adjustment Review and Approval of Adjustments for Transfer Station and Garbage Collection Rates Effective January 1, 2016 - *Continued from the September 16, 2015, City Council Meeting.*
- f. Award Contract for Crosswalk at North State Street and Garrett Drive, Specification No. 15-11 and Approve Corresponding Budget Amendment.

13. NEW BUSINESS

- a. Approval of Agreement with Granicus, Inc. to Upgrade Internet Encoding Appliance Hardware and Web Design Services.
- b. Award of Contract to Team Ghilotti, Inc. for the Construction of the North State Street Sewer Main Improvement Project, Specification No. 14-04, in the Amount of \$512,326 and Authorize Corresponding Budget Amendment.
- c. Authorization for City Manager to Negotiate and Execute an Amendment to the Agreement with HDR Engineering, Inc., in an Amount not to Exceed \$35,000 for Professional Services for the Lake Mendocino Hydroelectric Plant (EUD).

14. CLOSED SESSION – Closed Session may be held at any time during the meeting

- a. **Conference with Legal Counsel – Existing Litigation**
(Cal. Gov't Code Section 54956.9(d)(1))
Name of case: *City of Ukiah v. Questex, LTD, et al*, Mendocino County Superior Court, Case No. SCUk- CVPT-15-66036
- b. **Conference with Legal Counsel – Existing Litigation**
(Government Code Section 54956.9(d)(1))
Name of case: *Ukiah Valley Sanitation District v. City of Ukiah*, Mendocino County Superior Court Case No. SCUk-CVC-13-63024
- c. **Conference with Labor Negotiator**
(Government Code Section 54957.6)

15. ADJOURNMENT

Please be advised that the City needs to be notified 72 hours in advance of a meeting if any specific accommodations or interpreter services are needed in order for you to attend. The City complies with ADA requirements and will attempt to reasonably accommodate individuals with disabilities upon request. Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection at the front counter at the Ukiah Civic Center, 300 Seminary Avenue, Ukiah, CA 95482, during normal business hours, Monday through Friday, 8:00 am to 5:00 pm.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the bulletin board at the main entrance of the City of Ukiah City Hall, located at 300 Seminary Avenue, Ukiah, California, not less than 72 hours prior to the meeting set forth on this agenda.

Dated this 2nd day of October, 2015.
Kristine Lawler, City Clerk

**CITY OF UKIAH
CITY COUNCIL MINUTES
Regular Meeting
CIVIC CENTER COUNCIL CHAMBERS
300 Seminary Avenue
Ukiah, CA 95482
September 16, 2015
6:00 p.m.**

1. ROLL CALL

Ukiah City Council met at a Regular Meeting on September 16, 2015, having been legally noticed on September 11, 2015. Mayor Crane called the meeting to order at 6:00 p.m. Roll was taken with the following **Councilmembers Present:** Maureen Mulheren, Kevin Doble, Vice Mayor Scalmanini and Mayor Crane. **Councilmember Absent by Prearrangement:** Jim O. Brown. **Staff Present:** Sage Sangiacomo, City Manager; David Rapport, City Attorney; and Kristine Lawler, City Clerk.

MAYOR CRANE PRESIDING.

2. PLEDGE OF ALLEGIANCE

3. PROCLAMATIONS/INTRODUCTIONS/PRESENTATIONS

a. Proclamation 2015 Creek Week-Pollution Week.

Presenter: Mayor Crane.

Public Comment: Linda Sanders.

4. PETITIONS AND COMMUNICATIONS

5. APPROVAL OF MINUTES

a. Minutes of September 2, 2015, a Regular Meeting.

Motion/Second: Mulheren/Doble to approve the minutes of September 2, 2015, a Regular Meeting, as submitted. Motion **carried** by the following roll call votes: AYES: Mulheren, Doble, Scalmanini, and Crane. NOES: None. ABSENT: Brown. ABSTAIN: None.

6. RIGHT TO APPEAL DECISION

7. CONSENT CALENDAR

a. Report of Disbursements for Month of August 2015 – *Finance*.

b. Adopt Ordinance Rezoning the Property to Planned Development and Approving the Precise Development Plan for the Mountanos Residential Planned Development Project Located at 334 North Main Street – *Planning and Community Development*.

ORDINANCE NO. 1160

AN ORDINANCE OF THE CITY OF UKIAH AMENDING THE OFFICIAL ZONING MAP FOR THE CITY OF UKIAH, CALIFORNIA.

c. Adopt an Ordinance Amending the Official Zoning Map and Ukiah Zoning Code to Establish a Homeless Shelter Overlay Zone – *Planning and Community Development*.

ORDINANCE NO. 1161

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING THE OFFICIAL ZONING MAP FOR THE CITY OF UKIAH ESTABLISHING THE HOMELESS SHELTER OVERLAY ZONE AND AMENDING SECTIONS 9171 AND 9172 OF THE UKIAH CITY CODE.

- d. Adopt Ordinance Adding Section 3020 to the Ukiah City Code Relating to Expedited Permitting Procedures for Small Residential Rooftop Solar Systems – *Planning and Community Development*.

ORDINANCE NO. 1162

AN ORDINANCE OF THE CITY OF UKIAH ADDING SECTION 3020 TO THE UKIAH CITY CODE RELATING TO EXPEDITED PERMITTING PROCEDURES FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS.

- e. ~~Report of Contract with Aramark Uniform Services for Miscellaneous Mat and Towel Services—Finance. Pulled by Vice Mayor Scalmanini and placed as Agenda Item 13b.~~
- f. ~~Annual Rate Adjustment Review and Approval of Adjustments for Transfer Station and Garbage Collection Rates Effective January 1, 2016—Finance - Pulled by Vice Mayor Scalmanini and placed as Agenda Item 13c.~~
- g. ~~Report of Award of Bid to Traffic Limited of Lodi, California in the Amount of \$28,744.36 for Street Striping 2015 per Specification Number 15-06—Public Works - Pulled by Vice Mayor Scalmanini and placed as Agenda Item 13d.~~
- h. ~~Adopt Ordinance Adding Section 6323 to Division 7, Chapter 4, Article 3 of the Ukiah City Code, Entitled 'Citation Procedure for Violation of City Ordinance,'—Police - Pulled by Vice Mayor Scalmanini and placed as Agenda Item 13e.~~

Motion/Second: Mulheren/Doble to approve Consent Calendar Items 7a-d, as submitted. Motion **carried** by the following roll call votes: AYES: Mulheren, Doble, Scalmanini, and Crane. NOES: None. ABSENT: Brown. ABSTAIN: None.

8. **AUDIENCE COMMENTS ON NON-AGENDA ITEMS**

Public Comment: Aeolian Vincent-de Paule.

9. **COUNCIL REPORTS**

Presenters: Councilmember Mulheren and Doble, and Vice Mayor Scalmanini.

10. **CITY MANAGER/CITY CLERK REPORTS**

Presenters: Sage Sangiacomo, City Manager; Tim Eriksen, Public Works Director; and David Rapport, City Attorney.

11. **PUBLIC HEARINGS – 6:15 P.M.**

12. **UNFINISHED BUSINESS**

13. **NEW BUSINESS**

a. Discussion and Possible Action to Determine the City's Position on the 2015 Resolutions Being Considered by the League of California Cities and Provide Corresponding Voting Instructions to the City of Ukiah's Voting Delegate – Administration

Presenter: Sage Sangiacomo, City Manager.

Council Consensus provided the following direction to the City's Voting Delegate, Councilmember Mulheren, regarding the City's position on the 2015 Resolutions being considered by the League of California Cities at the 2015 Annual Conference:

1. League Bylaw Amendment – *City Council supports.*
2. Overconcentration of Alcohol & Drug Treatment Facilities – *City Council supports.*
3. Residential Rentals, Support for SB 593 (McGuire) – *City Council supports.*
4. Compensation for Prolong Electrical Power Outages – *City Council directs Delegate to make decision based on information presented at the conference.*

13b Report of Contract with Aramark Uniform Services for Miscellaneous Mat and Towel Services – Finance – From Consent Calendar Agenda Item 7e.

Presenter: Sage Sangiacomo, City Manager.

Motion/Second: Scalmanini/Doble to receive report regarding award of contract (COU No. 1213-188) to Aramark Uniform Services and authorize the contract to be amended to not to exceed \$24,500.00. Motion **carried** by the following roll call votes: AYES: Mulheren, Doble, Scalmanini, and Crane. NOES: None. ABSENT: Brown. ABSTAIN: None.

13c Annual Rate Adjustment Review and Approval of Adjustments for Transfer Station and Garbage Collection Rates Effective January 1, 2016 – Finance – From Consent Calendar Agenda Item 7f.

Presenter: David Rapport, City Attorney and Sage Sangiacomo, City Manager.

Staff Comment: Karen Scalabrini, Finance Director and Tim Eriksen, Public Works Director.

Motion by Vice Mayor Scalmanini to delay this item until October 20, 2015.

Motion dies for lack of a second.

Motion/Second: Scalmanini/Doble to continue this item to October 7, 2015. Motion **carried** by the following roll call votes: AYES: Mulheren, Doble, Scalmanini, and Crane. NOES: None. ABSENT: Brown. ABSTAIN: None.

13d Report of Award of Bid to Traffic Limited of Lodi, California in the Amount of \$28,744.36 for Street Striping 2015 per Specification Number 15-06 – Public Works – From Consent Calendar Agenda Item 7g.

Presenter: Tim Eriksen, Public Works Director.

Motion/Second: Scalmanini/Doble to receive and file report of award of bid (Purchase Order 43913) to Traffic Limited of Lodi, California in the amount of \$28,744.36 for Street Striping 2015 per Specification Number 15-06. Report is submitted pursuant to City Code. Motion **carried** by the following roll call votes: AYES: Mulheren, Doble, Scalmanini, and Crane. NOES: None. ABSENT: Brown. ABSTAIN: None.

13e Adopt Ordinance Adding Section 6323 to Division 7, Chapter 4, Article 3 of the Ukiah City Code, Entitled 'Citation Procedure for Violation of City Ordinance,' – Police – From Consent Calendar Agenda Item 7h

Presenter: Trent Taylor, Police Captain.

Motion/Second: Doble/Mulheren to adopt Ordinance adding section 6323 to division 7, chapter 4, article 3 of the Ukiah City Code, entitled "Citation Procedure for Violation of City Ordinances." Motion **carried** by the following roll call votes: AYES: Mulheren, Doble, and Crane. NOES: Scalmanini. ABSENT: Brown. ABSTAIN: None.

ORDINANCE NO. 1163

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH ADDING SECTION 6323 TO DIVISION 7, CHAPTER 4, ARTICLE 3 OF THE UKIAH CITY CODE, ENTITLED "CITATION PROCEDURE FOR VIOLATION OF CITY ORDINANCES"

THE CITY COUNCIL ADJOURNED TO THE SUCCESSOR AGENCY TO THE UKIAH REDEVELOPMENT AGENCY FOLLOWED BY CLOSED SESSION AT 7:23 P.M.

14. CLOSED SESSION

- a. **Conference with Legal Counsel – Existing Litigation**
(Cal. Gov't Code Section 54956.9(d)(1))
Name of case: *City of Ukiah v. Questex, LTD, et al*, Mendocino County Superior Court, Case No. SCUk- CVPT-15-66036
- b. **Conference with Legal Counsel – Existing Litigation**
(Government Code Section 54956.9(d)(1))
Name of case: *Ukiah Valley Sanitation District v. City of Ukiah*, Mendocino County Superior Court Case No. SCUk-CVC-13-63024
- c. **Conference with Labor Negotiator**
(Government Code Section 54957.6)
Agency Representative: Sage Sangiacomo, City Manager
Employee Organizations: All Bargaining Units

No action was taken on Closed Session items.

15. ADJOURNMENT

There being no further business, the meeting adjourned at 7:35 p.m.



ITEM NO.: 7a

MEETING DATE: October 7, 2015

AGENDA SUMMARY REPORT

SUBJECT: APPOINTMENT OF STRATEGIC PLANNING AD HOC AND DISBANDMENTS OF CITY MANAGER APPOINTMENT PROCESS AND DEVELOPMENT IMPACT FEE DEFERRAL PROGRAM AD HOC.

Summary: Council will consider appointing the Strategic Planning Ad Hoc and disbanding the *City Manager Appointment Process Ad Hoc* and the *Development Impact Fee Deferral Program Ad Hoc* that are no longer active.

Background and Discussion: Mayor Crane and Councilmember Doble were informally assigned as the *Strategic Planning Ad Hoc* at a Strategic Planning meeting. Tonight's action would reinforce that assignment by placing the action on the agenda at a documented meeting, per the Brown Act. In addition, the *City Manager Appointment Process Ad Hoc* and the *Development Impact Fee Deferral Program Ad Hoc* are no longer active and are ready to be sunsetted.

FISCAL IMPACT:				
Budgeted Amount in 15-16 FY	New Appropriation Source of Funds (Title & No.)	Account Number	Budget Amendment Required	Previous Contract or Purchase Order No.
N/A	N/A	N/A	Yes ☐ No ☒	N/A

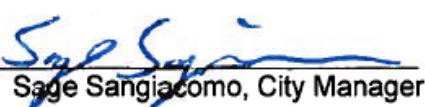
Recommended Action(s): Appoint Mayor Crane and Councilmember Doble to the *Strategic Planning Ad Hoc*, and disband the *City Manager Appointment Process Ad Hoc* and the *Development Impact Fee Deferral Program Ad Hoc*.

Alternative Council Option(s): Provide staff with alternative direction.

Citizens advised: NA
Requested by: NA
Prepared by: Kristine Lawler, City Clerk
Coordinated with: Sage Sangiacomo, City Manager
Attachments:

COUNCIL ACTION DATE: _____: ☐ Approved ☐ Continued to _____ ☐ Other _____

RECORDS APPROVED: ☐ Agreement: _____ ☐ Resolution: _____ ☐ Ordinance: _____

Approved: 
Sage Sangiacomo, City Manager



ITEM NO.: 7b

MEETING DATE: October 7, 2015

AGENDA SUMMARY REPORT

SUBJECT: NOTIFICATION TO CITY COUNCIL OF EXPENDITURE FOR GENERAL ENGINEERING SERVICES FOR THE LAKE MENDOCINO HYDROELECTRIC PLANT AND THE ORCHARD SUBSTATION TO PATTERSON & DEWAR ENGINEERS, INC., IN THE AMOUNT OF \$16,400. (EUD)

Summary: The City Council will receive a report regarding the expenditure for general engineering services for the Lake Mendocino Hydroelectric Plant and the Orchard Substation.

Background: Pursuant to the requirements of Section 1522 of the Municipal Code, staff is reporting to City Council the expenditure for General Engineering Services for the Lake Mendocino Hydro Electric Plant and the Orchard Substation to Patterson & Dewar, Inc. in the amount of \$16,400.

Discussion: Patterson & Dewar were contracted to provide engineering services for two projects. The first is a study to calculate the maximum available fault current at the hydroelectric plant. The data from this study is necessary to complete the application for AT&T to install an upgraded communication line between the plant and the NCPA control facility in Roseville.

The second project is to develop a technical specification to be used in bidding the bushing replacement and re-gasketing of two 1983 vintage power transformers at the Orchard substation. This specification will provide the methods and standards to be used to ensure critical tasks such as insulating oil processing and vacuum filling of the transformers are done correctly.

FISCAL IMPACT:				
Budgeted Amount in 15-16 FY	New Appropriation Source of Funds (Title & No.)	Account Number	Budget Amendment Required	Previous Contract or Purchase Order No.
\$100,000 \$400,000	Electric Generation (Hydro) Electric Substation Capital Project	80026330.52100 80100000.80230	Yes ☐ No ☒	1415-207 and 1415-207-A1

RECOMMENDED ACTION(S): Receive report regarding the expenditure for general engineering for the Lake Mendocino Hydroelectric Plant and the Orchard Substation to Patterson & Dewar Engineers, Inc. in the amount of \$16,400.00. (EUD)

ALTERNATIVES: N/A

Citizens advised: N/A
Requested by: Jim O'Brien, Electric Utility Technician, Steve Beaman, Electrical Utility Technician
Prepared by: Jim O'Brien, Electric Utility Technician and Mary Williamson, Buyer
Coordinated with: Mel Grandi, Electric Utility Director, Mary Horger, Purchasing Supervisor
Presenter: Mel Grandi, Electric Utility Director
Attachments: 1) Patterson & Dewar Agreement with Attachment A-Statement of Work (COU No. 1415-207)
2) Amendment No. 1 to Patterson & Dewar Contract (COU No. 1415-207-A1) with Exhibit A-Statement of Work for Orchard Substation Transformer Repair

COUNCIL ACTION DATE: _____: ☐ Approved ☐ Continued to _____ ☐ Other _____

RECORDS APPROVED: ☐ Agreement: _____ ☐ Resolution: _____ ☐ Ordinance: _____

Approved: 
Sage Sangiacomo, City Manager

COU No. 1415207

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

This Agreement, made and entered into this 18th day of June, 2015 ("Effective Date"), by and between CITY OF UKIAH, CALIFORNIA, hereinafter referred to as "City" and Patterson & Dewar Engineers, Ind., a Corporation [sole proprietorship, corporation, partnership, limited partnership, limited liability company, etc.] organized and in good standing under the laws of the state of Georgia hereinafter referred to as "Consultant".

RECITALS

This Agreement is predicated on the following facts:

- a. City requires consulting services related to general engineering services.
- b. Consultant represents that it has the qualifications, skills, experience and properly licensed to provide these services, and is willing to provide them according to the terms of this Agreement.
- c. City and Consultant agree upon the Scope-of-Work and Work Schedule attached hereto as Attachment "A", describing contract provisions for the project and setting forth the completion dates for the various services to be provided pursuant to this Agreement.

TERMS OF AGREEMENT

- 1.0 DESCRIPTION OF PROJECT: Perform general engineering services as requested by the City of Ukiah, Electric Utility Department.
- 1.1 The Project is described in detail in the attached Scope-of-Work (Attachment "A").
- 2.0 SCOPE OF SERVICES
- 2.1 As set forth in Attachment "A".
- 2.2 Additional Services. Additional services, if any, shall only proceed upon written agreement between City and Consultant. The written Agreement shall be in the form of an Amendment to this Agreement.
- 3.0 CONDUCT OF WORK
- 3.1 Time of Completion. Consultant shall commence performance of services as required by the Scope-of-Work upon receipt of a Notice to Proceed from City and shall complete such services within 6 months from receipt of the Notice to Proceed. Consultant shall complete the work to the City's reasonable satisfaction; even if contract disputes arise or Consultant contends it is entitled to further compensation.
- 4.0 COMPENSATION FOR SERVICES
- 4.1 Basis for Compensation. For the performance of the professional services of this Agreement, Consultant shall be compensated on a time and expense basis not to exceed a guaranteed maximum dollar amount of \$9,000.00. Labor charges shall be based upon hourly billing rates for the various classifications of personnel employed by

Consultant to perform the Scope of Work as set forth in the attached Attachment B, which shall include all indirect costs and expenses of every kind or nature, except direct expenses. The direct expenses and the fees to be charged for same shall be as set forth in Attachment B. Consultant shall complete the Scope of Work for the not-to-exceed guaranteed maximum, even if actual time and expenses exceed that amount.

- 4.2 Changes. Should changes in compensation be required because of changes to the Scope-of-Work of this Agreement, the parties shall agree in writing to any changes in compensation. "Changes to the Scope-of-Work" means different activities than those described in Attachment "A" and not additional time to complete those activities than the parties anticipated on the date they entered this Agreement.

- 4.3 Sub-contractor Payment. The use of sub-consultants or other services to perform a portion of the work of this Agreement shall be approved by City prior to commencement of work. The cost of sub-consultants shall be included within guaranteed not-to-exceed amount set forth in Section 4.1.

- 4.4 Terms of Payment. Payment to Consultant for services rendered in accordance with this contract shall be based upon submission of monthly invoices for the work satisfactorily performed prior to the date of the invoice less any amount already paid to Consultant, which amounts shall be due and payable thirty (30) days after receipt by City. The invoices shall provide a description of each item of work performed, the time expended to perform each task, the fees charged for that task, and the direct expenses incurred and billed for. Invoices shall be accompanied by documentation sufficient to enable City to determine progress made and to support the expenses claimed.

5.0 ASSURANCES OF CONSULTANT

- 5.1 Independent Contractor. Consultant is an independent contractor and is solely responsible for its acts or omissions. Consultant (including its agents, servants, and employees) is not the City's agent, employee, or representative for any purpose.

It is the express intention of the parties hereto that Consultant is an independent contractor and not an employee, joint venturer, or partner of City for any purpose whatsoever. City shall have no right to, and shall not control the manner or prescribe the method of accomplishing those services contracted to and performed by Consultant under this Agreement, and the general public and all governmental agencies regulating such activity shall be so informed.

Those provisions of this Agreement that reserve ultimate authority in City have been inserted solely to achieve compliance with federal and state laws, rules, regulations, and interpretations thereof. No such provisions and no other provisions of this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Consultant and City.

Consultant shall pay all estimated and actual federal and state income and self-employment taxes that are due the state and federal government and shall furnish and pay worker's compensation insurance, unemployment insurance and any other benefits required by law for himself and his employees, if any. Consultant agrees to indemnify and hold City and its officers, agents and employees harmless from and against any claims or demands by federal, state or local government agencies for any such taxes or benefits due but not paid by Consultant, including the legal costs associated with defending against any audit, claim, demand or law suit.

Consultant warrants and represents that it is a properly licensed professional or professional organization with a substantial investment in its business and that it maintains its own offices and staff which it will use in performing under this Agreement.

- 5.2 Conflict of Interest. Consultant understands that its professional responsibility is solely to City. Consultant has no interest and will not acquire any direct or indirect interest that would conflict with its performance of the Agreement. Consultant shall not in the performance of this Agreement employ a person having such an interest. If the City Manager determines that the Consultant has a disclosure obligation under the City's local conflict of interest code, the Consultant shall file the required disclosure form with the City Clerk within 10 days of being notified of the City Manager's determination.

6.0 INDEMNIFICATION

- 6.1 Insurance Liability. Without limiting Consultant's obligations arising under Paragraph 6.2 Consultant shall not begin work under this Agreement until it procures and maintains for the full period of time allowed by law, surviving the termination of this Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with its performance under this Agreement.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office ("ISO) Commercial General Liability Coverage Form No. CG 20 10 10 01 and Commercial General Liability Coverage – Completed Operations Form No. CG 20 37 10 01.
2. ISO Form No. CA 0001 (Ed. 1/87) covering Automobile Liability, Code 1 "any auto" or Code 8, 9 if no owned autos and endorsement CA 0025.
3. Worker's Compensation Insurance as required by the Labor Code of the State of California and Employers Liability Insurance.
4. Errors and Omissions liability insurance appropriate to the consultant's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.

B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall apply separately to the work performed under this Agreement, or the aggregate limit shall be twice the prescribed per occurrence limit.
2. Automobile Liability: \$1,000,000 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 \$1,000,000 per accident.

4. Errors and Omissions liability: \$1,000,000 per occurrence.

C. Deductibles and Self-Insured Retentions

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

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

- a. The City, its officers, officials, employees and volunteers are to be covered as additional insureds as respects; liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant, premises owned, occupied or used by the Consultant, or automobiles owned, hired or borrowed by the Consultant for the full period of time allowed by law, surviving the termination of this Agreement. The coverage shall contain no special limitations on the scope-of-protection afforded to the City, its officers, officials, employees or volunteers.
- b. The Consultant's insurance coverage shall be primary insurance as respects to the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.
- d. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Worker's Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from Consultant's performance of the work, pursuant to this Agreement.

3. Professional Liability Coverage

If written on a claims-made basis, the retroactivity date shall be the effective date of this Agreement. The policy period shall extend one year from final completion of work.

4. All Coverages

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

E. Acceptability of Insurers

Insurance is to be placed with admitted California insurers with an A.M. Best's rating of no less than A- for financial strength, AA for long-term credit rating and AMB-1 for short-term credit rating.

F. Verification of Coverage

Consultant shall furnish the City with Certificates of Insurance and with original Endorsements effecting coverage required by this Agreement. The Certificates and Endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Certificates and Endorsements are to be on forms provided or approved by the City. Where by statute, the City's Workers' Compensation - related forms cannot be used, equivalent forms approved by the Insurance Commissioner are to be substituted. All Certificates and Endorsements are to be received and approved by the City before Consultant begins the work of this Agreement. The City reserves the right to require complete, certified copies of all required insurance policies, at any time. If Consultant fails to provide the coverages required herein, the City shall have the right, but not the obligation, to purchase any or all of them. In that event, the cost of insurance becomes part of the compensation due the contractor after notice to Consultant that City has paid the premium.

G. Subcontractors

Consultant shall include all subcontractors or sub-consultants as insured under its policies or shall furnish separate certificates and endorsements for each sub-contractor or sub-consultant. All coverage for sub-contractors or sub-consultants shall be subject to all insurance requirements set forth in this Paragraph 6.1.

6.2 Indemnification. Notwithstanding the foregoing insurance requirements, and in addition thereto, Consultant agrees, for the full period of time allowed by law, surviving the termination of this Agreement, to indemnify the City for any claim, cost or liability that arises out of, or pertains to, or relates to any negligent act or omission or the willful misconduct of Consultant in the performance of services under this contract by Consultant, but this indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, arising from the sole negligence, willful

misconduct or defects in design by the City, or arising from the active negligence of the City.

"Indemnify," as used herein includes the expenses of defending against a claim and the payment of any settlement or judgment arising out of the claim. Defense costs include all costs associated with defending the claim, including, but not limited to, the fees of attorneys, investigators, consultants, experts and expert witnesses, and litigation expenses.

References in this paragraph to City or Consultant, include their officers, employees, agents, and subcontractors.

7.0 CONTRACT PROVISIONS

- 7.1 Ownership of Work. All documents furnished to Consultant by City and all documents or reports and supportive data prepared by Consultant under this Agreement are owned and become the property of the City upon their creation and shall be given to City immediately upon demand and at the completion of Consultant's services at no additional cost to City. Deliverables are identified in the Scope-of-Work, Attachment "A". All documents produced by Consultant shall be furnished to City in digital format and hardcopy. Consultant shall produce the digital format, using software and media approved by City.
- 7.2 Governing Law. Consultant shall comply with the laws and regulations of the United States, the State of California, and all local governments having jurisdiction over this Agreement. The interpretation and enforcement of this Agreement shall be governed by California law and any action arising under or in connection with this Agreement must be filed in a Court of competent jurisdiction in Mendocino County.
- 7.3 Entire Agreement. This Agreement plus its Attachment(s) and executed Amendments set forth the entire understanding between the parties.
- 7.4 Severability. If any term of this Agreement is held invalid by a court of competent jurisdiction, the remainder of this Agreement shall remain in effect.
- 7.5 Modification. No modification of this Agreement is valid unless made with the agreement of both parties in writing.
- 7.6 Assignment. Consultant's services are considered unique and personal. Consultant shall not assign, transfer, or sub-contract its interest or obligation under all or any portion of this Agreement without City's prior written consent.
- 7.7 Waiver. No waiver of a breach of any covenant, term, or condition of this Agreement shall be a waiver of any other or subsequent breach of the same or any other covenant, term or condition or a waiver of the covenant, term or condition itself.
- 7.8 Termination. This Agreement may only be terminated by either party: 1) for breach of the Agreement; 2) because funds are no longer available to pay Consultant for services provided under this Agreement; or 3) City has abandoned and does not wish to complete the project for which Consultant was retained. A party shall notify the other party of any alleged breach of the Agreement and of the action required to cure the breach. If the breaching party fails to cure the breach within the time specified in the notice, the contract shall be terminated as of that time. If terminated for lack of funds or

abandonment of the project, the contract shall terminate on the date notice of termination is given to Consultant. City shall pay the Consultant only for services performed and expenses incurred as of the effective termination date. In such event, as a condition to payment, Consultant shall provide to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Consultant under this Agreement. Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder, subject to off-set for any direct or consequential damages City may incur as a result of Consultant's breach of contract.

- 7.9 Execution of Agreement. This Agreement may be executed in duplicate originals, each bearing the original signature of the parties. Alternatively, this Agreement may be executed and delivered by facsimile or other electronic transmission, and in more than one counterpart, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. When executed using either alternative, the executed agreement shall be deemed an original admissible as evidence in any administrative or judicial proceeding to prove the terms and content of this Agreement.

8.0 NOTICES

Any notice given under this Agreement shall be in writing and deemed given when personally delivered or deposited in the mail (certified or registered) addressed to the parties as follows:

CITY OF UKIAH
DEPT. OF ELECTRIC UTILITY
300 SEMINARY AVENUE
UKIAH, CALIFORNIA 95482-5400

ANTHONY HANSEN
PATTERSON & DEWAR ENGINEERS, INC.
P.O. BOX 2808 (850 CENTER WAY)
NORCROSS, GEORGIA, 30091

9.0 SIGNATURES

IN WITNESS WHEREOF, the parties have executed this Agreement the Effective Date:

PATTERSON & DEWAR ENGINEERS, INC.

BY: William Henry

Date 6/22/15

PRINT NAME: William Henry

58-0676787
IRS IDN Number

CITY OF UKIAH

BY: [Signature]

CITY MANAGER

Date 6-25-15

ATTEST

Kristine Lander
CITY CLERK

Date 6/25/15

**STATEMENT OF WORK TO THE MASTER SERVICES AGREEMENT
BETWEEN CITY OF UKIAH
AND PATTERSON & DEWAR ENGINEERS, INC.
GENERAL ENGINEERING**

City of Ukiah ("Client") and Patterson & Dewar Engineers, Inc. ("Consultant"), collectively referred to as "Parties", enter into this Statement of Work ("SOW") on June 18, 2015. This SOW shall be governed by the Agreement for Professional Consulting Services No. 1415207 ("Agreement") dated June 18, 2015 between Client and Consultant. Unless otherwise defined in this SOW, terms which are set forth in initial uppercase letters have the meaning established for such terms as set forth in the Agreement. Consultant agrees to complete the following project in accordance with the Agreement and in accordance with the following terms:

I. Project Overview

This SOW will be for an initial period starting immediately and ending December 31, 2015 and may be extended by mutual written agreement between Parties prior to expiration of the term of this SOW.

II. Scope of Services

Consultant will perform ongoing general engineering and consulting services as requested by Client.

III. Payment Terms

Consultant shall submit monthly invoices to Client. Payment terms are specified in the Agreement. Consultant shall provide estimated effort levels upon request.

IV. Total Fees

The fee for the services under this Agreement will be provided on a time and expense basis not to exceed a maximum of Nine Thousand Dollars (\$9,000.00), on the basis of the scope of services outlined in this SOW and the anticipated level of effort, without obtaining the prior written authorization of Client. Notwithstanding anything to the contrary herein, the Consultant will not be required to furnish services or incur expenses for work not included in this SOW without written authorization (including email) from the Client committing to additional funding. Expenses will be billed in accordance with the payment terms of the Agreement.

This SOW may be executed in counterparts or duplicate originals and facsimile, electronic and digital copies, including properly executed PDF versions and all shall be regarded as an original instrument by the Parties.

PATTERSON & DEWAR ENGINEERS, INC.
Norcross, Georgia
FEES FOR GENERAL UTILITY ENGINEERING SERVICES
EFFECTIVE: JANUARY 1, 2015

CLASSIFICATION

\$ PER HOUR

ENGINEERING

Engineering Assistant	110.00
Senior Engineering Assistant	120.00
Engineer	117.00
Design Engineer	129.00
Project Engineer	150.00
Senior Engineer	159.00
Principal Engineer	170.00
Principal Engineer II	185.00
Principal Engineer III	210.00
Substation Engineering Assistant	122.00
Substation Senior Engineering Ass't.	132.00
Substation Engineer	133.00
Substation Design Engineer	145.00
Substation Project Engineer	159.00
Senior Substation Engineer	170.00
Principal Substation Engineer	190.00
Principal Substation Engineer II	215.00
Principal Substation Engineer III	240.00
Engineering Designer	138.00
Transmission Engineer	163.00
Senior Transmission Engineer	179.00
Principal Transmission Engineer I	190.00
Principal Transmission Engineer II	215.00
Principal Transmission Engineer III	245.00

ADMIN/TECHNICIAN

Administrative Assistant	76.00
Administrative Assistant II	80.00
Technician I	80.00
Technician II	86.00

CAD

CAD Operator	59.00
CAD Operator II	85.00
CAD Operator III	94.00
CAD Operator IV	107.00
Substation CAD Operator	70.00
Substation CAD Operator II	100.00
Substation CAD Operator III	110.00
Substation CAD Operator IV	122.00
Senior Substation CAD Operator	131.00

MISCELLANEOUS

Project Manager	129.00
Senior Project Manager	160.00
Principal Project Manager	175.00
Project Consultant	129.00
Senior Project Consultant	160.00
Principal Project Consultant	175.00
Computer Coordinator	127.00
Computer Programmer	127.00
Construction Consultant	178.00
SCADA Principal Project Manager	190.00
Substation Principal Project Manager	185.00

TRAVEL AND EXPENSES

PRINTS, PHONE CALLS, ETC.

OUTSIDE CONSULTANT

NOTE: Fees are subject to annual increases.

- Actual Out-of-Pocket Cost

- Actual Cost

- Actual Cost + 20%

COPY

CITY OF UKIAH
AMENDMENT NO. 1
TO
PROFESSIONAL SERVICES CONTRACT 1415207
BETWEEN
PATTERSON & DEWAR ENGINEERS, INC. and THE CITY OF UKIAH

This Amendment No. 1, entered on August 12, 2015, revises the Agreement for Professional services dated June 18, 2015 between the City of Ukiah and Patterson & Dewar Engineers, Inc. for professional consulting services relating to the performance of general engineering services.

This Amendment No. 1 adds Exhibit A - Statement of Work - Orchard Substation Transformer Repair. Additional cost for this work is not-to-exceed \$7,400.00.

As a result, the revised total contract amount is not-to-exceed \$16,400.00.

Except as expressly amended by this Amendment, all other terms remain unchanged and in full force and effect.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AMENDMENT ON THE EFFECTIVE DATE:

PATTERSON & DEWAR ENGINEERS, INC.

BY: William Henry

WILLIAM HENRY

DATE: 8/13/15

CITY OF UKIAH

BY: Sage Sangiacomo

SAGE SANGIACOMO, CITY MANAGER

DATE: 9-2-15

ATTEST

BY: Kristine Lawler

KRISTINE LAWLER, CITY CLERK

DATE: 9-2-15

EXHIBIT A

STATEMENT OF WORK TO THE MASTER SERVICES AGREEMENT BETWEEN CITY OF UKIAH AND PATTERSON & DEWAR ENGINEERS, INC. ORCHARD SUBSTATION TRANSFORMER REPAIR

City of Ukiah ("Client") and Patterson & Dewar Engineers, Inc. ("Consultant"), collectively referred to as "Parties", enter into this Statement of Work ("SOW") on August 12, 2015. This SOW shall be governed by the Agreement for Professional Consulting Services No. 1415207 ("Agreement") dated June 18, 2015 between Client and Consultant. Unless otherwise defined in this SOW, terms which are set forth in initial uppercase letters have the meaning established for such terms as set forth in the Agreement. Consultant agrees to complete the following project in accordance with the Agreement and in accordance with the following terms:

I. Project Overview

Client wants to perform repairs on two of its 1983 RTE/ASEA 115-12kV, 20MVA transformers at the Orchard Substation. The repairs entail replacing the four low side bottom-connected bushings, replacing all the radiator gaskets, and repacking the radiator valve stems (oil drained and stored) on both transformers. Client has requested Consultant provide the technical specifications for the procurement process for repairs.

II. Scope of Services

Consultant will perform the following tasks in execution of this Project:

- Gather the outline and other drawings on the transformers
- Assist Client with development of switching procedures for removing the transformers from service (if necessary).
- Develop an outline of the work to be performed.
- Develop a technical specifications for the work.
- Submit technical specifications to the Client for review.
- Arrange and attend a conference call to discuss the technical specifications.
- Prepare and submit final specifications.

III. Schedule

This SOW will be for an initial period starting immediately. Consultant anticipate providing the review specifications within one month. The SOW may be extended by mutual written agreement between Parties prior to expiration of the term of this SOW.

IV. Payment Terms

Consultant shall submit monthly invoices to Client. Payment terms are specified in the Agreement. Consultant shall provide estimated effort levels upon request.

V. Basis of Fee Development

The following are assumptions made by the Consultant in developing the fee and scope of services for this project:

- Client will provide the drawings for the transformers.
- Specifications will be based on NETA standards.

VI. Total Fees

The fee for the services under this Agreement will be provided on a time and expense basis not to exceed a maximum of Seven Thousand Four Hundred Dollars (\$7,400.00), on the basis of the scope of services

outlined in this SOW and the anticipated level of effort, without obtaining the prior written authorization of Client. Notwithstanding anything to the contrary herein, the Consultant will not be required to furnish services or incur expenses for work not included in this SOW without written authorization (including email) from the Client committing to additional funding. Expenses will be billed in accordance with the payment terms of the Agreement.

This SOW may be executed in counterparts or duplicate originals and facsimile, electronic and digital copies, including properly executed PDF versions and all shall be regarded as an original instrument by the Parties.





ITEM NO.: 12a

MEETING DATE: October 7, 2015

AGENDA SUMMARY REPORT

SUBJECT: AUTHORIZE CONTRACT AMENDMENT FOR BIDDING ASSISTANCE SERVICES WITH ANN BAKER LANDSCAPE ARCHITECTURE IN AN AMOUNT OF \$53,805 FOR GRACE HUDSON NATURE EDUCATION GRANT PROJECT

Summary: Council will consider action to amend the contract with Ann Baker Landscape Architecture for bidding assistance services, namely value engineering and preparation of construction documents, for remaining construction phases for the Grace Hudson Nature Education grant project.

Background: The City is currently facilitating the design and construction of the Grace Hudson Nature Education Facility Project funded through Proposition 84 grant, in tandem with the Ts'iwish Stormwater Garden area funded by the Habitat Conservation Fund grant and the Cleveland Lane Drainage Special Project Reserve Fund. A project site-plan is included as Attachment #1. Previously, the major infrastructure items for these facilities were prepared as one large construction scope of work, Spec. No. 15-03. However, after conducting the bidding process, the City had to reject the two bids that were received earlier this summer because they were higher than the project budget would allow.

From the investigation and research conducted after the first bid attempt, staff determined that the project should be less costly and would be more competitively bid by reducing it from one large, complex construction project requiring many trades, into three or more modestly sized contracts, requiring fewer and more focused construction disciplines and sets of expertise. Staff created a new project schedule, prioritizing necessary phases of work and also delineating areas of potential savings through value engineering. They identified the museum's interior renovations, the construction of the new parking lot, and the creating of the storm water retention basin as the first necessary phase of work, planned in coordination around the Museum's exhibit schedule.

The first phase of the project was organized into two specifications; Spec No. 15-08 Museum Building Improvements for a Class B contractor with engineer's estimate of \$297,850, and Spec No. 15-09 Museum Parking and Storm Water Improvements for a Class A contractor with engineer's estimate of \$698,800. The bid-effort for Spec 15-08 and Spec 15-09 produced more interest and competition among contractors with the City receiving 2 bids for 15-08 and four bids for 15-09. The City awarded the contracts in August, at \$344,000 for Spec 15-08 and \$474,588 for Spec 15-09, and construction is underway.

Continued on Page 2

RECOMMENDED ACTION(S): Authorize contract amendment with Ann Baker Landscape Architecture for \$53,805 for Bidding Assistance Services for the Grace Hudson Nature Education Grant Project.

ALTERNATIVES: Remand to staff with direction.

Citizens advised: Sun House Guild, Museum Endowment
Requested by:
Prepared by: Katie Marsolan, Project Analyst, Sherrie Smith Ferri, Museum Director
Coordinated with: Mary Horger, Purchasing Supervisor, Maya Simerson, Interim Comm. Services Supervisor
Presenters: Katie Marsolan, Project Analyst
Attachments: 1. Project Site Plan
2. Proposed Fee Schedule

COUNCIL ACTION DATE: _____ : ☐ Approved ☐ Continued to _____ ☐ Other _____

RECORDS APPROVED: ☐ Agreement: _____ ☐ Resolution: _____ ☐ Ordinance: _____

Note: Please write Agreement No. in upper right corner of agreement when drafted..

Approved: 
Sage Sangiacomo, City Manager

Discussion: The remaining items to be constructed at the Grace Hudson site are predominately landscaping and specialty garden items. This will include pathways, irrigation, planting, water feature, garden fencing, lighting, security systems, and garden structures. Within this, staff has identified a number of items for value engineering. Generally, staff is hoping to reduce project costs through this value engineering process by as much as \$450,000. The grant requires certain items be installed or developed, but the City can select alternative materials and methods for those items and thus secure sizable savings.

For example, the rainwater cisterns are required for the grant but staff is proposing to eliminate the decorative screens that were designed to enclose the cisterns, for a potential \$18,000 savings. The screens for the HVAC units are similarly not a grant requirement and those would present a \$13,000 savings. Some of these items are simple to remove from the list, but others are more complex. The boardwalk segment of the project, for example, is integral to the project area which illustrates the sedge and willow plants used in crafting Pomo Indian basketry and also how they were managed and harvested. It is, in fact, a required grant item. We are, however, proposing to reduce the length of this boardwalk, for a projected savings of \$15,000. But making this change will require the landscape designer and the engineer to re-work the plans and specifications for the boardwalk structural design and to correspondingly increase the length of the aggregate pathway to which the boardwalk connects.

Project staff are planning on immediately engaging in this value engineering process, so that the work for the remaining project construction phases can be repackaged and prepared for bidding this winter, with construction awards and commencement of the construction work slated to occur in the spring 2016. This will keep the greater Grace Hudson Nature Education Grant Project schedule intact, with remaining exhibits and specialty plantings to be installed during fall of 2016 and the winter of 2017.

Past Design Service versus Proposed Bidding Services

In March 2014, the City entered a contract with Ann Baker Landscape Architecture (ABLA) for design development services and the production of plans and specifications. ABLA performed 100% of the tasks for the design development process including plan check with Design Review Board, Planning Commission and final Council approval. The design team then prepared a full set of construction documents and performed bidding assistance through June 2015. Additionally the design team prepared a second and third set of construction documents for Spec 15-08 and Spec 15-09 in July 2015. The tasks of the design development contract have been performed and that contract has been paid and closed out.

Contract for Construction Administration and Exhibit Development Services

In May 2015, the City Council authorized a contract with Ann Baker Landscape Architecture for construction administration and exhibit development services. The first task within the contract is for construction oversight to be performed by SHN Consulting and Engineers Willits' staff members in coordination and consultation with a number of the design team members (such as the hydrologist, architect, and so forth). The second task of the contract is to continue the exhibit development plans and coordinate installation of exhibits. Staff is proposing to incorporate a third task, that of bidding assistance, to facilitate the production of plans and specifications with the value engineering elements. This will include construction documents for the remaining construction contracts such as garden structures, as well as landscaping and specialty garden items.

Proposed Bidding Assistance Services

The proposed fee schedule is included as Attachment #2. Task 1 and Task 2 items remain unchanged and reflect the contract that was approved in May 2015. The proposed contract amendment items are prepared as Task 3 Phased Bidding Assistance and Value Engineering. This new task is grouped into three segments; Subtask 3.01 for the value engineering process in an amount of \$16,225, Subtask 3.02 for the production of construction documents for the structures in an amount of \$12,420, and Subtask 3.03 for the production of construction documents for the remaining garden items in the amount of \$22,597. The combined total of these subtasks with the estimated reimbursable expenses is \$53,804.10.

The design team is comprised of multiple sub-consultants including Ann Baker Landscape Architecture, PGA Landscape Design, Arkin Tilt Architects, SHN Consulting and Engineering, Potomac Water Works, and Ray E Slaughter and Associates Electrical Engineer. As appropriate, each sub-consultant will perform work related to the value engineering, the production of the plans and specifications and support staff through the bid advertising process to respond to project questions or clarifications. Similarly, sub-consultants will revise and/or prepare documents related to permitting and SWPPP measures that are linked to the construction process for each particular construction phase.

Staff has reviewed the project budget and feels strongly that spending the additional money toward the proposed bidding assistance will produce a cost savings for construction. Essentially, we have to spend a little money to save a lot of money. With the addition of Task 3 the contract reaches a total of \$337,277.60 for Construction Administration, Exhibit Development, and Bidding Assistance. The project has secured 3.338 million in funding, so the services of this contract would represent approximately 10% of the project budget.

Staff is recommending that Council authorize a contract amendment with Ann Baker Landscape Architecture for bidding assistance services in an amount of \$53,805. This work will be expended from fund 31022700 for the Nature Education Facility Grant Project and from fund 25024210 for the Habitat Conservation Fund Grant in collaboration with the Cleveland Lane Drainage Project.

FISCAL IMPACT:				
Budgeted Amount in 15-16 FY	New Appropriation Source of Funds (Title & No.)	Account Number	Budget Amendment Required	Previous Contract or Purchase Order No.
\$1,803,412	Museum Grant Infrastructure	31022700.80230	Yes ☐ No ☒	COU No. 1415-200
\$118,000	Cleveland Lane Special Project Reserve Fund & Habitat Conservation Fund	25024210.80230	Yes ☐ No ☒	



ANN BAKER
LANDSCAPE ARCHITECTURE
1016 McNear Ave.
Petaluma, CA 94952
tel 510.926.2557

CONSULTANT

PGA design INC.

LANDSCAPE ARCHITECTS
444 17th Street
Oakland CA 94612
tel 510.465.1284
fax 510.465.1256
pgadesign.com

CITY OF UKIAH



STAMP



GRACE HUDSON NATURE EDUCATION
PROJECT

PROGRESS PRINT
DATE PLOTTED:
NOT FOR CONSTRUCTION

Grace Hudson Museum
431 S Main Street
Ukiah, California

SUBMISSIONS		
NO.	DATE	DESCRIPTION
1	10/30/14	DRB SUBMISSION
2	12/19/14	90% CD SUBMISSION
3	2/19/15	100% CD SUBMISSION

SHEET TITLE
3D VIEW OF THE
SITE

DATE
2/19/15

SCALE

DRAWN
AB, KK, KF

CHECKED
KK, AB

L6.00



GENERAL PROJECT DESCRIPTION

PROJECT CONSISTS OF CONSTRUCTION OF NATURE EDUCATION PROJECT AS PART OF THE GRACE HUDSON MUSEUM.

PROJECT INCLUDES THE FOLLOWING ELEMENTS AS DESCRIBED HERE:

- RENOVATED PARKING LOT
- NATURE BASED EDUCATION LANDSCAPE, PATHWAYS, AND BOARDWALK
- OUTDOOR CLASSROOM FACILITY
- BRUSH ARBOR
- INTERPRETIVE ELEMENTS AS DESCRIBED WITHIN THE DRAWINGS
- STORMWATER GARDEN

PARKING COUNT CALCULATIONS

EXISTING PARKING SPACES TOTAL 28 STALLS

PROPOSED PARKING - SEE SHEET A1.01 FOR PARKING CALCULATIONS

MAJOR SITE ELEMENTS

A	ENTRY COURT
B	COMMUNITY COURTYARD
C	BASKET CIRCLE
D	BOARDWALK / WATERWORLD
E	SALMON RUN / WATER FEATURE
F	REMEMBRANCE CIRCLE
G	GRAYWATER GARDEN
H	OUTDOOR SHELTER
I	VALLEY OAK GRANDLADY
J	CHAPARREL AND FIRE EXHIBIT
K	BRUSH ARBOR
L	VALLEY GRASSLAND AND OAK SAVANAH EXHIBIT
M	ENTRY GATE AND BUS DROP OFF ZONE
N	HUNTING TRAIL
O	PERIMETER FENCING
P	EXISTING ENTRY DRIVE
Q	PEDESTRIAN CONNECTION TO MAIN STREET AND RR R.O.W.
R	PARKING LOT
S	POMO PLANTS GARDEN
T	NORTH SWALE / WET MEADOW
U	TSIWISH GATHERING AREA

NOTE: SEE SHEET 0.3 FOR HATCH SYMBOL LEGEND

GENERAL SYMBOLS & ABBREVIATIONS

---	PROPERTY LINE
---	LIMIT OF WORK
●	POINT OF BEGINNING
---	CENTERLINE
EQ.	EQUAL
O.C.	ON CENTER
N.I.C.	NOT IN CONTRACT
NO.	NUMBER
TYP.	TYPICAL
QTY.	QUANTITY
V.I.F.	VERIFY IN FIELD
S.A.D.	SEE ARCHITECTURAL DRAWINGS
S.C.D.	SEE CIVL DRAWINGS
S.S.D.	SEE STRUCTURAL DRAWINGS
S.M.D.	SEE MECHANICAL DRAWINGS
S.E.D.	SEE ELECTRICAL DRAWINGS
S.I.D.	SEE INTERPRETIVE DRAWINGS
S.W.D.	SEE WATER FEATURE DRAWINGS

1 A101	DETAIL CALLOUT
1 A101	ELEVATION CALLOUT
1 A101	SECTION CALLOUT

ANN BAKER
LANDSCAPE ARCHITECTURE
1016 McNear Ave.
Petaluma, CA 94952
tel 510.926.2557

CONSULTANT

PGA design INC.
LANDSCAPE ARCHITECTS
444 17th Street
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pgadesign.com

CITY OF UKIAH

STAMP

GRACE HUDSON NATURE EDUCATION PROJECT

Grace Hudson Museum
431 S Main Street
Ukiah, California

SUBMISSIONS		
NO.	DATE	DESCRIPTION
1	10/30/14	DRB SUBMISSION
2	12/19/14	90% CD SUBMISSION
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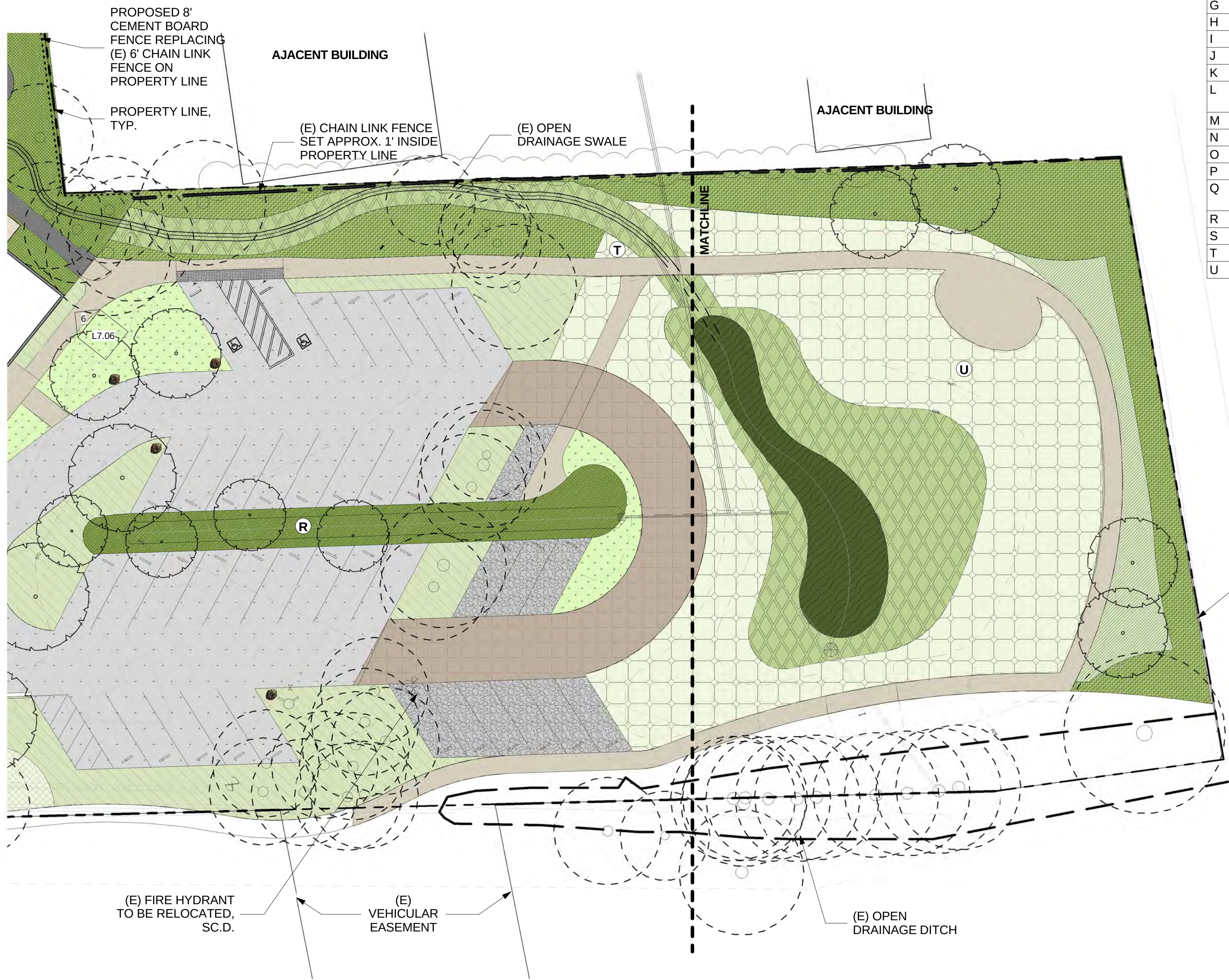
SHEET TITLE

SITE PLAN & GENERAL PROJECT NOTES 1

DATE	10/01/14
SCALE	1" = 20'-0"
DRAWN	AB, KK, KF
CHECKED	KK, AB

0.2

C:\New\2014\Kathy Hudson\Landscapes\Grace Hudson-CENTRAL_Matly.rvt



GENERAL PROJECT NOTES

- EXISTING SITE INFORMATION IS PROVIDED ON THE SURVEY PLAN BY OTHERS LANDSCAPE ARCHITECT ASSUMES NO RESPONSIBILITY OR LIABILITY FOR COMPLETENESS OR ACCURACY OF PLANS PROVIDED BY OTHERS.
- VERIFY PROPERTY BOUNDARIES, LIMIT OF WORK, AND LOT LINES PRIOR TO COMMENCEMENT OF WORK.
- "TYP." OR TYPICAL TO MEAN THAT THE CONDITION IS REPRESENTATIVE FOR SIMILAR CONDITIONS THROUGHOUT, UNLESS OTHERWISE NOTED. DETAILS ARE USUALLY NOTED "TYP." ONLY ONCE WHEN THEY FIRST OCCUR.
- NOTES AND SYMBOLS ON ONE DRAWING APPLY TO OTHER SIMILAR DETAILS AND CONDITIONS.
- BECOME ACQUAINTED WITH UNDERGROUND UTILITIES, PIPES AND STRUCTURES. SHOULD UTILITIES OR OTHER WORK NOT SHOWN ON THE PLANS BE FOUND DURING EXCAVATIONS, PROMPTLY NOTIFY OWNER'S REPRESENTATIVE. FAILURE TO DO SO WILL MAKE CONTRACTOR LIABLE FOR DAMAGE ARISING FROM THEIR OPERATIONS SUBSEQUENT TO DISCOVERY OF SUCH UTILITIES NOT SHOWN ON PLANS.
- COORDINATE WITH SUBCONTRACTORS AS REQUIRED.
- REPLACE EXISTING MATERIALS DAMAGED DURING CONSTRUCTION.
- QUANTITIES PROVIDED ARE FOR INFORMATION ONLY, VERIFY QUANTITIES AND NOTIFY OWNER OF DISCREPANCIES.
- WORK TO CONFORM TO ALL APPLICABLE BUILDING CODES INCLUDING THE CURRENT CALIFORNIA BUILDING CODE, THE 2001 CALIFORNIA HISTORICAL BUILDING CODE.

- APPROPRIATE CONNECTIONS TO UTILITIES REQUIRED TO SUPPORT THE WORK ARE TO BE COMPLETED.
- KEEP THE STAMPED SET OF PLANS AND SPECIFICATIONS, GEOTECH REPORT, AND STORM WATER POLLUTION PREVENTION PLAN ON THE JOB SITE AND AVAILABLE TO AUTHORIZED REPRESENTATIVES OF THE CITY OF UKIAH. THERE ARE TO BE NO DEVIATIONS FROM THE STAMPED PLANS AND SPECIFICATIONS WITHOUT APPROVAL IN WRITING BY THE OWNER'S REPRESENTATIVE.
- THE CONTRACTOR IS RESPONSIBLE FOR SCHEDULING AND COORDINATION OF THE WORK.
- VERIFY DIMENSIONS AND EXISTING CONDITIONS ON THE DRAWINGS AND NOTIFY THE OWNER OF DISCREPANCIES PRIOR TO STARTING WORK.
- WHERE PUBLIC UTILITY LINES OR EQUIPMENT MUST BE REMOVED OR RELOCATED, OBTAIN THE NECESSARY APPROVALS FROM THE APPROPRIATE UTILITY DEPARTMENT PRIOR TO STARTING WORK.
- PROTECT ADJACENT PROPERTIES, INCLUDING BUT NOT LIMITED TO POLLUTION, TRASH, OR DAMAGES DUE TO DEMOLITION, EXCAVATION, CONSTRUCTION, EROSION, OR FLOODING ORIGINATING ON THIS SITE.
- CONDITIONS ARISING WHERE THE INTENT OF THE DRAWINGS IS IN DOUBT OR WHERE THERE APPEARS TO BE A DISCREPANCY BETWEEN THE DRAWINGS AND FIELD CONDITIONS, NOTIFY THE OWNER'S REPRESENTATIVE AS SOON AS POSSIBLE FOR THE PROCEDURE TO BE FOLLOWED. IF THE CONTRACTOR PROCEEDS WITHOUT INSTRUCTIONS FROM THE OWNER'S REPRESENTATIVE, THE CONTRACTOR TO MAKE GOOD ANY RESULTING DAMAGE OR DEFECTS.

- CAREFULLY EXAMINE THE CONDITIONS AFFECTING THE WORK BEFORE PROCEEDING, AND REPORT TO THE OWNER, CONDITIONS WHICH WOULD PREVENT THE PROPER AND LEGAL COMPLETION OF THE WORK. NOT REPORTING SUCH UNSUITABLE CONDITION WILL CONSTITUTE ACCEPTANCE BY THE CONTRACTOR.
- THE CONTRACTOR WILL BE HELD RESPONSIBLE FOR FIELD CHANGES MADE WITHOUT WRITTEN AUTHORIZATION FROM THE OWNER'S REPRESENTATIVE.
- THE CONTRACTOR AGREES THAT, IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, THE CONTRACTOR WILL BE REQUIRED TO ASSUME COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF PERSONS AND PROPERTY, THAT THIS REQUIREMENT TO BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THE CONTRACTOR FURTHER AGREES TO ACCEPT LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXEMPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF LANDSCAPE ARCHITECT AND CITY.
- PROVIDE FOR INGRESS AND EGRESS FOR PRIVATE PROPERTY ADJACENT TO THE WORK THROUGHOUT THE PERIOD OF CONSTRUCTION.
- AT NO TIME ARE CAMPERS, TRAILERS, MOTOR HOMES, OR ANY OTHER VEHICLES TO BE USED AS LIVING OR SLEEPING QUARTERS ON THE CONSTRUCTION SITE. OBTAIN APPROVAL FROM CITY OF UKIAH FOR LOCATION OF THE CONSTRUCTION TRAILER.

- PRIOR TO BIDDING, VISIT AND INSPECT THE SITE AND BECOME FAMILIAR WITH THE EXISTING CONDITIONS AFFECTING THE NEW WORK. DISPUTE, COMPLAINT, OR ASSERTION THAT THERE IS A MISUNDERSTANDING IN REGARDS TO LOCATION, EXTENT, OR AMOUNT OF WORK TO BE PERFORMED UNDER THIS CONTRACT DUE TO THE CONTRACTOR'S FAILURE TO INSPECT THE SITE.
- CONTACT THE CITY OF UKIAH TO ARRANGE FOR A PRE-CONSTRUCTION CONFERENCE PRIOR TO START OF CONSTRUCTION.
- COMPLETE THE FOLLOWING PERMITS FROM THE FOLLOWING AGENCIES BEFORE STARTING WORK: SWPPP (CONTRACTOR WILL BE GIVEN A DRAFT TEMPLATE COMPLETED BY CITY AS A BASIS OF SWPPP), APPLICATION FEES TO BE PAID FOR BY CITY OF UKIAH.
- PROJECT IDENTIFICATION SIGN TO BE POSITIONED IN LOCATION DETERMINED BY OWNER'S REPRESENTATIVE.
- THE AREA SURROUNDING THE SUN HOUSE IS A HISTORIC SITE ELIGIBLE FOR THE NATIONAL REGISTER OF HISTORIC PLACES (NRHP).
- CITY IS TO PROVIDE HISTORICAL ARCHEOLOGIST TO MONITOR CONSTRUCTION ACTIVITIES AS REQUIRED BY THE PROJECT'S CONDITIONS FOR APPROVAL (SEE CITY FOR A COPY OF THIS DOCUMENT).
- IF HISTORICAL MATERIALS ARE UNCOVERED DURING GRADING, TRENCHING, OR OTHER EXCAVATION, WORK IS TO BE STOPPED WITHIN 100 FEET OF THESE MATERIALS UNTIL A PROFESSIONAL ARCHEOLOGIST WHO IS A MEMBER OF THE REGISTER OF PROFESSIONAL ARCHEOLOGISTS HAS HAD AN OPPORTUNITY TO EVALUATE THE SIGNIFICANCE OF THE FINDS AND DETERMINE APPROPRIATE MITIGATION MEASURES.

MAJOR SITE ELEMENTS	
A	ENTRY COURT
B	COMMUNITY COURTYARD
C	BASKET CIRCLE
D	BOARDWALK / WATERWORLD
E	SALMON RUN / WATER FEATURE
F	REMEMBRANCE CIRCLE
G	GRAYWATER GARDEN
H	OUTDOOR SHELTER
I	VALLEY OAK GRANDLADY
J	CHAPARREL AND FIRE EXHIBIT
K	BRUSH ARBOR
L	VALLEY GRASSLAND AND OAK SAVANAH EXHIBIT
M	ENTRY GATE AND BUS DROP OFF ZONE
N	HUNTING TRAIL
O	PERIMETER FENCING
P	EXISTING ENTRY DRIVE
Q	PEDESTRIAN CONNECTION TO MAIN STREET AND RR R.O.W.
R	PARKING LOT
S	POMO PLANTS GARDEN
T	NORTH SWALE / WET MEADOW
U	TSIWISH GATHERING AREA

PLANT COMMUNITY LEGEND (SEE PLANT LIST FOR ACTUAL PLANTS)

	UPLAND GARDEN PLANTS		BIOFILTRATION PLANTS
	NATIVE GRASS, MOWABLE		POMO PLANTS
	NATIVE GRASS WITH BULBS		JUNCUS AND ASSOCIATES
	BENTGRASS, MOWABLE		WET MEADOW COMPLEX
	SUCCESSION PLANTS		TURF BLOCK CELLS
	BULLRUSH		MULCH
	WILLOW PLANTS		CREEK PLANTS
	GREY WATER PLANTS		CHAPARRAL PLANTS
			REDWOOD UNDERSTORY PLANTS

LANDSCAPE MATERIAL LEGEND

	STABILIZED AGGREGATE PAVING, COLOR 1		MOSAIC TILES SET ON CONCRETE
	INTEGRAL COLORED CONCRETE		GRAVEL PAVE IN TURF BLOCK CELLS, S.C.D.
	BOARDWALK		PERMEABLE CONCRETE, S.C.D.
	INFILTRATION PATHWAY		NEW UNIT PAVERS
	PERMEABLE PATHWAY		STABILIZED AGGREGATE PAVING, COLOR 2
	REUSE (E) UNIT PAVERS		STABILIZED AGGREGATE PAVING, TYPE 3



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pgadesign.com

CITY OF UKIAH



STAMP



GRACE HUDSON NATURE EDUCATION PROJECT

PROGRESS PRINT
DATE PLOTTED: _____
NOT FOR CONSTRUCTION

Grace Hudson Museum
431 S Main Street
Ukiah, California

SUBMISSIONS		
NO.	DATE	DESCRIPTION
1	10/30/14	DRB SUBMISSION
2	12/19/14	90% CD SUBMISSION
3	2/19/15	100% CD SUBMISSION

SHEET TITLE

**SITE PLAN &
GENERAL PROJECT
NOTES 2**

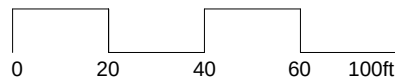
DATE
2/19/15

SCALE
1" = 20'-0"

DRAWN
Author

CHECKED
Checker

0.3





ITEM NO: 12b

MEETING DATE: October 7, 2015

AGENDA SUMMARY REPORT

SUBJECT: INTRODUCTION OF ORDINANCE BY TITLE ONLY TO DEFER WATER AND SEWER CONNECTION FEES UNTIL THE CERTIFICATE OF OCCUPANCY

Summary: City Staff is proposing the introduction of an ordinance that will allow water and sewer connection fees to be deferred until the certificate of occupancy.

Background and Discussion: The proposed Ordinance (Attachment 1) would amend Section 3861 of the City Code in Division 4 (utilities), Chapter 4 (Fees For Water Transmission, Storage And Production And Treatment Facilities), and Section 3732 of Division 4, Chapter 2 (Sewers), Article 12 (Fees for Connection to and Improvement of Sanitary Sewer System) for the purpose of deferring water and sewer connection fees until the certificate of occupancy.

A development fee deferral program can be a powerful incentive for development and job creation. To some extent, new business development has been inhibited by the reluctance of the lending industry to loan money on unproven financials, which makes it difficult to pay for the infrastructure improvements that are required to accommodate new development.

An ad hoc committee comprised of Councilmembers Doble and Mulheren worked with City Staff to evaluate various types of fee deferral programs and determined that, by modifying the City Code, the City of Ukiah could defer water and sewer connection fees until the certificate of occupancy with minimal risk to the City.

For longer-term deferrals, City Staff is preparing for participation in the Statewide Community Infrastructure Program (SCIP), which is sponsored by the California Statewide Community Development Authority (CSCDA) and supported by the League of California Cities. (See [http://cscda.org/Infrastructure-Finance-Programs/Statewide-Community-Infrastructure-Program-\(SCIP\).aspx](http://cscda.org/Infrastructure-Finance-Programs/Statewide-Community-Infrastructure-Program-(SCIP).aspx) for more info.) The SCIP program is a pooled tax exempt bond financing program which can finance impact /connection fees and

Continued on Page 2

Recommended Action(s): Introduce Ordinance by title only amending Section 3861 in Division 4, Chapter 4 of the Ukiah City Code, entitled "Fees for Water Transmission, Storage, and Production and Treatment Facilities" and Section 3732 in Division 4, Chapter 2, Article 12 of the City Code Entitled "Fees for Connection to and Improvement of Sanitary Sewer System."

Alternative Council Option(s): Decline to take these actions and provide direction to staff.

Citizens advised: N/A

Requested by: Councilmembers Doble and Mulheren

Prepared by: Shannon Riley, Senior Management Analyst and David J. Rapport, City Attorney

Coordinated with: Sage Sangiacomo, City Manager, Kevin Thompson, Principal Planner

Attachments: 1. Ordinance of the City Council of the City of Ukiah amending Section 3861 in Division 4, Chapter 4 of the Ukiah City Code, entitled "Fees for Water Transmission, Storage, and Production and Treatment Facilities" and Section 3732 in Division 4, Chapter 2, Article 12 of the City Code Entitled "Fees for Connection to and Improvement of Sanitary Sewer System."

Approved: 
Sage Sangiacomo, City Manager

public improvements for private developments. There is no cost for the City to participate; SCIP offers 30-year tax-exempt financing at an interest rate of approximately 5%. SCIP shoulders the risk and administers the program. CSCDA provides a draft resolution that would need to be adopted by Council, which would authorize CSCDA to act as the issuer and administrator for the program. These items will be brought forward at a future Council meeting.

Staff is recommending that in-lieu park fees implemented under the Quimby Act *not* be included in this deferral proposal due to potential administrative complications and the relative infrequency of their application. These fees are imposed as part of approving a tentative subdivision map or a parcel map for residential property. Under UCC Sec. 8409, the fees must be paid at the time of filing the final map or parcel map. This makes collection of the fees simple, because the subdivider can't complete the subdivision without paying the fees. If the fees are deferred until a certificate of occupancy is issued for each parcel created by the subdivision, Staff would need to determine whether all of the Quimby Act fees are due when the first certificate of occupancy is issued, if the fees would be pro-rated on some basis among all of the parcels and are due pro-rata when the certificate is issued for each parcel, or whether the fees would be deferred until a certificate is issued for the last parcel to develop. It is also likely that the certificate of occupancy would be issued to someone other than the subdivider, so the result could be that someone who purchased the parcel wouldn't be able to occupy the improvements until he pays the Quimby Act fee.

Staff is recommending introduction by title only the attached ordinance amending Sections 3861 and 3732 of the City Code to allow for deferral of water and sewer connection fees until the Certificate of Occupancy. Upon adoption of the same ordinance, promotional materials will be provided to help publicize this service.

Fiscal Impact:

FISCAL IMPACT:				
Budgeted Amount in 15-16 FY	New Appropriation General Fund	Account Number	Budget Amendment Required	Previous Contract or Purchase Order No.
\$0	N/A	N/A	Yes ☐ No ☒	N/A

ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING SECTION 3861 IN DIVISION 4, CHAPTER 4 OF THE UKIAH CITY CODE, ENTITLED "FEES FOR WATER TRANSMISSION, STORAGE AND PRODUCTION AND TREATMENT FACILITIES" AND SECTION 3732 IN DIVISION 4, CHAPTER 2, ARTICLE 12 OF THE CITY CODE ENTITLED "FEES FOR CONNECTION TO AND IMPROVEMENT OF SANITARY SEWER SYSTEM"

The City Council of the City of Ukiah hereby ordains as follows.

SECTION 1

1. Section 3861 in Division 4 of the Ukiah City Code is hereby amended to read as follows.

§3861 WATER CONNECTION FEES

The storage and transmission and production and treatment facilities' fees are based on the size of the service. Said fees shall be due and payable prior to use and occupancy of the new facility requiring the service. No Certificate of Occupancy shall be issued and permanent water service shall not be provided until payment is received.

Meter Size	Fee per Connection
3/4"	\$1,569
1"	\$2,615
1 1/2"	\$5,230
2"	\$8,368
3"	\$16,736
4"	\$26,150
5" and larger	To be determined by City Council

2. Section 3732 in Division 4, Chapter 2, Article 12 of the Ukiah City Code is hereby amended to read as follows.

§3732 SEWER CONNECTION AND IMPROVEMENT FEES; TIME OF PAYMENT

The fees set forth above shall be due and payable prior to use and occupancy of the new facility requiring the service. A Certificate of Occupancy shall not be issued and permanent sewer service shall not be provided until payment is received.

SECTION 2

This Ordinance shall become effective 30 days after its adoption and shall be published as required by law.

Introduced by title only on October 7, 2015 by the following roll call vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Adopted on _____, 2015, by the following roll call vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Douglas F. Crane, Mayor

ATTEST:

Kristine Lawler, City Clerk



ITEM NO.: 12c

MEETING DATE: October 7, 2015

AGENDA SUMMARY REPORT

SUBJECT: RECEIVE STATUS UPDATE FROM CITY OF UKIAH'S LIAISONS TO THE MENDOCINO COUNTY HEALTH AND HUMAN SERVICES ADVISORY BOARD AND AUTHORIZE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT FOR THE RELEASE OF \$30,000 TO THE MENDOCINO COUNTY AIDS/VIRAL HEPATITIS NETWORK FOR THE OPERATION OF AN EMERGENCY WINTER SHELTER CONTINGENT UPON DEMONSTRATION OF READINESS

Summary: In the fiscal year 2015-16 budget hearings, the City Council allocated \$30,000 to help fund a winter homeless shelter. An Emergency Shelter Committee originally established under the Mendocino County Health and Human Services Advisory Board (with liaisons Councilmembers Brown and Mulheren) has continued to meet with advocacy groups and through their work, a temporary location and service provider have been identified.

Background: With the close of a permanent homeless shelter, the Emergency Shelter Committee with City Council Liaison's Brown and Mulheren have been working to establish an emergency shelter during the winter months.

Discussion: A temporary location on Mazzoni Street has been identified to serve as the emergency shelter. This location falls within the Homeless Shelter Overlay Zone recently established for the purposes of meeting the requirements for the General Plan Housing Element.

The attached draft *Inland Valley Shelter Policies* state that the shelter will be able to accommodate 46 guests per night along with three staff.

The Mendocino County AIDS/Viral Hepatitis Network (MCCAVHN) will be the lead operator and will be hiring and handling financial matters through their 501(c)3. Several other organizations are collaborating to advise and assist within their expertise and provide case management, mental health services and other resources when possible. Among those assisting are:

Continued on Page 2

RECOMMENDED ACTION(S):

1. Receive status update from the City of Ukiah Liaisons to the Mendocino County Health and Human Services Advisory Board (Councilmembers Brown and Mulheren)
2. Authorize the City Manager to negotiate and execute an agreement for the release of \$30,000 budgeted in the FY 15-16 Budget (Miscellaneous General Government; Contractual Services; 10012400.52100) to the Mendocino County AIDS/Viral Hepatitis Network for the operation of an Emergency Winter Shelter contingent upon demonstration of readiness.

ALTERNATIVES: Receive report and provide alternate direction to Staff

Citizens advised: Emergency Shelter Committee
Requested by: Councilmembers Brown and Mulheren
Prepared by: Sage Sangiacomo, City Manager and Charley Stump, Planning and Community Development Director
Coordinated with: Shannon Riley, Senior Management Analyst
Presenters: Councilmembers Brown and Mulheren; and Sage Sangiacomo, City Manager
Attachments: 1. Draft Inland Valley Shelter Policies

COUNCIL ACTION DATE: _____ : ☐ Approved ☐ Continued to _____ ☐ Other _____

RECORDS APPROVED: ☐ Agreement: _____ ☐ Resolution: _____ ☐ Ordinance: _____

Note: Please write Agreement No. in upper right corner of agreement when drafted..

Approved: 
Sage Sangiacomo, City Manager

- Mark Rohloff, the Shelter Advisor and former Executive Director of Ford Street and the Buddy Eller Center
- Redwood Community Services, for facility consultation, program development, and human resource management consulting
- Plowshares, for providing emergency daytime shelter as needed and meals
- Project Sanctuary, for program development and domestic violence counseling and assistance
- Manzanita Services, for Mental Health First Aid training for shelter staff and case management for Manzanita clients as needed

The Inland Valley Shelter will require some minor renovations to the space prior to opening for service and City of Ukiah staff are prepared to expedite the process to the best of our ability. Additionally, the installation of fire sprinklers would typically be required in order to use a commercially-zoned property for residential purposes. However, the Fire Marshall has determined that that requirement may be waived with the provision that this is a temporary use for a period not to exceed 120 consecutive days.

In response to the work done by the Committee and the impending need for action, Staff is recommending authorization for the City Manager to negotiate and execute an agreement for the release of \$30,000 budgeted in the FY 15-16 Budget (Miscellaneous General Government; Contractual Services; 10012400.52100) to the Mendocino County AIDS/Viral Hepatitis Network for the operation of an Emergency Winter Shelter contingent upon demonstration of readiness.

FISCAL IMPACT:			
Budgeted Amount in 14-15 FY	Source of Funds (Title & No.)	Account Number	Budget Amendment Required
\$30,000	Misc. General Gov. Contractual Services	10012400.52100	Yes ☐ No ☒

INLAND VALLEY SHELTER

Policies

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INLAND VALLEY SHELTER (IVS)

Policies

Overview

The Inland Valley Shelter (IVS) is a seasonal shelter located in the newly created Ukiah Shelter Overlay Zone at **943 Mazzoni Street, Ukiah, CA**. The shelter facility will be able to accommodate 46 quests per night and three staff. There are no other shelters located within .50 miles. The facility is close to government offices and guests are able to utilize other service locations for meal service, food bank, youth resource center and community center by using mass transit or walking.

Separate offices are available inside the shelter for intake and more confidential client services. Partner organizations may request to use the office space to provide “in the field” and “street outreach” client services.

PHILOSOPHY

The purpose of the Inland Valley Shelter is to provide a warm, dry, safe place to sleep for guests who have nowhere else to go with the intent of minimal negative impact on the neighboring community.

Chronic homelessness has a high priority due to its particularly tragic and costly impact on the individual, family and community. While this cohort is relatively small compared to the larger homeless population, those experiencing chronic homelessness represent not only the neediest clients served by the Shelter and the wider service system but also the most problematic in terms of resource utilization and associated costs as these clients often have multiple health, co-occurring substance abuse and mental health issues, histories of unemployment, hospitalization, criminal backgrounds and legal issues. As a whole, this segment of the homeless population historically tends to utilize a disproportionate share of services and resources.

The homeless shelter was established to provide a safe alternative to the streets for homeless individuals in Mendocino County and to provide access to case management services that may prepare homeless individuals for transitional or permanent housing options as they may arise.

SHELTER OPERATOR

Mendocino County Aids and Viral Hepatitis Network (MCAVHN) is the lead operator and will be hiring and handling financial matters through their 501 (c)3. Several organizations are involved as a collaborative to advise and assist within their expertise and provide case management, mental health services and other resources when possible.

- Mark Rohloff is the Shelter Advisor and past Executive Director of Ford Street and the Buddy Eller Center.
- Redwood Community Services is providing facility consultation, program development and human resource management consulting. TAY behavioral health services.
- Plow Shares is providing emergency daytime shelter as needed during poor weather conditions and their meal program.
- Project Sanctuary is providing program development and Domestic Violence counseling and assistance
- Manzanita will provide Mental Health First Aid training for Shelter staff and case management for Manzanita clients at the shelter location when needed.

OTHER SERVICES

The shelter will utilize the Mental Health Crisis services available for adults and Transition Age Youth as needed.

HOURS OF OPERATION

The homeless shelter will be open from November 1st, 2015 until March 31st, 2016 on a daily basis, with operation occurring:

6:00pm to 8:00am 7 days a week

Individual guests may remain on site to engage in life skill, counseling, volunteer work and other supportive and housing services if accompanied by a case manager or shelter employee.

Loitering will not be permitted.

STAFFING

We need to discuss shifts and staff. Even if 2 staff are working 4/10hr days, we need to hire another 2 staff to cover the other 3 days. i need help with a work schedule.

MCAVHN will ensure that a minimum of two staff will be on duty at all times to supervise the guests and maintain safety, inside and outside. MCAVHN shall provide to each neighbor within 300 feet of the shelter the phone number to the staff at the homeless shelter and the names

and contact numbers for MCAVHN Administration to provide follow-up and review for any concerns not promptly resolved by the homeless shelter staff. Shelter staff will work with neighboring businesses and law enforcement to prevent or address concerns.

At least one staff on duty for any shift will be trained in Mental Health First Aid and Conflict De-escalation Skills.

<u>Two shifts</u>	4 hours	5:00pm to 9:00pm (Case Manager and Support Worker)
	12 hours	8:30pm to 8:30am (Case Manager and Shelter Support)

The Shelter Manager will work flexible hours during both shifts to ensure quality services, staff training and policy review.

- *.75 FTE Shelter Manager*
- *.5 FTE and 1 FTE Case Managers*
- *On-call staff*
- *.5 FTE and 1 FTE shelter support workers*
- *Trained Volunteers*

FACILITY HEALTH AND SAFETY

OBJECTIVE

The IVS will follow all federal, state, county regulations regarding Health and Safety for our guests and the facility. Physical Plant maintenance issues are addressed in the Maintenance policy and procedure.

Responsible: IVS Employees and Shelter Manager

PHYSICAL PLANT

- The IVS cannot exceed the maximum occupancy authorized by the City of Ukiah Fire Department for the entire shelter which will be clearly posted in the facility.
- Doors will not be blocked and floors will be free of tripping hazards and there will be 44 inches between objects in all walkways to the Exit areas.
- Exits will be clearly marked and Exit Plans will be posted in appropriate area.
 1. A map designating the location of the gas main will be conspicuously posted and known to the shelters on- site emergency-response designee.
 2. A gas shut-off tool must be attached near the gas main.

3. Instructions for using the gas shut-off tool must be posted next to the tool

- The daily room inspection by staff will specifically check that all outlets remain safe.
- IVS has a Chore List to ensure a safe, sanitary, clean and comfortable environment . Person(s) responsible for tasks indicated on the Chore List will be clearly identified and trained.
- Trash inside the facility is contained in appropriate trash receptacles and adequate supplies and equipment for housekeeping functions are available. A schedule is established and posted for collecting and discarding trash. Trash receptacles will be emptied on a regular basis
- Cleaning supplies are properly labeled and kept in a separate storage area away the reach of children. A Daily Chore List is posted for all parts of the facility including floors, walls, windows, doors, ceilings, fixtures, equipment, and furnishings.
- A Material Safety Data Sheet for Storage of Chemicals will be obtained from the Ukiah Fire Department and maintained where chemicals are stored on site. An additional copy of the sheet must be maintained in a location that can be accessed easily by staff and guests in the event of emergency and will be available upon request.
- A First Aid Kit will be kept on site at all times and staff will be trained in first aid and CPR. Urgent medical issues will be referred to the Emergency Room and other appropriate medical care providers.

MAINTENANCE

OBJECTIVE

The Inland Valley Shelter shall maintain a safe environment for guests and has a clearly identified person to whom guests can report maintenance problems. See Policy and Procedure on Health and Safety.

- The shelter addresses maintenance problems within a reasonable time period.
- The shelter has a checklist of routine maintenance activities and their frequency in a Maintenance and Repair Log
- All shelter equipment and furnishings are maintained so they are clean, safe and appropriate for the intended function.

Responsible: Shelter Staff (including volunteers) and Shelter Manager, Maintenance Personnel

BUILDING REPAIRS

- The Inland Valley Shelter has a building maintenance plan that is maintained by MCAVHN containing procedures that ensure regularly scheduled visual inspections for health and Safety issues.
- Staff will perform facility checks for neatness, cleanliness and safety.
- The results of the room and facility checks will be logged into a binder and kept on site.

- Routine maintenance is performed by qualified personnel, volunteers or commercial services as needed. Maintenance requests are given to the Shelter Manager.

SAFETY AND URGENT REPAIRS

- Safety issues will be brought to the attention of the Shelter Manager and any corrections that must be made will be clearly noted.
- A timeline for the correction will be established, and the issue will be corrected in a timely manner and logged in the Maintenance and Repair Log.

HEATING

IVS will maintain a temperature of at least 65 degrees during the winter months.

PEST CONTROL

- IVS will work actively to prevent pest infestation within the shelter and to control or eradicate pests as possible.
- The shelter takes precautions such as wiping up spills and crumbs frequently; storing food at least 6 inches off the floor and away from the walls; checking incoming boxes for insects and rodents excluding guests' personal belongings; filling in all crevices and cracks in walls; and elevating garbage containers off the floor. The shelter has pest-control inspections when needed.
- Material Safety Data Sheets for Exterminators are requested from any exterminators hired and will be kept on file. A Material Safety Data Sheet for Storage of Chemicals is maintained where the chemicals are stored on site. An additional copy of the sheets must be maintained in a location that can be accessed easily by staff and guests in the event of emergency and must be available upon request.

TELEPHONES

- The Inland Valley Shelter has a phone available 24 hours per day to contact the fire department, paramedics, police and site supervisor personnel, and posts a list of emergency numbers.
- The Shelter has or provides access to a phone that guests can use within reasonable limits. This phone is made as private as possible
- The Inland Valley Shelter takes incoming emergency phone messages for guests during business hours and has a process for making these messages available to them. To protect guest confidentiality, messages are taken without confirming whether or not the individual is a guest of the IVS.

BEDROOM/ SLEEPING AREA

- At a minimum, the shelter provides guests with a bed or a cot.
- Each guest is supplied with sheets, a pillow and pillowcase and at least one blanket. Bed linens are changed with each change of guest and, if occupied continuously by one person, clean linens are provided at least once a week.
- The shelter implements routine procedures for disinfecting the bed, mat, or cot and its cover with each change of guest.
- Appropriate cribs or beds will be provided to people with children.
- The Shelter will furnish each adult guest with a clean bed that is a minimum of 27 inches in width, solidly constructed, and in good repair.
- All children's furniture and equipment meets national safety standards. Donated furniture and equipment also must meet these standards.

INTAKE

Data collected at intake includes the name, gender, age, ethnicity, number of persons in household, housing and disability status, and Mendocino County residency. All staff is required to do intakes and all guests **MUST** have an intake completed by the end of the shift on the day of admit. Shelter workers will make sure to follow the steps to complete the intake process.

Each guest will be assigned a cot, linen, blanket, and pillow. Priority will be given to the following applicants:

- Ill or disabled – a case manager or medical note from another agency as proof or it can be verified by sight. Illness that is communicable without contact (other than a cold) will be referred to a medical facility.
- Elderly
- Pregnant and Parenting
- Adults with Children

Guests will not be discriminated against based on sex, age, race, ethnicity, sexual orientation, religion, or disability.

Guest will be screened and Registered Sex Offenders will not be permitted in the facility as children may be present.

Guest Orientation

- Guests should be shown their bed, the bathroom facilities, smoking area, activities area etc.
- Guests are given the Shelter Orientation to read. If a guest needs special accommodation, shelter staff will read the Shelter Orientation and answer any questions.
- Each new or returning guest is given a blanket, fresh linens and a towel. Linen exchange day is given at intake.
- House rules and other policies will be reviewed and places where they are posted should be pointed out.
- Fire exits will be pointed out and will be well-marked.

Returning guests should be re-oriented each time they have been absent for 30 days or more.

Once guests sign in, they are not allowed to leave the property. Guests leaving the property after signing in will be considered self-discharged. Any exceptions will be made on a case-by-case basis by prior arrangement with staff.

PROTECTION OF THE FAMILY UNIT

The IVS will provide accommodations which protect the family unit whenever possible, allowing parents and children to remain together.

VISITORS

The IVS does not permit guests to have visitors.

- Exceptions to the no visitors policy includes Case Managers, Probation/Parole Officers, Clergy, designated members of open 12-step meetings, Hospitality Committee members serving meals, and other service related individuals who have been approved by IVS Management.

LAUNDRY

- Clean bedding will be provided to each new guest and bedding will be **washed every 7th day** of use or as needed.
- Guest are given clean bedding and towels on admit. Bedding will be laundered and reissued on a 7 day rotation. Each guest is assigned a laundry day on admit.
- On the scheduled laundry day, the guest is to strip their bed and put soiled bedding into dirty laundry receptacle in each dormitory. Staff will reissue clean bedding for the guest to remake their bed each week

TOILET AND SHOWERS

OBJECTIVE

The Inland Valley Shelter has a sufficient supply of functional, clean, and reasonably private toilets and wash basins and showers through a mobile unit that is separated by sex and accessible to guests with disabilities.

Persons with infants and young children will be provided adequate space and equipment such as bathtubs, portable tubs, and basins for the bathing and changing of infants and young children. The shelter will attempt to accommodate guests' special needs in the provision of facilities.

Bathing

- Separate bathrooms for male and female guests are provided in ratios appropriate to the capacity of the shelter.
- Bathing and toilet facilities are maintained in working order with hot and cold running water.
- Showers have non-skid strips.
- Showers are accessible during evening hours only from check-in at 6pm until 8pm. Showers are available on a first come-first serve basis.
- Hot water used for washing and bathing does not exceed 120 degrees Fahrenheit.

Toiletries

- The shelter provides toilet tissue, soap, and a means for washing and drying hands.
- Towels and soap must be provided for showers.
- Containers are provided for disposal of feminine hygiene products.
- To the extent practicable, the shelter will provide for guests' special needs. If accommodation cannot be made, alternative arrangements will be made with other agencies when possible.

GUESTS RIGHTS

The Inland Valley Shelter will provide guests with on- going opportunities to voice opinions, to participate in IVS operation and programming, and to make suggestions regarding programming and house rules.

- Weekly meetings will be held with guests and staff.
- Shelter guests are entitled to be treated in a manner that respects their dignity and individuality.
- Guests are entitled to enjoy a safe and healthful living environment in the Shelter.

- IVS staff will provide reasonable accommodations under fair housing laws when such accommodations are necessary because of their disability.
- Guests are entitled to remain in the IVS and not be involuntarily removed or terminated without reasonable notice, good cause, and due process procedures.
- The IVS will provide fair, appropriate and standardized procedures for determining eligibility, admissions, sanctions, dismissals, and for resolving grievances.
- Shelter guests will be afforded reasonable privacy and confidential treatment of personal, social, financial, medical, mental and behavior health records, except as necessary by law or by consent.
- Guests have the right to participate in goal-setting treatment planning, monitoring, and discharge planning with the organization of their choice.
- Guests have the right to voice concerns.
- Guests have the right to participate in decisions regarding medications.
- Guests have the right to refuse medication and to refuse to participate in "therapeutic treatment" or activities.
- Guests have the right to choose health care providers.

NON-DISCRIMINATION

IVS guests must be protected against all forms of discrimination.

The Inland Valley Shelter staff will respect and reasonably accommodate personal and cultural differences associated with race, religious creed, color, national origin, ancestry, language, disability (physical or mental), medical condition, marital status, familial status, age, gender, sexual preference, source of income, or political affiliation.

The IVS will take immediate action up to and including disciplinary action and/or termination against an employee who violates the IVS policy against harassment and/or discrimination.

Reasonable Accommodation

- IVS staff will not ask questions about a guest's disability, unless it is directly related to the provision of service to the guest.
- If a guest requests a change in policy or procedure as an accommodation of his/her disability, IVS will grant the accommodation when the accommodation is both reasonable and necessary.

When a reasonable accommodation request is made, the shelter manager may obtain medical verification from the requestor that the accommodation is reasonable and necessary.

Guests with disabilities will be afforded reasonable accommodations. Admission to the shelter will not be denied because of disability.

CODE OF CONDUCT

The following Agreements will be signed by each guest upon intake to IVS:

- **RESPECTFUL** - IVS guests will maintain respectful behavior towards all staff, volunteers, guests, and the neighborhood. Being respectful includes not swearing, stealing or pressuring anyone.
- **PEACEFUL** - Guests will not participate in any violent or abusive behavior, physical or verbal including the use of abusive language and/or threats towards others. Violations may be grounds for immediate termination from the IVS.
- **SUBSTANCE FREE** -No use of alcohol/drugs at the IVS. Do not have alcohol or any illegal substance in your possession while at the IVS. Smoking is allowed only in designated outside areas.
- **CLEAN** - IVS guests are expected to maintain an acceptable level of personal hygiene.
- **PERSONAL SPACE** is to be kept free of clutter and beds are to be made daily.
- **SAFE & PRIVATE**- IVS guests are entitled to reasonable privacy. No sexual contact of any kind. No visitors are allowed at the IVS, and guests are not allowed in other guests sleeping areas. Access to the IVS is by Mazzoni Street only.
- **NEIGHBORLY**: IVS guests will respect the neighborhood by not littering or loitering.
- **COOPERATIVE**- IVS guests will participate in daily chores and requests of staff

The IVS may not be suitable for guests who are unable or unwilling to comply with the Participation Agreement. Violations of the rules will result in consequences. Depending on the severity of the violation (i.e. overt violence, abuse of children), a guests may or may not receive a verbal and/or written warning. Guest will read and initial the Immediate Termination Policy (See Exhibit ____)

STANDARD		STANDARD
No violent, threatening or abusive behavior		No borrowing possessions or money from other guests or staff
No alcohol or drugs		No sexual activity or pornography
No weapons or anything that could be intended to use as a weapon		No loitering/littering in the center or neighborhood at anytime
Maintain adequate hygiene		No visitors on the IVS grounds
No un-caged pets		Smoking only in designated outdoor areas

Other Non-Negotiable Rules:

Any non-violent violation except as noted above will be given verbal and written notices with action steps for the guest to come into compliance. Non-violent terminations are subject to the *Second Chance* process, and all terminations can access the *Grievance Process* with possible re-admittance after a determined period away from the Shelter.

PETS

Pets will only be permitted if space and animal crates are available on a first come first serve basis. Animals must have the ability to remain quiet throughout the night or crates will need to be relocated to

an outside area, or guest will need to vacate the shelter. MCAVHN will make contact with local animal shelters and veterinarians to assist with Rabies vaccines and other medical needs of pets.

GREIVANCES

IVS will have an internal procedure for resolving grievances. The grievance process and a statement regarding the guest's rights including reasonable accommodation and will post them in a place conspicuous and accessible to guests.

- Each guest will receive a copy of the grievance policy and form.
- The policy will be posted in at least two places in the facility
- IVS will provide an opportunity for mediation or a hearing within 72 hours.
- A person initiating a grievance will be given a copy of their written grievance.
- The Quality Assurance Committee comprised of Shelter and Advisory Committee Members will review the grievance. MCAVHN Director will be requested to assist.
- If guests are unable to resolve the situation, they may submit a written appeal.
- The Program Director will return a written response within 72 working hours.
- There will be no reprisal for utilizing the appeals process

CONFIDENTIALITY

Guest will be asked to sign an agreement (Exhibit ____) outlining the following information;

Staff at IVS will not share personal information about guest's goals and needs. When we refer guests to other community services and programs, relevant information will be shared with staff in those programs. A Release of Information form is required to share information with programs outside of the Inland Valley Shelter and MCAVHN. We encourage guests to authorize the sharing of information necessary to ensure that service providers are working together to support our guests goals. Guests will not be denied services based on their willingness to sign the Release of Information Form. Confidentiality will be maintained after they leave the IVS

IVS and MCAVHN are required by law to share information about guests under the following circumstances:

- If they are at imminent risk of harming themselves
- If they made a threat to harm another person
- If there exists a possibility/suspicion of child or dependent adult abuse while the guest is receiving services at the Shelter

PROPERTY SEARCHES

The IVS rules include the policy and procedures governing how and when searches of guest's private possessions may be conducted. Searches may only be conducted when IVS staff has a sufficiently compelling reason to conduct such searches, and the search is the least intrusive means to accomplish the goal.

- Before a search is conducted, the IVS's written search policy will be given to the person to be searched.
- IVS staff will be trained on how and when to conduct searches.
- a search is required in order to find a weapon, illegal material, drugs, alcohol, or stolen property.
- Searches must be conducted in the presence of at least two IVS staff members.
- If the person does not consent to the search, and "probable cause" to search exists, the person must be given the choice of being discharged or being searched.
- Whenever possible, the individual must be given an opportunity to be present during all inspections of his or her belongings.
- Illegal contraband confiscated during a search may be turned over to law enforcement.
- When circumstances permit, senior management should supervise interactions with law enforcement.

Documentation of a search must include:

- When a search was conducted; Date, day, time
- What was the "probable cause" that required the search; and
- the individuals' name(s), gender(s) and role(s) who were present at the search.
- Was law enforcement was present? If so, who
- What was the outcome of the search?

(See Exhibit ____)

INLAND VALLEY SHELTER

IMMEDIATE TERMINATION VIOLATIONS

No Violent or Abusive Behavior: Immediate and full termination will occur with the following: 1) Battery/Assault Violence that presents a serious threat to the well-being of anyone 2) Threatening an individual with a weapon 3) Destroying and vandalizing property. Other immediate termination violations include 4) Theft of property, 5) Intimidating children or other guests, 6) Urinating/defecating on the property, These violations can carry either full termination, or a significant period of time out of the shelter, dependent upon severity of violation, as determined by the shelter staff team. 8) Verbal or physical threats 9) Racial or sexual slurs, 10) inappropriate sexual behavior are immediate 30-day termination.

_____ Initial

No Alcohol or Drug Use: Immediate and full termination will occur with 1) Sale of drugs on the premises Other violations such as 2) Possession of drugs on the property are grounds for immediate termination and time out determined by Second Chance Hearing 3) Being under the influence while on premises will be treated as a behavioral issue and guest will be given an Action Plan (Behavioral Contract) that stipulates conditions for continued stay Failure to comply with plan will result in referral to alcohol/drug treatment or 30 day termination

_____ Initial

No Weapons (or anything that is intended to be used as a weapon): For the security and safety of all involved in the shelter program, knives, guns or other weapons will not be allowed. If a potential guest has a weapon with them, they must make arrangements satisfactory with MCAVHN staff for turning it over. Guests will be immediately terminated for concealing weapons or making weapons during their stay. (Not eligible for Second Chance)

_____ Initial

Any toys such as guns or knives or other symbols of violence will be confiscated immediately.

Other Non-Negotiable Rules:

1. Not taking staff direction or redirection
2. Sexual activity
3. Pornography
4. Borrowing possessions or money from other guests or staff
5. Smoking except in designated areas
6. Visitors/all sleeping areas are private
7. Loitering anywhere around the shelter premises at any time (day or night) or in the neighborhood

_____ Initial

Any non-violent program violation except as noted above will be given verbal and written notices with action steps for the guest to come into compliance. Non-violent terminations are subject to the Second Chance process, and all terminations can access the Grievance Process with possible re-admittance after a determined period away from the Center.

Liability Waiver

MCAVHN will attempt to provide a safe and secure environment for all shelter guests. However, the agency is not to be held responsible for unforeseen accidents. By initialing this statement and signing this form you are waiving MCAVHN of any liability concerning damage to personal property, bodily harm, or death caused by any means. _____ Initial

Parental Supervision

Parents must supervise their children at all times (17 and younger); staff is a mandated reporters and will report any witnessed or suspicion of abuse or neglect to CPS/APS or other appropriate authorities.

Parents must notify shelter staff if they leave their child(ren) under the supervision of another Guest for more than 10 minutes. _____ Initial

Night Time Voluntary Discharges

Any guest who leaves the Shelter after check-in, or otherwise voluntarily exits the Shelter, will be considered a self-discharge and may not readmit for 7 days. Each subsequent self-discharge may result in an increased increment of time out (7, 14, 21, 28 days)

_____ Initial

Signature of Applicant

Date

Witness

Date

JOB DESCRIPTION

TITLE: Winter Shelter Manager
LEVEL: \$15.00/hour starting (Non-Exempt)
FTE: Regular - Full and Part Time
REPORTS TO: Shelter Manager
SUPERVISORIAL DUTIES: Supervise up to six employee and volunteers

Summary: This is a full-time management position with varying shifts (12 am- 8 am), Responsible for monitoring and interacting with clients in a 47-bed shelter for Homeless adults, supervisor staff and maintaining positive community relationships.

Essential Job Functions:

The following duties are mandatory requirements of the job.

- Coordinate services with other organizations and case managers
- Complete intake screening and orientation of new clients
- Provide appropriate intervention and conflict resolution where/when necessary
- Complete required client related documents in the HMIS database
- Update daily log book and Client Worker forms
- Conduct hourly floor and facility safety checks
- Provide emergency coverage for the next shift when necessary (double shifts)
- Report daily census count to the Department of Homeless Services
- Prepare and assist with transportation to meals as needed
- Responsible for stripping of rooms, bagging, storing and retrieving client personal belongings
- Assist with monthly fire drills and completing reports
- Oversee weekly General Inspection
- Monitor fire safety and critical file log books on a monthly basis
- Answer phone and direct calls to appropriate staff persons
- Participate in fundraising events
- Attend all mandatory meetings, training's and events

Other Responsibilities:

- Supervise volunteers and shelter workers
- Other administrative duties as assigned by the Director

Education and Certification:

- BA with minimum of 2 years' experience working with Homeless adults, or AA with 4 years' experience or satisfactory equivalent.
- Trained in Mental Health First Aid

Special Skills and Knowledge:

- In addition to the above -listed job responsibilities and educational requirements, the ideal candidate for this position possesses most or all of the following:
- Good oral and written communication skills
- Knowledge of special needs populations
- Familiarity with DHS procedures
- Knowledge of MS Word, Internet, email

Training

Training will be required in the areas of crisis response, emergency response, disease prevention, counseling skills, cultural sensitivity, sexual harassment, mandated reporting and procedures, sensitivity to wider issues of homelessness, first aid and CPR, and other topics as needed.

Reasoning Ability

Ability to apply common sense understanding to carry out detailed but uninvolved written or oral instructions. Ability to deal with problems involving a few concrete variables in standardized situations.

Certificates, Licenses, Registrations

CPR and First Aid Certified, Current CA Driver's License and Proof of Insurance. Recent Physical Exam, TB test. Clear fingerprint background check and Child Abuse Index. AA in Human Services field preferred.

Other Qualifications

Must be able to Drive and use personal vehicle and have the ability to work a flexible schedule (including nights) on a regular basis. Bi-Lingual in Spanish/English Preferred.

Physical Demands

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this Job, the employee is frequently exposed to outside weather conditions. The employee is occasionally exposed to moving mechanical parts. The noise level in the work environment is usually moderate.

Work Environment

The Winter Shelter is open November 1st thru March 30th and the program located at Mazzoni Street. The program serves homeless clients, many of whom also have substance abuse or mental health issues, or both, and many who are homeless for economic or other reasons. The shelter is a non-smoking (only in designated outside areas), drug-free workplace.

Harassment and discrimination based on gender, ethnicity, race, religion, sexual orientation, disability, and age is not tolerated. The Shelter is a work environment requiring professional and respectful behavior towards clients, coworkers, donors, volunteers and visitors. The dress code is casual.

Salary and Benefits

This is an exempt position. This is a seasonal position and no benefits other than required by law are provided.

MCAVHN is an "At-Will" Employer. You may resign at any time, with or without cause and without prior notice, and the employer reserves the same right to terminate my employment at any time, with or without cause and without prior notice except as may be required by law. This job description does not constitute an agreement or contract for employment for any specified length of time. No supervisor or representative is authorized to make assurances to the contrary.

I have read the description of the position for which I am hired. I will notify my employer if there is a duty, responsibility, ability, skill, qualification or physical demand that I am not able to meet.

Print Name: _____

Employee Signature

Date

JOB DESCRIPTION

TITLE: Shelter Worker I
LEVEL: \$10.00/hour starting (Non-Exempt)
FTE: Regular – Full and Part Time
REPORTS TO: Shelter Manager
SUPERVISORIAL DUTIES: None

Summary

Under the supervision of the Shelter Manager, the Shelter Worker will be responsible for the day to day activities in the shelter, including, but not limited to, client intake, crisis management and response, cleaning, security, and safety. Other duties as assigned by manager. Evening and night shifts are available, but all shelter workers must be able to perform the duties of either shift.

SPECIFIC DUTIES AND RESPONSIBILITIES

Evening Shift:

- Open and prepare facility for operation each evening.
- Screen, intake, assess and admit guests to the shelter.
- Orient guests to shelter rules and regulations.
- Maintain facility records (inventory, incident reports, and guest data) as necessary.
- Enforce and follow shelter rules and regulations.
- Provide crisis intervention and basic counseling to guests.
- Provide resource and referral to guests for additional services.
- Monitor and follow-up guest progress.
- Provide written report(s) to manager as needed.
- Report child and elder abuse incidents per mandated reporter protocols.
- Respond to crises or emergencies.
- Work with local law enforcement.
- Work with outreach workers from other social service, human service, and medical agencies.
- Monitor safety and security of facility, including exterior areas
- Maintain cleanliness of facility.

Night Shift: awake

- Monitor safety and security of facility, including exterior areas
- Maintain facility records (inventory, incident reports, guest data) as necessary.
- Enforce and follow shelter rules and regulations.
- Provide crisis intervention and basic counseling to guests.
- Work with outreach workers from other social service, human service, and medical agencies.
- Respond to crises or emergencies.
- Report child and elder abuse incidents per mandated reporter protocols.
- Monitor guests and pets throughout the night.
- Work with local law enforcement.
- Provide written report(s) to supervisor as needed regarding incidents, accidents, supplies needed, status of cots, etc.
- Awaken guests and supervise exit.
- Thorough cleaning and set up of facility each morning (incl. laundry, mopping, cots).
- Locking and shutting down facility.

JOB QUALIFICATIONS

- Experience working with homeless families (including children) and individuals.
- Experience with crisis response and management.
- Ability to work as a team member with staff and with a variety of volunteers.
- Ability to exercise good judgment.
- Ability to *follow* both oral and written directions.
- Ability to *communicate* effectively both orally and in writing.
- Demonstrated ability to show patience, compassion and sensitivity to homeless people.
- Ability to treat clients with respect.
- Ability to maintain client confidentiality.
- Ability to maintain attitude of fairness and objectivity.
- Counseling and / or mediation experience.
- Some knowledge of social and human service programs in greater Ukiah.

Training

Training will be required in the areas of crisis response, emergency response, disease prevention, counseling skills, cultural sensitivity, sexual harassment, mandated reporting and procedures, sensitivity to wider issues of homelessness, first aid and CPR, and other topics as needed.

Reasoning Ability

Ability to apply common sense understanding to carry out detailed but uninvolved written or oral instructions. Ability to deal with problems involving a few concrete variables in standardized situations.

Certificates, Licenses, Registrations

CPR and First Aid Certified, Current CA Driver's License and Proof of Insurance. Recent Physical Exam, TB test. Clear fingerprint background check and Child Abuse Index. AA in Human Services field preferred.

Other Qualifications

Must be able to Drive and use personal vehicle and have the ability to work a flexible schedule (including nights) on a regular basis. Bi-Lingual in Spanish/English Preferred.

Physical Demands

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is regularly required to stand; walk; sit and talk or hear. The employee is frequently required to use hands to finger, handle, or feel and reach with hands and arms. The employee is occasionally required to climb or balance and stoop, kneel, crouch, or crawl. The employee must regularly lift and /or move up to 10 pounds and occasionally lift and/or move up to 50 pounds. Employee will need to be able to stay awake through any nightshift work schedule. Specific vision abilities required by this job include close vision, distance vision, peripheral vision, depth perception and ability to adjust focus.

Work Environment

The Winter Shelter is open November 1st thru March 30th and the program located at Mazzoni Street. The program serves homeless clients, many of whom also have substance abuse or mental health issues, or both, and many who are homeless for economic or other reasons. The shelter is a non-smoking (only in designated outside areas), drug-free workplace.

Harassment and discrimination based on gender, ethnicity, race, religion, sexual orientation, disability, and age is not tolerated. The Shelter is a work environment requiring professional and respectful behavior towards clients, coworkers, donors, volunteers and visitors. The dress code is casual.

SALARY AND BENEFITS

This is a non-exempt position and employees are paid by the hour. This is a seasonal position and no benefits other than required by law are provided.

MCAVHN is an At-Will Employer. You may resign at any time, with or without cause and without prior notice, and the employer reserves the same right to terminate my employment at any time, with or without cause and without prior notice except as may be required by law. This job description does not constitute an agreement or contract for employment for any specified length of time. No supervisor or representative is authorized to make assurances to the contrary.

I have read the description of the position for which I am hired. I will notify my employer if there is a duty, responsibility, ability, skill, qualification or physical demand that I am not able to meet.

Print Name: _____

Employee Signature

Date



ITEM NO: 12d

MEETING DATE: October 7, 2015

AGENDA SUMMARY REPORT

SUBJECT: DISCUSSION AND POSSIBLE APPROVAL OF CURBSIDE FOOD WASTE COLLECTION PROGRAM, AND TO IMPLEMENT THE PROGRAM, CONSIDERATION AND APPROVAL OF THE FIRST AMENDED AND RESTATED WASTE COLLECTION CONTRACT AND THE SECOND AMENDED AND RESTATED TRANSFER STATION AGREEMENT

Summary: Council will consider a food waste collection program that will incorporate the food waste stream into the green waste stream to be picked up with regular garbage service at the curbside. This program requires contractual changes to the Waste Collection and Transfer Station contracts the City has in place, including modification of an agreement among SWS (Transfer Station Operator), UWS (City Waste Collector) and PRS (Recycling Company) which is an exhibit to both contracts.

Background and Discussion:

Information: An explanation of the different companies that are involved in this proposed food waste program is provided below to assist in understanding the program and the proposed contractual changes.

Recommended Action(s): Approve: (1) Mixed Organic Waste Recycling Program, including delivery of Mixed Organic Waste to the PRS Facility for consolidation and transport to Cold Creek Compost; (2) First Amended and Restated Waste Collection Agreement between City of Ukiah (City) and Ukiah Waste Solutions (UWS), including restated and amended Exhibit D thereto; (3) Second Amended and Restated Transfer Station Agreement between City and Solid Waste Solutions (SWS), including amended and restated Exhibit A thereto; and (4) Authorize City Manager to sign approved agreements.

Alternative Council Option(s): Decline to take these actions and provide direction to staff.

Citizens advised: N/A

Requested by: Sage Sangiacomo, City Manager

Prepared by: Tim Eriksen, Public Works Director and David J. Rapport, City Attorney

Coordinated with: Sage Sangiacomo, City Manager

Attachments: 1. Signed agreement between Cold Creek Compost (CCC) and Pacific Recycling Solutions (PRS) re: Mixed Organic Waste (MOW); 2. First Amended and Restated Waste Collection Agreement between City of Ukiah (City) and Ukiah Waste Solutions (UWS) redlined to show changes to existing Waste Collection Contract; 3. First Amended and Restated Waste Collection Agreement without redlining; 4. Second Amended and Restated Transfer Station Agreement between City and Solid Waste Solutions (SWS), redlined to show changes to existing First Amended and Restated Transfer Station Agreement; 5. Second Amended and Restated Transfer Station Agreement without redlining; 6. First Amended and Restated Wood, Green and Mixed Organic Waste Agreement between PRS and UWS/SWS, redlined to show changes to existing Wood and Green Waste Agreement; 7. First Amended and Restated Wood, Green and Mixed Organic Waste Agreement without redlining

Approved:


Sage Sangiacomo, City Manager

- **Cold Creek Compost (CCC)** This facility is a composting facility. With respect to the City of Ukiah's proposed food waste program it is the disposal site for the mixed organics. CCC, Inc. is the company that operates the facility which is fully permitted to accept mixed organic material. Mixed organic material is the combination of green waste and food waste. This unique facility, located in Potter Valley, is the only one of its kind in our region and will process the City's mixed organics for agricultural end users.
- **C&S Waste Solutions (C&S)** This is a fully integrated family of companies. They are the parent company to all the companies below and have a common ownership.
- **Solid Waste Systems (SWS)** This is the company that contracts with the City to operate the transfer station.
- **Ukiah Waste Solutions (UWS)** This is the company that contracts with the City to pick up the garbage, green waste and recycling from the curbside containers. UWS is a waste collection company and is the City's franchised waste hauler.
- **Pacific Recycling Solutions (PRS)** PRS is located on North State Street and at the end of Taylor Drive on property known as the "old Thomas pear sheds". PRS, Inc. is a recycling company that receives many different materials including the recycling (blue can) and the green waste (green can) from the Ukiah trucks of UWS. However, it is important to understand that PRS receives and sorts material from multiple jurisdictions in Northern California. With respect to the proposed food waste program, this facility will receive the mixed organic waste from UWS and then collect it into larger loads to efficiently transport to CCC in Potter Valley.

1. HISTORY OF FOOD WASTE IN THE CITY OF UKIAH:

In April of 2013 the City Council directed City staff to work with UWS to develop and implement a food waste recycling program. The Council used the Waste Stream Use Exploration Ad Hoc committee to assist in providing direction for the development and implementation strategies of the pilot program. One of the guiding principles of the Ad Hoc was to develop a data set that accurately described the impacts of the food waste on the waste stream collected from the City solid waste customers. This data set was viewed as critical to inform the decision making related to food waste recycling. After several attempts to locate data for food waste impacts in the greater Ukiah Valley, it became apparent that there was not any existing local data available.

The Ad Hoc wanted actual data for the food waste in the City to determine the potential impacts of this fraction of the waste stream on the City's overall diversion rate. This data was important to the Ad Hoc and ultimately to the City Council in order to make decisions on the issue. The two most significant questions were: 1) what are the impacts of food waste generated in the City on the solid waste diversion rate? 2) What are the actual costs associated with collecting and processing the food waste that is generated in the City of Ukiah? The Ad Hoc determined that the way to compile the necessary data was to perform a food waste pilot program.

The food waste pilot program was comprised of two components. Phase 1 included commercial and institutional food waste generators and Phase 2 included residential food waste generators. Phase 1 began in April of 2013 and Phase 2 began in June of 2014. Both phases were completed in December of 2014.

The pilot food waste program was divided into the two afore-mentioned components; the commercial component and the residential component. It is estimated by CalRecycle that commercial food waste represents approximately 75% of the food waste stream. Based on this premise the commercial program was the first to be studied.

The commercial pilot (Phase 1) was started in April 2013 and ended in December of 2014. A total of 80 commercial food generators were identified in the City limits and were invited to participate in the program. The program was no-cost to the user and all training was provided by UWS to help set up a system for each individual business. The outreach effort to get participation in this program was significant and included

mailings, direct phone calls and visits. However, only five entities participated. An investigation of the other 75 businesses that had declined the program was performed and it was found that many of them were already handling their food waste in an acceptable way that did not negatively impact the diversion rate. For example, many of the large grocery stores backhaul their waste to composting facilities. Many of the local restaurants have reduced their wasted food and/or have their food waste collected by the local agricultural community for feed supplements. It was also determined that there are no large food waste generators (i.e., food processors) located in the City of Ukiah. The bottom line is that food waste is being reduced and diverted by many commercial generators in the City.

A much smaller portion of the food waste stream as determined by CalRecycle is the residential portion of the food waste stream. This portion of the waste stream is estimated by CalRecycle to be 25%. The residential pilot (Phase 2) was started June 2014. The program was offered to 4,404 (all residential customers) at no cost. A total of 143 customers chose to participate in the free program or 3.2% of the customer base. This program was deemed complete by the City Council and terminated in December of 2014.

2. PROGRAM TO CONVERT THE GREEN WASTE BIN TO A MIXED ORGANIC WASTE BIN FOR COMMINGLED GREEN WASTE AND FOOD WASTE:

History of the mixed organic option utilizing Cold Creek Compost: On May 20, 2015, the City Council gave direction to staff that the option of putting food waste into the green waste can was the preferred alternative for a food waste recycling program. At the meeting, it was clear that the City Council wanted this program available to the ratepayers as soon as possible. Staff agreed to start a rate review analysis of the options that were presented. These options did not involve the end user, only how the waste would be handled after it was picked up from the curbside cans. The most efficient option was for trucks picking up food waste at the curbside to deliver it to PRS to accumulate for transport to CCC in large transfer trucks.

Subsequently, the new City Manager, Sage Sangiacomo (who was not involved in this discussion prior to his appointment as City Manager) identified that the contractual terms for a compost recycling facility to accept the material from Ukiah must first be negotiated, regardless of how the waste stream was hauled. Fortunately, Cold Creek Compost is a locally owned and operated facility that offers organic waste recycling services and is willing to negotiate a potential alternative. For two decades, Cold Creek Compost has worked to develop the recycling and composting industry so that more waste can be diverted from landfills.

The contract between PRS and Cold Creek Compost for the potential food waste program is Attachment 1 and is to be considered by Council. In an effort to avoid further delays, staff has insisted on terms that would not result in an immediate rate increase for the added food waste service. Any alternative requiring an increase of the curbside waste collection rate would require a rate review and public hearing process under Proposition 218, which would delay consideration and implementation of a food waste recycling program. The City and C&S are already contractually scheduled to perform a Proposition 218 rate review process on all of the waste/recycling services in 2016.

In order to avoid a duplicative 218 process now and a second 218 process in 2016 both CCC and C&S made concessions. Cold Creek Compost agreed to freeze their current rate for the first year of the program. This will be made up in the following year when the rate contractually increases to the current rate for most MSW users at CCC's facility. The exact details of this rate adjustment are in Attachment 1, the agreement between the CCC and PRS.

In the same spirit of cooperation to move this program forward, PRS must commit to up front operational and capital costs. These costs will include capital improvements to the facility on Taylor Road, an educational campaign, as well as some changes to the existing green bins. Also they will experience some operational changes. The costs of all these changes are not wholly identified but will be as the program moves forward. These costs will be addressed in the rate review process and will need to be reimbursed.

3. REVISED AGREEMENTS:

Summary: A new agreement (“CCC Agreement”) between Cold Creek Compost (“CCC”) and Pacific Recycling Solutions (“PRS”), a First Amended and Restated Waste Collection Contract (“Restated Collection Contract”), a Second Amended and Restated Transfer Station Agreement (“Second TS Agreement”) and a First Amended and Restated Agreement for Receipt of Wood Waste, Green Waste and Mixed Organic Waste (“Restated PRS Agreement”) have been negotiated to implement a program for curbside collection of food waste in the green waste container from residential, multi-family residential, commercial and institutional customers. The program can begin as soon as PRS receives the required permits.

Under these agreements, described in more detail below, the City residents and businesses will be encouraged to recycle food waste by depositing it in the green waste container. The City’s waste hauler, Ukiah Waste Solutions (“UWS”) will collect this material, now called Mixed Organic Waste or MOW, at the curbside and take it to the PRS Facility at 3501 and 3515 Taylor Drive. PRS will collect the material until it will fill a transfer truck which it will drive to the CCC facility in Potter Valley for composting.

PRS has agreed to accept this material at the current rate of \$30/ton that it charges for green waste.¹ While it will incur substantial expenses to implement this program, including required improvements to its facility, PRS has agreed that those costs will be considered during the upcoming five year rate review, and rates will not increase until January 1, 2017, after those costs can be considered by the City Council during the rate review.

This deferral of any fee increase is made possible, in part, by CCC’s agreement in the CCC Agreement to keep its rate for accepting green waste and MOW at the current \$16/ton, until January 1, 2017, when its rate will increase to \$26/ton. Thereafter, under the CCC Agreement the rate will increase each year by 90% of the annual change in the consumer price index (“CPI”).

Under the PRS Agreement once the rate for MOW is revised during the rate review to be conducted in 2016, it will increase or decrease each year thereafter, beginning January 1, 2018, by 90% of the annual increase or decrease in the CPI with the increases in the CCC gate fee treated as a Pass-Through. The rate for segregated green and wood waste will increase each year by 100% of the annual increase in the CPI, but those increases will be subject to rate reviews every five years.

Detailed description of agreements: This description of the agreements does not include every change. For example, it doesn’t mention every section where the terms food waste or MOW have been added. The redlined and clean copies of the agreements are attached as exhibits to this ASR. The Council members are encouraged to read the attachments and staff will attempt to answer any questions you may have.

CCC Agreement: To implement the program, PRS and Cold Creek Compost (“CCC”) have signed an agreement which is attached as Attachment 1. That agreement has a seven year term to December 31, 2022, which coincides with CCC’s land lease for its composting operation. PRS has up to nine options to extend the contract in one year increments, which it can exercise, if PRS and the City determine that CCC has an extension of its lease or control of a substitute location of equal functionality. (Attachment 1, §2.1 and 2.2, pp. 3-4.)

¹ While PRS was entitled to cost of living increases on that \$30/ton fee, since 2011, it has not increased the fee in four years.

During the term or extended term of the agreement, PRS is obligated to deliver all Mixed Organic Waste ("MOW") collected by Ukiah Waste Solutions ("UWS") from the curbside in Ukiah (called "Local Tonnage" in §1.9) to CCC for composting. "Mixed Organic Waste" means green waste, food waste, paper tissues, paper napkins and towels, coffee grounds and filters, pizza boxes, food soiled paper plates and cups, and miscellaneous paper not suitable for recycling. (Attachment 1, §1.1, p. 1.) PRS may bring additional organic material to CCC, including mixed organic waste or agricultural organic waste from areas outside the City or collected from inside the City but not from the curbside. However, CCC's fee for this material is higher than the \$16/ton rate. (Attachment 1, §§ 1.2, 1.3, 1.10, 3.2.)

From the date when the City Council approves the Mixed Organic Waste Recycling Program until December 31, 2016, CCC will charge PRS \$16 per ton for the curbside MOW from the City. Commencing on January 1, 2017, that rate will increase to \$26 per ton. Each year thereafter the rate will increase or decrease by 90% of the change in the CPI in the twelve months before the most recent November 1. For MOW not collected from the curbside in the City, the rate is \$26 per ton until December 31, 2018 with the same cost of living adjustment as for curbside MOW from the City. PRS will pay CCC \$32 per ton for MOW from Sonoma County until December 31, 2018, with the same cost of living adjustment thereafter. (Attachment 1, §§ 6.1-6.3, p. 6.)

Under §8.2 CCC is obligated to indemnify the City for any claim or liability arising out of its receipt of Local Tonnage from PRS. §8.3 requires CCC to name the City as additional insured under Cold Creek CGL and environmental pollution insurance. §10.1 makes the City a Third Party Beneficiary under agreement, and §10.2 gives the City the right to assume or assign the CCC Agreement without liability for amounts owing from PRS, if PRS defaults.

First Amended and Restated Waste Collection Contract: Attachment 2 is a redlined version of this agreement ("Restated Collection Contract"), showing the changes from the current Waste Collection Contract which was entered in 2011. Attachment 3 is a clean version of Restated Collection Contract. The recitals² have been revised to delete reference to the "Strategic Plan" which was an attachment to the 2011 agreement. The reference is proposed to be deleted because the elements of the Strategic Plan have been implemented and it does not have any continuing significance. Reference to the Mixed Organic Waste Curbside Recycling Program has been added to the recitals. (Attachment 2, p. 1.)

Section 1.4 obligating the City to take reasonable steps to protect UWS ownership of solid waste placed at the curbside is amended to add reference to MOW. The definition of "Food Waste" has been expanded to include animal and vegetable foods, paper tissues, paper napkins and towels, coffee grounds and filters, pizza boxes, food soiled paper plates and cups, and miscellaneous paper not suitable for recycling. (Attachment 2, §2.14, p. 4.) This same definition is used in the CCC Agreement. A definition of Mixed Organic Waste has been added as Section 2.21 to include Green Waste combined with Food Waste. The definition of "Processing" has been amended to include MOW. (Attachment 2, §2.24.)

A definition of Processing Costs has been added as Section 2.25 to mean fees paid by UWS to a Processing Facility for processing various recyclable materials, including Green Waste, Food Waste, MOW, and Wood Waste. It states that the amount paid by UWS to PRS for Food Waste, MOW, Green Waste or Wood Waste delivered to PRS shall be determined as provided in an agreement between Solid Waste Systems ("SWS"), UWS and PRS, which is attached to the agreement as Exhibit D ("PRS Agreement").³ MOW is added to the definitions of "Solid Waste" and "Source Separated." (Attachment 2, §§ 2.31 and 2.32, p. 6.) Since the Restated Collection Contract is a restatement of the 2011

² Paragraphs at the beginning of the agreement beginning with "WHEREAS, . . ."

³ The PRS agreement is described in more detail below. The City is a third party beneficiary of the PRS Agreement with the same right to enforce the agreement as PRS, UWS or SWS and the CCC Agreement is Exhibit 1 to the PRS Agreement.

agreement, the beginning of its term is changed from January 1, 2011 to November 1, 2015 with the term reduced from fifteen years to eleven years and two months, so that the term of the Restated Collection Contract ends on the same date as the 2011 agreement. (Attachment 2, §3, p. 6.)

Under Services, MOW replaces Food in Section 5.1 covering Solid Waste and Section 5.2 covering Recyclables and is added to Section 5.3, requiring UWS to collect Green Waste and now MOW as well. Section 5.4, addressing Food Waste, which previously required UWS to commence a pilot program and negotiate for the terms of a permanent program to recycle Food Waste, now requires UWS to collect Food Waste in the Green Waste containers as a component of MOW. It provides that the program to recycle Food Waste can be modified subject to agreement between the City and UWS on a rate adjustment under Section 5.17.

Section 5.11(c) and (d) contain the main provisions governing the new MOW program. Under Subsection (c) UWS is required to deliver all MOW generated in the City from curbside collection from Residential, Multi-Family Residential, Commercial and Institutional Properties to the PRS Facility for transport from the PRS Facility to the CCC Facility during the term of and in accordance with the CCC Agreement which is attached as Exhibit 1 to the PRS Agreement (Exhibit D). PRS cannot exercise any of its nine 1-year options to extend the CCC Agreement without the approval of the City.

Subsection (d), which covers the use of alternate facilities for processing recyclable materials, is revised to provide that UWS and PRS may propose an alternate facility for taking MOW from the curbside in Ukiah, only if CCC refuses, due to no fault of Company, SWS or PRS, to accept Mixed Organic Waste that is not a Contaminated Load (as defined in the CCC Agreement) or if the CCC Facility shall shut down or cease operating.

Language is added to address the process for selecting an alternate Processing Facility for MOW, if CCC becomes unavailable for any reason. The provision is based on the assumption that once customers begin depositing Food Waste in the Green Waste bin, it will be difficult to stop them, even if CCC becomes unavailable. Based on that premise, the provision acknowledges that MOW cannot be stockpiled for long, so the City has 60 days from its receipt of a request from UWS to approve an alternate facility. The City has discretion to approve an alternate facility proposed by UWS or direct UWS to an alternate facility selected by the City. In either case, any increased transportation costs or gate fee for the use of the alternate facility will be treated as a pass-through adjustment to the curbside rate which generally become effective on January 1. If the City fails to approve an alternate facility within the 60 day time period, PRS can take the material to any properly licensed Processing Facility available at the rate for municipal solid waste charged at the Transfer Station with the portion of that cost in excess of the cost under the CCC Agreement treated as a pass-through cost.

Finally, the PRS disposal fee charged to UWS for MOW will be \$30 per ton (the same rate currently charged for Green Waste), until January 1, 2017. The rate for MOW beginning January 1, 2017, will be determined by the City Council during the five year rate review scheduled to occur in 2016. Section 5.11(d) provides that “. . . the adjustment shall include in the per ton rate all costs incurred by PRS to accommodate the Processing of MOW, including, but not limited to, the capital costs of improvements to the PRS Facility, operational costs, transportation costs, and other costs required to accommodate the New Program and shall allow for a reasonable profit.” The adjustment will also include the \$10 per ton adjustment under the CCC Agreement.

The agreement adds a Section 11.2 that requires any agreement between UWS and an Authorized Facility (defined as a Disposal or Processing Facility approved by the City) entered after the Effective Date of the agreement to name the City as a third party beneficiary with the same right as a party to enforce the agreement, to require City approval for any assignment of the agreement, and in the event of termination of the agreement by UWS based or resulting from a breach of the agreement by UWS, to allow the City to assume or assign the agreement without liability for any payments due but unpaid on the termination date.

Second Amended and Restated Transfer Station Agreement:

The Second Amended and Restated Transfer Station Agreement ("Second TS Agreement") is attached in redlined format as Attachment 4, showing the changes from the First Amended and Restated Transfer Station Agreement approved in 2011 ("First TS Agreement"), and a clean version of the Second TS Agreement is attached as Attachment 5.

The recitals in the Second TS Agreement are changed as in the Restated Collection Contract. Section 1.1 in the First TS Agreement gives SWS the exclusive right to operate the Transfer Station and obligates the City to direct all Solid Waste generated in the City to the Transfer Station. The section is amended in the Second TS Agreement to recognize exceptions for Recyclables directed to PRS or to other Approved Processing Facilities under both the Restated Collection Contract and the Second TS Agreement.

The definitions in Sections 2.8, 2.13, 2.15, 2.16, 2.17, 2.19, 2.20 and 2.23 are amended to read as in the Restated Collection Contract, the CCC Agreement and the PRS Agreement (which is attached as Exhibit A to the Second TS Agreement). The start date in Section 3 for the term of the Second TS Agreement is revised as in the Restated Collection Contract. The reference to Strategic Plan in Section 4.1 is deleted.

Section 4.1.2 establishes the procedure and criteria for getting approval of Processing Facilities not authorized in the First TS Agreement. The section is amended in the Second TS Agreement to include as authorized facilities not requiring further approval under this section any licensed biomass conversion facility approved by the City Manager.

Existing Section 4.1.3 describes the process for using an alternate facility, when an approved facility is temporarily unable to receive Solid Waste. Wood Waste, Food Waste and MOW are added to this section.

Existing Section 4.3 designates what segregated recyclable materials SWS must accept at no charge in a designated area at the Transfer Station. Currently, Food Waste, Green Waste and Wood Waste are exempt from this requirement. The Section is amended to add MOW.

Existing Section 4.5 requires SWS to accept in a designated area segregated Green Waste and Wood Waste from self-haulers at rates contained in Exhibit D to the contract. It requires SWS to arrange for delivery of an average 400 tons per calendar month of Green Waste to CCC on specified terms and conditions. It allows SWS to take additional Green Waste and Wood Waste to the Scotia biomass facility. The Section is amended to remove the provisions requiring 400 tons of Green Waste to be taken to CCC and authorizes SWS to take Green or Wood Waste to any licensed biomass conversion facility approved by the City Manager, CCC or PRS for Processing in accordance with the terms of the Second TS Agreement.

Restated Section 4.6 requires SWS to accept from self-haulers Segregated Food Waste or MOW at a designated location at the Transfer Station, beginning on or after January 1, 2017, and take that material to PRS for processing, if (1) PRS is properly licensed to receive, commingle, store and handle it, (2) PRS permits don't allow self-haulers to take this material directly to PRS, and (3) the City Manager requests this service. Due to space constraints the agreement requires SWS to direct City and County franchised waste haulers to deliver Segregated Food or Mixed Organic Waste for Processing to another any other facility at their option. In the event CCC is no longer available for Segregated Food or Mixed Organic Waste, SWS shall take material it is receiving from self-haulers to the least expensive, properly licensed facility available for Processing and any cost increase above the

cost of using CCC becomes a Pass-Through adjustment of the rate charged to self-haulers beginning on January 1.

A new Section 11.2, reading the same as in the Restated Collection Contract, is added.

First Amended and Restated Agreement for Receipt of Wood Waste, Green Waste and Mixed Organic Waste (Ex. A to Second TS Agreement and Ex. D to Restated Collection Contract)

The First Amended and Restated Agreement for Receipt of Wood Waste, Green Waste and Mixed Organic Waste ("Restated PRS Agreement") is Exhibit A to the Second TS Agreement and Exhibit D to the Restated Collection Contract. It is attached as Attachment 6 in redlined format showing the changes from the existing agreement entered in 2011 and in a clean format as Attachment 7.

The recitals update the agreement based on the approval of a curbside program to recycle Food Waste in the same bin as Green Waste.

In adds definitions of Food Waste and MOW that are the same as in the CCC Agreement, Restated Collection Agreement and the Second TS Agreement. (Attachment 6, Section 1, pp. 1-2.)

In Section 2 PRS agrees to accept and Process Green Waste, Wood Waste, Food Waste and MOW as provided for in the Restated Collection Agreement, Second TS Agreement and the CCC Agreement. In Section 3 it agrees to charge \$30 per ton for Green Waste and Wood Waste ("GW Processing Rate") and \$30 per ton for Food Waste and MOW ("MOW Processing Rate") with the fees for each to be adjusted as provided in Section 4.

Under Section 4.a, both rates are adjusted based on changes in the CPI each year. However, the MOW Processing rate is increased or decreased by 90% of the change in the CPI. The GW Processing Rate is adjusted by 100% of the annual change in the CPI.

Section 4.b allows an increase, if a Government Tax on the receipt of material is imposed or increased.

Section 4.c. provides that the increase in the MOW Processing Rate for the period beginning on January 1, 2017, shall be determined during the 5 year rate review scheduled for 2016. That review shall provide a rate that covers the costs incurred by PRS to accommodate the processing of MOW (the "New Program"), including, but not limited to, the capital costs of improvements to the PRS Facility, operational costs, transportation costs, and other costs required to accommodate the New Program and shall allow for a reasonable profit to PRS.

Section 4.c calls for rate reviews every five years for the GW Processing Rate to account for changes in the cost of processing Green Waste and Wood Waste, and the income produced from processed Green Waste and Wood Waste which are not covered by the annual fee adjustments. Since the annual cost of living increase for the MOW Processing Rate is limited to 90% of the CPI, the agreement does not provide additional five year rate reviews for the MOW Processing Rate.

Section 14 is amended to give the City the right to assume or assign the PRS Agreement in exercising its rights under Section 11 of the Restated Collection Agreement and the Second TS Agreement.

Fiscal Impact:

FISCAL IMPACT:				
Budgeted Amount in 15-16 FY	New Appropriation General Fund	Account Number	Budget Amendment Required	Previous Contract or Purchase Order No.
\$0	N/A	N/A	Yes ☐ No ☒	N/A

AGREEMENT FOR MIXED ORGANIC WASTE SERVICES

This Agreement is made and entered into as of the latest date of execution between Pacific Recycling Solutions, Inc. (hereinafter, "PRS"), a California corporation whose main office is located in Ukiah, CA, and Cold Creek Compost, Inc. (hereinafter, "Cold Creek"), a California corporation, who shall collectively be referred to as the "Parties."

RECITALS

WHEREAS, PRS operates facilities at 4260 North State Street, Ukiah, California and/or 3515 Taylor Drive, Ukiah, California (the "PRS Facilities") where it processes organic materials collected by its Affiliates (as defined below); and

WHEREAS, Cold Creek operates a fully-permitted industrial compost facility at 6000 East Side Potter Valley Road, Ukiah, California (the "Site") which has capacity sufficient to perform its obligations hereunder and is subject to a valid ground lease on the Site which expires December 31, 2022; and

WHEREAS, PRS and Cold Creek wish to enter into this Agreement on the terms and conditions herein; and

NOW, THEREFORE, the Parties agree to the terms and conditions set forth herein.

1. DEFINITIONS

1.1 "Mixed Organic Waste" shall mean Green Material, Food Material, paper tissues, paper napkins and towels, coffee grounds and filters, pizza boxes, food soiled paper plates and cups, and miscellaneous paper not suitable for recycling collected at the curb from residential and commercial customers by the City Franchisee.

1.2 "Additional Mixed Organic Waste" shall mean the following:

1.2.1 Agricultural Materials including, but not limited to, manure and animal bedding, poultry mortalities, grape pomace, diatomaceous earth and culled fruit;

1.2.2 Green Material including, but not limited to, yard trimmings, brush, branches, and stumps;

1.2.3 Wood Waste including, but not limited to, sawmill waste, source separated construction and demolition material including sheetrock (which material may contain nails, doorknobs, joist hangers);

1.2.4 Food Materials including, but not limited to, meat, fish, and dairy, soiled paper and waxed cardboard, fishery waste, grease trap waste, liquid wastes, including, but not limited to, wine lees, olive sludge, brewery waste and pond sludge.

1.3 "**Agricultural Materials**" has the meaning provided in Title 14 of the California Code of Regulations ((“CCR”) Section 17852(5).

1.4 “**Green Material**” has the meaning provided in 14 CCR §17852(21).

1.5 “**Wood Waste**” has the meaning provided in 14 CCR §17852(42).

1.6 "**Residual Waste**" shall mean any material that is not included in the definitions of Sections 1.1 through 1.5 above, and that cannot be used by Cold Creek in the ordinary course of business.

1.7 "**Contaminated Load**" shall mean the inclusion of material or liquids in a load in such quantities that one of the following occurs:

1.7.1 The load is spoiled to the extent that the entire load is unusable by Cold Creek in the ordinary course of business as determined solely by Cold Creek.

1.7.2 The cost of removing the contaminants exceeds the value of the organic material, as determined solely by Cold Creek.

1.7.3 The Residual Waste exceeds the CalRecycle standard of more than 1.0 percent by weight or by such standard as is the current standard for contamination established by California Integrated Waste Management Board (CIWMB) or successor agency.

1.8 "**Compensation**" shall mean those fees described in Section 6 below due Cold Creek by PRS for Cold Creek's acceptance and processing of material described in Sections 1.1 through 1.5 above.

1.9 "**Local Annual Tonnage**" shall mean the aggregate of all material described in Section 1.1 above that is generated within the city limits of the City of Ukiah (the “City”), collected at the curb from residential and commercial customers by the City Franchisee and delivered by PRS or its Affiliates to the Site in any calendar year.

1.10 "Other Annual Tonnage" shall mean any material described in Sections 1.1 through 1.5 above that is generated outside of the city limits of the City, and any material described in Sections 1.2 through 1.5 above that is generated within the city limits of the City, and in each case delivered to the Site by PRS or its Affiliates in any calendar year, but excluding Sonoma Organic Material (as defined below).

1.11 "City Franchisee" shall mean Ukiah Waste Solutions, Inc., a California corporation and an Affiliate of PRS.

1.12 "Affiliate" shall mean any entity at least 50% of the voting power of which is owned by the stockholders of PRS.

1.13 "City" shall mean the City of Ukiah, California.

1.14 "Sonoma Organic Material" shall mean any material described in Sections 1.1 through 1.5 above that is generated in Sonoma County and delivered to the Site by PRS or its Affiliates in any calendar year.

1.15 "Change in Law" means the enactment, adoption, promulgation, issuance, modification, or written adoption or change in administrative or judicial interpretation on or after the Effective Date of, any law, regulation, rule, order, judgment, decree, permit, approval or other requirement of any governmental agency having jurisdiction over this Agreement or a Party's performance hereunder.

2. TERM

2.1 The Term of this Agreement shall commence on November 1, 2015, subject to the receipt by PRS of all government approvals and permits necessary for PRS to receive, commingle, store and handle any or all of the materials described in Sections 1.1 through 1.5 above at the PRS Facilities and approval of a Mixed Organic Waste Recycling Program by the City Council of the City of Ukiah (the "Effective Date"), and continue through December 31, 2022, unless extended pursuant to Section 2.2 below, terminated early pursuant to Section 9.1.2 or 9.1.3 below, or amended by mutual agreement in writing by the Parties.

2.2 Cold Creek grants to PRS options to extend this Agreement under the same terms and conditions for up to nine (9) individual consecutive one (1) year periods, each consecutive option period at PRS's sole discretion. Such Agreement extension options are contingent upon a reasonable determination by

PRS and the City that Cold Creek has obtained an extension or replacement of the Lease for such periods, or control of a substitute fully-permitted site of equal functionality for such periods and under such terms and conditions that permit Cold Creek to perform its obligations under this Agreement. Upon the exercise by PRS of any option to extend this Agreement, the initial Term described in 2.1 above, plus any extension under this paragraph together shall become the Term.

2.3 Nothing in this Agreement limits PRS's right to pursue any disposal alternatives at the end of the Term subject to City approval.

3. SERVICES PROVIDED BY COLD CREEK

3.1 Cold Creek warrants that the Site is fully permitted and has capacity sufficient to perform its obligations hereunder, and that Cold Creek controls the Site through a valid ground lease.

3.2 Cold Creek shall process all Mixed Organic Waste, Additional Mixed Organic Waste, Agricultural Materials, Wood Waste and Green Material received from PRS or its Affiliates in a way that promotes maximum landfill diversion and shall comply with all applicable laws pertaining to the operation of the Site, including, but not limited to, closure and post closure obligations and any financial assurances. Upon request, Cold Creek agrees to provide PRS with copies of any regulatory inspection reports on its operation within a reasonable amount of time.

3.3 Cold Creek shall maintain all-weather access to the Site for tractor-trailer configured vehicles during regular business hours as provided in Section 3.4 below.

3.4 The Site shall be open for deliveries Monday through Friday, 7 a.m. to 3:30 p.m., and Saturday from 7 a.m. to 1 p.m., excluding the following holidays: Christmas, New Year's Day, Labor Day, Memorial Day, July 4th, and Thanksgiving Day, except that the Site will open on Labor Day, Memorial Day, and July 4th if requested by PRS where notice is given not less than seven (7) days in advance to receive PRS delivery. Such notice may be in the form of an email, phone call or other informal means; however notice shall not be deemed effective until PRS receives an acknowledgement of receipt by Cold Creek by any of the above mentioned forms.

3.5 Cold Creek will provide an adequate, unencumbered tipping area at the Site to assure timely offloading of materials from PRS and its Affiliates' vehicles.

4. SERVICES PROVIDED BY PRS

4.1 City Franchisee will provide a public education program educating its customers on the specific requirements of its Mixed Organic Waste program, and use its best efforts in the monitoring, inspection and enforcement procedures to minimize contamination of the Mixed Organic Waste collection.

4.2 Commencing on the first day of the Term, PRS will deliver all Local Annual Tonnage to the Site, subject only to PRS's receiving approval from the City for such flow direction to Cold Creek.

4.3 Commencing on the first day of the Term, PRS and/or its Affiliates may deliver, in their sole discretion, any or all Other Annual Tonnage and any or all Sonoma Organic Material to the Site, subject to PRS's having received approval where needed for such flow direction to Cold Creek from the jurisdiction holding such authority.

4.4 PRS, at its sole discretion, may either combine Mixed Organic Waste materials with Additional Mixed Organic Waste materials and deliver them together to the Site, or deliver Mixed Organic Waste, Additional Organic Waste, Agricultural Materials, Food Materials, Wood Waste or Green Material separately.

4.5 All materials delivered to the Site described in Sections 4.2 and 4.3 will be billed under payment terms as set forth in Section 6 below.

4.6 PRS's deliveries of Mixed Organic Waste, Additional Mixed Organic Waste, Agricultural Materials, Food Materials, Wood Waste and Green Material to the Site shall be weighed at the Site's truck scale to determine net weight delivered. PRS agrees to deliver all material in trucks with capabilities to discharge its own load. Cold Creek may inspect each load prior to and immediately after unloading and at its discretion may reject any load pursuant to Section 5 below.

5. CONTAMINATED LOADS

5.1 If a load is determined by Cold Creek pursuant to Section 4.6 above to be a Contaminated Load, but only as defined in Section 1.7 above, Cold Creek at its sole discretion may reject the load ("Rejected Load").

5.2 Upon the rejection of a load by Cold Creek, Cold Creek will immediately notify PRS and hold PRS's truck and driver, if instructed to do so by PRS, to allow PRS's management to inspect such load. PRS will have the right to either remove the contamination from the load at Cold Creek's site or dispose of the Rejected Load by backhaul at PRS's sole expense.

5.3 The cost of disposing of Residual Waste contained in a non-Contaminated Load shall be borne solely by Cold Creek.

5.4 In no circumstances shall the materials described in Sections 1.1 through 1.5 above that are not a Contaminated Load be considered unacceptable material.

6. FEES

6.1 PRS shall pay Cold Creek for Local Annual Tonnage delivered to the Site by PRS and its Affiliates, as follows:

6.1.1 \$16.00 per ton commencing on the Effective Date and continuing through December 31, 2016.

6.1.2 \$26.00 per ton commencing January 1, 2017 and continuing through December 31, 2018.

6.1.3 The per-ton fee for Local Annual Tonnage will be adjusted up or down on January 1 of each year, starting January 1, 2019, by a percentage factor equal to 0.9 (90%) of the change in the value in the twelve months before the most recent November 1 of the All Urban Consumers Consumer Price Index (CPI-U), all items, for the San Francisco-Oakland-San Jose, CA, Base Period 1982 — 1984 = 100, not seasonally adjusted, compiled and published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor index.

6.2 PRS shall pay Cold Creek \$26.00 per ton for Other Annual Tonnage delivered to the Site by PRS and its Affiliates commencing on the Effective Date and continuing through December 31, 2018. The per-ton fee for Other Annual Tonnage will be adjusted up or down on January 1 of each year, starting January 1, 2019, by a percentage factor equal to 0.9 (90%) of the change in the value in the twelve months before the most recent November 1 of the All Urban Consumers Consumer Price Index (CPI-U), all items, for the San Francisco-Oakland-San Jose, CA, Base Period 1982 — 1984 = 100, not seasonally adjusted, compiled and published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor index.

6.3 PRS shall pay Cold Creek \$32.00 per ton for Sonoma Organic Materials delivered to the Site by PRS and its Affiliates commencing on the Effective Date and continuing through December 31, 2018. The per-ton fee for Sonoma Organic Materials will be adjusted up or down on January 1 of each year, starting January 1, 2019, by a percentage factor equal to 0.9 (90%) of the change in the value in the twelve months before the most recent November 1 of the All Urban Consumers Consumer Price Index

(CPI-U), all items, for the San Francisco-Oakland-San Jose, CA, Base Period 1982 — 1984 = 100, not seasonally adjusted, compiled and published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor index.

6.4 Cold Creek will invoice PRS monthly with payments due in 30 days. Any payments due from PRS and not made within 30 days of receipt of the invoice shall incur additionally a 1.5% per month late charge, or the maximum rate allowed by law, whichever is less.

6.5 Fees due to Cold Creek from PRS described in this Section for services herein shall constitute the total of all Compensation due to Cold Creek by PRS under this Agreement.

7. COLD CREEK LEASE

7.1 The Site is the subject to a valid ground lease (the Lease) between Cold Creek and Lessors, the term of which is currently set to expire on December 31, 2022. A copy of the Lease is attached hereto as Exhibit A.

7.2 During the Term of this Agreement, Cold Creek shall notify PRS in writing, with a copy to the City Manager of the City, of any material change in the terms of the Lease within seven (7) days of Cold Creek becoming aware of such material change. A copy of a modified Lease (redacted to remove economic terms) or a memorandum of lease signed by Cold Creek and the landlord and setting forth the major non-economic terms of the modified lease, will accompany that notice, and will be added to Exhibit A of the Agreement by the Parties. Notice and delivery of a modified Lease under this Section shall be made by either USPS certified mail or by any national delivery service that provides proof of delivery.

8. INSURANCE AND INDEMNIFICATION

8.1. Comprehensive General Liability-Cold Creek. Cold Creek shall obtain and maintain in full force and effect throughout the entire term of this Agreement a Broad Form Comprehensive General Liability (occurrence) policy with a minimum limit of TWO MILLION DOLLARS (\$2,000,000.00) aggregate and ONE MILLION DOLLARS (\$1,000,000.00) per occurrence for bodily injury and property damage, with any self-insured retention not exceeding TWO HUNDRED THOUSAND (\$200,000.00) per occurrence. Cold Creek shall also obtain and maintain in full force and effect throughout the entire term of this Agreement a pollution legal liability policy with a minimum limit of TWO MILLION DOLLARS (\$2,000,000.00) aggregate and ONE MILLION DOLLARS (\$1,000,000.00) per occurrence for bodily

injury and property damage, with any self-insured retention not exceeding TWO HUNDRED THOUSAND (\$200,000.00) per occurrence, and with tail coverage extending for at least five (5) years after the expiration or termination of the term of this Agreement. Said insurance shall protect PRS and its Affiliates, and the City from any claim for damages for bodily injury, including accidental death, as well as from any claim for property damage, including claims for injury, damage and remediation of alleged environmental contamination which may arise from operations performed pursuant to this Agreement, whether such operations are by Cold Creek itself, or by its agents, employees or subcontractors. Copies of the policies or endorsements evidencing the above-required insurance coverage shall be filed with PRS. Endorsements are required to be made a part of all of the following insurance policies required by this Section:

8.1.1 "PRS and its Affiliates, the City, and its and their employees, agents, and officers, acting within the scope of their employment related to the services provided under this Agreement, are hereby added as insured's as respects liability arising out of activities performed by or on behalf of Cold Creek."

8.1.2 "Thirty (30) days prior written notice by certified mail, return receipt requested, shall be given to PRS and the City in the event of suspension, cancellation, reduction in coverage or in limits or non-renewal of this policy for whatever reason. Such notice shall be sent to PRS and the City."

8.2 Cold Creek, and its successors and assigns, agree to indemnify, hold harmless and defend PRS and its Affiliates, the City, and its and their officers, agents and employees from and against any and all losses, damages, costs, charges, expenses, suits, actions, claims for injury, damage, judgments, liabilities, and attorney fees directly or indirectly, resulting from the delivery and processing of all Mixed Organic Waste, Additional Mixed Organic Waste, Agricultural Materials, Food Materials, Wood Waste and Green Material delivered to the Site by PRS or its Affiliates, arising out of/or related to Cold Creek's leasehold, operation, remediation, closure or post closure of the Site.

8.3 Comprehensive General Liability-PRS. PRS shall name Cold Creek as an additional insured under its General Liability and Pollution insurance policy, which PRS will keep in force during the Term of the Agreement, to the extent of coverage and limits as described in Section 8.1 above.

8.4 PRS, and its successors and assigns, agree to indemnify, hold harmless and defend Cold Creek, and its officers, agents and employees from and against any and all losses, damages, costs, charges, expenses,

suits, actions, claims for injury, damage, judgments, liabilities, and attorney fees directly or indirectly, resulting from all Mixed Organic Waste, Additional Mixed Organic Waste, Agricultural Materials, Food Materials, Wood Waste and Green Material delivered to the Site by PRS or its Affiliates.

9. DEFAULT

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

9.1.1 A party to this Agreement has: (1) failed to comply with one or more of the terms or conditions of this Agreement, or future amendment(s) to this Agreement, or (2) failed to comply with any material federal, state or local laws, ordinances, rules or regulations pertaining to the activity, or (3) when the Site's activity has been determined to be a nuisance or detrimental to the public health, safety or welfare by a body of competent authority.

9.1.2 If Cold Creek does not perform the services for a period in excess of seven (7) days, this Agreement may be terminated by PRS. Cold Creek shall not be in default of this Agreement if Cold Creek commences such action required to cure the particular breach within seven (7) calendar days after such notice, and it continues such performance diligently until completed.

9.1.3 If PRS does not perform the services for a period in excess of seven (7) days, this Agreement may be terminated by Cold Creek. PRS shall not be in default of this Agreement if PRS commences such action required to cure the particular breach within seven (7) calendar days after such notice, and it continues such performance diligently until completed.

9.1.4 If Cold Creek files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or shall consent to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of equipment no longer useful to Cold Creek or necessary for this Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator (or similar official) of Cold Creek for any part of Cold Creek's operating assets or any substantial part of Cold Creek's property, or shall make any general assignment for the benefit of Cold Creek's creditors, or shall fail generally to pay Cold Creek's debts as they become due or shall take any action in furtherance of any of the foregoing;

9.1.5 A court having jurisdiction shall enter a decree or order for relief in respect of Cold Creek, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or Cold Creek shall consent to or shall fail to oppose any such proceeding, or any such court shall enter a decree or order appointing a receiver, liquidator,

assignee, custodian, trustee, sequestrator (or similar official) of Cold Creek or for any part of Cold Creek's operating equipment or assets, or orders the winding up or liquidation of the affairs of Cold Creek;

9.1.6 If PRS files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or shall consent to the appointment of or taking of possession by a receiver, liquidator, assignee, trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator (or similar official) of PRS for any part of PRS's operating assets or any substantial part of PRS's property, or shall make any general assignment for the benefit of PRS's creditors, or shall fail generally to pay PRS's debts as they become due or shall take any action in furtherance of any of the foregoing;

9.1.7 A court having jurisdiction shall enter a decree or order for relief in respect of PRS, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or PRS shall consent to or shall fail to oppose any such proceeding, or any such court shall enter a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of PRS or for any part of PRS's operating equipment or assets, or orders the winding up or liquidation of the affairs of PRS;

9.1.8 A seizure or attachment (other than a prejudgment attachment) of, or levy affecting possession on the operating equipment of a party to this Agreement, including without limitation, vehicles, maintenance facilities, office facilities, or any party thereof of such proportion as to substantially impair the party's ability to perform under this Agreement and which cannot be released, bonded, or otherwise lifted within 48 hours excluding weekends and holidays.

9.2 Upon an "Event of Default" by either party, the non-defaulting party may suspend, amend, or terminate this Agreement.

10. THIRD PARTY BENEFICIARIES

10.1 The Parties acknowledge and declare that the City is and will be a Third Party beneficiary of this Agreement, included without limitation, with the same rights as the Parties to enforce the terms of this Agreement.

10.2 The Parties agree that PRS's rights under this Agreement can be assigned or assumed by the City, at the City's sole option, without per ton fee adjustments to the City or its assignee, upon an Event of Default by PRS. Upon such an Event of Default, any payments then due to Cold Creek by PRS shall

continue to be the obligation of PRS and such payment obligation shall not be transferred to the City upon the assumption or assignment of such rights.

11. ASSIGNMENT

11.1 Except as provided in Sections 10.2 and 11.2, neither Party shall sell, assign or otherwise transfer, by operation of law or otherwise, its rights or obligations under this Agreement, in whole or in part, without the prior written consent of the other, which shall not be unreasonably withheld or delayed.

11.2 Consent is not required for an assignment of this Agreement in connection with a sale or other disposition of substantially all the assets of the assigning Party's business.

11.3 This Agreement shall be binding on and inure to the benefit of the successors and permitted assigns of each of the Parties hereto.

12. INDEPENDENT CONTRACTOR

Each Party is and shall perform this Agreement as an independent contractor and, as such, shall have and maintain complete control over all of its employees, agents and their conduct of operations. Neither Party, nor anyone employed by it shall be, represent, act, purport to act or be deemed to be the agent, representative or employee of the other Party.

13. MUTUAL RELEASE

13.1 Each Party, on behalf of itself and its affiliates (including, in the case of PRS, its Affiliates), officers, directors, insurers, attorneys, employees, agents, predecessors, successors and assigns, hereby releases and agrees to hold harmless the other Party and the other Party's affiliates (including, in the case of PRS, its Affiliates), officers, directors, insurers, attorneys, employees, agents, predecessors, successors and assigns from and against any and all claims, damages, actions, causes of action, costs and expenses (including attorney's fees), at law or in equity, known or unknown, of every type whatsoever existing as of, or hereafter arising out of or in connection with events through the Effective Date, whether resulting from the delivery by PRS and its Affiliates of materials to the Site under the conditions stated in such Affiliates' agreements with the City or otherwise, excluding any claim for breach of the release in this Section 13.

13.2 Each Party acknowledges Section 1542 of the California Civil Code, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

and hereby waives any rights or benefits such Party may have under such Section or any other similar provision of law to the maximum extent permitted by law.

13.3 Each Party hereby represents and warrants that such Party is the sole owner of, and has not assigned to any other person or entity all or any part of, any of the claims released by such Party pursuant to the release in this Section 13. Each Party further agrees never to bring any action or proceeding on any claim that such Party has released hereunder.

14. ENTIRE AGREEMENT

This Agreement represents the entire understanding and agreement between the Parties hereto relating to the processing and disposal of the materials described herein and supersedes any and all prior agreements, whether written or oral, that may exist between the Parties regarding same and supersedes any and all terms and conditions which may exist in any form with any party regarding PRS's disposal of such materials at the Site.

15. SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Agreement or any part thereof is, for any reason, held to be illegal, such decision shall not affect the validity of the remaining portions of this Agreement or any part thereof, except as specifically set forth herein.

16. NOTICES

All Notices by the Parties will be given at the address listed below after the signature line. Such addresses may be changed by advising the other Party in writing, using either USPS Certified Mail, or any national delivery service that provides proof of service.

17. GENERAL PROVISIONS

Either Party shall be relieved of its obligations hereunder for the duration of a Force Majeure or a Change in Law, if, as a result of a Force Majeure or a Change in Law, such party is unable to perform. A

Force Majeure shall include only events outside of the Party's control and which are either Acts of God or the unforeseeable.

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of both Parties to this Agreement.

The Parties stipulate and agree that any litigation relating to the enforcement or interpretation of this Agreement, arising out of either Parties' performance or relating in any way to the work, shall be brought in Superior Court in Mendocino County.

In the event legal action is instituted by either Party to enforce this Agreement, the prevailing party shall be entitled to reasonable attorney fees and actual costs in connection with such action.

This Agreement and amendments and supplemental agreements hereto may be executed in counterparts.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands on the day and year indicated:

PACIFIC RECYCLING SOLUTIONS, INC.

Date:

9/15/15

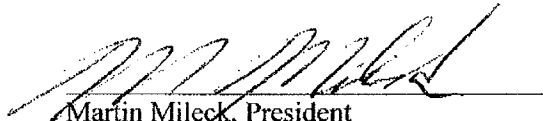


David M. Carroll, President
Pacific Recycling Solutions, Inc.
3515 Taylor Drive
Ukiah, California 95482

COLD CREEK COMPOST, INC.

Date:

9/14/15



Martin Mileck, President
Cold Creek Compost, Inc.
6000 Potter Valley Road
Ukiah, California 95482

ATTACHMENT 2

| **FIRST AMENDED AND RESTATED WASTE COLLECTION AGREEMENT**

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FIRST AMENDED AND RESTATED WASTE COLLECTION AGREEMENT

This First Amended and Restated Waste Collection Agreement (the "Agreement") is made as of ~~November 1, 2011~~ October 1, 2015 by and between the City of Ukiah, a municipal corporation (hereinafter "City"), and Ukiah Waste Solutions, Inc., a California corporation (hereinafter "Company"), with reference to the following:

WHEREAS, Company currently collects and disposes of Solid Waste generated in City pursuant to that certain ~~Contract for Collection, Transportation and Disposal of Garbage, Refuse, and Rubbish, and Recycling of Recyclables from within the City of Ukiah dated March 23, 1992, as amended May 9, 1997, August 21, 1998, November 7, 2001 and April 16, 2008~~ Waste Collection Agreement dated December 12, 2011 (the "Prior Agreement"); and

WHEREAS, Company has ~~proposed a capital intensive, long term Strategic Waste Management Plan (the "Strategic Plan"), including, but not limited to, Contractor financed capital projects, for City and the other customers served by Company and~~ invested its ~~affiliates own funds to acquire land and facilities~~ that ~~is designed to increase diversion, mandated by law,~~ of Solid Waste from landfills, reduce greenhouse gasses, ~~convert waste into energy, and~~ and create new jobs, ~~a true and correct copy of which is attached hereto as Exhibit A;~~ and

WHEREAS, ~~undertaking~~ City has approved a Mixed Organic Waste Curbside Recycling Program (the ~~Strategic Plan will require a long term commitment of Company's staff, time~~ "New Program"); and ~~capital; and~~

WHEREAS, the parties wish to ~~continue to assure the health, safety~~ amend and ~~public welfare of City's residents and businesses by providing efficient services for recycling and the collection and disposal of all Solid Waste generated in the City resulting in increased diversion pursuant to the terms of a new, long term agreement that replaces~~ restate the Prior Agreement on the terms herein in order to accommodate the New Program;

NOW, THEREFORE, in and for the mutual covenants herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Franchise Grant.

1.1 City hereby grants to Company, and Company hereby accepts from City, the exclusive franchise right and privilege, subject only to Section 1.3 below, to Collect, remove, transport, Recycle, Process, compost and Dispose of all Solid Waste generated in City in accordance with the provisions of City's laws and regulations pertaining to the accumulation, collection and removal thereof and any other applicable law, including applicable State and Federal statutes or administrative rules.

1.2 All Solid Waste Collected by Company pursuant to this Agreement shall become the property of Company upon its possession thereof, provided that nothing in this section shall

be deemed a waiver by City of its rights and duties under this Agreement.

1.3 The franchise granted to Company hereunder shall in all respects be exclusive, except as otherwise provided by applicable law and as follows:

(a) Recyclables generated at any Residential, Commercial or Institutional Property that are Source Separated may be (i) transported personally by the Generating person for sale or donation to a Processing facility that has been duly approved and authorized as such by a governmental or other appropriate authority, including beverage containers Recycled at authorized facilities under the California Beverage Container Recycling Litter Reduction Act, (ii) may be sold or donated by the Generating person to any Charitable Entity, or (iii) sold by the Generating person to any licensed Recycler (provided the Generating person is not charged any amount by such Recycler, directly or indirectly);

(b) Solid Waste Generated at any Residential, Commercial or Institutional Property may be personally transported by the person Generating same to any licensed landfill, transfer station or materials recovery facility;

(c) Green Waste removed from a Residential, Commercial or Institutional Property by a gardening, landscaping or tree trimming contractor as an incidental part of a comprehensive service offered by such contractor, rather than as a hauling service, may be disposed of by such contractor at any licensed transfer station or materials recovery facility, provided that such contractor does not store the box, bin or container used for such purpose at the location where the service is provided or remove such box, bin or container from such contractor's truck;

(d) Construction Debris and Demolition Debris removed from a Residential, Commercial or Institutional Property by a licensed construction or demolition contractor using its own employees and equipment as an incidental part of a comprehensive service offered by such contractor, rather than as a hauling service, may be disposed of by such contractor at any licensed transfer station or materials recovery facility, provided that such contractor does not store the box, bin or container used for such purpose at the location where the service is provided or remove such box, bin or container from such contractor's truck; and

(e) Hazardous Waste and Household Hazardous Waste may be disposed of in any lawful manner.

1.4 To the extent permitted by applicable law, City agrees to take such steps as may be reasonably necessary to protect (a) Company's ownership of Solid Waste, including Recyclables ~~and~~, Green Waste and/or Mixed Organic Waste, placed at the curbside or designated collection location for Collection by Company under the terms of this Agreement, and (b) Company's exclusive rights to collect all Solid Waste, including Recyclables ~~and~~, Green Waste and Mixed Organic Waste, in accordance with the terms hereof. City's obligation under this Section 1.4 is subject to Company's agreement, upon request of City, to reimburse City's reasonable expenses, including attorneys' fees and litigation expenses, incurred in taking steps as agreed upon herein; provided, however, that nothing herein shall prevent Company from taking any lawful action to protect its rights hereunder.

1.5 Except as expressly provided herein, this Agreement shall supersede the Prior Agreement as of the Effective Date set forth in Section 3 below, when the Prior Agreement shall

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cease to have any effect (except for periods prior to such Effective Date).

2. Definitions.

2.1 "Authorized Facility" means a Disposal or Processing facility that has received and is maintaining in good standing all regulatory or other approvals required by law to perform the task for which Company is using the facility and which has been approved by the City pursuant to Section 5.11 below.

2.2 "Billing Fees" means the billing fees payable to City pursuant to Section 6.6 below, including any fees or charges adopted to replace or supplement such billing fees.

2.3 "CCC" means Cold Creek Compost, Inc.

2.4 "Change in Law" means the enactment, adoption, promulgation, issuance, modification, or written adoption or change in administrative or judicial interpretation on or after the Effective Date of, any law, regulation, rule, order, judgment, decree, permit, approval or other requirement of any governmental agency (including City) having jurisdiction over this Agreement or Company's performance hereunder.

2.5 "Charitable Entity" means any not-for-profit organization or entity maintained for community service, education or the public good, including service clubs, scouting organizations, religious and educational organizations and recognized charities.

2.6 "Collect" or "Collection" means the collection, transportation and removal of Solid Waste within and from City.

2.7 "Commercial Property" means property upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding businesses conducted upon Residential Property that are permitted under applicable zoning regulations and are not the primary use of the property.

2.8 "Construction Debris" means used or discarded construction materials generated during the construction or renovation of a building, structure or other man-made improvement on a Residential, Commercial or Institutional Property.

2.9 "Containers" means any and all types of Solid Waste receptacles supplied by Company, including but not limited to rectangular bins, cylindrical containers, and any and all other kinds of receptacles or bags, irrespective of size or shape.

2.10 "Customer" means the owner or occupant of Residential, Commercial or Institutional Property.

2.11 "Demolition Debris" means used construction materials generated during the

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razing or renovation of a building, structure or other man-made improvement on a Residential, Commercial or Institutional Property.

2.12 "Disposal" means the permanent placing of Solid Waste in a facility legally permitted to receive it.

2.13 "Disposal Costs" means Company's costs to deposit Solid Waste collected under this Agreement at the Transfer Station (as defined in Section 5.11 below) or any other Authorized Facility.

2.14 "Food Waste" means food scraps, including animal and vegetable foods, paper tissues, paper napkins and towels, coffee grounds and filters, pizza boxes, food soiled paper plates and cups, and miscellaneous paper not suitable for recycling that is discarded (as from a Commercial or Residential Property kitchen).

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2.15 "Franchise Fees" means the franchise fees payable to City pursuant to Section 4 below, including any fees or charges adopted to replace or supplement such franchise fees.

2.16 "Generate" means to create or render. A Customer is not considered to be the Generator of Solid Waste if the material has merely been transported or moved to the Customer's site.

2.17 "Green Waste" means tree trimmings, grass cuttings, plants, leaves, branches and trees (not more than six (6) inches in diameter or more than four (4) feet in length) and similar materials generated at a Residential, Commercial or Institutional Property.

2.18 "Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste or extremely Hazardous Waste by the State of California, or identified as Hazardous Waste by the U.S. Environmental Protection Agency, under applicable laws or regulations.

2.19 "Household Hazardous Waste" means Hazardous Waste that is generated at Residential Properties.

2.20 "Institutional Property" means the premises or site of any governmental entity, including city, county, state and/or federal buildings, public schools, colleges, and public recreational sites.

~~2.21~~ 2.21 "Mixed Organic Waste" means Green Waste and Food Waste.

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2.22 "Multi-Family Residential Property" means any building or structure, connected structure or series of structures used for residential purposes, and consisting of three (3) or more distinct dwelling units, irrespective of whether the dwelling units are rental units or are owner-occupied.

2.22~~23~~ "Pass-Through Costs" means Disposal Costs, Processing Costs and Regulatory Costs.

2.23~~24~~ "Processing" means the act of salvaging, reprocessing, marketing and selling or reusing Recyclables (including ~~Food Waste and~~ Green Waste and Mixed Organic Waste) for the purpose of Recycling, whether directly or through one or more third parties; (including, in the case of Green Waste and Mixed Organic Waste, composting or anaerobic digestion), and shall include other means of diverting Solid Waste from landfills ~~pursuant to the Strategic Plan.~~

~~2.24 "Processing Costs" means the costs of Processing.~~

~~2.25~~2.25 "Processing Costs" means fees, if any, paid by Company to a Processing Facility for Processing Recyclables, Food Waste, Green Waste, Mixed Organic Waste, Wood Waste and Solid Waste collected by Company. The amount paid by Company to PRS for Food Waste, Mixed Organic Waste, Green Waste or Wood Waste delivered to the PRS Facility shall be as determined under that certain First Amended and Restated Agreement for Receipt of Wood Waste, Green Waste and Mixed Organic Waste among PRS, UWS and SWS of even date herewith and attached as Exhibit D hereto (the "PRS Agreement").

2.26 "Recyclables" means Solid Waste which may be reused or processed into a form suitable for reuse through reprocessing or remanufacture consistent with the requirements of the California Integrated Waste Management Act of 1989, as amended ("AB 939"), including, without limitation, paper, newsprint, printed matter, pasteboard, paper containers, cardboard, glass, aluminum, PET, HDPE, and other plastics, beverage containers, compostable materials (including Green Waste and Food Waste), and wood, brick and stone in reusable size and condition. Recyclables shall include those items of Construction Debris and Demolition Debris which are described in this Sections 2.8 and 2.11. Company shall report changes in Recyclables collected at the curbside to the City Manager who must approve those changes.

2.26~~27~~ "Recycle" means the process of reusing or processing Solid Waste into a form suitable for reuse consistent with the requirements of AB 939.

2.27~~28~~ "Regulatory Costs" means all regulatory and governmental fees and charges incurred by Company in connection with providing services under this Agreement, including, without limitation, Franchise Fees, Billing Fees, commercial oversight fees and landfill closure costs payable to City.

2.28~~29~~ "Residential Property" means Single Family Residential Property and Multi-Family Residential Property.

2.29~~30~~ "Single Family Residential Property" means any building or structure, connected structure or series of structures used for residential purposes, and consisting of less than three (3) distinct dwelling units, irrespective of whether the dwelling units are rental units or are owner-occupied.

2.~~30~~³¹ "Solid Waste" means all putrescible and nonputrescible residential refuse, commercial solid waste, institutional solid waste, garbage, Green Waste, Food Waste, Mixed Organic Waste and rubbish as defined in Public Resources Code Section 40191, including, without limitation, for the purposes of this Agreement Construction Debris, Demolition Debris, Recyclables, but excluding Hazardous Waste and Household Hazardous Waste.

2.~~31~~³² "Source Separated" means Recyclables that are separated at the Residential, Commercial or Institutional Property where they are generated from Solid Waste and other Recyclables that are Collected separately, and which are saleable or acceptable for Processing without further sorting, including, but not limited to, Recyclables consisting of glass, paper, plastic, cardboard, tin cans and aluminum cans which are separated from all other Recyclables and Solid Waste, Green Waste which is separated from all other Recyclables and Solid Waste, and ~~Food~~Mixed Organic Waste which is separated from all other Recyclables and Solid Waste.

3. Term. Subject to earlier termination in accordance with the terms of this Agreement, the term of this Agreement shall commence on ~~January~~November 1, ~~2012~~2015 (the "Effective Date") and continue for a period of ~~fifteen (15)~~eleven (11) years and two (2) months through December 31, 2026, provided that Company shall have one (1) option to extend this Agreement and the franchise granted hereunder on the terms and conditions herein for a period of five (5) years commencing January 1, 2027 and ending December 31, 2031. Notice of Company's exercise of such option must be given at least six (6) months prior to December 31, 2026. The option to extend hereunder may not be exercised unless Company is in material compliance with the terms of this Agreement at the time of exercise and on December 31, 2026. It is the parties' intention that, subject to prior termination hereunder or thereunder, the term of this Agreement be coextensive with the term of the Transfer Station Agreement between City and Solid Wastes Systems, Inc. ("SWS") of even date herewith (the "Transfer Station Agreement").

4. Franchise Fee; Other Fees. Company shall be liable to City for a franchise fee equal to fifteen percent (15%) of the gross revenues collected by Company from Customers within the City limits during the term of this Agreement or such other percentage of such gross revenues as the City Council may establish from time to time. Within thirty (30) days after the end of each calendar month, Company shall send City a statement detailing gross revenue received by Company from Commercial and Institutional Customers, and from the Multi-Family Residential Customers that Company bills, for the prior calendar month, and City shall send Company a statement showing how City calculated the amounts withheld in accordance with this Section 4 and Section 6.6 below from its payment to Company for the prior calendar month. As soon as City's billing system permits it to generate the following statement, City will provide Company within thirty (30) days after the end of each calendar month with a statement detailing the amounts billed by City to the Residential Customers billed by City, the amounts collected by City from such Customers, the amounts paid to Company and all amounts withheld from such payments in accordance with this Section 4 and Section 6.6 below for the prior calendar month. In addition, each party shall maintain copies of all its billing and collection records for three (3) years following the date of billing for inspection and verification by the other party. Company shall also owe City a Billing Fee pursuant to Section 6.6 below, a commercial oversight fee of \$10,000 per calendar year and a landfill closure cost of \$60,000 per calendar year. The

Franchise Fee, the Billing Fee, the oversight fee and the landfill closure fee shall all be paid by means of City's withholding such amounts from the payments City makes to Company in respect of the revenues City bills to Residential Customers in accordance with Section 6.6 below. The annual oversight and landfill closure fees will each be withheld at the rate of one-twelfth per month.

5. Services.

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5.1 Solid Waste. Company shall Collect and Dispose of all Solid Waste (other than Source Separated Recyclables, which are subject to Section 5.2 below, and Source Separated Green Waste and ~~Food~~Mixed Organic Waste, which are subject to Section 5.3 below) generated at every Single Family Residential Property within City once each week on a regularly scheduled day, and at every Multi-Family Residential, Commercial and Institutional Property within City upon a schedule established between Company and each Generating person (or the owner, landlord or property manager, in the case of Multi-Family Residential Properties), but at least once each week on a regularly scheduled day, in accordance with this Agreement. Solid Waste shall not be put out for Collection with Hazardous Waste or Household Hazardous Waste in the same Container. Company will not collect Solid Waste, including Recyclables, on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day or Christmas Day, and will make appropriate adjustments to its collection schedule in order to avoid an excessive accumulation of Solid Waste on such days.

5.2 Recyclables. On the same day as specified by Company under Section 5.1, Company shall collect all Source Separated Recyclables (other than Green Waste and ~~Food~~Mixed Organic Waste) Generated at every Residential Property within City once each week on a regularly scheduled day in accordance with this Agreement. Company shall collect all Source Separated Recyclables (other than Green Waste and ~~Food~~Mixed Organic Waste) Generated at every Commercial and Institutional Property within City upon a schedule established between Company and each Generating person (or the owner, landlord or property manager, in the case of Multi-Family Residential Properties), but not less frequently than weekly.

5.3 Green Waste and/or Mixed Organic Waste. On the same day as specified by Company under Section 5.1, Company shall collect all Source Separated Green Waste and/or Mixed Organic Waste Generated at every Residential Property within City once each week on a regularly scheduled day in accordance with this Agreement. Company shall collect all Source Separated Green Waste and/or Mixed Organic Waste Generated at each electing Commercial and Institutional Property within City upon a schedule and at rates established between Company and each Generating person, but not less frequently than weekly.

5.4 Food Waste. ~~Subject to Company's obtaining all necessary permits, and Company and City agreeing upon the specific terms of the program, including applicable Rates and methods of collection, Company shall commence a pilot Food Waste Collection program for Commercial and Institutional Properties as soon as possible but by no later than June 1, 2013. No later than six months after commencement of such pilot program, Company and City will develop the specific terms, including applicable Rates and methods of collection, for an ongoing~~

~~Food Waste Collection programs for all Residential, Commercial and Institutional Properties, subject to Company's obtaining all necessary permits. In developing such a program Company shall provide City with a list of any proven options, including, but not limited to, open air composting, in vessel composting and anaerobic digestion, information about potential Processing Facilities, and a comparative analysis of the methods of collection, feasibility, cost, impact on rates, and environmental benefits of each alternative. City may request additional information before approving a program.~~ Subject to any revisions to the Food Waste Collection Program adopted pursuant to Section 5.17, Food Waste shall be collected only in the Green Waste containers approved by the City Manager pursuant to Sections 5.7 and 5.8 below as a component of Mixed Organic Waste deposited in said containers by Customers on Residential, Commercial or Institutional Properties pursuant to the New Program.

5.5 Contaminated Materials. Company may refuse to collect Solid Waste, Recyclables, Green Waste and/or FoodMixed Organic Waste Generated by, and shall not be obligated to continue to provide any Solid Waste, Recyclables, ~~or~~ Green Waste and/or FoodMixed Organic Waste Container to, any person who after reasonable warning, fails to sort Solid Waste, Recyclables, Green Waste and/or FoodMixed Organic Waste properly, or fails or refuses to allow Company to Collect, on an exclusive basis, said person's Solid Waste, Recyclables, Green Waste and/or FoodMixed Organic Waste. Company shall make available to City any warning notices issued by Company for this purpose, and City shall investigate same to determine whether the person receiving the notice has violated the applicable ordinance. Company may alternatively assess a contamination charge in accordance with Exhibit E in such instances.

5.6 Changes; Missed Pick-Ups. Company shall not alter or adjust Collection services without providing prior notice to all service addresses, and any schedule modifications shall not result in reduced service frequency to any Customer. Company shall collect and remove Solid Waste and Recyclables from any premises "missed" or "skipped" during the regularly scheduled time, within one (1) working day after demand for collection is made by the Customer or City.

5.7 Containers-Single Family Residential. Company shall collect Solid Waste, Recyclables, Green Waste and FoodMixed Organic Waste from Single Family Residential Properties in City in the following types of Containers: Solid Waste – 10, 20, 32, 64 or 96 gallons, Recyclables – 32 (Billy Goat Run), ~~64~~ or 96 gallons, and Green Waste and/or Mixed Organic Waste – 32 (Billy Goat Run), ~~64~~ or 96 gallons, ~~Food Waste—sizes proposed by Company and approved by the City Manager.~~ Company has provided and distributed one set of Solid Waste, Recyclables and Green Waste Containers, at no cost in addition to the monthly rates, to each Single Family Residential Property in City where collection can be accomplished using Company's standard curbside collection equipment, and will provide such a set to each new Single Family Residential Property in City after the Effective Date, and will provide a Foodnew Green Waste Container or modify an existing Green Waste Container of the approved size to each such Single Family Residential Property upon commencement of the ~~relevant Food Waste Collection program~~ New Program. Nothing in this section shall be deemed to preclude the use of bins or other Containers of a size and shape, which are compatible with approved rates, acceptable to and supplied by Company and, in the event City and Company shall institute new

programs hereunder which require bins or other Containers of a particular size and shape, Customers on single unit Residential Properties shall use bins or other Containers supplied by Company meeting such requirements.

5.8 Containers- Multi-Family Residential, Commercial and Institutional. Company shall collect Solid Waste, Recyclables, Green Waste and ~~Food~~/or Mixed Organic Waste from Multi-Family Residential Properties, Commercial Properties and Institutional Properties in City in a size and shape suitable for each such location from the following capacities: 10, 20, 32, 64 or 96 gallon carts, two-yard, three-yard, four-yard and six-yard bins, and 15-yard, 20-yard and 30-yard boxes; provided that Green Waste and/or Mixed Organic Waste shall be collected only in 64 gallon carts or two-yard bins and only commingled in the same container.

5.9 Replacement or Addition of Containers. Company shall replace, at no charge to a Single Family Residential Generator but not more than once a calendar year, a Solid Waste, Recyclables, ~~or~~ Green Waste ~~or Food Waste~~ Container that is stolen from the curb. If from time to time a Single Family Residential Generator may wish to have additional Containers, Company shall make additional Containers available for free and adjust the Generator's service rate. A replacement Container will be provided free to any Single Family Residential Generator returning the original Container for a Container of a different size, but not more than twice a calendar year. Company will maintain and repair Containers at its cost, and shall repair or replace damaged Containers, at Company's option, upon request of a Customer or City. The ownership of all Containers purchased by Company under this Agreement shall be and remain with Company.

5.10 Personnel and Equipment. Company shall furnish sufficient personnel, labor and equipment required for the Collection, removal, handling, Processing and Disposal of all Solid Waste Generated within the corporate limits of the City in compliance with this Agreement and the City's applicable law or City policy.

5.11 Disposal and Processing Facilities.

(a) Solid Waste. Company shall transport all Solid Waste collected by it in City to the transfer station operated by SWS and located at 3151 Taylor Drive, Ukiah, California (the "Transfer Station"). All of such Solid Waste that is not Recycled shall be hauled to a licensed disposal facility in accordance with the terms of the Transfer Station Agreement. The gate fee paid by Company to SWS for Solid Waste delivered to the Transfer Station shall be as determined under the Transfer Station Agreement.

(b) Recyclables. Company shall transport all Source Separated Recyclables (other than Green Waste and ~~Food~~Mixed Organic Waste) Collected by it curbside from Residential Customers in City to the materials recovery and green waste facility operated by Pacific Recycling Solutions, Inc. ("PRS") and located at 4260 North State Street and 3501 Taylor Drive and 3515 Taylor Drive, Ukiah, California (the "PRS Facility") for Processing. Company shall transport all other Recyclables collected in City to the Transfer Station. Any residue from such Recyclables that cannot be Recycled shall be Disposed of in accordance with the Transfer Station Agreement if delivered to the Transfer Station, or at any Authorized Facility selected by PRS, if delivered to the PRS Facility. PRS shall pay Company the amounts

determined under that certain Recyclable Materials Agreement between PRS and Company of even date with this Agreement attached hereto as Exhibit B for Recyclables delivered to PRS by Company (the "Recycling Agreement"). The amount, if any, paid by Company to SWS for Recyclables delivered to the Transfer Station shall be as determined under the Transfer Station Agreement.

(c) Green ~~and Food Waste~~ and Mixed Organic Waste. Company shall transport all Source Separated Green ~~Waste and Food~~ Waste collected by it in City to any or all of the following facilities: the Transfer Station, the PRS Facility, the CCC composting facility (the "CCC Facility"), or the Scotia biomass conversion facility (the "Scotia Facility")~~), or other biomass conversion facility approved by the City Manager~~ for Processing; provided, however, that, notwithstanding any other provision in this Agreement and subject to the receipt by PRS of all government approvals and permits necessary for PRS to receive, commingle, store and handle Mixed Organic Waste, Company shall ~~arrange for delivery of an average of 400 tons per calendar month, subject to seasonal adjustments affecting the amount of Green Waste available, of Green Waste (including Green~~ deliver all Mixed Organic Waste generated in City)~~, un-ground but presorted, to the CCC facility so long as (1) CCC is licensed to accept Green Waste from City, (2) curbside collection from Residential, Multi-Family Residential, Commercial and Institutional Properties to the PRS Facility for transport from the PRS Facility to the CCC is~~ Facility during the term of and in full compliance ~~accordance~~ with ~~its license, (3) the Agreement for Mixed Organic Waste Services between PRS and CCC is the only licensed composting facility in Mendocino County that is licensed to accept and is capable of accepting the full range of inputs accepted by CCC as of April 1, 2008, (4) CCC charges not more than \$32.00 per ton for the first 200 tons of such Green Waste in the aggregate delivered per calendar month, (dated September 15, 2015, which may represent more than the actual Green Waste collected curbside in City by Company), and correspondingly CCC will accept, at no charge for any tons in excess of 200 delivered in such month (which represents Green Waste from sources other than City), and (5) CCC continues~~ is attached as Exhibit 1 to accept sheet rock from Company, SWS and PRS at no charge; and, Exhibit D to this Agreement (the "CCC Agreement"); provided, ~~further, however, that the exercise of any option to extend that Company's obligation shall be deemed satisfied~~ agreement by Green Waste arranged to be delivered ~~PRS must be approved by SWS to the CCC facility pursuant to Section 4.5 of the Transfer Station Agreement, City.~~ Any residue from the Green Waste or Mixed Organic Waste generated in City that cannot be Processed shall be disposed of in accordance with the Transfer Station Agreement if delivered to the Transfer Station, or at any Authorized Facility selected by PRS, if delivered to the PRS Facility. The amount paid by Company to SWS for Green Waste delivered to the Transfer Station shall be as determined under the Transfer Station Agreement, and the amount paid by Company to PRS for Green Waste and/or Mixed Organic Waste delivered to the PRS Facility shall be as determined under ~~that certain the PRS Agreement for the Receipt of Green and Wood Waste between PRS, Company and SWS of even date with this Agreement and attached hereto as Exhibit C.~~

(d) Alternate, Successor and Other Authorized Facilities. Company shall provide City with written notice as soon as Company knows that it will use a Processing Facility instead of or in addition to the PRS Facility, the Scotia Facility ~~or CCC,~~ or other biomass conversion facility approved by the City Manager for Processing, or the CCC Facility; provided, however, that Company and PRS shall only be entitled to propose an alternate Processing

Facility (or Disposal Facility, if available) to receive Mixed Organic Waste from PRS if CCC shall refuse, due to no fault of Company, SWS or PRS, to accept Mixed Organic Waste that is not a Contaminated Load (as defined in the CCC Agreement) or if the CCC Facility shall shut down or cease operating. The notice shall provide the name and location of the proposed Facility, the anticipated gate fee and other charges for Processing at that Facility, and a copy of the proposed contract between Company and such Facility. Company shall also provide City with the increased or decreased transportation costs, if any, associated with using the proposed Facility (in the case of Mixed Organic Waste) and with any additional information about ~~such Processing~~ the proposed Facility reasonably requested by City. Company's use of the proposed Processing Facility shall be subject to approval by the City Council, which shall not be unreasonably withheld. In acting on a request for approval, the City shall consider, among other things, whether the use of that Facility is ~~reasonably consistent with the Strategic Plan, as attached, or revised with approval of the City Council,~~ available at a reasonable cost to the ratepayers considering the environmental benefits and the available alternatives, and otherwise qualifies as an Authorized Facility. The City Council may consider any other factor reasonably related to a legitimate City interest in its management of waste collection and disposal, including, but not limited to, alternative technologies and facilities, the impact on rates, past performance and regulatory compliance history of the Processing Facilities under consideration, factors affecting the facilities' future performance, and the public interest. ~~In the event that the Transfer Station, the PRS Facility, the CCC facility~~ City and Company acknowledge that, as of the date of this Agreement, very few Processing Facilities will accept Mixed Organic Waste and, if not Processed, such Waste cannot be stockpiled and may not be permitted to be Disposed of in a landfill. Accordingly, and notwithstanding any other provision in this Agreement, in the case of a written request by Company to use a Processing Facility (or Disposal Facility, if available) other than CCC for Mixed Organic Waste: (i) City will, in its sole discretion and within sixty (60) days after its receipt of such request, approve the use of the proposed Facility or select an alternate Processing Facility or Disposal Facility, if available, to Process or Dispose of the Mixed Organic Waste, and (ii) Company's service rates will be adjusted to cover any increase or decrease in its costs for Processing or Disposal, and/or transportation resulting from City's decision, effective as of the date of such request; and, provided, further, that if City does not accept the proposed Facility or select an alternate Facility in accordance with this sentence, Company shall direct PRS to deliver the Mixed Organic Waste for Processing to any licensed facility, with the costs to PRS of using the new facility being deemed to consist of the tonnage of Mixed Organic Waste delivered by PRS to the new facility multiplied by the then effective per ton or per yard Rate for MSW charged at the Transfer Station, and with the excess of such costs to PRS over the costs to PRS of using the CCC Facility being passed through to Company and treated as a Pass-Through adjustment to the Rates on the next Rate Adjustment Date pursuant to Section 6.3 below. In the event that the Transfer Station, the PRS Facility, the CCC Facility, the Scotia Facility or any other Authorized Facility described above cannot accept Solid Waste, Recyclables, Green Waste, or ~~Food~~ Mixed Organic Waste Generated in City on a temporary basis due to no fault of Company, or due to events beyond the control of Company, such as acts of God, public emergency, strike or lockout by employees of another entity unrelated to Company, Company shall locate and use an alternate licensed facility for the duration of such circumstance; provided, however, that City approval in accordance with this Section 5.11(d) shall be required if the Authorized Facility cannot accept Solid Waste for a period of time exceeding three (3)

months. In addition, in adjusting the MOW Processing Rate (as defined in the PRS Agreement) at the PRS Facility during the five year review of rates conducted in 2016 under Section 4c. of that Agreement, the adjustment shall include in the per ton rate all costs incurred by PRS to accommodate the Processing of MOW, including, but not limited to, the capital costs of improvements to the PRS Facility, operational costs, transportation costs, and other costs required to accommodate the New Program. and shall allow for a reasonable profit to PRS.

5.12 Local Office. Company shall maintain an office in or in close proximity to the City, as approved by the City Manager, where service may be applied for and complaints made. The address and telephone number of such office shall regularly be included in Customer billings and service information distributed to the public. Company's office shall have a responsible individual available daily between the hours of seven-thirty o'clock a.m. and four o'clock p.m., excepting Saturday, Sunday and holidays. Calls for missed collections shall be received 24 hours per day, by answering machine after four o'clock p.m. and on Saturdays, Sundays and holidays.

5.13 Pick-Ups at City Facilities. Company shall provide Containers and remove, without charge, all Solid Waste, Source Separated Recyclables and Source Separated Green and Food Waste Generated at all City facilities, including from City street cans, (of the nature and in the amounts currently collected) at least once per week, but Company may charge all other public agencies for services rendered at the same rates and on the same basis as Commercial Customers are charged for similar services. Company shall also remove, without charge, all grit and screenings from City's wastewater plant as scheduled by Company and City

5.14 Outreach and Public Education. Company shall execute a public awareness campaign for recycling by Residential and Commercial Customers, which campaign will include an up to date Web Site that includes educational information, a business waste reduction program, a school Recycling program and a flyer in Company's billing statements (or posted on Company's website) not less than every six months. City shall provide Company with free space at all City-sponsored events to promote the campaign. Additional activities shall be available at additional cost by mutual agreement of the parties. Company shall also provide each new Customer with a packet of information regarding the curbside Recycling and Green Waste programs, and, if in effect, a Food Waste program, as well as information cards to be used in the event that a Customer places materials out for Recyclables, Green Waste or Food Waste collection that are not acceptable as set forth in this Agreement. Such card shall be left with the Customer's container or bin and shall inform the Customer why the materials were not picked up.

5.15 Fall Leaf Collection. Company shall provide all Customers with reasonable leaf collection without charge during the week after Thanksgiving each year in Containers and/or bags approved or provided by Company. City shall prepare and pay for an insert in all Customer billing advertising this service.

5.16 Spring Clean-up Week. Company shall provide all Customers with reasonable Green Waste collection without charge during the third week of April each year, including the collection of tree branches not to exceed six (6) inches in diameter or four (4) feet in length.

5.17 Additional or Modified Services. Company shall provide additional or modified services upon request of City, or upon the proposal of Company as approved by City pursuant to Section 5.19 below, subject, if the costs incurred by Company to provide such services increase or decrease, to the establishment by mutual written agreement of a reasonable service Rate, or service Rate adjustment, therefor.

5.18 Permits and Licenses. Company shall obtain and maintain throughout the term of this Agreement all permits, licenses and approvals necessary or required for Company to perform the work and services described herein. City shall reasonably cooperate with Company in connection with obtaining or renewing such permits, licenses and approvals.

5.19 Diversion Requirements. In an effort to assure City's continuing compliance with the current and any future diversion requirements set forth in the California Integrated Waste Management Act of 1989, as amended ("AB 939"), Company shall propose and City may require Company to adopt and implement various recycling, Solid Waste reduction, public education and reporting programs for City and its residents, subject to City taking all actions necessary to implement such programs and approving reasonable service rate increases needed, if any, in connection therewith.

6. Rates.

6.1 Establishment of Rates. The service rates specified in Exhibit E to this Agreement (the "Rates") shall take effect on the Effective Date, subject to approval by the City Council and compliance with the notice and hearing requirements in Article XIII.D of the California Constitution and Government Code Sections 53750 et seq. (collectively, "Proposition 218"). Such Rates shall be adjusted pursuant to Sections 6.2, 6.3, 6.4 and 6.5 below, subject to compliance with the notice and public hearing requirements of Proposition 218 as provided in such Sections. The parties' agreement to subject the Rates and certain adjustments thereto to the notice and public hearing requirements of Proposition 218 is precautionary only and shall not be deemed an admission that Proposition 218 applies to the Rates or such adjustments. Company shall not charge any amount in excess of the approved Rates for services required by or permitted under this Agreement.

6.2 Modification Based on Consumer Price Index, Fuel Index, Recycling Reduction and Certain Pass-Through Costs.

(a) Adjustment Calculation. Each Rate shall be adjusted January 1st every year, beginning January 1, 2013 ("Rate Adjustment Date") to reflect changes in the CPI, the Fuel Index, the amount paid to Company by PRS for Recyclables and certain Pass-Through Costs by a percentage determined in accordance with the Curbside Rate Calculation attached hereto as Exhibit C (the "Calculation").

(b) Definitions. For purposes of Rate adjustments pursuant to this Section 6.2

and the Calculation, the following terms shall have the following meanings.

- (i) "Base Fuel Costs" means Company's actual costs for diesel and other fuels used in performing services under this Agreement for the year ended December 31, 2010 or \$200,641.15.
- (ii) "Base Revenue" means Company's total revenue received from Customers during the Comparison Year.
- (iii) "Base Year" means the year ended June 30th one year prior to June 30th of the Comparison Year.
- (iv) "Comparison Year" means the year ended June 30th immediately prior to the relevant Rate Adjustment Date.
- (v) "Commercial Oversight Fees" means the total amount of commercial oversight fees, including any fees or charges adopted to replace or supplement such fees, paid by Company to City in accordance with Section 4 and 6.6 during the Comparison Year.
- (vi) "CPI" means the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items (1982-1984=100), published by the United States Department of Labor, Bureau of Labor Statistics.
- (vii) "Disposal Fees – Garbage" means the actual Disposal Costs paid by Company to SWS for Solid Waste delivered by Company to the Transfer Station during the Comparison Year.
- (viii) "Disposal Fees – Green Waste" means the actual Processing Costs paid by Company to ~~CCC~~, PRS or any other Authorized Facility for Green Waste and/or Mixed Organic Waste delivered by Company to the ~~CCC facility, the~~ PRS Facility or such Authorized Facility; (including pursuant to Section 5.11(d) above), respectively, during the Comparison Year.
- (ix) "Fuel Costs" means Company's actual costs for diesel and other fuels used in performing services under this Agreement during the Comparison Year.
- (x) "Fuel Index" means the California No.2 Diesel Retail Sales by all Sellers (Dollars Per Gallon) published by the U. S. Energy Information Administration.
- (xi) "Landfill Closure Costs" means the total amount of landfill closure fees, including any fees or charges adopted to replace or supplement such fees, paid by Company to City in accordance with Section 4 and 6.6 during the Comparison Year.
- (xii) "Recycle Credit" means the product of (A) the average monthly weighted average price (AMWAP) per ton PRS is required to pay to Company under the Recycling Agreement for Source Separated Recyclables collected by Company curbside from Residential Customers during the Comparison Year, but not less than \$5.00, times (B) the total tons of such Recyclables so delivered by Company to PRS and accepted by PRS during the Comparison Year; provided, however, that if the amount of Recyclables rejected by PRS under Section 2 of the Recycling Agreement averages over any consecutive six month period more than 5% of the total Recyclables delivered to PRS ("the Acceptable Rejection Rate"), the credit shall include AMWAP, but not less than \$5.00, times the tons of Recyclables rejected by PRS for that same six month period in excess of the Acceptable Rejection Rate .
- (xiii) "Total Costs" means all of Company's costs to provide Collection services under this Agreement, including, without limitation, labor costs, vehicle and vehicle-related costs, maintenance, insurance, and transportation costs, Fuel Costs and Pass-Through Costs.

- (c) Rules. For purposes of Rate adjustments pursuant to this Section 6.2 and

the Calculation, the following rules shall apply.

(i) "CPI Change" shall be calculated as one hundred percent (100%) of the percentage increase or decrease, if any, in the CPI during the Comparison Year, using the CPI published for June of such Year as compared with the CPI published for June of the Base Year.

(ii) "Fuel Index Change" shall be calculated as one hundred percent (100%) of the percentage increase or decrease, if any, in the Fuel Index from June of the Base Year through June of the Comparison Year; provided, however, that, notwithstanding Section 6.2(b)(iii) above, "Base Year" for purposes of the Fuel Index Change shall mean the year ended June 30, 2010; and, provided, further, that the Fuel Index Change adjustment (i.e., Fuel Index Change multiplied by Base Fuel Cost) for any Rate Adjustment Date shall be calculated after removal of such adjustment for the prior Rate Adjustment Date.

(iii) Each adjustment element in the first part of the Calculation will be grossed up for the corresponding increase or decrease in Franchise Fees and Billing Fees (where applicable) resulting from such adjustment, other than the CPI adjustment.

(iv) Rate adjustments for changes in Commercial Oversight Fees or Landfill Closure Costs that take effect on a date other than January 1st, as well as changes in other Pass-Through Costs, will be determined under Section 6.3 below and not under this Section 6.2.

(d) Procedure. The procedure for Rate adjustments under this Section 6.2 shall be as follows:

(i) Not later than August 15th of each year, Company shall file with the City Manager a written notice of intention to adjust each of the then current Rates effective as of January 1st of the next year in accordance with Section 6.2(a) through (c) above.

(ii) Within sixty (60) days of the filing of the notice of intention, the City Manager shall review the notice and either confirm that the proposed Rates are within the limit of Section 6.2(a) through (c) above or establish by mutual agreement with Company any necessary changes to the proposed Rates to make such confirmation.

(iii) Not later than October 20th, the City Manager shall inform the City Council in writing of his or her determination regarding the proposed new Rates and the City Council shall be entitled to review and confirm that the proposed Rates are within the limit of Section 6.2 above or establish by mutual agreement with Company any necessary changes to the proposed Rates to make such confirmation, not later than November 20th. Any new Rates shall become effective on the following January 1st, provided that the Company and the City shall give the respective Customers that each bills written notice of the new Rates not later than December 1st.

(iv) In the event that the CPI or the Fuel Index described in Section 6.2(b) above shall be discontinued or materially modified during the term of this Agreement, the parties shall together select a replacement index and/or otherwise change Section 6.2(b) above so as to replicate, as nearly as possible, the mutual intention of the parties to rely on the results of the relevant index described in Section 6.2(b) as in effect on the date hereof.

6.3 Modification Based on Changes in Pass-Through Costs. In addition to adjustments under Section 6.2 above, each Rate shall be adjusted to reflect changes in Pass-Through Costs that are not the subject of Rate adjustments pursuant to Section 6.2 above, as

follows. Using the section of the Calculation entitled "Revenue Base," each Rate shall be increased by an amount equal to the increase in applicable Pass-Through Costs, and decreased by an amount equal to the decrease in applicable Pass-Through Costs, in each case so as to cause all the Rates to compensate for such change in Pass-Through Costs as of the date such change becomes effective and either payable by or a benefit to Company, and taking into account the increase or decrease in Franchise Fees and/or Billing Fees payable in respect of such change.

6.4 Five Year Review. Once every five (5) years (beginning no later than April 2, 2016 for purposes of adjusting the Rates effective January 1, 2017), City shall conduct a review for the purpose of determining whether or not the automatic adjustments provided in Sections 6.2 and 6.5 have adequately adjusted the rates to cover the actual increase or decrease in the Company's reasonable operating costs or have exceeded those costs and whether the Rates remain fair to the ratepayer and the Company. Depending on the results of that review the City may increase or decrease the rates. City shall complete each such review and adjustment, if any, at least three months (3) prior to the beginning of such year (by September 30, 2016 in the case of the first such review), and Company shall cooperate with such review. In conducting each such review, City shall consider the following information: financial records of Company (including operating expenses and revenues and Disposal, Processing, Regulatory and other costs of Company, and Company revenues), the factors described in Section 6.5 below, and rates charged for comparable services in similar communities. Increases or decreases in the Rates pursuant to this Section 6.4 shall be subject to the notice and public hearing requirements of Proposition 218. The City may conduct such investigation as it deems necessary to perform this review and Company shall cooperate with such investigation, which may include the City's inspection and copying of Company records and Review and/or Audit of Company's financial records by a City retained CPA, the costs of which shall be reimbursed to City from Base Revenue but treated as a pass-through cost for rate setting purposes.

6.5 Modification Based on Extraordinary Items. In addition to adjustments under Sections 6.2, 6.3 and 6.4 above, Company may request an increase in the Rates if Company's costs increase or its revenues decrease solely as the result of extraordinary circumstances beyond its control that could not have been reasonably anticipated by Company (such as a Change in Law) and if the increase in costs or decrease in revenues unavoidably adversely affects Company's opportunity to operate at a reasonable profit. Company shall have the burden of producing evidence satisfactory to City demonstrating its need for a rate increase prior to the regular Five Year Review pursuant to Section 6.4 above, including, but not limited to, reviewed or audited financial statements of Company, if requested by City. The City Council shall consider the request in good faith. Any such increase shall only be approved through the notice and hearing requirements in Proposition 218.

6.6 Billing. Company shall bill directly for all Solid Waste, Recyclables ~~and~~ Green Waste and ~~Food~~ Mixed Organic Waste Collection services- provided herein to all Commercial and Institutional Customers, and to those Multi-Family Residential Customers assigned by City to Company for billing. Company and City shall regularly exchange billing lists to avoid double billing and to insure that Company is following the City's direction regarding its direct billing of Multi-Family Residential Customers. City shall bill all Residential Customers (except those

currently billed by Company as approved by City) for all Solid Waste, Recyclables ~~and~~, Green Waste and ~~Food~~ Mixed Organic Waste Collection services hereunder. Each Commercial or Institutional Customer will be billed for one (1) month of service in advance upon commencement of service, and thereafter for one (1) month of service in arrears. Interest of one percent (1%) per month or the highest rate permitted under applicable law, whichever is less, shall be applied to any past due amounts from all Customers until paid in full. Amounts shall be past due if not paid within thirty (30) days of billing. Company shall have the right to refuse service to any Customer that is more than sixty (60) days delinquent on his, her or its account; provided, however, that if the City is forced to take enforcement action against a Customer who has been refused service, Company shall pay the City's costs to take such enforcement action as is necessary to protect public health and safety. Company shall pay City three percent (3%) of the amount billed by City to Residential Customers as a billing fee. City shall pay to Company all amounts billed to Residential Customers, less Billing Fees, Franchise Fees, commercial oversight fees and landfill closure costs (in accordance with Section 4 above), and a delinquency allowance equal to one-half percent (0.5%) of such billings, monthly within thirty (30) days of the end of the calendar month for which the Residential Customers are billed. When permitted by the City's accounting software, the City will reconcile the amount held by City as a delinquency allowance at the end of each calendar quarter and shall pay Company, within thirty (30) days after the end of such quarter, the portion of such amount that exceeds the actual delinquent billings for such quarter.

6.7 Proposition 218. Notwithstanding any other provision in this Agreement, in the event that the Rates or any modifications thereof are invalidated by a final non-appealable judgment in a court action challenging them as in violation of Proposition 218, and Company's operating costs exceed its revenue for a continuous period of six months since the date of the last Rate adjustment, Company shall have the right, exercisable by written notice to City within ninety (90) days after the entry of such judgment, to terminate this Agreement effective One Hundred Twenty (120) days after City's receipt of such notice.

7. Provisions Applicable to Equipment and Personnel.

7.1 Company shall use in connection with transportation of Solid Waste modern motor dump trucks with water tight bodies, sufficient in number and capacity to efficiently perform the work required by this Agreement and to comply with all applicable legal requirements. Company shall keep the outside of the truck bodies free from dirt and filth, and shall clean the inside of the trucks in a sanitary manner on a regular basis. Suitable measures shall be taken to prevent refuse from falling into public streets or places. Company shall keep all trucks freshly painted in a uniform manner, and the firm name or logo, telephone number, and truck number of each truck shall appear in a conspicuous manner. Company shall keep all trucks in good maintenance and repair, regularly inspect same, keep accurate records of all vehicle maintenance, and replace as needed.

7.2 Company shall not litter premises in the process of making collections nor allow refuse to blow or fall from any vehicle used for collections. Company shall clean up any and all spills, including oil and debris on the streets, resulting from its operations. Should Company fail

to promptly clean up such spills resulting from its operations after notice from City, Company shall be liable to City for all reasonable costs incurred by City in doing so.

7.3 Company shall provide suitable operational and safety training for all of its employees who utilize or operate vehicles or equipment for Collection of Solid Waste or who are otherwise directly involved in such Collection. Company shall use its best efforts to assure that all employees present a neat appearance, conduct themselves in a courteous manner, and perform the work as quietly as possible. Company shall also designate one or more qualified employees as supervisors of field operations, who will devote a substantial portion of their time in field checking Collection operations, including responding to complaints.

7.4 City officials shall at all times have access on 24 hours' prior written notice to inspect Company's work during operations and Company's facilities for purposes of ascertaining full knowledge respecting the conduct of Company's operations.

8. Records and Reports.

8.1 Company shall keep and maintain accurate books and records in accordance with the most recently adopted Accounting Standards Codification of generally accepted accounting principles by the Financial Accounting Standards Board clearly showing its revenues and expenses in connection with the operations provided for in this Agreement. Company shall maintain records accounting by category for the tonnage of Solid Waste, Green Waste, ~~Food~~Mixed Organic Waste and Source Separated Recyclables Collected pursuant to this Agreement on a monthly, quarterly and annual basis.

8.2 Every three (3) months after the Effective Date through the date which applies for purposes of measuring compliance with the diversion requirements of AB 939, Company shall supply City with a written report setting forth Company's best estimate of the diversion rate as of the end of the most recent month. Company shall also supply City with such related information as City may reasonably request and as Company possesses or is required by this Agreement to possess concerning such estimate.

8.3 Every three (3) months after the Effective Date, Company shall provide City with a written financial report on the amounts billed by Company to each Multi-Family Residential, Commercial and Institutional Customer and the amounts paid by such Customer.

8.4 Not later than March 31 each year, or when otherwise requested by City, Company shall provide City with a complete customer list for all Customers with the service type, billing rate, and name and address of each Customer.

9. Hold Harmless and Insurance.

9.1 Company shall indemnify and hold harmless City, its City Council, boards, commissions, officers, agents, representatives and employees from any and all actions, claims or damages brought for or on account of injuries to or death of any person or damage to property of

all kinds resulting from or arising out of the operations of Company, its officers, agents, employees or servants pursuant to this Agreement. The duty of Company to indemnify and hold harmless shall include the duty to defend as set forth in California Civil Code Section 2778.

9.2 Company shall have in effect during the term of this Agreement, workers' compensation and employer liability insurance providing full statutory coverage.

9.3 Company shall take out and maintain during the term of this Agreement liability insurance for the following types and minimum amounts:

(a) General liability, including comprehensive form, premises operations, products/completed operations, hazard, contractual insurance, broad form property damage, independent contractors and personal liability, with limits for bodily and property damage combined of \$500,000 each occurrence and \$500,000 aggregate.

(b) Automobile liability, including comprehensive form, owned, hired and non-owned, with a limit of \$1,000,000 for bodily injury and property damage combined.

(c) Excess liability, umbrella form with the same scope of coverage and exclusions as the underlying policies, with a limit for bodily injury and property damage combined of \$5,000,000 each occurrence and \$5,000,000 aggregate.

(d) Pollution and remediation liability with limits in an amount of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate insuring against loss, the cost of remediation and legal defense as a result of pollution conditions arising out of the collision, upset or overturn of Company vehicles in conjunction with this Agreement.

Insurance certificates and policy endorsements evidencing the required coverage shall be filed with City and shall be subject to approval by the City Attorney. City, its City Council, boards, commissions, officers, agents and employees shall be named as additional insureds on any such policies of insurance which shall also contain a provision that the insurance afforded thereby shall be primary. No such policy shall be cancelled or modified except upon thirty (30) days' prior written notice to City. Insurance is to be placed with admitted California insurers with an A.M. Best's rating of no less than A- for financial strength, AA for long-term credit rating and AMB-1 for short-term credit rating.

9.4 Company shall post a \$300,000 performance bond or financial instrument reasonably acceptable to the City Manager as security for Company's faithful performance of each and every term, covenant and condition of this Agreement to be performed by Company, provided that the cost of such bond or other instrument shall be included in Company's Collection Costs for rate making purposes.

10. Remedies upon Default.

10.1 Company shall be deemed in default in the event Company defaults in the performance of any of the duties to be performed by it under the terms of this Agreement and fails to cure the default as further provided in this Section 10.1. City shall give Company written notice, either by mail or by personal service, setting forth the default. Company shall correct

such default within thirty (30) days after receipt of such notice (within seven (7) days if City determines that the public health or safety is at risk) unless the default cannot, by its nature, be cured within said period, in which case the cure period shall be extended for such additional time as is reasonably necessary to effect a cure, provided that Company shall commence efforts to effect a cure as soon as practicable and shall diligently pursue the cure to completion.

10.2 In the event Company's default described in Section 10.1 is of a material provision of this Agreement and is not cured as set forth in Section 10.1 or if Company has committed Multiple Breaches (defined to mean three or more defaults of material provisions of this Agreement within an eighteen (18) month period, whether cured or not) ("Material Default") City shall have the following remedies:

10.2.1 Liquidated Damages. The parties acknowledge that City will incur damages as a result of a Material Default, and that such Material Default may not warrant termination of this Agreement. The parties agree that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by City as a result of a Material Default. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that exclusive services might be available at substantially lower costs than alternative services and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches. Liquidated damages shall be the City's exclusive damages remedy for any individual Material Default which does not result in termination of this Agreement by City. The amount of liquidated damages is \$1,000 for each day the Material Default continues after Company fails to cure until it is either cured or the City terminates this Agreement.

10.2.2 Franchise Termination. ~~Without~~ Without further notice and without suit or other proceedings, City may cancel and annul the rights and privileges of this Agreement upon a Material Default. In the event of termination of this Agreement for Material Default, City shall have the right forthwith to grant a franchise to another scavenger service or to take possession of trucks and other equipment of Company used to perform work under this Agreement. City shall have the right to retain possession of the trucks and equipment until other suitable trucks and equipment can be purchased or otherwise acquired by City for the purpose and City shall pay Company the reasonable rental value of such trucks and equipment, and keep them in good maintenance and repair, during the time the same are used by City. City shall also have access to Company's records for the purpose of billing service accounts during the period City is providing the services described in this Agreement, and shall retain all fees collected for such services.

10.2.3 Other Remedies. Upon termination of this Agreement based on a Material

Default, City shall have all other remedies in law or equity for such Material Default.

10.3 If a dispute arises between City and Company regarding fees or any other term or provision of this Agreement, the parties agree to meet and confer in good faith to resolve the dispute. Either party may request to meet and confer by written notice to the other party. Alternatively, the parties may agree to participate in non-binding mediation. If the dispute is not resolved within thirty (30) days after the written request to meet and confer has been given or after the parties have agreed to non-binding mediation, the matter, other than an action seeking specific performance or other equitable relief, damages of Twenty Five Thousand Dollars (\$25,000) or less, or indemnification or insurance coverage pursuant to Section 9, shall be submitted to non-binding arbitration in accordance with Title 9 of the California Code of Civil Procedure, commencing with Section 1280, before a single neutral arbitrator ("Arbitrator") in Mendocino County. The Arbitrator shall be an attorney with at least ten (10) years' experience or a retired judge (or a person having comparable qualifications) and shall be mutually agreed upon by the parties. If the parties are unable to agree on an Arbitrator, the Arbitrator shall be appointed by the superior court in accordance with Cal. Code Civ. Proc. §1281.6. The fees and expenses of the Arbitrator shall be borne equally by the parties.

In the event such non-binding arbitration does not resolve the matter and in any other dispute that results in any court action, the parties waive any right to a jury trial and agree that any such action shall be filed in the federal or state courts in or for Mendocino County, each party hereby consents to the jurisdiction of and venue in such courts, the matter shall be governed by the internal laws of the State of California (irrespective of choice of law principles), and the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and disbursements incurred in such action from the non-prevailing party.

10.4 If Company shall at any time during the term of this Agreement or any extension thereof, become insolvent, or if proceedings in bankruptcy shall be instituted by or against Company, or if Company shall be adjudged bankrupt or insolvent by any Court, or if a receiver or trustee in bankruptcy or a receiver of any property by Company shall be appointed in any suit or proceeding brought by or against Company, or if Company shall make an assignment for the benefit of creditors, then and in each and every such case, and provided that such proceedings, adjudication, appointment or assignment, as the case may be, continue in effect for ninety (90) days without being vacated, removed or withdrawn, this Agreement shall immediately cease and come to an end, and the rights and privileges granted shall immediately be cancelled and annulled without notice or action required on behalf of City.

10.5 Notwithstanding any other provision herein, no default, delay or failure to perform on the part of either party shall be considered a breach hereunder if such default, delay or failure to perform is due to causes beyond such party's control, including, but not limited to, riots, civil disturbances, actions or inactions of governmental authorities, epidemic, war, embargoes, severe weather, fire, earthquake, acts of God, defaults by the other party or defaults by carriers. In the event of any such default, delay or failure to perform, any dates or times by which the affected party otherwise is scheduled to perform shall be extended for a period of time equal in duration to the additional time required because of the excused default, delay or failure

to perform.

11. Assignment.

11.1 Company shall not directly or indirectly, voluntarily or involuntarily assign, mortgage, pledge or encumber any interest in all or a part of this Agreement without the prior written consent of City. The City Council shall have the right to determine in its sole discretion whether to approve, conditionally approve or deny any request by Company for approval under this Section. Any action requiring City Council approval under this Section that occurs without such approval shall give City the right to terminate this Agreement without prior notice to Company or its successors or assigns. For purposes of this Section, any transaction involving the transfer, sale or exchange of stock which results in a change in majority control of Company from its owners as of the date hereof (excluding transfers between such owners and transfers by any such owners to revocable living trusts for the benefit of their families) shall be an assignment subject to City review and approval.

11.2 Any written agreement between Company and an Authorized Facility for the disposal of Solid Waste generated in City entered into after the date of this Agreement shall provide that: (a) City is a third party beneficiary with the same right as a party to enforce such agreement; (b) any assignment of such agreement shall require City approval; (c) in the event such agreement is terminated during its term or any extended term by Company or by the Authorized Facility operator based on an uncured default by Company under such agreement, such agreement may be assumed by City without change, including as to disposal rates and terms; and (d) if terminated based on an uncured default by Company, any payments due but unpaid under such agreement on the date of termination shall continue to be an obligation of Company and the obligation to make any such payments shall not be assumed by City upon its assumption of such agreement.

12. Waiver. The waiver by either party of any breach or violation of any term or condition of this Agreement or of any provision of law by the other party must be in writing signed by the party to be charged, and shall not be deemed to be a waiver of the term, condition or provision of law, or of any subsequent breach or violation of the same or any other term, condition or provision of law. The acceptance by City of any franchise fee or other fee or other monies which may become due hereunder to City shall not be deemed to be a waiver of any preceding breach or violation by Company.

13. Administration. The administration and enforcement of this Agreement shall be the responsibility of the City Manager or a designated representative of that office. This section is not intended to indicate or suggest the City Manager has the authority to grant, amend, or revoke the franchise referenced herein. Nothing contained in this Agreement shall prohibit the City Manager from seeking approval from the City Council for any decision the City Manager is authorized to make under the terms of this Agreement.

14. Independent Contractor. Company, its employees and agents, are independent contractors and not employees or agents of City.

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15. Notices. Whenever a notice or document is required or permitted to be served or given hereunder, it shall be deemed given or served when received if delivered by fax or email (with acknowledgment of receipt), certified U.S. Mail, overnight courier (such as UPS or Federal Express), or 48 hours after deposit in the U.S. Mail with first class postage affixed. Any such document or notice shall be addressed as follows:

City:	City Manager Ukiah Civic Center 300 Seminary Avenue Ukiah, California 95482 FAX: Email:
Company:	Ukiah Waste Solutions, Inc. Attn: David M. Carroll, President P. O. Box 60 Ukiah, California 95482 FAX: Email:

or to such other person or address as may be specified from time to time in writing by either party in accordance with this Section.

16. Amendments. This Agreement may be amended from time to time only by written agreement between the parties signed by an authorized representative of each party. Either party may at any time request that the service or other provisions in this Agreement be modified by delivering written notice of its requested modifications to the other party. Within thirty (30) days after receipt of any such request, the parties shall meet and negotiate in good faith on adopting such requested modifications, including, without limitation, any change to the Rates necessitated by such modifications, provided that nothing herein shall obligate either party to agree on any such requested modifications.

17. Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the permitted successors and assigns of the parties.

18. Integration; Severability. This Agreement, including the Exhibits hereto, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements between the parties, whether written or oral, relating to such subject matter, including the Prior Agreement. If a court finds any provision of this Agreement invalid or unenforceable as applied to any circumstance, the remainder of this Agreement and the application of such provision to other persons or circumstances shall remain in effect. The parties further agree to replace such void or unenforceable provision with a valid and enforceable provision which will achieve, to the extent possible, the economic, business and other purposes of the void or unenforceable provision.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

Ukiah Waste Solutions, Inc.

By: _____
President

City of Ukiah

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

|

EXHIBIT ~~AB~~
~~WASTE MANAGEMENT STRATEGIC PLAN~~

|

~~EXHIBIT B~~
RECYCLABLE MATERIALS AGREEMENT

EXHIBIT C
CURBSIDE RATE CALCULATION

EXHIBIT D

FIRST AMENDED AND RESTATED AGREEMENT FOR RECEIPT OF WOOD
~~AND~~ WASTE, GREEN WASTE AND MIXED ORGANIC WASTE

EXHIBIT E
INITIAL SERVICE RATES

The current rate chart is attached. Commercial Green Waste [and/or Mixed Organic Waste](#) collection is charged at the same rates as Commercial Solid Waste. The chart will need to be expanded to clarify that for Single Family Residences, the Solid Waste rate includes Recyclables ~~and~~, Green [Waste and/or Mixed Organic](#) Waste, and that for Multi-Family Residences and Commercial Solid Waste, Recyclables and Green Waste [and/or Mixed Organic Waste](#) collection are all billed at the cart rates listed.

Rates to collect and dispose of sludge will be competitive with current rates.

Insert replacement/additional cart/container fees.

Insert all Special Charges.

FIRST AMENDED AND RESTATED WASTE COLLECTION AGREEMENT

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FIRST AMENDED AND RESTATED WASTE COLLECTION AGREEMENT

This First Amended and Restated Waste Collection Agreement (the "Agreement") is made as of October __, 2015 by and between the City of Ukiah, a municipal corporation (hereinafter "City"), and Ukiah Waste Solutions, Inc., a California corporation (hereinafter "Company"), with reference to the following:

WHEREAS, Company currently collects and disposes of Solid Waste generated in City pursuant to that certain Waste Collection Agreement dated December 12, 2011 (the "Prior Agreement"); and

WHEREAS, Company has invested its own funds to acquire land and facilities that increase diversion of Solid Waste from landfills, reduce greenhouse gasses, and create new jobs; and

WHEREAS, City has approved a Mixed Organic Waste Curbside Recycling Program (the "New Program"); and

WHEREAS, the parties wish to amend and restate the Prior Agreement on the terms herein in order to accommodate the New Program;

NOW, THEREFORE, in and for the mutual covenants herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Franchise Grant.

1.1 City hereby grants to Company, and Company hereby accepts from City, the exclusive franchise right and privilege, subject only to Section 1.3 below, to Collect, remove, transport, Recycle, Process, compost and Dispose of all Solid Waste generated in City in accordance with the provisions of City's laws and regulations pertaining to the accumulation, collection and removal thereof and any other applicable law, including applicable State and Federal statutes or administrative rules.

1.2 All Solid Waste Collected by Company pursuant to this Agreement shall become the property of Company upon its possession thereof, provided that nothing in this section shall be deemed a waiver by City of its rights and duties under this Agreement.

1.3 The franchise granted to Company hereunder shall in all respects be exclusive, except as otherwise provided by applicable law and as follows:

(a) Recyclables generated at any Residential, Commercial or Institutional Property that are Source Separated may be (i) transported personally by the Generating person for sale or donation to a Processing facility that has been duly approved and authorized as such by a governmental or other appropriate authority, including beverage containers Recycled at authorized facilities under the California Beverage Container Recycling Litter Reduction Act, (ii)

may be sold or donated by the Generating person to any Charitable Entity, or (iii) sold by the Generating person to any licensed Recycler (provided the Generating person is not charged any amount by such Recycler, directly or indirectly);

(b) Solid Waste Generated at any Residential, Commercial or Institutional Property may be personally transported by the person Generating same to any licensed landfill, transfer station or materials recovery facility;

(c) Green Waste removed from a Residential, Commercial or Institutional Property by a gardening, landscaping or tree trimming contractor as an incidental part of a comprehensive service offered by such contractor, rather than as a hauling service, may be disposed of by such contractor at any licensed transfer station or materials recovery facility, provided that such contractor does not store the box, bin or container used for such purpose at the location where the service is provided or remove such box, bin or container from such contractor's truck;

(d) Construction Debris and Demolition Debris removed from a Residential, Commercial or Institutional Property by a licensed construction or demolition contractor using its own employees and equipment as an incidental part of a comprehensive service offered by such contractor, rather than as a hauling service, may be disposed of by such contractor at any licensed transfer station or materials recovery facility, provided that such contractor does not store the box, bin or container used for such purpose at the location where the service is provided or remove such box, bin or container from such contractor's truck; and

(e) Hazardous Waste and Household Hazardous Waste may be disposed of in any lawful manner.

1.4 To the extent permitted by applicable law, City agrees to take such steps as may be reasonably necessary to protect (a) Company's ownership of Solid Waste, including Recyclables, Green Waste and/or Mixed Organic Waste, placed at the curbside or designated collection location for Collection by Company under the terms of this Agreement, and (b) Company's exclusive rights to collect all Solid Waste, including Recyclables, Green Waste and Mixed Organic Waste, in accordance with the terms hereof. City's obligation under this Section 1.4 is subject to Company's agreement, upon request of City, to reimburse City's reasonable expenses, including attorneys' fees and litigation expenses, incurred in taking steps as agreed upon herein; provided, however, that nothing herein shall prevent Company from taking any lawful action to protect its rights hereunder.

1.5 Except as expressly provided herein, this Agreement shall supersede the Prior Agreement as of the Effective Date set forth in Section 3 below, when the Prior Agreement shall cease to have any effect (except for periods prior to such Effective Date).

2. Definitions.

2.1 "Authorized Facility" means a Disposal or Processing facility that has received and is maintaining in good standing all regulatory or other approvals required by law to perform the task for which Company is using the facility and which has been approved by the City pursuant to Section 5.11 below.

2.2 “Billing Fees” means the billing fees payable to City pursuant to Section 6.6 below, including any fees or charges adopted to replace or supplement such billing fees.

2.3 “CCC” means Cold Creek Compost, Inc.

2.4 “Change in Law” means the enactment, adoption, promulgation, issuance, modification, or written adoption or change in administrative or judicial interpretation on or after the Effective Date of, any law, regulation, rule, order, judgment, decree, permit, approval or other requirement of any governmental agency (including City) having jurisdiction over this Agreement or Company’s performance hereunder.

2.5 "Charitable Entity" means any not-for-profit organization or entity maintained for community service, education or the public good, including service clubs, scouting organizations, religious and educational organizations and recognized charities.

2.6 "Collect" or "Collection" means the collection, transportation and removal of Solid Waste within and from City.

2.7 "Commercial Property" means property upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding businesses conducted upon Residential Property that are permitted under applicable zoning regulations and are not the primary use of the property.

2.8 "Construction Debris" means used or discarded construction materials generated during the construction or renovation of a building, structure or other man-made improvement on a Residential, Commercial or Institutional Property.

2.9 "Containers" means any and all types of Solid Waste receptacles supplied by Company, including but not limited to rectangular bins, cylindrical containers, and any and all other kinds of receptacles or bags, irrespective of size or shape.

2.10 “Customer” means the owner or occupant of Residential, Commercial or Institutional Property.

2.11 "Demolition Debris" means used construction materials generated during the razing or renovation of a building, structure or other man-made improvement on a Residential, Commercial or Institutional Property.

2.12 “Disposal” means the permanent placing of Solid Waste in a facility legally permitted to receive it.

2.13 “Disposal Costs” means Company’s costs to deposit Solid Waste collected under this Agreement at the Transfer Station (as defined in Section 5.11 below) or any other Authorized Facility.

2.14 "Food Waste" means food scraps, including animal and vegetable foods, paper tissues, paper napkins and towels, coffee grounds and filters, pizza boxes, food soiled paper plates and cups, and miscellaneous paper not suitable for recycling that is discarded (as from a Commercial or Residential Property kitchen).

2.15 "Franchise Fees" means the franchise fees payable to City pursuant to Section 4 below, including any fees or charges adopted to replace or supplement such franchise fees.

2.16 "Generate" means to create or render. A Customer is not considered to be the Generator of Solid Waste if the material has merely been transported or moved to the Customer's site.

2.17 "Green Waste" means tree trimmings, grass cuttings, plants, leaves, branches and trees (not more than six (6) inches in diameter or more than four (4) feet in length) and similar materials generated at a Residential, Commercial or Institutional Property.

2.18 "Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste or extremely Hazardous Waste by the State of California, or identified as Hazardous Waste by the U.S. Environmental Protection Agency, under applicable laws or regulations.

2.19 "Household Hazardous Waste" means Hazardous Waste that is generated at Residential Properties.

2.20 "Institutional Property" means the premises or site of any governmental entity, including city, county, state and/or federal buildings, public schools, colleges, and public recreational sites.

2.21 "Mixed Organic Waste" means Green Waste and Food Waste.

2.22 "Multi-Family Residential Property" means any building or structure, connected structure or series of structures used for residential purposes, and consisting of three (3) or more distinct dwelling units, irrespective of whether the dwelling units are rental units or are owner-occupied.

2.23 "Pass-Through Costs" means Disposal Costs, Processing Costs and Regulatory Costs.

2.24 "Processing" means the act of salvaging, reprocessing, marketing and selling or reusing Recyclables (including Green Waste and Mixed Organic Waste) for the purpose of Recycling, whether directly or through one or more third parties (including, in the case of Green Waste and Mixed Organic Waste, composting or anaerobic digestion), and shall include other means of diverting Solid Waste from landfills.

2.25 "Processing Costs" means fees, if any, paid by Company to a Processing Facility for Processing Recyclables, Food Waste, Green Waste, Mixed Organic Waste, Wood Waste and Solid Waste collected by Company. The amount paid by Company to PRS for Food Waste, Mixed Organic Waste, Green Waste or Wood Waste delivered to the PRS Facility shall be as determined under that certain First Amended and Restated Agreement for Receipt of Wood Waste, Green Waste and Mixed Organic Waste among PRS, UWS and SWS of even date herewith and attached as Exhibit D hereto (the "PRS Agreement").

2.26 "Recyclables" means Solid Waste which may be reused or processed into a form suitable for reuse through reprocessing or remanufacture consistent with the requirements of the California Integrated Waste Management Act of 1989, as amended ("AB 939"), including, without limitation, paper, newsprint, printed matter, pasteboard, paper containers, cardboard, glass, aluminum, PET, HDPE, and other plastics, beverage containers, compostable materials (including Green Waste and Food Waste), and wood, brick and stone in reusable size and condition. Recyclables shall include those items of Construction Debris and Demolition Debris which are described in this Sections 2.8 and 2.11. Company shall report changes in Recyclables collected at the curbside to the City Manager who must approve those changes.

2.27 "Recycle" means the process of reusing or processing Solid Waste into a form suitable for reuse consistent with the requirements of AB 939.

2.28 "Regulatory Costs" means all regulatory and governmental fees and charges incurred by Company in connection with providing services under this Agreement, including, without limitation, Franchise Fees, Billing Fees, commercial oversight fees and landfill closure costs payable to City.

2.29 "Residential Property" means Single Family Residential Property and Multi-Family Residential Property.

2.30 "Single Family Residential Property" means any building or structure, connected structure or series of structures used for residential purposes, and consisting of less than three (3) distinct dwelling units, irrespective of whether the dwelling units are rental units or are owner-occupied.

2.31 "Solid Waste" means all putrescible and nonputrescible residential refuse, commercial solid waste, institutional solid waste, garbage, Green Waste, Food Waste, Mixed Organic Waste and rubbish as defined in Public Resources Code Section 40191, including, without limitation, for the purposes of this Agreement Construction Debris, Demolition Debris, Recyclables, but excluding Hazardous Waste and Household Hazardous Waste.

2.32 "Source Separated" means Recyclables that are separated at the Residential, Commercial or Institutional Property where they are generated from Solid Waste and other Recyclables that are Collected separately, and which are saleable or acceptable for Processing without further sorting, including, but not limited to, Recyclables consisting of glass, paper, plastic, cardboard, tin cans and aluminum cans which are separated from all other Recyclables and Solid Waste, Green Waste which is separated from all other Recyclables and Solid Waste,

and Mixed Organic Waste which is separated from all other Recyclables and Solid Waste.

3. Term. Subject to earlier termination in accordance with the terms of this Agreement, the term of this Agreement shall commence on October 1, 2015 (the "Effective Date") and continue for a period of eleven (11) years and three (3) months through December 31, 2026, provided that Company shall have one (1) option to extend this Agreement and the franchise granted hereunder on the terms and conditions herein for a period of five (5) years commencing January 1, 2027 and ending December 31, 2031. Notice of Company's exercise of such option must be given at least six (6) months prior to December 31, 2026. The option to extend hereunder may not be exercised unless Company is in material compliance with the terms of this Agreement at the time of exercise and on December 31, 2026. It is the parties' intention that, subject to prior termination hereunder or thereunder, the term of this Agreement be coextensive with the term of the Transfer Station Agreement between City and Solid Wastes Systems, Inc. ("SWS") of even date herewith (the "Transfer Station Agreement").

4. Franchise Fee; Other Fees. Company shall be liable to City for a franchise fee equal to fifteen percent (15%) of the gross revenues collected by Company from Customers within the City limits during the term of this Agreement or such other percentage of such gross revenues as the City Council may establish from time to time. Within thirty (30) days after the end of each calendar month, Company shall send City a statement detailing gross revenue received by Company from Commercial and Institutional Customers, and from the Multi-Family Residential Customers that Company bills, for the prior calendar month, and City shall send Company a statement showing how City calculated the amounts withheld in accordance with this Section 4 and Section 6.6 below from its payment to Company for the prior calendar month. As soon as City's billing system permits it to generate the following statement, City will provide Company within thirty (30) days after the end of each calendar month with a statement detailing the amounts billed by City to the Residential Customers billed by City, the amounts collected by City from such Customers, the amounts paid to Company and all amounts withheld from such payments in accordance with this Section 4 and Section 6.6 below for the prior calendar month. In addition, each party shall maintain copies of all its billing and collection records for three (3) years following the date of billing for inspection and verification by the other party. Company shall also owe City a Billing Fee pursuant to Section 6.6 below, a commercial oversight fee of \$10,000 per calendar year and a landfill closure cost of \$60,000 per calendar year. The Franchise Fee, the Billing Fee, the oversight fee and the landfill closure fee shall all be paid by means of City's withholding such amounts from the payments City makes to Company in respect of the revenues City bills to Residential Customers in accordance with Section 6.6 below. The annual oversight and landfill closure fees will each be withheld at the rate of one-twelfth per month.

5. Services.

5.1 Solid Waste. Company shall Collect and Dispose of all Solid Waste (other than Source Separated Recyclables, which are subject to Section 5.2 below, and Source Separated Green Waste and Mixed Organic Waste, which are subject to Section 5.3 below) generated at every Single Family Residential Property within City once each week on a regularly scheduled day, and at every Multi-Family Residential, Commercial and Institutional Property within City

upon a schedule established between Company and each Generating person (or the owner, landlord or property manager, in the case of Multi-Family Residential Properties), but at least once each week on a regularly scheduled day, in accordance with this Agreement. Solid Waste shall not be put out for Collection with Hazardous Waste or Household Hazardous Waste in the same Container. Company will not collect Solid Waste, including Recyclables, on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day or Christmas Day, and will make appropriate adjustments to its collection schedule in order to avoid an excessive accumulation of Solid Waste on such days.

5.2 Recyclables. On the same day as specified by Company under Section 5.1, Company shall collect all Source Separated Recyclables (other than Green Waste and Mixed Organic Waste) Generated at every Residential Property within City once each week on a regularly scheduled day in accordance with this Agreement. Company shall collect all Source Separated Recyclables (other than Green Waste and Mixed Organic Waste) Generated at every Commercial and Institutional Property within City upon a schedule established between Company and each Generating person (or the owner, landlord or property manager, in the case of Multi-Family Residential Properties), but not less frequently than weekly.

5.3 Green Waste and/or Mixed Organic Waste. On the same day as specified by Company under Section 5.1, Company shall collect all Source Separated Green Waste and/or Mixed Organic Waste Generated at every Residential Property within City once each week on a regularly scheduled day in accordance with this Agreement. Company shall collect all Source Separated Green Waste and/or Mixed Organic Waste Generated at each electing Commercial and Institutional Property within City upon a schedule and at rates established between Company and each Generating person, but not less frequently than weekly.

5.4 Food Waste. Subject to any revisions to the Food Waste Collection Program adopted pursuant to Section 5.17, Food Waste shall be collected only in the Green Waste containers approved by the City Manager pursuant to Sections 5.7 and 5.8 below as a component of Mixed Organic Waste deposited in said containers by Customers on Residential, Commercial or Institutional Properties pursuant to the New Program.

5.5 Contaminated Materials. Company may refuse to collect Solid Waste, Recyclables, Green Waste and/or Mixed Organic Waste Generated by, and shall not be obligated to continue to provide any Solid Waste, Recyclables or Green Waste and/or Mixed Organic Waste Container to, any person who after reasonable warning, fails to sort Solid Waste, Recyclables, Green Waste and/or Mixed Organic Waste properly, or fails or refuses to allow Company to Collect, on an exclusive basis, said person's Solid Waste, Recyclables, Green Waste and/or Mixed Organic Waste. Company shall make available to City any warning notices issued by Company for this purpose, and City shall investigate same to determine whether the person receiving the notice has violated the applicable ordinance. Company may alternatively assess a contamination charge in accordance with Exhibit E in such instances.

5.6 Changes; Missed Pick-Ups. Company shall not alter or adjust Collection services without providing prior notice to all service addresses, and any schedule modifications shall not

result in reduced service frequency to any Customer. Company shall collect and remove Solid Waste and Recyclables from any premises "missed" or "skipped" during the regularly scheduled time, within one (1) working day after demand for collection is made by the Customer or City.

5.7 Containers-Single Family Residential. Company shall collect Solid Waste, Recyclables, Green Waste and Mixed Organic Waste from Single Family Residential Properties in City in the following types of Containers: Solid Waste – 10, 20, 32, 64 or 96 gallons, Recyclables – 32 (Billy Goat Run) or 96 gallons, and Green Waste and/or Mixed Organic Waste – 32 (Billy Goat Run) or 96 gallons. Company has provided and distributed one set of Solid Waste, Recyclables and Green Waste Containers, at no cost in addition to the monthly rates, to each Single Family Residential Property in City where collection can be accomplished using Company's standard curbside collection equipment, and will provide such a set to each new Single Family Residential Property in City after the Effective Date, and will provide a new Green Waste Container or modify an existing Green Waste Container of the approved size to each such Single Family Residential Property upon commencement of the New Program. Nothing in this section shall be deemed to preclude the use of bins or other Containers of a size and shape, which are compatible with approved rates, acceptable to and supplied by Company and, in the event City and Company shall institute new programs hereunder which require bins or other Containers of a particular size and shape, Customers on single unit Residential Properties shall use bins or other Containers supplied by Company meeting such requirements.

5.8 Containers- Multi-Family Residential, Commercial and Institutional. Company shall collect Solid Waste, Recyclables, Green Waste and/or Mixed Organic Waste from Multi-Family Residential Properties, Commercial Properties and Institutional Properties in City in a size and shape suitable for each such location from the following capacities: 10, 20, 32, 64 or 96 gallon carts, two-yard, three-yard, four-yard and six-yard bins, and 15-yard, 20-yard and 30-yard boxes, provided that Green Waste and/or Mixed Organic Waste shall be collected only in 64 gallon carts or two-yard bins and only commingled in the same container.

5.9 Replacement or Addition of Containers. Company shall replace, at no charge to a Single Family Residential Generator but not more than once a calendar year, a Solid Waste, Recyclables or Green Waste Container that is stolen from the curb. If from time to time a Single Family Residential Generator may wish to have additional Containers, Company shall make additional Containers available for free and adjust the Generator's service rate. A replacement Container will be provided free to any Single Family Residential Generator returning the original Container for a Container of a different size, but not more than twice a calendar year. Company will maintain and repair Containers at its cost, and shall repair or replace damaged Containers, at Company's option, upon request of a Customer or City. The ownership of all Containers purchased by Company under this Agreement shall be and remain with Company.

5.10 Personnel and Equipment. Company shall furnish sufficient personnel, labor and equipment required for the Collection, removal, handling, Processing and Disposal of all Solid Waste Generated within the corporate limits of the City in compliance with this Agreement and the City's applicable law or City policy.

5.11 Disposal and Processing Facilities.

(a) Solid Waste. Company shall transport all Solid Waste collected by it in City to the transfer station operated by SWS and located at 3151 Taylor Drive, Ukiah, California (the "Transfer Station"). All of such Solid Waste that is not Recycled shall be hauled to a licensed disposal facility in accordance with the terms of the Transfer Station Agreement. The gate fee paid by Company to SWS for Solid Waste delivered to the Transfer Station shall be as determined under the Transfer Station Agreement.

(b) Recyclables. Company shall transport all Source Separated Recyclables (other than Green Waste and Mixed Organic Waste) Collected by it curbside from Residential Customers in City to the materials recovery and green waste facility operated by Pacific Recycling Solutions, Inc. ("PRS") and located at 4260 North State Street and 3501 Taylor Drive and 3515 Taylor Drive, Ukiah, California (the "PRS Facility") for Processing. Company shall transport all other Recyclables collected in City to the Transfer Station. Any residue from such Recyclables that cannot be Recycled shall be Disposed of in accordance with the Transfer Station Agreement if delivered to the Transfer Station, or at any Authorized Facility selected by PRS, if delivered to the PRS Facility. PRS shall pay Company the amounts determined under that certain Recyclable Materials Agreement between PRS and Company of even date with this Agreement attached hereto as Exhibit B for Recyclables delivered to PRS by Company (the "Recycling Agreement"). The amount, if any, paid by Company to SWS for Recyclables delivered to the Transfer Station shall be as determined under the Transfer Station Agreement.

(c) Green Waste and Mixed Organic Waste. Company shall transport all Source Separated Green Waste collected by it in City to any or all of the following facilities: the Transfer Station, the PRS Facility, the CCC composting facility (the "CCC Facility"), or the Scotia biomass conversion facility (the "Scotia Facility"), or other biomass conversion facility approved by the City Manager for Processing; provided, however, that, notwithstanding any other provision in this Agreement and subject to the receipt by PRS of all government approvals and permits necessary for PRS to receive, commingle, store and handle Mixed Organic Waste, Company shall deliver all Mixed Organic Waste generated in City from curbside collection from Residential, Multi-Family Residential, Commercial and Institutional Properties to the PRS Facility for transport from the PRS Facility to the CCC Facility during the term of and in accordance with the Agreement for Mixed Organic Waste Services between PRS and CCC dated September 15, 2015, which is attached as Exhibit 1 to Exhibit D to this Agreement (the "CCC Agreement"); provided, however, that the exercise of any option to extend that agreement by PRS must be approved by City. Any residue from the Green Waste or Mixed Organic Waste generated in City that cannot be Processed shall be disposed of in accordance with the Transfer Station Agreement if delivered to the Transfer Station, or at any Authorized Facility selected by PRS, if delivered to the PRS Facility. The amount paid by Company to SWS for Green Waste delivered to the Transfer Station shall be as determined under the Transfer Station Agreement, and the amount paid by Company to PRS for Green Waste and/or Mixed Organic Waste delivered to the PRS Facility shall be as determined under the PRS Agreement.

(d) Alternate, Successor and Other Authorized Facilities. Company shall provide City with written notice as soon as Company knows that it will use a Processing Facility instead of or in addition to the PRS Facility, the Scotia Facility, or other biomass conversion facility approved by the City Manager for Processing, or the CCC Facility; provided, however, that Company and PRS shall only be entitled to propose an alternate Processing Facility (or

Disposal Facility, if available) to receive Mixed Organic Waste from PRS if CCC shall refuse, due to no fault of Company, SWS or PRS, to accept Mixed Organic Waste that is not a Contaminated Load (as defined in the CCC Agreement) or if the CCC Facility shall shut down or cease operating. The notice shall provide the name and location of the proposed Facility, the anticipated gate fee and other charges for Processing at that Facility, and a copy of the proposed contract between Company and such Facility. Company shall also provide City with the increased or decreased transportation costs, if any, associated with using the proposed Facility (in the case of Mixed Organic Waste) and with any additional information about the proposed Facility reasonably requested by City. Company's use of the proposed Processing Facility shall be subject to approval by the City Council, which shall not be unreasonably withheld. In acting on a request for approval, the City shall consider, among other things, whether the use of that Facility is available at a reasonable cost to the ratepayers considering the environmental benefits and the available alternatives, and otherwise qualifies as an Authorized Facility. The City Council may consider any other factor reasonably related to a legitimate City interest in its management of waste collection and disposal, including, but not limited to, alternative technologies and facilities, the impact on rates, past performance and regulatory compliance history of the Processing Facilities under consideration, factors affecting the facilities' future performance, and the public interest. City and Company acknowledge that, as of the date of this Agreement, very few Processing Facilities will accept Mixed Organic Waste and, if not Processed, such Waste cannot be stockpiled and may not be permitted to be Disposed of in a landfill. Accordingly, and notwithstanding any other provision in this Agreement, in the case of a written request by Company to use a Processing Facility (or Disposal Facility, if available) other than CCC for Mixed Organic Waste: (i) City will, in its sole discretion and within sixty (60) days after its receipt of such request, approve the use of the proposed Facility or select an alternate Processing Facility or Disposal Facility, if available, to Process or Dispose of the Mixed Organic Waste, and (ii) Company's service rates will be adjusted to cover any increase or decrease in its costs for Processing or Disposal, and/or transportation resulting from City's decision, effective as of the date of such request; and, provided, further, that if City does not accept the proposed Facility or select an alternate Facility in accordance with this sentence, Company shall direct PRS to deliver the Mixed Organic Waste for Processing to any licensed facility, with the costs to PRS of using the new facility being deemed to consist of the tonnage of Mixed Organic Waste delivered by PRS to the new facility multiplied by the then effective per ton or per yard Rate for MSW charged at the Transfer Station, and with the excess of such costs to PRS over the costs to PRS of using the CCC Facility being passed through to Company and treated as a Pass-Through adjustment to the Rates on the next Rate Adjustment Date pursuant to Section 6.3 below. In the event that the Transfer Station, the PRS Facility, the CCC Facility, the Scotia Facility or any other Authorized Facility described above cannot accept Solid Waste, Recyclables, Green Waste, or Mixed Organic Waste Generated in City on a temporary basis due to no fault of Company, or due to events beyond the control of Company, such as acts of God, public emergency, strike or lockout by employees of another entity unrelated to Company, Company shall locate and use an alternate licensed facility for the duration of such circumstance; provided, however, that City approval in accordance with this Section 5.11(d) shall be required if the Authorized Facility cannot accept Solid Waste for a period of time exceeding three (3) months. In addition, in adjusting the MOW Processing Rate (as defined in the PRS Agreement) at the PRS Facility during the five year review of rates conducted in 2016 under Section 4c. of

that Agreement, the adjustment shall include in the per ton rate all costs incurred by PRS to accommodate the Processing of MOW, including, but not limited to, the capital costs of improvements to the PRS Facility, operational costs, transportation costs, and other costs required to accommodate the New Program and shall allow for a reasonable profit to PRS.

5.12 Local Office. Company shall maintain an office in or in close proximity to the City, as approved by the City Manager, where service may be applied for and complaints made. The address and telephone number of such office shall regularly be included in Customer billings and service information distributed to the public. Company's office shall have a responsible individual available daily between the hours of seven-thirty o'clock a.m. and four o'clock p.m., excepting Saturday, Sunday and holidays. Calls for missed collections shall be received 24 hours per day, by answering machine after four o'clock p.m. and on Saturdays, Sundays and holidays.

5.13 Pick-Ups at City Facilities. Company shall provide Containers and remove, without charge, all Solid Waste, Source Separated Recyclables and Source Separated Green and Food Waste Generated at all City facilities, including from City street cans, (of the nature and in the amounts currently collected) at least once per week, but Company may charge all other public agencies for services rendered at the same rates and on the same basis as Commercial Customers are charged for similar services. Company shall also remove, without charge, all grit and screenings from City's wastewater plant as scheduled by Company and City

5.14 Outreach and Public Education. Company shall execute a public awareness campaign for recycling by Residential and Commercial Customers, which campaign will include an up to date Web Site that includes educational information, a business waste reduction program, a school Recycling program and a flyer in Company's billing statements (or posted on Company's website) not less than every six months. City shall provide Company with free space at all City-sponsored events to promote the campaign. Additional activities shall be available at additional cost by mutual agreement of the parties. Company shall also provide each new Customer with a packet of information regarding the curbside Recycling and Green Waste programs, and, if in effect, a Food Waste program, as well as information cards to be used in the event that a Customer places materials out for Recyclables, Green Waste or Food Waste collection that are not acceptable as set forth in this Agreement. Such card shall be left with the Customer's container or bin and shall inform the Customer why the materials were not picked up.

5.15 Fall Leaf Collection. Company shall provide all Customers with reasonable leaf collection without charge during the week after Thanksgiving each year in Containers and/or bags approved or provided by Company. City shall prepare and pay for an insert in all Customer billing advertising this service.

5.16 Spring Clean-up Week. Company shall provide all Customers with reasonable Green Waste collection without charge during the third week of April each year, including the collection of tree branches not to exceed six (6) inches in diameter or four (4) feet in length.

5.17 Additional or Modified Services. Company shall provide additional or modified services upon request of City, or upon the proposal of Company as approved by City pursuant to Section 5.19 below, subject, if the costs incurred by Company to provide such services increase or decrease, to the establishment by mutual written agreement of a reasonable service Rate, or service Rate adjustment, therefor.

5.18 Permits and Licenses. Company shall obtain and maintain throughout the term of this Agreement all permits, licenses and approvals necessary or required for Company to perform the work and services described herein. City shall reasonably cooperate with Company in connection with obtaining or renewing such permits, licenses and approvals.

5.19 Diversion Requirements. In an effort to assure City's continuing compliance with the current and any future diversion requirements set forth in the California Integrated Waste Management Act of 1989, as amended ("AB 939"), Company shall propose and City may require Company to adopt and implement various recycling, Solid Waste reduction, public education and reporting programs for City and its residents, subject to City taking all actions necessary to implement such programs and approving reasonable service rate increases needed, if any, in connection therewith.

6. Rates.

6.1 Establishment of Rates. The service rates specified in Exhibit E to this Agreement (the "Rates") shall take effect on the Effective Date, subject to approval by the City Council and compliance with the notice and hearing requirements in Article XIII.D of the California Constitution and Government Code Sections 53750 et seq. (collectively, "Proposition 218"). Such Rates shall be adjusted pursuant to Sections 6.2, 6.3, 6.4 and 6.5 below, subject to compliance with the notice and public hearing requirements of Proposition 218 as provided in such Sections. The parties' agreement to subject the Rates and certain adjustments thereto to the notice and public hearing requirements of Proposition 218 is precautionary only and shall not be deemed an admission that Proposition 218 applies to the Rates or such adjustments. Company shall not charge any amount in excess of the approved Rates for services required by or permitted under this Agreement.

6.2 Modification Based on Consumer Price Index, Fuel Index, Recycling Reduction and Certain Pass-Through Costs.

(a) Adjustment Calculation. Each Rate shall be adjusted January 1st every year, beginning January 1, 2013 ("Rate Adjustment Date") to reflect changes in the CPI, the Fuel Index, the amount paid to Company by PRS for Recyclables and certain Pass-Through Costs by a percentage determined in accordance with the Curbside Rate Calculation attached hereto as Exhibit C (the "Calculation").

(b) Definitions. For purposes of Rate adjustments pursuant to this Section 6.2 and the Calculation, the following terms shall have the following meanings.

(i) "Base Fuel Costs" means Company's actual costs for diesel and other fuels used in performing services under this Agreement for the year ended December 31, 2010 or \$200,641.15.

(ii) “Base Revenue” means Company’s total revenue received from Customers during the Comparison Year.

(iii) “Base Year” means the year ended June 30th one year prior to June 30th of the Comparison Year.

(iv) “Comparison Year” means the year ended June 30th immediately prior to the relevant Rate Adjustment Date.

(v) “Commercial Oversight Fees” means the total amount of commercial oversight fees, including any fees or charges adopted to replace or supplement such fees, paid by Company to City in accordance with Section 4 and 6.6 during the Comparison Year.

(vi) “CPI” means the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items (1982-1984=100), published by the United States Department of Labor, Bureau of Labor Statistics.

(vii) “Disposal Fees – Garbage” means the actual Disposal Costs paid by Company to SWS for Solid Waste delivered by Company to the Transfer Station during the Comparison Year.

(viii) “Disposal Fees – Green Waste” means the actual Processing Costs paid by Company to PRS or any other Authorized Facility for Green Waste and/or Mixed Organic Waste delivered by Company to the PRS Facility or such Authorized Facility (including pursuant to Section 5.11(d) above), respectively, during the Comparison Year.

(ix) “Fuel Costs” means Company’s actual costs for diesel and other fuels used in performing services under this Agreement during the Comparison Year.

(x) “Fuel Index” means the California No.2 Diesel Retail Sales by all Sellers (Dollars Per Gallon) published by the U. S. Energy Information Administration.

(xi) “Landfill Closure Costs” means the total amount of landfill closure fees, including any fees or charges adopted to replace or supplement such fees, paid by Company to City in accordance with Section 4 and 6.6 during the Comparison Year.

(xii) “Recycle Credit” means the product of (A) the average monthly weighted average price (AMWAP) per ton PRS is required to pay to Company under the Recycling Agreement for Source Separated Recyclables collected by Company curbside from Residential Customers during the Comparison Year, but not less than \$5.00, times (B) the total tons of such Recyclables so delivered by Company to PRS and accepted by PRS during the Comparison Year; provided, however, that if the amount of Recyclables rejected by PRS under Section 2 of the Recycling Agreement averages over any consecutive six month period more than 5% of the total Recyclables delivered to PRS (“the Acceptable Rejection Rate”), the credit shall include AMWAP, but not less than \$5.00, times the tons of Recyclables rejected by PRS for that same six month period in excess of the Acceptable Rejection Rate .

(xiii) “Total Costs” means all of Company’s costs to provide Collection services under this Agreement, including, without limitation, labor costs, vehicle and vehicle-related costs, maintenance, insurance, and transportation costs, Fuel Costs and Pass-Through Costs.

(c) Rules. For purposes of Rate adjustments pursuant to this Section 6.2 and the Calculation, the following rules shall apply.

(i) “CPI Change” shall be calculated as one hundred percent (100%) of the percentage increase or decrease, if any, in the CPI during the Comparison Year, using the CPI published for June of such Year as compared with the CPI published for June of the Base

Year.

(ii) “Fuel Index Change” shall be calculated as one hundred percent (100%) of the percentage increase or decrease, if any, in the Fuel Index from June of the Base Year through June of the Comparison Year; provided, however, that, notwithstanding Section 6.2(b)(iii) above, “Base Year” for purposes of the Fuel Index Change shall mean the year ended June 30, 2010; and, provided, further, that the Fuel Index Change adjustment (i.e., Fuel Index Change multiplied by Base Fuel Cost) for any Rate Adjustment Date shall be calculated after removal of such adjustment for the prior Rate Adjustment Date.

(iii) Each adjustment element in the first part of the Calculation will be grossed up for the corresponding increase or decrease in Franchise Fees and Billing Fees (where applicable) resulting from such adjustment, other than the CPI adjustment.

(iv) Rate adjustments for changes in Commercial Oversight Fees or Landfill Closure Costs that take effect on a date other than January 1st, as well as changes in other Pass-Through Costs, will be determined under Section 6.3 below and not under this Section 6.2.

(d) Procedure. The procedure for Rate adjustments under this Section 6.2 shall be as follows:

(i) Not later than August 15th of each year, Company shall file with the City Manager a written notice of intention to adjust each of the then current Rates effective as of January 1st of the next year in accordance with Section 6.2(a) through (c) above.

(ii) Within sixty (60) days of the filing of the notice of intention, the City Manager shall review the notice and either confirm that the proposed Rates are within the limit of Section 6.2(a) through (c) above or establish by mutual agreement with Company any necessary changes to the proposed Rates to make such confirmation.

(iii) Not later than October 20th, the City Manager shall inform the City Council in writing of his or her determination regarding the proposed new Rates and the City Council shall be entitled to review and confirm that the proposed Rates are within the limit of Section 6.2 above or establish by mutual agreement with Company any necessary changes to the proposed Rates to make such confirmation, not later than November 20th. Any new Rates shall become effective on the following January 1st, provided that the Company and the City shall give the respective Customers that each bills written notice of the new Rates not later than December 1st.

(iv) In the event that the CPI or the Fuel Index described in Section 6.2(b) above shall be discontinued or materially modified during the term of this Agreement, the parties shall together select a replacement index and/or otherwise change Section 6.2(b) above so as to replicate, as nearly as possible, the mutual intention of the parties to rely on the results of the relevant index described in Section 6.2(b) as in effect on the date hereof.

6.3 Modification Based on Changes in Pass-Through Costs. In addition to adjustments under Section 6.2 above, each Rate shall be adjusted to reflect changes in Pass-Through Costs that are not the subject of Rate adjustments pursuant to Section 6.2 above, as follows. Using the section of the Calculation entitled “Revenue Base,” each Rate shall be increased by an amount equal to the increase in applicable Pass-Through Costs, and decreased by an amount equal to the decrease in applicable Pass-Through Costs, in each case so as to cause all the Rates to compensate for such change in Pass-Through Costs as of the date such change

becomes effective and either payable by or a benefit to Company, and taking into account the increase or decrease in Franchise Fees and/or Billing Fees payable in respect of such change.

6.4 Five Year Review. Once every five (5) years (beginning no later than April 2, 2016 for purposes of adjusting the Rates effective January 1, 2017), City shall conduct a review for the purpose of determining whether or not the automatic adjustments provided in Sections 6.2 and 6.5 have adequately adjusted the rates to cover the actual increase or decrease in the Company's reasonable operating costs or have exceeded those costs and whether the Rates remain fair to the ratepayer and the Company. Depending on the results of that review the City may increase or decrease the rates. City shall complete each such review and adjustment, if any, at least three months (3) prior to the beginning of such year (by September 30, 2016 in the case of the first such review), and Company shall cooperate with such review. In conducting each such review, City shall consider the following information: financial records of Company (including operating expenses and revenues and Disposal, Processing, Regulatory and other costs of Company, and Company revenues), the factors described in Section 6.5 below, and rates charged for comparable services in similar communities. Increases or decreases in the Rates pursuant to this Section 6.4 shall be subject to the notice and public hearing requirements of Proposition 218. The City may conduct such investigation as it deems necessary to perform this review and Company shall cooperate with such investigation, which may include the City's inspection and copying of Company records and Review and/or Audit of Company's financial records by a City retained CPA, the costs of which shall be reimbursed to City from Base Revenue but treated as a pass-through cost for rate setting purposes.

6.5 Modification Based on Extraordinary Items. In addition to adjustments under Sections 6.2, 6.3 and 6.4 above, Company may request an increase in the Rates if Company's costs increase or its revenues decrease solely as the result of extraordinary circumstances beyond its control that could not have been reasonably anticipated by Company (such as a Change in Law) and if the increase in costs or decrease in revenues unavoidably adversely affects Company's opportunity to operate at a reasonable profit. Company shall have the burden of producing evidence satisfactory to City demonstrating its need for a rate increase prior to the regular Five Year Review pursuant to Section 6.4 above, including, but not limited to, reviewed or audited financial statements of Company, if requested by City. The City Council shall consider the request in good faith. Any such increase shall only be approved through the notice and hearing requirements in Proposition 218.

6.6 Billing. Company shall bill directly for all Solid Waste, Recyclables, Green Waste and Mixed Organic Waste Collection services provided herein to all Commercial and Institutional Customers, and to those Multi-Family Residential Customers assigned by City to Company for billing. Company and City shall regularly exchange billing lists to avoid double billing and to insure that Company is following the City's direction regarding its direct billing of Multi-Family Residential Customers. City shall bill all Residential Customers (except those currently billed by Company as approved by City) for all Solid Waste, Recyclables, Green Waste and Mixed Organic Waste Collection services hereunder. Each Commercial or Institutional Customer will be billed for one (1) month of service in advance upon commencement of service, and thereafter for one (1) month of service in arrears. Interest of one percent (1%) per month or

the highest rate permitted under applicable law, whichever is less, shall be applied to any past due amounts from all Customers until paid in full. Amounts shall be past due if not paid within thirty (30) days of billing. Company shall have the right to refuse service to any Customer that is more than sixty (60) days delinquent on his, her or its account; provided, however, that if the City is forced to take enforcement action against a Customer who has been refused service, Company shall pay the City's costs to take such enforcement action as is necessary to protect public health and safety. Company shall pay City three percent (3%) of the amount billed by City to Residential Customers as a billing fee. City shall pay to Company all amounts billed to Residential Customers, less Billing Fees, Franchise Fees, commercial oversight fees and landfill closure costs (in accordance with Section 4 above), and a delinquency allowance equal to one-half percent (0.5%) of such billings, monthly within thirty (30) days of the end of the calendar month for which the Residential Customers are billed. When permitted by the City's accounting software, the City will reconcile the amount held by City as a delinquency allowance at the end of each calendar quarter and shall pay Company, within thirty (30) days after the end of such quarter, the portion of such amount that exceeds the actual delinquent billings for such quarter.

6.7 Proposition 218. Notwithstanding any other provision in this Agreement, in the event that the Rates or any modifications thereof are invalidated by a final non-appealable judgment in a court action challenging them as in violation of Proposition 218, and Company's operating costs exceed its revenue for a continuous period of six months since the date of the last Rate adjustment, Company shall have the right, exercisable by written notice to City within ninety (90) days after the entry of such judgment, to terminate this Agreement effective One Hundred Twenty (120) days after City's receipt of such notice.

7. Provisions Applicable to Equipment and Personnel.

7.1 Company shall use in connection with transportation of Solid Waste modern motor dump trucks with water tight bodies, sufficient in number and capacity to efficiently perform the work required by this Agreement and to comply with all applicable legal requirements. Company shall keep the outside of the truck bodies free from dirt and filth, and shall clean the inside of the trucks in a sanitary manner on a regular basis. Suitable measures shall be taken to prevent refuse from falling into public streets or places. Company shall keep all trucks freshly painted in a uniform manner, and the firm name or logo, telephone number, and truck number of each truck shall appear in a conspicuous manner. Company shall keep all trucks in good maintenance and repair, regularly inspect same, keep accurate records of all vehicle maintenance, and replace as needed.

7.2 Company shall not litter premises in the process of making collections nor allow refuse to blow or fall from any vehicle used for collections. Company shall clean up any and all spills, including oil and debris on the streets, resulting from its operations. Should Company fail to promptly clean up such spills resulting from its operations after notice from City, Company shall be liable to City for all reasonable costs incurred by City in doing so.

7.3 Company shall provide suitable operational and safety training for all of its employees who utilize or operate vehicles or equipment for Collection of Solid Waste or who are otherwise directly involved in such Collection. Company shall use its best efforts to assure that

all employees present a neat appearance, conduct themselves in a courteous manner, and perform the work as quietly as possible. Company shall also designate one or more qualified employees as supervisors of field operations, who will devote a substantial portion of their time in field checking Collection operations, including responding to complaints.

7.4 City officials shall at all times have access on 24 hours' prior written notice to inspect Company's work during operations and Company's facilities for purposes of ascertaining full knowledge respecting the conduct of Company's operations.

8. Records and Reports.

8.1 Company shall keep and maintain accurate books and records in accordance with the most recently adopted Accounting Standards Codification of generally accepted accounting principles by the Financial Accounting Standards Board clearly showing its revenues and expenses in connection with the operations provided for in this Agreement. Company shall maintain records accounting by category for the tonnage of Solid Waste, Green Waste, Mixed Organic Waste and Source Separated Recyclables Collected pursuant to this Agreement on a monthly, quarterly and annual basis.

8.2 Every three (3) months after the Effective Date through the date which applies for purposes of measuring compliance with the diversion requirements of AB 939, Company shall supply City with a written report setting forth Company's best estimate of the diversion rate as of the end of the most recent month. Company shall also supply City with such related information as City may reasonably request and as Company possesses or is required by this Agreement to possess concerning such estimate.

8.3 Every three (3) months after the Effective Date, Company shall provide City with a written financial report on the amounts billed by Company to each Multi-Family Residential, Commercial and Institutional Customer and the amounts paid by such Customer.

8.4 Not later than March 31 each year, or when otherwise requested by City, Company shall provide City with a complete customer list for all Customers with the service type, billing rate, and name and address of each Customer.

9. Hold Harmless and Insurance.

9.1 Company shall indemnify and hold harmless City, its City Council, boards, commissions, officers, agents, representatives and employees from any and all actions, claims or damages brought for or on account of injuries to or death of any person or damage to property of all kinds resulting from or arising out of the operations of Company, its officers, agents, employees or servants pursuant to this Agreement. The duty of Company to indemnify and hold harmless shall include the duty to defend as set forth in California Civil Code Section 2778.

9.2 Company shall have in effect during the term of this Agreement, workers' compensation and employer liability insurance providing full statutory coverage.

9.3 Company shall take out and maintain during the term of this Agreement liability insurance for the following types and minimum amounts:

(a) General liability, including comprehensive form, premises operations, products/completed operations, hazard, contractual insurance, broad form property damage, independent contractors and personal liability, with limits for bodily and property damage combined of \$500,000 each occurrence and \$500,000 aggregate.

(b) Automobile liability, including comprehensive form, owned, hired and non-owned, with a limit of \$1,000,000 for bodily injury and property damage combined.

(c) Excess liability, umbrella form with the same scope of coverage and exclusions as the underlying policies, with a limit for bodily injury and property damage combined of \$5,000,000 each occurrence and \$5,000,000 aggregate.

(d) Pollution and remediation liability with limits in an amount of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate insuring against loss, the cost of remediation and legal defense as a result of pollution conditions arising out of the collision, upset or overturn of Company vehicles in conjunction with this Agreement.

Insurance certificates and policy endorsements evidencing the required coverage shall be filed with City and shall be subject to approval by the City Attorney. City, its City Council, boards, commissions, officers, agents and employees shall be named as additional insureds on any such policies of insurance which shall also contain a provision that the insurance afforded thereby shall be primary. No such policy shall be cancelled or modified except upon thirty (30) days' prior written notice to City. Insurance is to be placed with admitted California insurers with an A.M. Best's rating of no less than A- for financial strength, AA for long-term credit rating and AMB-1 for short-term credit rating.

9.4 Company shall post a \$300,000 performance bond or financial instrument reasonably acceptable to the City Manager as security for Company's faithful performance of each and every term, covenant and condition of this Agreement to be performed by Company, provided that the cost of such bond or other instrument shall be included in Company's Collection Costs for rate making purposes.

10. Remedies upon Default.

10.1 Company shall be deemed in default in the event Company defaults in the performance of any of the duties to be performed by it under the terms of this Agreement and fails to cure the default as further provided in this Section 10.1. City shall give Company written notice, either by mail or by personal service, setting forth the default. Company shall correct such default within thirty (30) days after receipt of such notice (within seven (7) days if City determines that the public health or safety is at risk) unless the default cannot, by its nature, be cured within said period, in which case the cure period shall be extended for such additional time as is reasonably necessary to effect a cure, provided that Company shall commence efforts to effect a cure as soon as practicable and shall diligently pursue the cure to completion.

10.2 In the event Company's default described in Section 10.1 is of a material provision of this Agreement and is not cured as set forth in Section 10.1 or if Company has

committed Multiple Breaches (defined to mean three or more defaults of material provisions of this Agreement within an eighteen (18) month period, whether cured or not) (“Material Default”) City shall have the following remedies:

10.2.1 Liquidated Damages. The parties acknowledge that City will incur damages as a result of a Material Default, and that such Material Default may not warrant termination of this Agreement. The parties agree that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by City as a result of a Material Default. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that exclusive services might be available at substantially lower costs than alternative services and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches. Liquidated damages shall be the City’s exclusive damages remedy for any individual Material Default which does not result in termination of this Agreement by City. The amount of liquidated damages is \$1,000 for each day the Material Default continues after Company fails to cure until it is either cured or the City terminates this Agreement.

10.2.2 Franchise Termination. Without further notice and without suit or other proceedings, City may cancel and annul the rights and privileges of this Agreement upon a Material Default. In the event of termination of this Agreement for Material Default, City shall have the right forthwith to grant a franchise to another scavenger service or to take possession of trucks and other equipment of Company used to perform work under this Agreement. City shall have the right to retain possession of the trucks and equipment until other suitable trucks and equipment can be purchased or otherwise acquired by City for the purpose and City shall pay Company the reasonable rental value of such trucks and equipment, and keep them in good maintenance and repair, during the time the same are used by City. City shall also have access to Company’s records for the purpose of billing service accounts during the period City is providing the services described in this Agreement, and shall retain all fees collected for such services.

10.2.3 Other Remedies. Upon termination of this Agreement based on a Material Default, City shall have all other remedies in law or equity for such Material Default.

10.3 If a dispute arises between City and Company regarding fees or any other term or provision of this Agreement, the parties agree to meet and confer in good faith to resolve the dispute. Either party may request to meet and confer by written notice to the other party. Alternatively, the parties may agree to participate in non-binding mediation. If the dispute is not resolved within thirty (30) days after the written request to meet and confer has been given or after the parties have agreed to non-binding mediation, the matter, other than an action seeking

specific performance or other equitable relief, damages of Twenty Five Thousand Dollars (\$25,000) or less, or indemnification or insurance coverage pursuant to Section 9, shall be submitted to non-binding arbitration in accordance with Title 9 of the California Code of Civil Procedure, commencing with Section 1280, before a single neutral arbitrator ("Arbitrator") in Mendocino County. The Arbitrator shall be an attorney with at least ten (10) years' experience or a retired judge (or a person having comparable qualifications) and shall be mutually agreed upon by the parties. If the parties are unable to agree on an Arbitrator, the Arbitrator shall be appointed by the superior court in accordance with Cal. Code Civ. Proc. §1281.6. The fees and expenses of the Arbitrator shall be borne equally by the parties.

In the event such non-binding arbitration does not resolve the matter and in any other dispute that results in any court action, the parties waive any right to a jury trial and agree that any such action shall be filed in the federal or state courts in or for Mendocino County, each party hereby consents to the jurisdiction of and venue in such courts, the matter shall be governed by the internal laws of the State of California (irrespective of choice of law principles), and the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and disbursements incurred in such action from the non-prevailing party.

10.4 If Company shall at any time during the term of this Agreement or any extension thereof, become insolvent, or if proceedings in bankruptcy shall be instituted by or against Company, or if Company shall be adjudged bankrupt or insolvent by any Court, or if a receiver or trustee in bankruptcy or a receiver of any property by Company shall be appointed in any suit or proceeding brought by or against Company, or if Company shall make an assignment for the benefit of creditors, then and in each and every such case, and provided that such proceedings, adjudication, appointment or assignment, as the case may be, continue in effect for ninety (90) days without being vacated, removed or withdrawn, this Agreement shall immediately cease and come to an end, and the rights and privileges granted shall immediately be cancelled and annulled without notice or action required on behalf of City.

10.5 Notwithstanding any other provision herein, no default, delay or failure to perform on the part of either party shall be considered a breach hereunder if such default, delay or failure to perform is due to causes beyond such party's control, including, but not limited to, riots, civil disturbances, actions or inactions of governmental authorities, epidemic, war, embargoes, severe weather, fire, earthquake, acts of God, defaults by the other party or defaults by carriers. In the event of any such default, delay or failure to perform, any dates or times by which the affected party otherwise is scheduled to perform shall be extended for a period of time equal in duration to the additional time required because of the excused default, delay or failure to perform.

11. Assignment.

11.1 Company shall not directly or indirectly, voluntarily or involuntarily assign, mortgage, pledge or encumber any interest in all or a part of this Agreement without the prior written consent of City. The City Council shall have the right to determine in its sole discretion whether to approve, conditionally approve or deny any request by Company for approval under this Section. Any action requiring City Council approval under this Section that occurs without

such approval shall give City the right to terminate this Agreement without prior notice to Company or its successors or assigns. For purposes of this Section, any transaction involving the transfer, sale or exchange of stock which results in a change in majority control of Company from its owners as of the date hereof (excluding transfers between such owners and transfers by any such owners to revocable living trusts for the benefit of their families) shall be an assignment subject to City review and approval.

11.2 Any written agreement between Company and an Authorized Facility for the disposal of Solid Waste generated in City entered into after the date of this Agreement shall provide that: (a) City is a third party beneficiary with the same right as a party to enforce such agreement; (b) any assignment of such agreement shall require City approval; (c) in the event such agreement is terminated during its term or any extended term by Company or by the Authorized Facility operator based on an uncured default by Company under such agreement, such agreement may be assumed by City without change, including as to disposal rates and terms; and (d) if terminated based on an uncured default by Company, any payments due but unpaid under such agreement on the date of termination shall continue to be an obligation of Company and the obligation to make any such payments shall not be assumed by City upon its assumption of such agreement.

12. Waiver. The waiver by either party of any breach or violation of any term or condition of this Agreement or of any provision of law by the other party must be in writing signed by the party to be charged, and shall not be deemed to be a waiver of the term, condition or provision of law, or of any subsequent breach or violation of the same or any other term, condition or provision of law. The acceptance by City of any franchise fee or other fee or other monies which may become due hereunder to City shall not be deemed to be a waiver of any preceding breach or violation by Company.

13. Administration. The administration and enforcement of this Agreement shall be the responsibility of the City Manager or a designated representative of that office. This section is not intended to indicate or suggest the City Manager has the authority to grant, amend, or revoke the franchise referenced herein. Nothing contained in this Agreement shall prohibit the City Manager from seeking approval from the City Council for any decision the City Manager is authorized to make under the terms of this Agreement.

14. Independent Contractor. Company, its employees and agents, are independent contractors and not employees or agents of City.

15. Notices. Whenever a notice or document is required or permitted to be served or given hereunder, it shall be deemed given or served when received if delivered by fax or email (with acknowledgment of receipt), certified U.S. Mail, overnight courier (such as UPS or Federal Express), or 48 hours after deposit in the U.S. Mail with first class postage affixed. Any such document or notice shall be addressed as follows:

City: City Manager
Ukiah Civic Center
300 Seminary Avenue

Ukiah, California 95482
FAX:
Email:

Company: Ukiah Waste Solutions, Inc.
Attn: David M. Carroll, President
P. O. Box 60
Ukiah, California 95482
FAX:
Email:

or to such other person or address as may be specified from time to time in writing by either party in accordance with this Section.

16. Amendments. This Agreement may be amended from time to time only by written agreement between the parties signed by an authorized representative of each party. Either party may at any time request that the service or other provisions in this Agreement be modified by delivering written notice of its requested modifications to the other party. Within thirty (30) days after receipt of any such request, the parties shall meet and negotiate in good faith on adopting such requested modifications, including, without limitation, any change to the Rates necessitated by such modifications, provided that nothing herein shall obligate either party to agree on any such requested modifications.

17. Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the permitted successors and assigns of the parties.

18. Integration; Severability. This Agreement, including the Exhibits hereto, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements between the parties, whether written or oral, relating to such subject matter, including the Prior Agreement. If a court finds any provision of this Agreement invalid or unenforceable as applied to any circumstance, the remainder of this Agreement and the application of such provision to other persons or circumstances shall remain in effect. The parties further agree to replace such void or unenforceable provision with a valid and enforceable provision which will achieve, to the extent possible, the economic, business and other purposes of the void or unenforceable provision.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

Ukiah Waste Solutions, Inc.

By: _____
President

City of Ukiah

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT B
RECYCLABLE MATERIALS AGREEMENT

EXHIBIT C
CURBSIDE RATE CALCULATION

EXHIBIT D
FIRST AMENDED AND RESTATED AGREEMENT FOR RECEIPT OF WOOD WASTE,
GREEN WASTE AND MIXED ORGANIC WASTE

EXHIBIT E
INITIAL SERVICE RATES

The current rate chart is attached. Commercial Green Waste and/or Mixed Organic Waste collection is charged at the same rates as Commercial Solid Waste. The chart will need to be expanded to clarify that for Single Family Residences, the Solid Waste rate includes Recyclables, Green Waste and/or Mixed Organic Waste, and that for Multi-Family Residences and Commercial Solid Waste, Recyclables and Green Waste and/or Mixed Organic Waste collection are all billed at the cart rates listed.

Rates to collect and dispose of sludge will be competitive with current rates.

Insert replacement/additional cart/container fees.

Insert all Special Charges.

ATTACHMENT 4

| [SECOND](#) AMENDED AND RESTATED TRANSFER STATION AGREEMENT

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ATTACHMENT 4

SECOND AMENDED AND RESTATED TRANSFER STATION AGREEMENT

This Second Amended and Restated Transfer Station Agreement (the "Agreement") is made as of ~~November 20, 2011 ("Effective Date")~~ October 1, 2015 by and between the City of Ukiah, a municipal corporation (hereinafter "City"), Solid Wastes Systems, Inc., a California corporation (hereinafter "Contractor"), and Yulupa Investments, LLC, a California limited liability company (~~("hereinafter~~ ("hereinafter "Owner"), with reference to the following:

WHEREAS, Owner currently owns and Contractor currently operates the Ukiah Valley Transfer Station located in Mendocino County pursuant to that certain ~~Agreement dated November 20, 2001, as amended April 17, 2002~~ Amended and ~~the Consent to Sale~~ Restated Transfer Station ~~Contract~~ Agreement dated ~~October 2, 2007, collectively, December 12, 2011~~ (the "Prior Agreement";); and

WHEREAS, Ukiah Waste Solutions, Inc. ("UWS"), a California corporation and an affiliate of Contractor, collects all Solid Waste generated in City pursuant to that certain Amended and Restated Waste Collection Agreement with City of even date herewith (the "Collection Agreement"); and

WHEREAS, Contractor has ~~proposed a capital-intensive, long-term Strategic Waste Management Plan (the "Strategic Plan"), including, but not limited to, Contractor financed capital projects, for City and the other customers Contractor and its affiliates serve that is designed~~ invested substantial funds to acquire land and construct improvements to increase diversion of Solid Waste from landfills, reduce greenhouse gasses, convert waste into energy, and create new jobs; and

~~WHEREAS, undertaking the Strategic Plan will require a long-term commitment of Contractor's staff, time and capital; and~~

~~WHEREAS, the parties wish to continue to assure the health, safety and public welfare of City's residents and businesses by providing efficient services for recycling and the disposal of all Solid Waste generated in the City resulting in increased diversion pursuant to the terms of a long-term agreement that amends and restates the Prior Agreement~~ WHEREAS, City has approved a Mixed Organic Waste Curbside Recycling Program (the "New Program") pursuant to the Collection Agreement; and

WHEREAS, the parties wish to amend and restate the Prior Agreement on the terms herein consistent with the New Program and to make certain other changes;

NOW, THEREFORE, in and for the mutual covenants herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Operating Rights.

1.1 Contractor shall have the exclusive right to operate, and shall operate, the Transfer Station (as defined in Section 2 below) in accordance with the terms of this Agreement and all applicable federal, state and local statutes, regulations, ordinances and other laws and enforceable policies. Subject to any limits imposed by applicable law, all Solid Waste generated in City shall be delivered to the Transfer Station and Contractor shall be entitled to accept at the Transfer Station Solid Waste generated anywhere within Mendocino County. Contractor shall also have the right to accept at the Transfer Station Solid Waste generated outside of Mendocino County with City's prior written consent (which consent

shall not be unreasonably withheld and may be granted by City's City Manager), provided that Contractor shall identify and keep records satisfactory to both California Department of Resources Recycling and Recover ("CalRecycle") and City, including the quantity and the jurisdiction of origin of such Solid Waste. Receipt and disposal of such solid waste shall be subject to all of the applicable provisions of this Agreement, including Contractor's obligation to indemnify and hold City harmless in any action related to the acceptance of out of County Solid Waste, and the payment, if levied, of Surcharges. During the term of this Agreement, City shall not own, operate or authorize any facility that would compete with the Transfer Station or Contractor's operation thereof, nor shall City issue any request for proposal for the operation of the Transfer Station by any person other than Contractor except for any period after the expiration or termination of this Agreement in accordance with its terms. Correspondingly, and except as specifically permitted under this Agreement or the Collection Agreement, Owner, Contractor and any Related Entity (as defined below) shall not accept at any facility owned or operated by them Solid Waste originating from any source generated in the areas of Mendocino County described at Exhibit G, which represents the Solid Waste, as of ~~the~~ November 1, 2011, that is received at the Transfer Station, unless such Solid Waste has first passed through and paid Gate fees at the Transfer Station. "Related Entity" means an entity in which Contractor or Owner, any of its shareholders, partners or members, or their spouses, are owners, members, partners, or over which Owner, Contractor, their shareholders, members or partners, or their spouses, otherwise exercise any ownership or control.

1.2 To the extent permitted by applicable law, City shall take such steps as may be reasonably necessary to protect Contractor's rights under this Agreement; provided, however, that City's obligation under this Section 1.2 is subject to Contractor's agreement, upon request of City, to reimburse City's reasonable expenses, including attorneys' fees and litigation expenses, incurred in taking steps as agreed upon herein; and, provided, further, that nothing herein shall prevent Contractor from taking any lawful action to protect its rights hereunder.

1.3 Except as expressly provided herein, this Agreement shall supersede the Prior Agreement as of the Effective Date set forth in Section 3 below, when the Prior Agreement shall cease to have any effect (except for periods prior to such Effective Date).

2. Definitions.

2.1 "Acceptable Waste" means all Solid Waste, except (a) Recyclables, (b) Segregated Food Waste, Mixed Organic Waste, Green Waste, or Wood Waste, and (c) Hazardous Waste, Household Hazardous Waste and Unacceptable Waste.

~~2.2 "CCC" means Cold Creek Compost, Inc.~~

~~2.3~~ 2.2 "Change in Law" means the enactment, adoption, promulgation, issuance, modification, or written adoption or change in administrative or judicial interpretation on or after the Effective Date of, any law, regulation, rule, order, judgment, decree, permit, approval or other requirement of any governmental agency (including City) having jurisdiction over this Agreement or Contractor's performance hereunder.

~~2.4~~ 3 "Construction Debris" means used or discarded construction materials generated during the construction or renovation of a building, structure or other man-made improvement.

~~2.5~~ 4 "Demolition Debris" means used construction materials generated during the razing or renovation of a building, structure or other man-made improvement.

2.65 “Disposal” means the permanent placing of Solid Waste in a facility legally permitted to receive it.

2.76 “Disposal Costs” means Contractor’s costs to Dispose of Solid Waste at a Disposal Facility, including all tipping fees and service fees paid by Contractor to any Disposal Facility for such Disposal.

2.87 “Disposal Facility” means any fully-permitted Subtitle D approved Solid Waste landfill, approved by City pursuant to Section 4.1 below, to which Contractor transports Acceptable Waste for Disposal (including, without limitation, any authorized transfer station for ultimate Disposal at such a landfill).

2.98 “Food Waste” means food scraps, paper tissues, paper napkins and towels, coffee grounds and filters, pizza boxes, food soiled paper plates and cups, and miscellaneous paper not suitable for recycling that is discarded (as from a Commercial or Residential Property kitchen).

2.109 “Franchised Waste Hauler” means any person that possesses a franchise, permit, license or contract from a public agency authorizing such person to collect and transport Solid Waste from generators of such Solid Waste in or subject to such agency’s jurisdiction.

2.110 “Green Waste” means tree trimmings, grass cuttings, plants, leaves, branches and trees (not more than six (6) inches in diameter or more than four (4) feet in length) and similar materials.

2.121 “Hazardous Waste” means all substances defined as hazardous waste, acutely hazardous waste or extremely hazardous waste by the State of California, or identified as hazardous waste by the U.S. Environmental Protection Agency, under applicable laws or regulations.

2.132 “Household Hazardous Waste” means Hazardous Waste that is generated at Residential Properties.

2.13 “Mixed Organic Waste” means Green Waste and Food Waste.

2.14 “Pass-Through Costs” means Disposal Costs, Processing Costs and Regulatory Costs, as well as any increase above \$10.00 per ton in the lease rate payable under the lease between City and Contractor for the Transfer Station Site and the Improvements attached hereto as Exhibit F.

2.15 “Processing” means the act of salvaging, reprocessing, marketing and selling or reusing Recyclables, Food Waste, Green Waste, Mixed Organic Waste and Wood Waste for the purpose of Recycling, whether directly or through one or more third parties; (including, in the case of Food Waste, Green Waste and Mixed Organic Waste, composting or anaerobic digestion), and shall include other means of diverting Solid Waste from landfills ~~pursuant to the Strategic Plan.~~

2.16 “Processing Costs” means fees, if any, paid by Contractor to a Processing Facility for Processing Recyclables, Food Waste, Green Waste, Mixed Organic Waste, Wood Waste and Solid Waste received at the Transfer Station. The amount paid by Contractor to PRS for Food Waste, Mixed Organic Waste, Green Waste or Wood Waste delivered to the PRS Facility shall be as determined under that certain First Amended and Restated Agreement for ~~the~~ Receipt of ~~Green and~~ Wood Waste, Green Waste

and Mixed Organic Waste among PRS, UWS and SWS of even date herewith and attached hereto as Exhibit A-(the "PRS Agreement").

2.17 "Processing Facility" means, with respect to Recyclables, the PRS Facility and/or any other authorized facility selected and approved pursuant to Section 4.1 below, ~~and, with respect to Food Waste, Green Waste and Wood Waste and subject to Section 4.5 below, the CCC facility~~PRS Facility, the Scotia Facility (as defined in Section 4.5 below), ~~the PRS Facility, any or other~~ licensed biomass conversion facility approved by the City Manager for Processing, the CCC Facility (as defined in Section 4.5 below), and/or any other authorized facility selected and approved pursuant to Section 4.1.2 and 4.5 below, and with respect to Food Waste and Mixed Organic Waste and subject to Section 4.6 below, the PRS Facility, the CCC Facility, and/or any other authorized facility selected and approved pursuant to Section 4.1.2 and or 4.5 below.

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2.18 "PRS" means Pacific Recycling Solutions, Inc.

2.19 "PRS Facility" means the materials recovery and green waste facility operated by PRS, currently located at 4260 North State Street, Ukiah, California and/or 3501 Taylor Drive and 3515 Taylor Drive, Ukiah, California.

2.20 "Recyclables" means Solid Waste which may be Recycled, including, without limitation, paper, newsprint, printed matter, pasteboard, paper containers, cardboard, glass, aluminum, PET, HDPE, and other plastics, beverage containers, compostable materials (including Segregated Food Waste, Mixed Organic Waste, Green Waste and or Wood Waste), electronic waste, wood, brick and stone in reusable size and condition, those items of Construction Debris and Demolition Debris which are described in Sections 2.4 and 2.5, appliances and automobile and light truck tires. Contractor shall report changes in Recyclables accepted at the Transfer Station to the City Manager who must approve those changes.

2.21 "Recycle" means the process of reusing or processing Solid Waste into a form suitable for reuse consistent with the requirements of the California Integrated Waste Management Act of 1989, as amended ("AB 939").

2.22 "Regulatory Costs" means all regulatory and governmental fees and charges incurred by Contractor in connection with providing services under this Agreement, including, without limitation, Surcharges which may be adopted from time to time, such as but not limited to, the City Landfill Fee and MSWMA fee, as shown on Exhibit E, payable to City, MSWMA or such other ~~jurisdiction~~ whose fee is acceptable to and approved by the City, and ~~remains~~ in force, pursuant to Section 1.1 above.

2.23 "Segregated" means:

2.23.1 As to Recyclables other than Food Waste, Mixed Organic Waste, Green Waste and Wood Waste, Recyclables that have been separated from Solid Waste that is not Recyclables and from Food Waste, Mixed Organic Waste, Green Waste and Wood Waste prior to delivery to the Transfer Station, and that are saleable or acceptable for Processing without further sorting. (For example, cardboard and glass that have been separated by a Self-Hauler from wet garbage is Segregated.)

2.23.2 As to any of Food Waste, Mixed Organic Waste, Green Waste or Wood Waste, each of those types of waste that has been separated from Solid Waste that is not Recyclables and from each of Food Waste, Mixed Organic Waste, Green Waste and Wood Waste, as applicable, prior to

delivery to the Transfer Station, and that in each case are saleable or acceptable for Processing without further sorting. (For example, Food Waste that has been separated from all Solid Waste by whatever means, and Recyclables, including Green Waste and Wood Waste, is Segregated.)

2.24 “Self-Haulers” means persons delivering Acceptable Waste or Recyclables to the Transfer Station who are not Franchised Waste Haulers.

2.25 “Solid Waste” means all putrescible and nonputrescible residential refuse, commercial solid waste, institutional solid waste, garbage, Food Waste, Green Waste, Wood Waste and rubbish as defined in Public Resources Code Section 40191, including, without limitation, for the purposes of this Agreement Construction Debris, Demolition Debris and Recyclables, but excluding Hazardous Waste and Household Hazardous Waste.

~~2.26 “Strategic Waste Management Plan” means the plan attached hereto as Exhibit B which is incorporated herein by this reference or any revisions thereof approved by Contractor and City.~~

~~2.26~~ [Reserved]

2.27 “Surcharge” means any per ton, or other, fee imposed by City on MSW (as defined below) received at the Transfer Station, such as, but not limited to, the Landfill Fee payable to City pursuant to Section 5 below, and the MSWMA Fee payable to the Mendocino Solid Waste Management Authority (“MSWMA”) (currently \$5.00 per ton), and that remains in force, pursuant to Section 1.1 above, or any similar fee of any other jurisdiction that is acceptable to and approved by City, including, in each case, any fees or charges adopted to replace or supplement any such Surcharge or fee.

2.28 “Transfer Station” means the facility located on the Transfer Station Site.

~~2.29~~ “Transfer Station Site” means the real property commonly known as 3151 Taylor Drive, Ukiah, California, Mendocino County Assessor’s Parcel No. 14-140-13, and which is depicted and described on Exhibit C attached hereto and hereby incorporated herein.

2.30 “Unacceptable Waste” means the types of Solid Waste that may not be received at the Transfer Station unless authorized by the permits issued for the operation of the Transfer Station.

2.31 “Wood Waste” means unpainted and untreated lumber and boards separated from Solid Waste, including other Recyclables.

3. Term. Subject to earlier termination in accordance with the terms of this Agreement, the term of this Agreement shall commence on ~~January~~ October 1, ~~2012~~ 2015 (the “Effective Date”) and continue for a period of ~~fifteen (15)~~ eleven (11) years ~~and three (3) months~~ through December 31, 2026, provided that Contractor shall have one (1) option to extend this Agreement and the rights granted hereunder on the terms and conditions herein for a period of five (5) years commencing January 1, 2027 and ending December 31, 2031. Notice of Contractor’s exercise of such option must be given at least six (6) months prior to December 31, 2026. The option to extend hereunder may not be exercised unless Contractor is in material compliance with the terms of this Agreement at the time of exercise and on December 31, 2026. It is the parties’ intention that, subject to prior termination hereunder or thereunder, the term of this Agreement be coextensive with the term of the Collection Agreement.

4. Operations. Contractor shall provide the following operations at the Transfer Station:

4.1 Receipt, Transfer and Disposal of Solid Waste. Contractor shall accept, for the per ton or per yard Rate for Municipal Solid Waste ("MSW"), set forth in Exhibit D attached hereto as adjusted under Section 6 below, Acceptable Waste delivered to the Transfer Station by Franchised Waste Haulers and Self-Haulers, and shall transfer or transport such Acceptable Waste to a Disposal Facility or a Processing Facility, in accordance with the terms of this Agreement. The initial Disposal Facility shall be the Eastlake landfill, the initial Recyclables Processing Facility shall be the PRS Facility, ~~and the initial Green Waste and Wood Waste Processing Facility is described in Section 4.5 below, and the initial Food Waste and Mixed Organic Waste Processing Facility is described in Section 4.6 below.~~ Any alternate or successor Disposal or Processing Facility to the initial Facilities approved or described in this Agreement shall be subject to City's approval as provided hereafter.

4.1.1 At least one year and three months before the expiration of the term of the disposal contract between Contractor and the existing Disposal Facility, Contractor shall begin the process of selecting a successor Disposal Facility (which may be the existing Disposal Facility), and at least seven months before such expiration, Contractor shall give City written notice identifying the proposed Disposal Facility, including its name and location, and the particulars of the disposal costs it recommends for the period of the new disposal agreement. Such notice shall include: (1) the anticipated tipping fee and other charges for Disposal at that Facility (2) a comparison of the disposal costs of the expiring disposal agreement to the new recommended disposal costs; (3) any impact the new recommended disposal costs will have on the Gate Fee (4) a justification statement, if the recommended disposal costs will increase by more than an annual CPI adjustment; (5) a list of Contractor explored disposal options not recommended, and (6) why the Contractor believes the recommended Disposal Option is best. Before giving such notice to City, Contractor has a duty under this Agreement to have vigorously explored all Disposal options reasonably available. The notice shall be accompanied by a copy of the proposed contract between Contractor and such Facility. Contractor shall also provide City with any additional information about such Disposal Facility reasonably requested by City. Contractor's use of the proposed Facility shall be subject to the City Council's approval, which shall not be unreasonably withheld. In acting on a request for approval, the City shall consider, among other things, whether the use of that Facility ~~is reasonably consistent with the Strategic Plan and~~ available at a reasonable cost to the ratepayers considering the environmental benefits and the available alternatives; provided, however, that if the City Council determines that another Disposal Facility reasonably available to Contractor will provide the same service at a lower cost, Contractor shall use that Facility.

4.1.2 Contractor shall provide City with written notice as soon as Contractor knows that it will use a Processing Facility instead of or in addition to the PRS Facility, the Scotia Facility ~~(as defined below)~~, any licensed biomass conversion facility approved by the City Manager, or the CCC Facility. The notice shall provide the name and location of the proposed Facility, the anticipated gate fee and other charges for Processing at that Facility, and a copy of the proposed contract between Contractor and such Facility. Contractor shall also provide City with any additional information about such Processing Facility reasonably requested by City. Contractor's use of the proposed Processing Facility shall be subject to the City Council's approval, which shall not be unreasonably withheld. In acting on a request for approval, the City shall consider, among other things, whether the use of that Facility is ~~reasonably consistent with the Strategic Plan,~~ available at a reasonable cost to the ratepayers considering the environmental benefits and the available alternatives, and otherwise qualifies as an Authorized Facility. The City Council may consider any other factor reasonably related to a legitimate City interest in its management of waste collection and disposal, including, but not limited to, alternative technologies and facilities, the impact on rates, past performance and regulatory history of the processing facilities under consideration, factors affecting the facilities' future performance, and the public interest.

4.1.3 In the event that any Facility described above cannot accept Solid Waste, Recyclables, Green Waste, ~~or Food~~ Wood Waste, Food Waste or Mixed Organic Waste Generated in City on a temporary basis due to no fault of Contractor, or due to events beyond the control of Contractor, such as acts of God, public emergency, strike or lockout by employees of another entity unrelated to Contractor, Contractor shall locate and use an alternate Facility for the duration of such circumstance; provided, however, that City approval in accordance with this Section 4.1 shall be required if the Facility cannot accept the applicable materials for a period of time exceeding three (3) months.

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4.2 Buy-Back Recycling. Contractor shall operate a certified Beverage Container Recycling Center at the Transfer Station that will provide redemption buy-back from the public in accordance with the rules of CalRecycle, and which is open to the public during regular business hours at least six days per week.

4.3 Drop-Off Recycling. Contractor shall accept at a designated area of the Transfer Station, at no charge, Segregated Recyclables (other than Food Waste, Mixed Organic Waste, Green Waste, Wood Waste and the types of Recyclables listed on Exhibit D as bearing a charge), from Self-Haulers, and shall transfer or transport such Recyclables for Processing to a Processing Facility, in accordance with the terms of this Agreement. Contractor shall accept at a designated area of the Transfer Station, at the designated Recycling Rate set forth on Exhibit D as adjusted under Section 6 below, Segregated Recyclables of the types listed on Exhibit D as bearing a charge, from Self-Haulers, and shall transfer or transport such Recyclables for Processing to a Processing Facility, in accordance with the terms of this Agreement. Contractor shall be entitled to retain all revenue it receives from the sale of such Recyclables. Any residue from the Recyclables received at the Transfer Station that cannot be processed shall be disposed of at a Disposal Facility. City may designate any entity, including MSWMA, to provide hazardous waste load-check and refrigerant removal at no cost to Contractor or the general public.

4.4 Household Hazardous Waste Recycling. Contractor shall, at the applicable Rate set forth on Exhibit D as adjusted under Section 6 below, accept from Self-Haulers who are residents of City, oil filters, used motor oil (up to five gallons per customer), antifreeze and automobile and boat batteries, and shall transfer or transport such items for Processing to a Processing Facility, in accordance with the terms of this Agreement. Contractor shall be entitled to retain all revenue it receives from the sale of such items. Any residue from such items that cannot be Processed shall be disposed in accordance with all legal requirements at a City approved facility fully licensed to accept such materials.

4.5 Green Waste and Wood Waste. Contractor shall accept at a designated area of the Transfer Station, at the applicable Green Waste Rates specified in Exhibit D as adjusted under Section 6 below, Segregated Green Waste and Segregated Wood Waste from Self-Haulers, and shall transfer or transport all such Green Waste and Wood Waste to the Scotia biomass conversion facility (the "Scotia Facility") ~~or a Processing Facility for Processing, in accordance with the terms of this Agreement; provided, however, that, notwithstanding any other provision in this Agreement, Contractor shall arrange for delivery of an average of 400 tons per calendar month, subject to seasonal adjustments affecting the amount of Green Waste available, of Green Waste (including Green Waste generated in City), un-ground but presorted, to the CCC facility so long as (a) CCC is licensed to accept Green Waste from City, (b) CCC is in full compliance with its license, (c) CCC is the only licensed composting facility in Mendocino County that is licensed to accept and is capable of accepting the full range of inputs accepted by CCC as of April 1, 2008, (d) CCC charges not more than \$32.00 per ton for the first 200 tons of such Green Waste in the aggregate delivered per calendar month (which may represent more than the actual Green~~

~~Waste collected curbside in City by UWS) and correspondingly CCC will accept at no charge for any tons in excess of 200 delivered in such month (which represents Green Waste from sources other than City); and (e) CCC continues to accept sheet rock from Contractor, UWS and PRS at no charge; and, provided, further, that Contractor's obligation shall be deemed satisfied by Green Waste arranged to be delivered by UWS to the CCC facility pursuant to Section 5.11(c) of the Collection Agreement.”), any licensed biomass conversion facility approved by the City Manager, the Cold Creek Compost, Inc. composting facility (the “CCC Facility”), or the PRS Facility for Processing, in accordance with the terms of this Agreement. Any residue from the Green Waste or Wood Waste received at the Transfer Station that cannot be Processed shall be disposed of at a the Disposal Facility or at any licensed landfill selected by PRS.~~

~~4.6 — Food Waste. Upon commencement of a food waste program under the Collection Agreement, Contractor shall accept at a designated area of the Transfer Station, at the applicable Food Waste Rates submitted to and approved by City, Segregated Food Waste, and shall transfer or transport all such Food Waste to a Processing Facility for Processing, in accordance with the terms of this Agreement.~~

4.6 Food Waste and Mixed Organic Waste. Notwithstanding any other provision in this Agreement, Contractor shall not be required to accept or Process any Segregated Food Waste or Segregated Mixed Organic Waste delivered to the Transfer Station until January 1, 2017 and subject to the receipt by PRS of all government approvals and permits necessary for PRS to receive, commingle, store and handle such Food Waste and Mixed Organic Waste. Once such approvals and permits have been received by PRS and such date has occurred, Contractor shall, if (1) PRS permits do not allow self-haulers to deliver Food Waste or Mixed Organic Waste to the PRS Facility (and PRS does not intend to seek such allowance), and (2) requested in writing by the City Manager: (a) accept at a designated area of the Transfer Station Segregated Food Waste and Segregated Mixed Organic Waste from City and County Self-Haulers at the applicable Mixed Organic Waste Rates specified in Exhibit D as adjusted under Section 6 below, and transfer or transport all such Food Waste and Mixed Organic Waste for Processing to the PRS Facility, in accordance with the terms of this Agreement; and (b) due to space constraints and subject to Section 5.11(d) of the Collection Agreement, direct City and County Franchised Haulers to deliver all Segregated Food Waste and/or Segregated Mixed Organic Waste for Processing to another facility; provided, however, that if the CCC Facility shall refuse, due to no fault of Contractor, UWS or PRS, to accept Mixed Organic Waste that is not a Contaminated Load (as defined in the Agreement for Mixed Organic Waste Services between PRS and CCC dated September 15, 2015, which is attached as Exhibit 1 to Exhibit A to this Agreement (the “CCC Agreement”)) or if the CCC Facility shall shut down or cease operating, Contractor shall deliver the Mixed Organic Waste received at the Transfer Station for Processing or to the licensed facility that is least expensive (taking into account costs of Processing and transportation), with any increase in the costs to Contractor of using the new facility instead of the PRS Facility and the CCC Facility being passed through to Contractor and treated as a Pass-Through adjustment to the Rates on the next Rate Adjustment Date pursuant to Section 6.3 below.

4.7 Reuse Facility. Contractor shall provide a reuse area at the Transfer Station where Contractor shall make available for give-away or sale salvageable items such as doors, windows, furniture, appliances, toys and tools brought to the Transfer Station by Self-Haulers. Contractor shall be entitled to retain all revenues from the sale of such items.

4.8 Unacceptable Waste Prohibited. Contractor shall not knowingly accept Unacceptable Waste at the Transfer Station, except for those recyclable Household Hazardous Wastes described in Section 4.4 above. Contractor shall continuously inspect customer vehicles and the tipping floor for Unacceptable Waste. Unacceptable Waste shall be refused and returned to the customer, unless the

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Unacceptable Waste is already dumped on the tipping floor and the vehicle of origin is unknown. Contractor shall accept title to any Unacceptable Waste received at the Transfer Station and not so returned, and shall safely segregate, contain, store and dispose of it in accordance with applicable law.

4.9 Refusal of Waste. When Contractor refuses Unacceptable Waste that is brought to the Transfer Station by a customer, Contractor will inform the customer of the most convenient and economical legal option available for disposal of that Waste. Written information on such disposal options will be kept available at all times in the scale house, and a log shall be maintained to detail such refusal of Waste acceptance.

4.10 Title to Waste. Contractor shall accept ownership and title to all Acceptable Waste, Recyclables, Food Waste, Mixed Organic Waste, Green Waste and Wood Waste at the time of unloading of such materials at the Transfer Station.

4.11 Hours of Operation. Contractor will receive Acceptable Waste, Recyclables, Food Waste, Mixed Organic Waste, Green Waste and Wood Waste at the Transfer Station only between the hours 7 a.m. and 4 p.m. Monday through Friday for Franchised Waste Haulers and from 7:30 a.m. to 4 p.m. Monday through Saturday for Self-Haulers throughout the year, except for the following holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day; provided, however, that if New Year's Day, July 4th or Christmas Day falls on a Sunday, Contractor may with the consent of City's City Manager's observe the holiday on the Saturday before the holiday; and, provided, further, that Franchised Waste Haulers may deliver to the Transfer Station between 6 a.m. and 4 p.m. on the day after any such holiday. Within this schedule, Contractor may specify different hours for Franchised Waste Haulers and Self-Haulers. Any such changes shall be reported to the City no later than thirty (30) days before the effective date of the change and shall be revised at the direction of the City Council. Such hours are subject to change in accordance with changes to Contractor's permits for the Transfer Station.

4.12 Additional Services. Contractor shall provide additional services upon request of City or upon the proposal of Contractor as approved by City subject, if the costs incurred by Contractor to provide such services increase, to the establishment by mutual written agreement of a reasonable service fee therefor.

4.13. Permits and Licenses. Contractor shall obtain and maintain throughout the term of this Agreement all permits, licenses and approvals required for Contractor to perform the services described herein, including, without limitation, an operating permit from the County of Mendocino. City shall cooperate with Contractor in connection with such permits, licenses and approvals, and shall renew all such permits, licenses and approvals issued by City, provided that Contractor is not in material breach of this Agreement and provided Contractor shall have fulfilled all requirements for the renewal of such permits, licenses and approvals. Contractor shall provide City's City Manager or his or her designee with copies of all permits or amendments or renewals thereof which are not issued by City.

4.14 Applicable Law. Contractor shall perform all its obligations under this Agreement in accordance with all applicable laws, including, without limitation, the permits, licenses and approvals described in Section 4.12 above, and shall be solely liable for all fines and penalties that may be imposed on Contractor for violations thereof.

5. Landfill Fee and Other Surcharges. Within forty-five (45) days after the end of each calendar month during the term of this Agreement, Contractor shall remit to City as a landfill fee a sum of money equal to Two Dollars (\$2.00) per ton (or the equivalent amount for a cubic yard), or such other amount approved by City, of Acceptable Waste received by Contractor at the Transfer Station, and any other Surcharge, approved by and acceptable to the City still in force shall be remitted to ~~an~~ City or another entity, as directed by the City, within ninety (90) days after the end of each calendar month. If these fees are not paid on or before such due date, a late payment fee in an amount equal to eighty-three one-hundredths of a percent (0.83%) of the amount owing per month will be charged for each thirty (30) day period, or portion thereof, that the fee remains unpaid. Each monthly remittance to City shall be accompanied by a statement detailing the Acceptable Waste received at the Transfer Station for the period covered.

6. Gate Rate and Other Service Fees.

6.1 Establishment. Exhibit D sets forth the gate rate and other service fees for services provided by Contractor under this Agreement (collectively, the "Rates") effective as of the Effective Date. Contractor shall not charge lower Rates to any Franchised Waste Hauler or Self Hauler serving or from areas outside the City. Such Rates shall be subject to review and revision as set forth in Sections 6.2, 6.3, 6.4 and 6.5 below. Contractor shall not charge any amount in excess of the approved Rates for services required by or permitted under this Agreement.

6.2 Modification Based on Consumer Price Index, Fuel Index and Certain Pass-Through Costs.

(a) Per Ton MSW Rate. The per ton Municipal Solid Waste ("MSW") Rate shall be adjusted January 1st every year, beginning January 1, 2013 ("Rate Adjustment Date") to reflect changes in the CPI, the Fuel Index and certain Pass-Through Costs by an amount determined in accordance with the Transfer Station Rate Calculation attached hereto as Exhibit E (the "Calculation").

(b) Definitions. For purposes of Rate adjustments pursuant to this Section 6.2 and the Calculation, the following terms shall have the following meanings.

(i) "Base Fuel Cost" means Contractor's actual costs for diesel and other fuels used in performing services under this Agreement for the year ended December 31, 2010 or \$152,533.47.

(ii) "Base Revenue" means Contractor's total revenue received from Franchised Haulers and Self-Haulers during the Comparison Year, excluding revenue from the sale of scrap metal, Recyclables purchased under the buy-back program, and compost.

(iii) "Base Year" means the year ended June 30th one year prior to June 30th of the Comparison Year.

(iv) "Comparison Year" means the year ended June 30th immediately prior to the relevant Rate Adjustment Date.

(v) "Contractor Rate" means the per ton MSW Rate minus the per ton Franchise Fees.

(vi) "CPI" means the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items (1982-1984=100), published by the United States Department of Labor, Bureau of Labor Statistics.

(vii) "Disposal Fees – Garbage" means the actual Disposal Costs paid by Contractor for Solid Waste delivered by Contractor to the Disposal Facility during the Comparison Year.

(viii) "Disposal Fees – Processing" means the actual Processing Costs paid by Contractor to ~~CCC~~, PRS or any other Authorized Facility for Recyclables, Green Waste, Mixed Organic Waste and Food ~~waste~~ Waste delivered by Contractor to ~~the CCC facility~~, the PRS Facility or such

Authorized Facility, respectively, during the Comparison Year.

(ix) "Fuel Costs" means Contractor's actual costs for diesel and other fuels used in performing services under this Agreement during the Comparison Year.

(x) "Fuel Index" means the California No.2 Diesel Retail Sales by all Sellers (Dollars Per Gallon) published by the U. S. Energy Information Administration.

(xi) "Operating Costs" means all of Contractor's costs to operate the Transfer Station under this Agreement, including, without limitation, labor costs, vehicle and vehicle-related costs, maintenance, insurance and transportation costs, but excluding Fuel Costs, Pass-Through Costs and the costs of purchasing scrap metal, Recyclables purchased under the buy-back program, and compost (including sales taxes).

(c) Rules. For purposes of Rate adjustments pursuant to this Section 6.2 and the Calculation, the following rules shall apply.

(i) "CPI Change" shall be calculated as one hundred percent (100%) of the percentage increase or decrease, if any, in the CPI during the Comparison Year, using the CPI published for June of such Year as compared with the CPI published for June of the Base Year.

(ii) "Fuel Index Change" shall be calculated as one hundred percent (100%) of the percentage increase or decrease, if any, in the Fuel Index from June of the Base Year through June of the Comparison Year; provided, however, that, notwithstanding Section 6.2(b)(iii) above, "Base Year" for purposes of the Fuel Index Change shall mean the year ended June 30, 2010; and, provided, further, that the Fuel Index Change adjustment (i.e., Fuel Index Change multiplied by Base Fuel Cost) for any Rate Adjustment Date shall be calculated after removal of such adjustment for the prior Rate Adjustment Date.

(iii) The Adjustments for destination charges and Disposal Fees with respect to the use of the Eastlake landfill that appear in the Calculation are not recurring.

(iv) Rate adjustments for changes in Franchise Fees that take effect on a date other than January 1st, as well as changes in other Pass-Through Costs, will be determined under Section 6.3 below and not under this Section 6.2.

(v) If City elects to purchase the Transfer Station Site and the Improvements on December 31, 2016 pursuant to Section 12 below, the cost entitled "Construction/Lease \$2.36/ton" in the Calculation will be increased annually commencing January 1, 2018 by one hundred percent (100%) of the percentage increase or decrease, if any, in the CPI during the Comparison Year, using the CPI published for June of such Year as compared with the CPI published for June of the Base Year.

(vii) As set forth in the Calculation, each adjustment in the per ton MSW Rate pursuant to this Section 6.2 shall equal the percentage adjustment in the Contractor Rate plus the per ton Franchise Fees.

(d) Per Yard MSW and Minimum MSW Rates. Each of the per yard MSW Rate, minimum MSW Rate and per can MSW Rate shall be adjusted January 1st every year (beginning January 1, 2013), as follows: the per yard MSW Rate shall equal 24.05% of the Contractor Rate, plus the per ton Franchise Fees divided by 5.54; the minimum MSW Rate shall equal the per yard MSW Rate divided by two (2); and the per can MSW Rate shall equal the minimum MSW Rate divided by three (3). All rates in this Section 6.2(d) shall be rounded to the nearest five cents.

(e) All Other Rates. Each of the Rates set forth on Exhibit D other than the MSW Rates shall be adjusted January 1st every year (beginning January 1, 2013) by an amount equal to the percentage increase or decrease, if any, in the Contractor Rate (i.e., determined before adjusting for Franchise Fees). All rates in this Section 6.2(e) shall be rounded to the nearest five cents.

(f) Procedure. The procedure for Rate adjustments under this Section 6.2 shall be as follows:

(i) Not later than August 15th of each year, Contractor shall file with the City Manager a written notice of intention to adjust each of the then current Rates effective as of January

1st of the next year in accordance with Section 6.2(a) through (e) above.

(ii) Within sixty (60) days of the filing of the notice of intention, the City Manager shall review the notice and either confirm that the proposed Rates are within the limit of Section 6.2 above or establish by mutual agreement with Contractor any necessary changes to the proposed Rates to make such confirmation.

(iii) Not later than October 20th, the City Manager shall inform the City Council in writing of his or her determination regarding the proposed new Rates and the City Council shall be entitled to review and confirm that the proposed Rates are within the limit of Section 6.2 above or establish by mutual agreement with Contractor any necessary changes to the proposed Rates to make such confirmation, not later than November 20th. Any Rates shall become effective on the following January 1st, provided that Contractor shall post notice of the revised Rates at the Transfer Station not later than December 1st.

(iv) In the event that the CPI or the Fuel Index described in Section 6.2 above shall be discontinued or materially modified during the term of this Agreement, the parties shall together select a replacement index and/or otherwise change Section 6.2 above so as to replicate, as nearly as possible, the mutual intention of the parties to rely on the results of either index described in Section 6.2 as in effect on the date hereof.

6.3 Modification Based on Changes in Pass-Through Costs. In addition to adjustments under Section 6.2 above, each Rate shall be adjusted to reflect changes in Pass-Through Costs that are not the subject of Rate adjustments pursuant to Section 6.2 above, as follows. Using the section of the Calculation entitled "Revenue Base," each Rate shall be increased by an amount equal to the increase in applicable Pass-Through Costs, and decreased by an amount equal to the decrease in applicable Pass-Through Costs, in each case so as to cause such Rate to compensate for such change in Pass-Through Costs as of the date such change becomes effective and either payable by or a benefit to Contractor, and taking into account the increase or decrease in Franchise Fees payable in respect of such change. Changes in Pass-Through Costs resulting from a change in Disposal Facilities or Processing Facilities shall cause an increase in Rates as provided herein only if Contractor has complied with Sections 4.1.1 and 4.1.2 and City has approved the successor or alternate Facilities in accordance with such Sections, [subject to Section 4.6.](#)

6.4 Five Year Review. Once every five (5) years (beginning no later than April 2, 2016 for purposes of adjusting the Rates effective January 1, 2017), City shall conduct a review for the purpose of determining whether or not the automatic adjustments provided in Sections 6.2, 6.3 and 6.5 have adequately adjusted the Rates to cover the actual increase or decrease in the Contractor's reasonable operating costs or have exceeded those costs and whether the Rates remains fair to the ratepayer and the Contractor. Depending on the results of that review the City may approve an increase or decrease in the Rates. City shall complete each such review and adjustment, if any, at least three months (3) prior to the beginning of such year (by September 30, 2016 in the case of the first such review), and Contractor shall cooperate with such review. In conducting each such review, City shall consider the following information: financial records of Contractor (including operating expenses and revenues and Disposal, Processing, Regulatory and other costs of Contractor, and Contractor revenues), the factors described in Section 6.5 below, and rates charged for comparable services at similar facilities. Increases or decreases in the Rates pursuant to this Section 6.4 shall be subject to the notice and public hearing requirements in the Ukiah City Code, Division 4, Chapter 6, Article 1, commencing with Section 3950. The City may conduct such investigation as it deems necessary to perform this review and Contractor shall cooperate with such investigation, which may include the City's inspection and copying of Contractor records and review and/or audit of Contractor's financial records by a City retained CPA, the costs of which shall be reimbursed to City from Base Revenue but treated as a Pass-Through Cost for rate setting purposes.

6.5 Modification Based on Extraordinary Items. In addition to adjustments under Sections 6.2, 6.3, and 6.4 above, Contractor may request an increase in the Rates if Contractor's costs increase or its revenues decrease solely as the result of extraordinary circumstances beyond its control that could not have been reasonably anticipated by Contractor (such as a Change in Law) and if the increase in costs or decrease in revenues unavoidably adversely affects Contractor's opportunity to operate at a reasonable profit. Contractor shall have the burden of producing evidence satisfactory to City demonstrating its need for a rate increase prior to the regular Five Year Review pursuant to Section 6.4 above, including, but not limited to, Reviewed or Audited financial statements of Contractor, if requested by City. The City Council shall consider the request pursuant to the notice and public hearing procedures in Ukiah City Code, Division 4, Chapter 6, Article 1, commencing with Section 3950.

6.6 Billing. Contractor shall charge and collect from all customers at the Transfer Station upon receipt of materials, or bill such customers, for all services hereunder. Interest of one percent (1%) per month or the highest rate permitted under applicable law, whichever is less, shall be applied to any past due amounts until paid in full. Amounts shall be past due if not paid within thirty (30) days of billing. Contractor shall have the right to refuse service to any customer that is more than sixty (60) days delinquent on his, her or its account.

7. Provisions Applicable to Equipment and Personnel.

7.1 Equipment. Contractor shall provide all equipment necessary to perform the services described in the Agreement, sufficient in number and capacity to efficiently perform the work required by this Agreement. All equipment used at the Transfer Station shall be maintained in good working condition and be suitable for use at the facility without causing unreasonable wear and tear or damage to the improvements constructed on the Site. The equipment shall comply with all applicable legal requirements. Contractor shall keep the outside of the truck bodies free from dirt and filth, and shall clean the inside of the trucks in a sanitary manner on a regular basis. Suitable measures shall be taken to prevent refuse from falling into public streets or places. Contractor shall keep all trucks freshly painted in a uniform manner, and the firm name or logo, telephone number, and truck number of each truck shall appear in a conspicuous manner. Contractor shall keep all equipment in good maintenance and repair, regularly inspect same, and keep accurate records of all maintenance.

7.2 Facility Maintenance. Contractor shall maintain the Site and the tipping floor in an orderly condition with proper signage to direct users to the appropriate locations on the Site to conduct their business. All refuse deposited on the tipping floor shall be removed within 24 hours of its deposit. Contractor shall employ reasonable measures to control noise, odors, litter and other nuisance conditions. Contractor will be responsible for all repair, maintenance and replacement of the Transfer Station in order to keep it in sound working order, including, without limitation, the tipping floor surface, driveways, gates, fences, electrical distribution systems, ventilation and heating, fire sprinklers, floor drains, walls, doors, roof, restrooms, fixed equipment and landscaping. Contractor will keep the tipping floor free of major cracks, holes and breaks, and will keep any tractor not equipped with rubber tires or tracks from coming in contact with the tipping floor or driveways. All repairs made by Contractor will be with an identical article or material or an equal approved by City.

7.3 Transport of Materials. Contractor shall not allow Solid Waste, Recyclables, Green Waste, Food Waste, Mixed Organic Waste or Wood Waste to blow or fall from any vehicle used for transportation. Contractor shall clean up any and all spills, including oil and debris on the streets, resulting from its operations. Should Contractor fail to promptly clean up such spills resulting from its

operations after notice from City, Contractor shall be liable to City for all reasonable costs incurred by City in doing so.

7.4 Staffing. Contractor shall employ sufficient staff to provide service in a safe manner at the Transfer Station, and to meet its obligations under this Agreement, including, without limitation, a Transfer Station Manager. All personnel shall be qualified to perform their assigned tasks and will possess the required licenses, permits or training for the tasks they perform. Contractor shall provide suitable operational and safety training for all of its employees who utilize or operate vehicles or equipment at or in connection with the operation of the Transfer Station. Contractor shall use its best efforts to assure that all employees present a neat appearance, conduct themselves in a courteous manner, and perform the work as quietly as possible.

7.5 Subcontractors. Contractor shall not subcontract any of the services under this Agreement without the prior written consent of City.

8. Records and Reports.

8.1 Contractor shall keep and maintain accurate books and records clearly showing its revenues and expenses in connection with the operations provided for in this Agreement. Contractor will also keep and preserve records of all loads of Acceptable Waste, Recyclables, Food [Waste, Mixed Organic](#) Waste, Green Waste, Wood Waste and Household Hazardous Waste received at the Transfer Station, and will report to City every three (3) months during the term hereof the total quantities and payments received. Contractor shall provide written notice to City of the location of its records and any change in the location.

8.2 City's designated representative shall be allowed access to the Transfer Station Site at all times when the Transfer Station is open, and upon prior written notice to Contractor shall be allowed to inspect and copy any and all records of Contractor containing information about the operation of the Transfer Station for purposes of audit or to verify the recordkeeping procedures of Contractor. City's designated representative shall also be allowed access to the Site during non-operating hours upon prior written notice to the Transfer Station Manager. Contractor shall fully cooperate with City in reviewing or investigating information in Contractor's records or pertaining to Transfer Station operations.

9. Hold Harmless and Insurance.

9.1 Contractor shall indemnify and hold harmless City, its City Council, boards, commissions, officers, agents, representatives and employees from any and all actions, claims or damages brought for or on account of injuries to or death of any person or damage to property of all kinds resulting from or arising out of the operations of Contractor, its officers, agents, employees or servants pursuant to this Agreement. The duty of Contractor to indemnify and hold harmless shall include the duty to defend as set forth in California Civil Code Section 2778.

9.2 Contractor shall have in effect during the term of this Agreement, workers' compensation and employer liability insurance providing full statutory coverage.

9.3 Contractor shall take out and maintain during the term of this Agreement, liability insurance for the following types and minimum amounts:

- (a) General liability, including comprehensive form, premises operations,

products/completed operations, hazard, contractual insurance, broad form property damage, independent contractors and personal liability, with limits for bodily and property damage combined of \$500,000 each occurrence and \$500,000 aggregate.

(b) Automobile liability, including comprehensive form, owned, hired and non-owned, with a limit of \$1,000,000 for bodily injury and property damage combined.

(c) Excess liability, umbrella form, with a limit for bodily injury and property damage combined of \$5,000,000 each occurrence and \$5,000,000 aggregate.

(d) Pollution and remediation liability with limits in an amount of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate insuring against loss, the cost of remediation and legal defense as a result of pollution conditions arising out of the collision, upset or overturn of Contractor vehicles in conjunction with this Agreement.

(e) Broad form fire insurance approved by City, jointly in the names of Contractor and City, covering not less than the full replacement cost of all improvements on the Transfer Station Site. In the event of damage to any portion of the Transfer Station, Contractor shall rebuild, repair or otherwise reinstate the damaged improvements in good and substantial manner, with such reconstruction to commence within ninety (90) days after the damage occurs.

Insurance is to be placed with admitted California insurers with an A.M. Best's rating of no less than A- for financial strength, AA for long-term credit rating and AMB-1 for short-term credit rating. Insurance certificates evidencing the required coverage shall be filed with City and shall be subject to approval by the City Attorney. City, its City Council, boards, commissions, officers, agents and employees shall be named as additional insureds on any such policies of insurance which shall also contain a provision that the insurance afforded thereby shall be primary. No such policy shall be cancelled or modified except upon thirty (30) days' prior written notice to City.

9.4 Contractor shall post a \$250,000 performance bond or financial instrument reasonably acceptable to the City Manager as security for Contractor's faithful performance of each and every term, covenant and condition of this Agreement to be performed by Contractor, provided that the cost of such bond or other instrument shall be included in the Operating Cost Component.

10. Remedies upon Default.

10.1 Contractor shall be deemed in default of this Agreement in the event Contractor defaults in the performance of any of the duties to be performed by it under the terms of this Agreement and fails to cure the breach as further provided in this Section 10.1. City shall give Contractor written notice, either by mail or by personal service, setting forth the default. Contractor shall correct such default within thirty (30) days after service of such notice (within seven (7) days if City determines that the public health or safety is at risk) unless the default cannot, by its nature, be cured within said period, in which case the cure period shall be extended for such additional time as is reasonably necessary to effect a cure, provided that Contractor shall commence efforts to effect a cure as soon as practicable and shall diligently pursue the cure. If Contractor commits three or more breaches of material provisions of this Agreement within an eighteen (18) month period, whether cured or not, the Contractor shall be deemed to have committed "Multiple Breaches."

10.2 In the event Contractor's default described in Section 10.1 is of a material provision of this Agreement and is not cured as set forth in Section 10.1, or if Contractor has committed Multiple Breaches (defined to mean three or more defaults of material provisions of this Agreement within an eighteen (18) month period, whether cured or not) ("Material Default"), City shall have the following remedies:

10.2.1 Liquidated Damages. The parties acknowledge that City will incur damages as a result of a Material Default, and that such Material Default may not warrant termination of this Agreement. The parties agree that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by City as a result of a Material Default. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that exclusive services might be available at substantially lower costs than alternative services and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches. Liquidated damages shall be City's exclusive damages remedy for any individual Material Default which does not result in termination of this Agreement by City. The amount of liquidated damages is \$1,000 for each day the Material Default continues after Contractor fails to cure until it is either cured or City terminates this Agreement.

10.2.2 Franchise Termination. Without further notice and without suit or other proceedings, City may cancel and annul the rights and privileges of this Agreement upon a Material Default. Nothing in this Section shall prohibit the parties from meeting to discuss ways to resolve the issue. In the event of termination of this Agreement for Material Default, City shall have the right forthwith to grant a franchise to another person or to take possession of the trucks and other equipment of Contractor used to perform work under this Agreement. City shall have the right to retain possession of the trucks and other equipment for up to one (1) years after such termination and City shall pay Contractor the reasonable rental value of such trucks and other equipment, and keep them in good maintenance and repair, during the time the same are used by City. City shall also have access to Contractor's records for the purpose of billing customers during the period City is providing the services described in this Agreement, and shall retain all fees collected for such services.

Upon termination of this Agreement for any reason, Contractor shall have the obligation to sell to City and City shall have the option to purchase the equipment used by Contractor to perform its obligations under this Agreement in operating the Transfer Station and transporting Solid Waste to Disposal and Processing Facilities and other markets (the "equipment"). Such option shall be exercised by written notice to Contractor at least six (6) months prior to the termination date, unless the Agreement is terminated based on a Material Breach, in which event notice of the election must be given within sixty (60) days after the termination date.

The purchase price that City shall pay Contractor for the equipment shall be its cost less depreciation to the date of purchase calculated on a straight-line basis over its estimated useful life as shown on the books of Contractor.

10.2.3 Other Remedies. Upon termination of this Agreement based on a Material Default, City shall have all other remedies in law or equity for such Material Default.

10.3 If a dispute arises between City and Contractor regarding fees or any other term or provision of this Agreement, the parties agree to meet and confer in good faith to resolve the dispute. Either party may request to meet and confer by written notice to the other party. Alternatively, the parties

may agree to participate in non-binding mediation. If the dispute is not resolved within thirty (30) days after the written request to meet and confer has been given or after the parties have agreed to non-binding mediation, the matter, other than an action seeking specific performance or other equitable relief, damages of Twenty Five Thousand Dollars (\$25,000) or less, or indemnification or insurance coverage pursuant to Section 9, shall be submitted to non-binding arbitration in accordance with Title 9 of the California Code of Civil Procedure, commencing with Section 1280, before a single neutral arbitrator ("Arbitrator") in the Mendocino County. The Arbitrator shall be an attorney with at least ten (10) ~~years~~^{years} experience or a retired judge (or a person having comparable qualifications) and shall be mutually agreed upon by the parties. If the parties are unable to agree on an Arbitrator, the Arbitrator shall be appointed by the superior court in accordance with Cal. Code Civ. Proc. §1281.6. The fees and expenses of the Arbitrator shall be borne equally by the parties.

In the event such non-binding arbitration does not resolve the matter and in any other dispute that results in any court action, the parties waive any right to a jury trial and agree that any such action shall be filed in the federal or state courts in and for Mendocino County, each party hereby consenting to the jurisdiction of and venue in such courts, the matter shall be governed by the internal laws of the State of California (irrespective of choice of law principles), and the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and disbursements incurred in such action from the non-prevailing party.

10.4 If Contractor shall at any time during the term of this Agreement or any extension thereof, become insolvent, or if proceedings in bankruptcy shall be instituted by or against Contractor, or if Contractor shall be adjudged bankrupt or insolvent by any Court, or if a receiver or trustee in bankruptcy or a receiver of any property by Contractor shall be appointed in any suit or proceeding brought by or against Contractor, or if Contractor shall make an assignment for the benefit of creditors, then and in each and every such case, and provided that such proceedings, adjudication, appointment or assignment, as the case may be, continue in effect for ninety (90) days without being vacated, removed or withdrawn, this Agreement shall immediately cease and come to an end, and the rights and privileges granted shall immediately be cancelled and annulled without notice or action required on behalf of City.

10.5 Notwithstanding any other provision herein, no default, delay or failure to perform on the part of either party shall be considered a breach hereunder if such default, delay or failure to perform is due to causes beyond such party's control, including, but not limited to, riots, civil disturbances, actions or inactions of governmental authorities, epidemic, war, embargoes, severe weather, fire, earthquake, acts of God, defaults by the other party or defaults by carriers. In the event of any such default, delay or failure to perform, any dates or times by which the affected party otherwise is scheduled to perform shall be extended for a period of time equal in duration to the additional time required because of the excused default, delay or failure to perform.

11. Assignment.

11.1 Contractor shall not directly or indirectly, voluntarily or involuntarily assign, mortgage, pledge or encumber any interest in all or a part of this Agreement without the prior written consent of City. The City Council shall have the right to determine in its sole discretion whether to approve, conditionally approve or deny any request by Contractor for approval under this Section. Any action requiring City Council approval under this Section that occurs without such approval shall give City the right to terminate this Agreement without prior notice to Contractor or its successors or assigns. For purposes of this Section, any transaction involving the transfer, sale or exchange of stock which results in a change in majority control of Contractor from its owners as of the date hereof (excluding transfers

between such owners and transfers by any such owners to revocable living trusts for the benefit of their families) shall be an assignment subject to City review and approval.

11.2 Any written agreement between Contractor and a Disposal Facility for the Disposal of Solid Waste received at the Transfer Station entered into after the date of this Agreement, and any written agreement between Contractor and a Processing Facility for the Processing of Recyclables received at the Transfer Station entered into after the date of this Agreement, shall provide that: (a) City is a third party beneficiary with the same right as a party to enforce such agreement; (b) any assignment of such agreement shall require City approval; (c) in the event such agreement is terminated during its term or any extended term by Contractor or by the Disposal Facility or Processing Facility operator based on an uncured default by Contractor under such agreement, such agreement may be assumed by City without change, including as to Disposal or Processing rates and terms; and (d) if terminated based on an uncured default by Contractor, any payments due but unpaid under such agreement on the date of termination shall continue to be an obligation of Contractor and the obligation to make any such payments shall not be assumed by City upon its assumption of such agreement.

12. City's Options to Purchase Site, Improvements and Equipment.

12.1 City's Options to Purchase Site and Improvements. On December 31, 2016, Owner and Contractor shall have the obligation to sell and the City shall have the option to purchase from Owner both the Transfer Station Site and all the improvements on the Transfer Station Site (the "Improvements") for an aggregate purchase price of One Dollar (\$1.00). City shall be deemed to have exercised its option to purchase the Transfer Station Site and the Improvements, unless it has given Contractor written notice prior to December 31, 2016 that it has elected not to exercise the option. Title shall transfer to City within thirty (30) days after December 31, 2016. The purchase shall be on a then "as-is" basis, and otherwise on commercially reasonable terms then applicable to the purchase and sale of real property, except that Owner shall indemnify City against any cost or liability arising from hazardous or toxic waste contamination on the Transfer Station Site which occurred before escrow closes on City's purchase of the Transfer Station Site. At closing, Owner shall convey to City clear, unencumbered fee title to the Transfer Station Site and City shall enter into a lease for the Transfer Station Site and the Improvements with Contractor in the form attached hereto as Exhibit F. Owner or Contractor's failure to co-operate in City's purchase of the Transfer Station Site and Improvements shall be a Material Default.

12.2 Prior Termination. If this Agreement is terminated before December 31, 2016 for any reason, City shall have the option to do all, but not part, of the following: (a) purchase or lease from Owner the Transfer Station Site pursuant to Sections 13.1 or 13.2, (b) purchase from Owner the Improvements pursuant to Section 13.3, and (c) purchase from Contractor all the Equipment pursuant to Section 10.2.2. City's option under this Section 12.2 shall be exercised by written notice to Owner and Contractor given within sixty (60) days before the termination date, unless the Agreement is terminated based on a Material Breach, in which event notice of the election must be given within sixty (60) days after the termination date.

13. Purchase or Lease of Site and Purchase of Improvements.

13.1 Purchase of Site. If City elects to purchase the Transfer Station Site in accordance with Section 12.2 above, Owner shall sell City the Transfer Station Site for a purchase price equal to the lesser of (a) \$487,000 increased by the percentage increase in the CPI between November 7, 2001 and the date of termination of this Agreement, or (b) the then actual fair market value of the Transfer Station Site; provided, however, that the purchase price shall be One Dollar (\$1.00) if the closing of the purchase

occurs after September 30, 2016. The purchase shall be on a then “as-is” basis, and otherwise on commercially reasonable terms then applicable to the purchase and sale of real property, except that Owner shall indemnify City against any cost or liability arising from hazardous or toxic waste contamination on the Transfer Station Site which occurred before escrow closes on City’s purchase of the Transfer Station Site. At closing, Owner shall convey to City clear, unencumbered fee title to the Transfer Station Site.

13.2 Lease of Site. If City elects to lease the Transfer Station Site in accordance with Section 12.2 above, City’s lease shall commence on January 1, 2017 or thirty (30) days after the notice of exercise in the case of termination for Material Default, and expire ten (10) years thereafter. Rent under the lease shall equal the then fair market lease value of the Transfer Station Site (excluding any value attributable to the Improvements) and the lease shall otherwise be on commercially reasonable terms then applicable to the ground lease of real property. If City and Owner are unable to agree on the fair market lease value, they shall select and share the cost of an appraiser to determine such value. If they cannot agree on a single appraiser, each may obtain an appraisal of such value from a qualified appraiser of its choice. If the separate appraisals are within ten percent (10%) of each other, fair market lease value shall be the average of the two appraisals. If the appraisals differ by more than ten percent (10%), the two appraisers shall select a third appraiser to review the appraisal reports and determine which report represents the fairest appraisal. The appraisal selected by the third appraiser shall constitute the fair market lease value of the Transfer Station Site. The parties shall each bear the expense of their separately selected appraisers and share equally the cost of the third appraiser.

13.3 Purchase of Improvements. If City elects to purchase the Improvements in accordance with Section 12.2 above, the purchase price that City shall pay Owner for the Improvements shall be One Dollar (\$1.00)

14. Waiver. The waiver by any party of any breach or violation of any term or condition of this Agreement or of any provision of law by the other party must be in writing signed by the party to be charged, and shall not be deemed to be a waiver of the term, condition or provision of law, or of any subsequent breach or violation of the same or any other term, condition or provision of law. The acceptance by City of any Surcharge or other fee or other monies which may become due hereunder to City shall not be deemed to be a waiver of any preceding breach or violation by Contractor.

15. Administration. The administration and enforcement of this Agreement shall be the responsibility of the City Manager or a designated representative of that office. This section is not intended to indicate or suggest the City Manager has the authority to grant, amend, or revoke the rights referenced herein or to prevent the City Manager from seeking approval from the City Council for any decision the City Manager is required or authorized to make hereunder.

16. Independent Contractor. Contractor, its employees and agents are independent contractors and not employees or agents of City.

17. Notices. Whenever notice or a document is required or permitted to be served or given hereunder, it shall be deemed given or served, when received if delivered by fax or email (with acknowledgment of receipt), certified U.S. Mail, overnight courier, such as UPS or Federal Express, or 48 hours after deposit in the U.S. Mail with first class postage affixed. Any such document or notice shall be addressed as follows:

City: City Manager

Ukiah Civic Center
300 Seminary Avenue
Ukiah, California 95482

FAX:
Email:

Contractor: Solid Wastes Systems, Inc.
Attn: David M. Carroll, President
P. O. Box 60
Ukiah, California 95482

FAX:
Email:

Owner: Yulupa Investments, LLC
Attn: David M. Carroll, President
P. O. Box 60
Ukiah, California 95482

FAX:
Email:

or to such other person or address as may be specified from time to time in writing by any party in accordance with this Section.

18. Amendments. This Agreement may be amended from time to time only by written agreement between the parties signed by an authorized representative of each party. Any party may at any time request that the service or other provisions in this Agreement be modified by delivering written notice of its requested modifications to the other parties. Within thirty (30) days after receipt of any such request, the parties shall meet and negotiate in good faith on adopting such requested modifications, including, without limitation, any change to the Rates necessitated by such modifications, provided that nothing herein shall obligate any party to agree on any such requested modifications.

19. Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the permitted successors and assigns of the parties.

20. Integration; Severability. This Agreement, including the Exhibits hereto, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements between the parties, whether written or oral, relating to such subject matter, including the Prior Agreement. If a court finds any provision of this Agreement invalid or unenforceable as applied to any circumstance, the remainder of this Agreement and the application of such provision to other persons or circumstances shall remain in effect. The parties further agree to replace such void or unenforceable provision with a valid and enforceable provision which will achieve, to the extent possible, the economic, business and other purposes of the void or unenforceable provision.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

Solid Wastes Systems, Inc.

By: _____
President

Yulupa Investments, LLC

By: _____
President

City of Ukiah

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

FIRST AMENDED AND RESTATED AGREEMENT FOR ~~THE~~ RECEIPT OF ~~GREEN AND~~
WOOD WASTE

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EXHIBIT B

STRATEGIC, GREEN WASTE MANAGEMENT PLAN AND MIXED ORGANIC WASTE

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EXHIBIT C

LEGAL DESCRIPTION OF TRANSFER STATION SITE

EXHIBIT D

RATE SCHEDULE

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EXHIBIT E

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TRANSFER STATION RATE CALCULATION

EXHIBIT F

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TRANSFER STATION LEASE

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EXHIBIT G

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CURRENT GEOGRAPHIC AREA SERVED BY TRANSFER STATION

The areas marked as Franchise Areas 3 and 2 (Inland) on the attached map, including the incorporated City limits.

SECOND AMENDED AND RESTATED TRANSFER STATION AGREEMENT

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SECOND AMENDED AND RESTATED TRANSFER STATION AGREEMENT

This Second Amended and Restated Transfer Station Agreement (the "Agreement") is made as of October __, 2015 by and between the City of Ukiah, a municipal corporation (hereinafter "City"), Solid Wastes Systems, Inc., a California corporation (hereinafter "Contractor"), and Yulupa Investments, LLC, a California limited liability company (hereinafter "Owner"), with reference to the following:

WHEREAS, Owner currently owns and Contractor currently operates the Ukiah Valley Transfer Station located in Mendocino County pursuant to that certain Amended and Restated Transfer Station Agreement dated December 12, 2011 (the "Prior Agreement"); and

WHEREAS, Ukiah Waste Solutions, Inc. ("UWS"), a California corporation and an affiliate of Contractor, collects all Solid Waste generated in City pursuant to that certain Amended and Restated Waste Collection Agreement with City of even date herewith (the "Collection Agreement"); and

WHEREAS, Contractor has invested substantial funds to acquire land and construct improvements to increase diversion of Solid Waste from landfills, reduce greenhouse gasses, convert waste into energy, and create new jobs; and

WHEREAS, City has approved a Mixed Organic Waste Curbside Recycling Program (the "New Program") pursuant to the Collection Agreement; and

WHEREAS, the parties wish to amend and restate the Prior Agreement on the terms herein consistent with the New Program and to make certain other changes;

NOW, THEREFORE, in and for the mutual covenants herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Operating Rights.

1.1 Contractor shall have the exclusive right to operate, and shall operate, the Transfer Station (as defined in Section 2 below) in accordance with the terms of this Agreement and all applicable federal, state and local statutes, regulations, ordinances and other laws and enforceable policies. Subject to any limits imposed by applicable law, all Solid Waste generated in City shall be delivered to the Transfer Station and Contractor shall be entitled to accept at the Transfer Station Solid Waste generated anywhere within Mendocino County. Contractor shall also have the right to accept at the Transfer Station Solid Waste generated outside of Mendocino County with City's prior written consent (which consent shall not be unreasonably withheld and may be granted by City's City Manager), provided that Contractor shall identify and keep records satisfactory to both California Department of Resources Recycling and Recover ("CalRecycle") and City, including the quantity and the jurisdiction of origin of such Solid Waste. Receipt and disposal of such solid waste shall be subject to all of the applicable provisions of this Agreement, including Contractor's obligation to indemnify and hold City harmless in any action related to the acceptance of out of County Solid Waste, and the payment, if levied, of Surcharges. During the term of this Agreement, City shall not own, operate or authorize any facility that would compete with the Transfer Station or Contractor's operation thereof, nor shall City issue any request for proposal for the operation of the Transfer Station by any person other than Contractor except for any period after the expiration or termination of this Agreement in accordance with its terms. Correspondingly, and except as specifically permitted under this Agreement or the Collection Agreement, Owner, Contractor and any

Related Entity (as defined below) shall not accept at any facility owned or operated by them Solid Waste originating from any source generated in the areas of Mendocino County described at Exhibit G, which represents the Solid Waste, as of November 1, 2011, that is received at the Transfer Station, unless such Solid Waste has first passed through and paid Gate fees at the Transfer Station. "Related Entity" means an entity in which Contractor or Owner, any of its shareholders, partners or members, or their spouses, are owners, members, partners, or over which Owner, Contractor, their shareholders, members or partners, or their spouses, otherwise exercise any ownership or control.

1.2 To the extent permitted by applicable law, City shall take such steps as may be reasonably necessary to protect Contractor's rights under this Agreement; provided, however, that City's obligation under this Section 1.2 is subject to Contractor's agreement, upon request of City, to reimburse City's reasonable expenses, including attorneys' fees and litigation expenses, incurred in taking steps as agreed upon herein; and, provided, further, that nothing herein shall prevent Contractor from taking any lawful action to protect its rights hereunder.

1.3 Except as expressly provided herein, this Agreement shall supersede the Prior Agreement as of the Effective Date set forth in Section 3 below, when the Prior Agreement shall cease to have any effect (except for periods prior to such Effective Date).

2. Definitions.

2.1 "Acceptable Waste" means all Solid Waste, except (a) Recyclables, (b) Segregated Food Waste, Mixed Organic Waste, Green Waste or Wood Waste, and (c) Hazardous Waste, Household Hazardous Waste and Unacceptable Waste.

2.2 "Change in Law" means the enactment, adoption, promulgation, issuance, modification, or written adoption or change in administrative or judicial interpretation on or after the Effective Date of, any law, regulation, rule, order, judgment, decree, permit, approval or other requirement of any governmental agency (including City) having jurisdiction over this Agreement or Contractor's performance hereunder.

2.3 "Construction Debris" means used or discarded construction materials generated during the construction or renovation of a building, structure or other man-made improvement.

2.4 "Demolition Debris" means used construction materials generated during the razing or renovation of a building, structure or other man-made improvement.

2.5 "Disposal" means the permanent placing of Solid Waste in a facility legally permitted to receive it.

2.6 "Disposal Costs" means Contractor's costs to Dispose of Solid Waste at a Disposal Facility, including all tipping fees and service fees paid by Contractor to any Disposal Facility for such Disposal.

2.7 "Disposal Facility" means any fully-permitted Subtitle D approved Solid Waste landfill, approved by City pursuant to Section 4.1 below, to which Contractor transports Acceptable Waste for Disposal (including, without limitation, any authorized transfer station for ultimate Disposal at such a landfill).

2.8 "Food Waste" means food scraps, paper tissues, paper napkins and towels, coffee grounds and filters, pizza boxes, food soiled paper plates and cups, and miscellaneous paper not suitable for recycling that is discarded (as from a Commercial or Residential Property kitchen).

2.9 "Franchised Waste Hauler" means any person that possesses a franchise, permit, license or contract from a public agency authorizing such person to collect and transport Solid Waste from generators of such Solid Waste in or subject to such agency's jurisdiction.

2.10 "Green Waste" means tree trimmings, grass cuttings, plants, leaves, branches and trees (not more than six (6) inches in diameter or more than four (4) feet in length) and similar materials.

2.11 "Hazardous Waste" means all substances defined as hazardous waste, acutely hazardous waste or extremely hazardous waste by the State of California, or identified as hazardous waste by the U.S. Environmental Protection Agency, under applicable laws or regulations.

2.12 "Household Hazardous Waste" means Hazardous Waste that is generated at Residential Properties.

2.13 "Mixed Organic Waste" means Green Waste and Food Waste.

2.14 "Pass-Through Costs" means Disposal Costs, Processing Costs and Regulatory Costs, as well as any increase above \$10.00 per ton in the lease rate payable under the lease between City and Contractor for the Transfer Station Site and the Improvements attached hereto as Exhibit F.

2.15 "Processing" means the act of salvaging, reprocessing, marketing and selling or reusing Recyclables, Food Waste, Green Waste, Mixed Organic Waste and Wood Waste for the purpose of Recycling, whether directly or through one or more third parties (including, in the case of Food Waste, Green Waste and Mixed Organic Waste, composting or anaerobic digestion), and shall include other means of diverting Solid Waste from landfills.

2.16 "Processing Costs" means fees, if any, paid by Contractor to a Processing Facility for Processing Recyclables, Food Waste, Green Waste, Mixed Organic Waste, Wood Waste and Solid Waste received at the Transfer Station. The amount paid by Contractor to PRS for Food Waste, Mixed Organic Waste, Green Waste or Wood Waste delivered to the PRS Facility shall be as determined under that certain First Amended and Restated Agreement for Receipt of Wood Waste, Green Waste and Mixed Organic Waste among PRS, UWS and SWS of even date herewith and attached hereto as Exhibit A (the "PRS Agreement").

2.17 "Processing Facility" means, with respect to Recyclables, the PRS Facility and/or any other authorized facility selected and approved pursuant to Section 4.1 below, with respect to Green Waste and Wood Waste and subject to Section 4.5 below, the PRS Facility, the Scotia Facility (as defined in Section 4.5 below), or other licensed biomass conversion facility approved by the City Manager for Processing, the CCC Facility (as defined in Section 4.5 below), and/or any other authorized facility selected and approved pursuant to Section 4.1.2 and 4.5 below, and with respect to Food Waste and Mixed Organic Waste and subject to Section 4.6 below, the PRS Facility, the CCC Facility, and/or any other authorized facility selected and approved pursuant to Section 4.1.2 and/or 4.6 below.

2.18 "PRS" means Pacific Recycling Solutions, Inc.

2.19 "PRS Facility" means the materials recovery and green waste facility operated by PRS, currently located at 4260 North State Street, Ukiah, California and/or 3501 Taylor Drive and 3515 Taylor Drive, Ukiah, California.

2.20 "Recyclables" means Solid Waste which may be Recycled, including, without limitation, paper, newsprint, printed matter, pasteboard, paper containers, cardboard, glass, aluminum, PET, HDPE, and other plastics, beverage containers, compostable materials (including Segregated Food Waste, Mixed Organic Waste, Green Waste and/or Wood Waste), electronic waste, wood, brick and stone in reusable size and condition, those items of Construction Debris and Demolition Debris which are described in Sections 2.4 and 2.5, appliances and automobile and light truck tires. Contractor shall report changes in Recyclables accepted at the Transfer Station to the City Manager who must approve those changes.

2.21 "Recycle" means the process of reusing or processing Solid Waste into a form suitable for reuse consistent with the requirements of the California Integrated Waste Management Act of 1989, as amended ("AB 939").

2.22 "Regulatory Costs" means all regulatory and governmental fees and charges incurred by Contractor in connection with providing services under this Agreement, including, without limitation, Surcharges which may be adopted from time to time, such as but not limited to, the City Landfill Fee and MSWMA fee, as shown on Exhibit E, payable to City, MSWMA or such other jurisdiction whose fee is acceptable to and approved by the City, and remains in force, pursuant to Section 1.1 above.

2.23 "Segregated" means:

2.23.1 As to Recyclables other than Food Waste, Mixed Organic Waste, Green Waste and Wood Waste, Recyclables that have been separated from Solid Waste that is not Recyclables and from Food Waste, Mixed Organic Waste, Green Waste and Wood Waste prior to delivery to the Transfer Station, and that are saleable or acceptable for Processing without further sorting. (For example, cardboard and glass that have been separated by a Self-Hauler from wet garbage is Segregated.)

2.23.2 As to any of Food Waste, Mixed Organic Waste, Green Waste or Wood Waste, each of those types of waste that has been separated from Solid Waste that is not Recyclables and from each of Food Waste, Mixed Organic Waste, Green Waste and Wood Waste, as applicable, prior to delivery to the Transfer Station, and that in each case are saleable or acceptable for Processing without further sorting. (For example, Food Waste that has been separated from all Solid Waste by whatever means, and Recyclables, including Green Waste and Wood Waste, is Segregated.)

2.24 "Self-Haulers" means persons delivering Acceptable Waste or Recyclables to the Transfer Station who are not Franchised Waste Haulers.

2.25 "Solid Waste" means all putrescible and nonputrescible residential refuse, commercial solid waste, institutional solid waste, garbage, Food Waste, Green Waste, Wood Waste and rubbish as defined in Public Resources Code Section 40191, including, without limitation, for the purposes of this Agreement Construction Debris, Demolition Debris and Recyclables, but excluding Hazardous Waste and Household Hazardous Waste.

2.26 [Reserved]

2.27 “Surcharge” means any per ton, or other, fee imposed by City on MSW (as defined below) received at the Transfer Station, such as, but not limited to, the Landfill Fee payable to City pursuant to Section 5 below, and the MSWMA Fee payable to the Mendocino Solid Waste Management Authority (“MSWMA”) (currently \$5.00 per ton), and that remains in force, pursuant to Section 1.1 above, or any similar fee of any other jurisdiction that is acceptable to and approved by City, including, in each case, any fees or charges adopted to replace or supplement any such Surcharge or fee.

2.28 “Transfer Station” means the facility located on the Transfer Station Site.

2.29 “Transfer Station Site” means the real property commonly known as 3151 Taylor Drive, Ukiah, California, Mendocino County Assessor’s Parcel No. 14-140-13, and which is depicted and described on Exhibit C attached hereto and hereby incorporated herein.

2.30 “Unacceptable Waste” means the types of Solid Waste that may not be received at the Transfer Station unless authorized by the permits issued for the operation of the Transfer Station.

2.31 “Wood Waste” means unpainted and untreated lumber and boards separated from Solid Waste, including other Recyclables.

3. Term. Subject to earlier termination in accordance with the terms of this Agreement, the term of this Agreement shall commence on October 1, 2015 (the “Effective Date”) and continue for a period of eleven (11) years and three (3) months through December 31, 2026, provided that Contractor shall have one (1) option to extend this Agreement and the rights granted hereunder on the terms and conditions herein for a period of five (5) years commencing January 1, 2027 and ending December 31, 2031. Notice of Contractor’s exercise of such option must be given at least six (6) months prior to December 31, 2026. The option to extend hereunder may not be exercised unless Contractor is in material compliance with the terms of this Agreement at the time of exercise and on December 31, 2026. It is the parties’ intention that, subject to prior termination hereunder or thereunder, the term of this Agreement be coextensive with the term of the Collection Agreement.

4. Operations. Contractor shall provide the following operations at the Transfer Station:

4.1 Receipt, Transfer and Disposal of Solid Waste. Contractor shall accept, for the per ton or per yard Rate for Municipal Solid Waste (“MSW”), set forth in Exhibit D attached hereto as adjusted under Section 6 below, Acceptable Waste delivered to the Transfer Station by Franchised Waste Haulers and Self-Haulers, and shall transfer or transport such Acceptable Waste to a Disposal Facility or a Processing Facility, in accordance with the terms of this Agreement. The initial Disposal Facility shall be the Eastlake landfill, the initial Recyclables Processing Facility shall be the PRS Facility, the initial Green Waste and Wood Waste Processing Facility is described in Section 4.5 below, and the initial Food Waste and Mixed Organic Waste Processing Facility is described in Section 4.6 below. Any alternate or successor Disposal or Processing Facility to the initial Facilities approved or described in this Agreement shall be subject to City’s approval as provided hereafter.

4.1.1 At least one year and three months before the expiration of the term of the disposal contract between Contractor and the existing Disposal Facility, Contractor shall begin the process of selecting a successor Disposal Facility (which may be the existing Disposal Facility), and at least seven months before such expiration, Contractor shall give City written notice identifying the proposed Disposal Facility, including its name and location, and the particulars of the disposal costs it recommends for the period of the new disposal agreement. Such notice shall include: (1) the anticipated tipping fee and other charges for Disposal at that Facility (2) a comparison of the disposal costs of the

expiring disposal agreement to the new recommended disposal costs; (3) any impact the new recommended disposal costs will have on the Gate Fee (4) a justification statement, if the recommended disposal costs will increase by more than an annual CPI adjustment; (5) a list of Contractor explored disposal options not recommended, and (6) why the Contractor believes the recommended Disposal Option is best. Before giving such notice to City, Contractor has a duty under this Agreement to have vigorously explored all Disposal options reasonably available. The notice shall be accompanied by a copy of the proposed contract between Contractor and such Facility. Contractor shall also provide City with any additional information about such Disposal Facility reasonably requested by City. Contractor's use of the proposed Facility shall be subject to the City Council's approval, which shall not be unreasonably withheld. In acting on a request for approval, the City shall consider, among other things, whether the use of that Facility available at a reasonable cost to the ratepayers considering the environmental benefits and the available alternatives; provided, however, that if the City Council determines that another Disposal Facility reasonably available to Contractor will provide the same service at a lower cost, Contractor shall use that Facility.

4.1.2 Contractor shall provide City with written notice as soon as Contractor knows that it will use a Processing Facility instead of or in addition to the PRS Facility, the Scotia Facility, any licensed biomass conversion facility approved by the City Manager, or the CCC Facility. The notice shall provide the name and location of the proposed Facility, the anticipated gate fee and other charges for Processing at that Facility, and a copy of the proposed contract between Contractor and such Facility. Contractor shall also provide City with any additional information about such Processing Facility reasonably requested by City. Contractor's use of the proposed Processing Facility shall be subject to the City Council's approval, which shall not be unreasonably withheld. In acting on a request for approval, the City shall consider, among other things, whether the use of that Facility is available at a reasonable cost to the ratepayers considering the environmental benefits and the available alternatives, and otherwise qualifies as an Authorized Facility. The City Council may consider any other factor reasonably related to a legitimate City interest in its management of waste collection and disposal, including, but not limited to, alternative technologies and facilities, the impact on rates, past performance and regulatory history of the processing facilities under consideration, factors affecting the facilities' future performance, and the public interest.

4.1.3 In the event that any Facility described above cannot accept Solid Waste, Recyclables, Green Waste, Wood Waste, Food Waste or Mixed Organic Waste Generated in City on a temporary basis due to no fault of Contractor, or due to events beyond the control of Contractor, such as acts of God, public emergency, strike or lockout by employees of another entity unrelated to Contractor, Contractor shall locate and use an alternate Facility for the duration of such circumstance; provided, however, that City approval in accordance with this Section 4.1 shall be required if the Facility cannot accept the applicable materials for a period of time exceeding three (3) months.

4.2 Buy-Back Recycling. Contractor shall operate a certified Beverage Container Recycling Center at the Transfer Station that will provide redemption buy-back from the public in accordance with the rules of CalRecycle, and which is open to the public during regular business hours at least six days per week.

4.3 Drop-Off Recycling. Contractor shall accept at a designated area of the Transfer Station, at no charge, Segregated Recyclables (other than Food Waste, Mixed Organic Waste, Green Waste, Wood Waste and the types of Recyclables listed on Exhibit D as bearing a charge), from Self-Haulers, and shall transfer or transport such Recyclables for Processing to a Processing Facility, in accordance with the terms of this Agreement. Contractor shall accept at a designated area of the Transfer Station, at the

designated Recycling Rate set forth on Exhibit D as adjusted under Section 6 below, Segregated Recyclables of the types listed on Exhibit D as bearing a charge, from Self-Haulers, and shall transfer or transport such Recyclables for Processing to a Processing Facility, in accordance with the terms of this Agreement. Contractor shall be entitled to retain all revenue it receives from the sale of such Recyclables. Any residue from the Recyclables received at the Transfer Station that cannot be processed shall be disposed of at a Disposal Facility. City may designate any entity, including MSWMA, to provide hazardous waste load-check and refrigerant removal at no cost to Contractor or the general public.

4.4 Household Hazardous Waste Recycling. Contractor shall, at the applicable Rate set forth on Exhibit D as adjusted under Section 6 below, accept from Self-Haulers who are residents of City, oil filters, used motor oil (up to five gallons per customer), antifreeze and automobile and boat batteries, and shall transfer or transport such items for Processing to a Processing Facility, in accordance with the terms of this Agreement. Contractor shall be entitled to retain all revenue it receives from the sale of such items. Any residue from such items that cannot be Processed shall be disposed in accordance with all legal requirements at a City approved facility fully licensed to accept such materials.

4.5 Green Waste and Wood Waste. Contractor shall accept at a designated area of the Transfer Station, at the applicable Green Waste Rates specified in Exhibit D as adjusted under Section 6 below, Segregated Green Waste and Segregated Wood Waste from Self-Haulers, and shall transfer or transport all such Green Waste and Wood Waste to the Scotia biomass conversion facility (the "Scotia Facility"), any licensed biomass conversion facility approved by the City Manager, the Cold Creek Compost, Inc. composting facility (the "CCC Facility"), or the PRS Facility for Processing, in accordance with the terms of this Agreement. Any residue from the Green Waste or Wood Waste received at the Transfer Station that cannot be Processed shall be disposed of at the Disposal Facility or at any licensed landfill selected by PRS.

4.6 Food Waste and Mixed Organic Waste. Notwithstanding any other provision in this Agreement, Contractor shall not be required to accept or Process any Segregated Food Waste or Segregated Mixed Organic Waste delivered to the Transfer Station until January 1, 2017 and subject to the receipt by PRS of all government approvals and permits necessary for PRS to receive, commingle, store and handle such Food Waste and Mixed Organic Waste. Once such approvals and permits have been received by PRS and such date has occurred, Contractor shall, if (1) PRS permits do not allow self-haulers to deliver Food Waste or Mixed Organic Waste to the PRS Facility (and PRS does not intend to seek such allowance), and (2) requested in writing by the City Manager: (a) accept at a designated area of the Transfer Station Segregated Food Waste and Segregated Mixed Organic Waste from City and County Self-Haulers at the applicable Mixed Organic Waste Rates specified in Exhibit D as adjusted under Section 6 below, and transfer or transport all such Food Waste and Mixed Organic Waste for Processing to the PRS Facility, in accordance with the terms of this Agreement; and (b) due to space constraints and subject to Section 5.11(d) of the Collection Agreement, direct City and County Franchised Haulers to deliver all Segregated Food Waste and/or Segregated Mixed Organic Waste for Processing to another facility; provided, however, that if the CCC Facility shall refuse, due to no fault of Contractor, UWS or PRS, to accept Mixed Organic Waste that is not a Contaminated Load (as defined in the Agreement for Mixed Organic Waste Services between PRS and CCC dated September 15, 2015, which is attached as Exhibit 1 to Exhibit A to this Agreement (the "CCC Agreement")) or if the CCC Facility shall shut down or cease operating, Contractor shall deliver the Mixed Organic Waste received at the Transfer Station for Processing or to the licensed facility that is least expensive (taking into account costs of Processing and transportation), with any increase in the costs to Contractor of using the new facility instead of the PRS Facility and the CCC Facility being passed through to Contractor and treated as a Pass-Through adjustment to the Rates on the next Rate Adjustment Date pursuant to Section 6.3 below.

4.7 Reuse Facility. Contractor shall provide a reuse area at the Transfer Station where Contractor shall make available for give-away or sale salvageable items such as doors, windows, furniture, appliances, toys and tools brought to the Transfer Station by Self-Haulers. Contractor shall be entitled to retain all revenues from the sale of such items.

4.8 Unacceptable Waste Prohibited. Contractor shall not knowingly accept Unacceptable Waste at the Transfer Station, except for those recyclable Household Hazardous Wastes described in Section 4.4 above. Contractor shall continuously inspect customer vehicles and the tipping floor for Unacceptable Waste. Unacceptable Waste shall be refused and returned to the customer, unless the Unacceptable Waste is already dumped on the tipping floor and the vehicle of origin is unknown. Contractor shall accept title to any Unacceptable Waste received at the Transfer Station and not so returned, and shall safely segregate, contain, store and dispose of it in accordance with applicable law.

4.9 Refusal of Waste. When Contractor refuses Unacceptable Waste that is brought to the Transfer Station by a customer, Contractor will inform the customer of the most convenient and economical legal option available for disposal of that Waste. Written information on such disposal options will be kept available at all times in the scale house, and a log shall be maintained to detail such refusal of Waste acceptance.

4.10 Title to Waste. Contractor shall accept ownership and title to all Acceptable Waste, Recyclables, Food Waste, Mixed Organic Waste, Green Waste and Wood Waste at the time of unloading of such materials at the Transfer Station.

4.11 Hours of Operation. Contractor will receive Acceptable Waste, Recyclables, Food Waste, Mixed Organic Waste, Green Waste and Wood Waste at the Transfer Station only between the hours 7 a.m. and 4 p.m. Monday through Friday for Franchised Waste Haulers and from 7:30 a.m. to 4 p.m. Monday through Saturday for Self-Haulers throughout the year, except for the following holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day; provided, however, that if New Year's Day, July 4th or Christmas Day falls on a Sunday, Contractor may with the consent of City's City Manager's observe the holiday on the Saturday before the holiday; and, provided, further, that Franchised Waste Haulers may deliver to the Transfer Station between 6 a.m. and 4 p.m. on the day after any such holiday. Within this schedule, Contractor may specify different hours for Franchised Waste Haulers and Self-Haulers. Any such changes shall be reported to the City no later than thirty (30) days before the effective date of the change and shall be revised at the direction of the City Council. Such hours are subject to change in accordance with changes to Contractor's permits for the Transfer Station.

4.12 Additional Services. Contractor shall provide additional services upon request of City or upon the proposal of Contractor as approved by City subject, if the costs incurred by Contractor to provide such services increase, to the establishment by mutual written agreement of a reasonable service fee therefor.

4.13. Permits and Licenses. Contractor shall obtain and maintain throughout the term of this Agreement all permits, licenses and approvals required for Contractor to perform the services described herein, including, without limitation, an operating permit from the County of Mendocino. City shall cooperate with Contractor in connection with such permits, licenses and approvals, and shall renew all such permits, licenses and approvals issued by City, provided that Contractor is not in material breach of

this Agreement and provided Contractor shall have fulfilled all requirements for the renewal of such permits, licenses and approvals. Contractor shall provide City's City Manager or his or her designee with copies of all permits or amendments or renewals thereof which are not issued by City.

4.14 Applicable Law. Contractor shall perform all its obligations under this Agreement in accordance with all applicable laws, including, without limitation, the permits, licenses and approvals described in Section 4.12 above, and shall be solely liable for all fines and penalties that may be imposed on Contractor for violations thereof.

5. Landfill Fee and Other Surcharges. Within forty-five (45) days after the end of each calendar month during the term of this Agreement, Contractor shall remit to City as a landfill fee a sum of money equal to Two Dollars (\$2.00) per ton (or the equivalent amount for a cubic yard), or such other amount approved by City, of Acceptable Waste received by Contractor at the Transfer Station, and any other Surcharge, approved by and acceptable to the City still in force shall be remitted to City or another entity, as directed by the City, within ninety (90) days after the end of each calendar month. If these fees are not paid on or before such due date, a late payment fee in an amount equal to eighty-three one-hundredths of a percent (0.83%) of the amount owing per month will be charged for each thirty (30) day period, or portion thereof, that the fee remains unpaid. Each monthly remittance to City shall be accompanied by a statement detailing the Acceptable Waste received at the Transfer Station for the period covered.

6. Gate Rate and Other Service Fees.

6.1 Establishment. Exhibit D sets forth the gate rate and other service fees for services provided by Contractor under this Agreement (collectively, the "Rates") effective as of the Effective Date. Contractor shall not charge lower Rates to any Franchised Waste Hauler or Self Hauler serving or from areas outside the City. Such Rates shall be subject to review and revision as set forth in Sections 6.2, 6.3, 6.4 and 6.5 below. Contractor shall not charge any amount in excess of the approved Rates for services required by or permitted under this Agreement.

6.2 Modification Based on Consumer Price Index, Fuel Index and Certain Pass-Through Costs.

(a) Per Ton MSW Rate. The per ton Municipal Solid Waste ("MSW") Rate shall be adjusted January 1st every year, beginning January 1, 2013 ("Rate Adjustment Date") to reflect changes in the CPI, the Fuel Index and certain Pass-Through Costs by an amount determined in accordance with the Transfer Station Rate Calculation attached hereto as Exhibit E (the "Calculation").

(b) Definitions. For purposes of Rate adjustments pursuant to this Section 6.2 and the Calculation, the following terms shall have the following meanings.

(i) "Base Fuel Cost" means Contractor's actual costs for diesel and other fuels used in performing services under this Agreement for the year ended December 31, 2010 or \$152,533.47.

(ii) "Base Revenue" means Contractor's total revenue received from Franchised Haulers and Self-Haulers during the Comparison Year, excluding revenue from the sale of scrap metal, Recyclables purchased under the buy-back program, and compost.

(iii) "Base Year" means the year ended June 30th one year prior to June 30th of the Comparison Year.

(iv) "Comparison Year" means the year ended June 30th immediately prior to the relevant Rate Adjustment Date.

(v) "Contractor Rate" means the per ton MSW Rate minus the per ton Franchise Fees.

(vi) “CPI” means the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items (1982-1984=100), published by the United States Department of Labor, Bureau of Labor Statistics.

(vii) “Disposal Fees – Garbage” means the actual Disposal Costs paid by Contractor for Solid Waste delivered by Contractor to the Disposal Facility during the Comparison Year.

(viii) “Disposal Fees – Processing” means the actual Processing Costs paid by Contractor to PRS or any other Authorized Facility for Recyclables, Green Waste, Mixed Organic Waste and Food Waste delivered by Contractor to the PRS Facility or such Authorized Facility, respectively, during the Comparison Year.

(ix) “Fuel Costs” means Contractor’s actual costs for diesel and other fuels used in performing services under this Agreement during the Comparison Year.

(x) “Fuel Index” means the California No.2 Diesel Retail Sales by all Sellers (Dollars Per Gallon) published by the U. S. Energy Information Administration.

(xi) “Operating Costs” means all of Contractor’s costs to operate the Transfer Station under this Agreement, including, without limitation, labor costs, vehicle and vehicle-related costs, maintenance, insurance and transportation costs, but excluding Fuel Costs, Pass-Through Costs and the costs of purchasing scrap metal, Recyclables purchased under the buy-back program, and compost (including sales taxes).

(c) Rules. For purposes of Rate adjustments pursuant to this Section 6.2 and the Calculation, the following rules shall apply.

(i) “CPI Change” shall be calculated as one hundred percent (100%) of the percentage increase or decrease, if any, in the CPI during the Comparison Year, using the CPI published for June of such Year as compared with the CPI published for June of the Base Year.

(ii) “Fuel Index Change” shall be calculated as one hundred percent (100%) of the percentage increase or decrease, if any, in the Fuel Index from June of the Base Year through June of the Comparison Year; provided, however, that, notwithstanding Section 6.2(b)(iii) above, “Base Year” for purposes of the Fuel Index Change shall mean the year ended June 30, 2010; and, provided, further, that the Fuel Index Change adjustment (i.e., Fuel Index Change multiplied by Base Fuel Cost) for any Rate Adjustment Date shall be calculated after removal of such adjustment for the prior Rate Adjustment Date.

(iii) The Adjustments for destination charges and Disposal Fees with respect to the use of the Eastlake landfill that appear in the Calculation are not recurring.

(iv) Rate adjustments for changes in Franchise Fees that take effect on a date other than January 1st, as well as changes in other Pass-Through Costs, will be determined under Section 6.3 below and not under this Section 6.2.

(v) If City elects to purchase the Transfer Station Site and the Improvements on December 31, 2016 pursuant to Section 12 below, the cost entitled “Construction/Lease \$2.36/ton” in the Calculation will be increased annually commencing January 1, 2018 by one hundred percent (100%) of the percentage increase or decrease, if any, in the CPI during the Comparison Year, using the CPI published for June of such Year as compared with the CPI published for June of the Base Year.

(vii) As set forth in the Calculation, each adjustment in the per ton MSW Rate pursuant to this Section 6.2 shall equal the percentage adjustment in the Contractor Rate plus the per ton Franchise Fees.

(d) Per Yard MSW and Minimum MSW Rates. Each of the per yard MSW Rate, minimum MSW Rate and per can MSW Rate shall be adjusted January 1st every year (beginning January 1, 2013), as follows: the per yard MSW Rate shall equal 24.05% of the Contractor Rate, plus the per ton Franchise Fees divided by 5.54; the minimum MSW Rate shall equal the per yard MSW Rate divided by two (2); and the per can MSW Rate shall equal the minimum MSW Rate divided by three (3). All rates in this Section 6.2(d) shall be rounded to the nearest five cents.

(e) All Other Rates. Each of the Rates set forth on Exhibit D other than the MSW Rates shall be adjusted January 1st every year (beginning January 1, 2013) by an amount equal to the percentage increase or decrease, if any, in the Contractor Rate (i.e., determined before adjusting for Franchise Fees) . All rates in this Section 6.2(e) shall be rounded to the nearest five cents.

(f) Procedure. The procedure for Rate adjustments under this Section 6.2 shall be as follows:

(i) Not later than August 15th of each year, Contractor shall file with the City Manager a written notice of intention to adjust each of the then current Rates effective as of January 1st of the next year in accordance with Section 6.2(a) through (e) above.

(ii) Within sixty (60) days of the filing of the notice of intention, the City Manager shall review the notice and either confirm that the proposed Rates are within the limit of Section 6.2 above or establish by mutual agreement with Contractor any necessary changes to the proposed Rates to make such confirmation.

(iii) Not later than October 20th, the City Manager shall inform the City Council in writing of his or her determination regarding the proposed new Rates and the City Council shall be entitled to review and confirm that the proposed Rates are within the limit of Section 6.2 above or establish by mutual agreement with Contractor any necessary changes to the proposed Rates to make such confirmation, not later than November 20th. Any Rates shall become effective on the following January 1st, provided that Contractor shall post notice of the revised Rates at the Transfer Station not later than December 1st.

(iv) In the event that the CPI or the Fuel Index described in Section 6.2 above shall be discontinued or materially modified during the term of this Agreement, the parties shall together select a replacement index and/or otherwise change Section 6.2 above so as to replicate, as nearly as possible, the mutual intention of the parties to rely on the results of either index described in Section 6.2 as in effect on the date hereof.

6.3 Modification Based on Changes in Pass-Through Costs. In addition to adjustments under Section 6.2 above, each Rate shall be adjusted to reflect changes in Pass-Through Costs that are not the subject of Rate adjustments pursuant to Section 6.2 above, as follows. Using the section of the Calculation entitled "Revenue Base," each Rate shall be increased by an amount equal to the increase in applicable Pass-Through Costs, and decreased by an amount equal to the decrease in applicable Pass-Through Costs, in each case so as to cause such Rate to compensate for such change in Pass-Through Costs as of the date such change becomes effective and either payable by or a benefit to Contractor, and taking into account the increase or decrease in Franchise Fees payable in respect of such change. Changes in Pass-Through Costs resulting from a change in Disposal Facilities or Processing Facilities shall cause an increase in Rates as provided herein only if Contractor has complied with Sections 4.1.1 and 4.1.2 and City has approved the successor or alternate Facilities in accordance with such Sections, subject to Section 4.6.

6.4 Five Year Review. Once every five (5) years (beginning no later than April 2, 2016 for purposes of adjusting the Rates effective January 1, 2017), City shall conduct a review for the purpose of determining whether or not the automatic adjustments provided in Sections 6.2, 6.3 and 6.5 have adequately adjusted the Rates to cover the actual increase or decrease in the Contractor's reasonable operating costs or have exceeded those costs and whether the Rates remains fair to the ratepayer and the Contractor. Depending on the results of that review the City may approve an increase or decrease in the Rates. City shall complete each such review and adjustment, if any, at least three months (3) prior to the beginning of such year (by September 30, 2016 in the case of the first such review), and Contractor shall cooperate with such review. In conducting each such review, City shall consider the following information: financial records of Contractor (including operating expenses and revenues and Disposal,

Processing, Regulatory and other costs of Contractor, and Contractor revenues), the factors described in Section 6.5 below, and rates charged for comparable services at similar facilities. Increases or decreases in the Rates pursuant to this Section 6.4 shall be subject to the notice and public hearing requirements in the Ukiah City Code, Division 4, Chapter 6, Article 1, commencing with Section 3950. The City may conduct such investigation as it deems necessary to perform this review and Contractor shall cooperate with such investigation, which may include the City's inspection and copying of Contractor records and review and/or audit of Contractor's financial records by a City retained CPA, the costs of which shall be reimbursed to City from Base Revenue but treated as a Pass-Through Cost for rate setting purposes.

6.5 Modification Based on Extraordinary Items. In addition to adjustments under Sections 6.2, 6.3, and 6.4 above, Contractor may request an increase in the Rates if Contractor's costs increase or its revenues decrease solely as the result of extraordinary circumstances beyond its control that could not have been reasonably anticipated by Contractor (such as a Change in Law) and if the increase in costs or decrease in revenues unavoidably adversely affects Contractor's opportunity to operate at a reasonable profit. Contractor shall have the burden of producing evidence satisfactory to City demonstrating its need for a rate increase prior to the regular Five Year Review pursuant to Section 6.4 above, including, but not limited to, Reviewed or Audited financial statements of Contractor, if requested by City. The City Council shall consider the request pursuant to the notice and public hearing procedures in Ukiah City Code, Division 4, Chapter 6, Article 1, commencing with Section 3950.

6.6 Billing. Contractor shall charge and collect from all customers at the Transfer Station upon receipt of materials, or bill such customers, for all services hereunder. Interest of one percent (1%) per month or the highest rate permitted under applicable law, whichever is less, shall be applied to any past due amounts until paid in full. Amounts shall be past due if not paid within thirty (30) days of billing. Contractor shall have the right to refuse service to any customer that is more than sixty (60) days delinquent on his, her or its account.

7. Provisions Applicable to Equipment and Personnel.

7.1 Equipment. Contractor shall provide all equipment necessary to perform the services described in the Agreement, sufficient in number and capacity to efficiently perform the work required by this Agreement. All equipment used at the Transfer Station shall be maintained in good working condition and be suitable for use at the facility without causing unreasonable wear and tear or damage to the improvements constructed on the Site. The equipment shall comply with all applicable legal requirements. Contractor shall keep the outside of the truck bodies free from dirt and filth, and shall clean the inside of the trucks in a sanitary manner on a regular basis. Suitable measures shall be taken to prevent refuse from falling into public streets or places. Contractor shall keep all trucks freshly painted in a uniform manner, and the firm name or logo, telephone number, and truck number of each truck shall appear in a conspicuous manner. Contractor shall keep all equipment in good maintenance and repair, regularly inspect same, and keep accurate records of all maintenance.

7.2 Facility Maintenance. Contractor shall maintain the Site and the tipping floor in an orderly condition with proper signage to direct users to the appropriate locations on the Site to conduct their business. All refuse deposited on the tipping floor shall be removed within 24 hours of its deposit. Contractor shall employ reasonable measures to control noise, odors, litter and other nuisance conditions. Contractor will be responsible for all repair, maintenance and replacement of the Transfer Station in order to keep it in sound working order, including, without limitation, the tipping floor surface, driveways, gates, fences, electrical distribution systems, ventilation and heating, fire sprinklers, floor drains, walls, doors, roof, restrooms, fixed equipment and landscaping. Contractor will keep the tipping floor free of

major cracks, holes and breaks, and will keep any tractor not equipped with rubber tires or tracks from coming in contact with the tipping floor or driveways. All repairs made by Contractor will be with an identical article or material or an equal approved by City.

7.3 Transport of Materials. Contractor shall not allow Solid Waste, Recyclables, Green Waste, Food Waste, Mixed Organic Waste or Wood Waste to blow or fall from any vehicle used for transportation. Contractor shall clean up any and all spills, including oil and debris on the streets, resulting from its operations. Should Contractor fail to promptly clean up such spills resulting from its operations after notice from City, Contractor shall be liable to City for all reasonable costs incurred by City in doing so.

7.4 Staffing. Contractor shall employ sufficient staff to provide service in a safe manner at the Transfer Station, and to meet its obligations under this Agreement, including, without limitation, a Transfer Station Manager. All personnel shall be qualified to perform their assigned tasks and will possess the required licenses, permits or training for the tasks they perform. Contractor shall provide suitable operational and safety training for all of its employees who utilize or operate vehicles or equipment at or in connection with the operation of the Transfer Station. Contractor shall use its best efforts to assure that all employees present a neat appearance, conduct themselves in a courteous manner, and perform the work as quietly as possible.

7.5 Subcontractors. Contractor shall not subcontract any of the services under this Agreement without the prior written consent of City.

8. Records and Reports.

8.1 Contractor shall keep and maintain accurate books and records clearly showing its revenues and expenses in connection with the operations provided for in this Agreement. Contractor will also keep and preserve records of all loads of Acceptable Waste, Recyclables, Food Waste, Mixed Organic Waste, Green Waste, Wood Waste and Household Hazardous Waste received at the Transfer Station, and will report to City every three (3) months during the term hereof the total quantities and payments received. Contractor shall provide written notice to City of the location of its records and any change in the location.

8.2 City's designated representative shall be allowed access to the Transfer Station Site at all times when the Transfer Station is open, and upon prior written notice to Contractor shall be allowed to inspect and copy any and all records of Contractor containing information about the operation of the Transfer Station for purposes of audit or to verify the recordkeeping procedures of Contractor. City's designated representative shall also be allowed access to the Site during non-operating hours upon prior written notice to the Transfer Station Manager. Contractor shall fully cooperate with City in reviewing or investigating information in Contractor's records or pertaining to Transfer Station operations.

9. Hold Harmless and Insurance.

9.1 Contractor shall indemnify and hold harmless City, its City Council, boards, commissions, officers, agents, representatives and employees from any and all actions, claims or damages brought for or on account of injuries to or death of any person or damage to property of all kinds resulting from or arising out of the operations of Contractor, its officers, agents, employees or servants pursuant to this Agreement. The duty of Contractor to indemnify and hold harmless shall include the duty to defend

as set forth in California Civil Code Section 2778.

9.2 Contractor shall have in effect during the term of this Agreement, workers' compensation and employer liability insurance providing full statutory coverage.

9.3 Contractor shall take out and maintain during the term of this Agreement, liability insurance for the following types and minimum amounts:

(a) General liability, including comprehensive form, premises operations, products/completed operations, hazard, contractual insurance, broad form property damage, independent contractors and personal liability, with limits for bodily and property damage combined of \$500,000 each occurrence and \$500,000 aggregate.

(b) Automobile liability, including comprehensive form, owned, hired and non-owned, with a limit of \$1,000,000 for bodily injury and property damage combined.

(c) Excess liability, umbrella form, with a limit for bodily injury and property damage combined of \$5,000,000 each occurrence and \$5,000,000 aggregate.

(d) Pollution and remediation liability with limits in an amount of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate insuring against loss, the cost of remediation and legal defense as a result of pollution conditions arising out of the collision, upset or overturn of Contractor vehicles in conjunction with this Agreement.

(e) Broad form fire insurance approved by City, jointly in the names of Contractor and City, covering not less than the full replacement cost of all improvements on the Transfer Station Site. In the event of damage to any portion of the Transfer Station, Contractor shall rebuild, repair or otherwise reinstate the damaged improvements in good and substantial manner, with such reconstruction to commence within ninety (90) days after the damage occurs.

Insurance is to be placed with admitted California insurers with an A.M. Best's rating of no less than A- for financial strength, AA for long-term credit rating and AMB-1 for short-term credit rating. Insurance certificates evidencing the required coverage shall be filed with City and shall be subject to approval by the City Attorney. City, its City Council, boards, commissions, officers, agents and employees shall be named as additional insureds on any such policies of insurance which shall also contain a provision that the insurance afforded thereby shall be primary. No such policy shall be cancelled or modified except upon thirty (30) days' prior written notice to City.

9.4 Contractor shall post a \$250,000 performance bond or financial instrument reasonably acceptable to the City Manager as security for Contractor's faithful performance of each and every term, covenant and condition of this Agreement to be performed by Contractor, provided that the cost of such bond or other instrument shall be included in the Operating Cost Component.

10. Remedies upon Default.

10.1 Contractor shall be deemed in default of this Agreement in the event Contractor defaults in the performance of any of the duties to be performed by it under the terms of this Agreement and fails to cure the breach as further provided in this Section 10.1. City shall give Contractor written notice, either by mail or by personal service, setting forth the default. Contractor shall correct such default within thirty (30) days after service of such notice (within seven (7) days if City determines that the public health or safety is at risk) unless the default cannot, by its nature, be cured within said period, in which case the cure period shall be extended for such additional time as is reasonably necessary to effect a cure, provided that Contractor shall commence efforts to effect a cure as soon as practicable and shall diligently pursue the cure. . If Contractor commits three or more breaches of material provisions of this

Agreement within an eighteen (18) month period, whether cured or not, the Contractor shall be deemed to have committed "Multiple Breaches."

10.2 In the event Contractor's default described in Section 10.1 is of a material provision of this Agreement and is not cured as set forth in Section 10.1, or if Contractor has committed Multiple Breaches (defined to mean three or more defaults of material provisions of this Agreement within an eighteen (18) month period, whether cured or not) ("Material Default"), City shall have the following remedies:

10.2.1 Liquidated Damages. The parties acknowledge that City will incur damages as a result of a Material Default, and that such Material Default may not warrant termination of this Agreement. The parties agree that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by City as a result of a Material Default. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that exclusive services might be available at substantially lower costs than alternative services and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches. Liquidated damages shall be City's exclusive damages remedy for any individual Material Default which does not result in termination of this Agreement by City. The amount of liquidated damages is \$1,000 for each day the Material Default continues after Contractor fails to cure until it is either cured or City terminates this Agreement.

10.2.2 Franchise Termination. Without further notice and without suit or other proceedings, City may cancel and annul the rights and privileges of this Agreement upon a Material Default. Nothing in this Section shall prohibit the parties from meeting to discuss ways to resolve the issue. In the event of termination of this Agreement for Material Default, City shall have the right forthwith to grant a franchise to another person or to take possession of the trucks and other equipment of Contractor used to perform work under this Agreement. City shall have the right to retain possession of the trucks and other equipment for up to one (1) years after such termination and City shall pay Contractor the reasonable rental value of such trucks and other equipment, and keep them in good maintenance and repair, during the time the same are used by City. City shall also have access to Contractor's records for the purpose of billing customers during the period City is providing the services described in this Agreement, and shall retain all fees collected for such services.

Upon termination of this Agreement for any reason, Contractor shall have the obligation to sell to City and City shall have the option to purchase the equipment used by Contractor to perform its obligations under this Agreement in operating the Transfer Station and transporting Solid Waste to Disposal and Processing Facilities and other markets (the "equipment"). Such option shall be exercised by written notice to Contractor at least six (6) months prior to the termination date, unless the Agreement is terminated based on a Material Breach, in which event notice of the election must be given within sixty (60) days after the termination date.

The purchase price that City shall pay Contractor for the equipment shall be its cost less depreciation to the date of purchase calculated on a straight-line basis over its estimated useful life as shown on the books of Contractor.

10.2.3 Other Remedies. Upon termination of this Agreement based on a Material Default, City shall have all other remedies in law or equity for such Material Default.

10.3 If a dispute arises between City and Contractor regarding fees or any other term or provision of this Agreement, the parties agree to meet and confer in good faith to resolve the dispute. Either party may request to meet and confer by written notice to the other party. Alternatively, the parties may agree to participate in non-binding mediation. If the dispute is not resolved within thirty (30) days after the written request to meet and confer has been given or after the parties have agreed to non-binding mediation, the matter, other than an action seeking specific performance or other equitable relief, damages of Twenty Five Thousand Dollars (\$25,000) or less, or indemnification or insurance coverage pursuant to Section 9, shall be submitted to non-binding arbitration in accordance with Title 9 of the California Code of Civil Procedure, commencing with Section 1280, before a single neutral arbitrator ("Arbitrator") in the Mendocino County. The Arbitrator shall be an attorney with at least ten (10) years' experience or a retired judge (or a person having comparable qualifications) and shall be mutually agreed upon by the parties. If the parties are unable to agree on an Arbitrator, the Arbitrator shall be appointed by the superior court in accordance with Cal. Code Civ. Proc. §1281.6. The fees and expenses of the Arbitrator shall be borne equally by the parties.

In the event such non-binding arbitration does not resolve the matter and in any other dispute that results in any court action, the parties waive any right to a jury trial and agree that any such action shall be filed in the federal or state courts in and for Mendocino County, each party hereby consenting to the jurisdiction of and venue in such courts, the matter shall be governed by the internal laws of the State of California (irrespective of choice of law principles), and the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and disbursements incurred in such action from the non-prevailing party.

10.4 If Contractor shall at any time during the term of this Agreement or any extension thereof, become insolvent, or if proceedings in bankruptcy shall be instituted by or against Contractor, or if Contractor shall be adjudged bankrupt or insolvent by any Court, or if a receiver or trustee in bankruptcy or a receiver of any property by Contractor shall be appointed in any suit or proceeding brought by or against Contractor, or if Contractor shall make an assignment for the benefit of creditors, then and in each and every such case, and provided that such proceedings, adjudication, appointment or assignment, as the case may be, continue in effect for ninety (90) days without being vacated, removed or withdrawn, this Agreement shall immediately cease and come to an end, and the rights and privileges granted shall immediately be cancelled and annulled without notice or action required on behalf of City.

10.5 Notwithstanding any other provision herein, no default, delay or failure to perform on the part of either party shall be considered a breach hereunder if such default, delay or failure to perform is due to causes beyond such party's control, including, but not limited to, riots, civil disturbances, actions or inactions of governmental authorities, epidemic, war, embargoes, severe weather, fire, earthquake, acts of God, defaults by the other party or defaults by carriers. In the event of any such default, delay or failure to perform, any dates or times by which the affected party otherwise is scheduled to perform shall be extended for a period of time equal in duration to the additional time required because of the excused default, delay or failure to perform.

11. Assignment.

11.1 Contractor shall not directly or indirectly, voluntarily or involuntarily assign, mortgage, pledge or encumber any interest in all or a part of this Agreement without the prior written consent of City. The City Council shall have the right to determine in its sole discretion whether to approve, conditionally approve or deny any request by Contractor for approval under this Section. Any action requiring City Council approval under this Section that occurs without such approval shall give City the right to terminate this Agreement without prior notice to Contractor or its successors or assigns. For purposes of this Section, any transaction involving the transfer, sale or exchange of stock which results in a change in majority control of Contractor from its owners as of the date hereof (excluding transfers between such owners and transfers by any such owners to revocable living trusts for the benefit of their families) shall be an assignment subject to City review and approval.

11.2 Any written agreement between Contractor and a Disposal Facility for the Disposal of Solid Waste received at the Transfer Station entered into after the date of this Agreement, and any written agreement between Contractor and a Processing Facility for the Processing of Recyclables received at the Transfer Station entered into after the date of this Agreement, shall provide that: (a) City is a third party beneficiary with the same right as a party to enforce such agreement; (b) any assignment of such agreement shall require City approval; (c) in the event such agreement is terminated during its term or any extended term by Contractor or by the Disposal Facility or Processing Facility operator based on an uncured default by Contractor under such agreement, such agreement may be assumed by City without change, including as to Disposal or Processing rates and terms; and (d) if terminated based on an uncured default by Contractor, any payments due but unpaid under such agreement on the date of termination shall continue to be an obligation of Contractor and the obligation to make any such payments shall not be assumed by City upon its assumption of such agreement.

12. City's Options to Purchase Site, Improvements and Equipment.

12.1 City's Options to Purchase Site and Improvements. On December 31, 2016, Owner and Contractor shall have the obligation to sell and the City shall have the option to purchase from Owner both the Transfer Station Site and all the improvements on the Transfer Station Site (the "Improvements") for an aggregate purchase price of One Dollar (\$1.00). City shall be deemed to have exercised its option to purchase the Transfer Station Site and the Improvements, unless it has given Contractor written notice prior to December 31, 2016 that it has elected not to exercise the option. Title shall transfer to City within thirty (30) days after December 31, 2016. The purchase shall be on a then "as-is" basis, and otherwise on commercially reasonable terms then applicable to the purchase and sale of real property, except that Owner shall indemnify City against any cost or liability arising from hazardous or toxic waste contamination on the Transfer Station Site which occurred before escrow closes on City's purchase of the Transfer Station Site. At closing, Owner shall convey to City clear, unencumbered fee title to the Transfer Station Site and City shall enter into a lease for the Transfer Station Site and the Improvements with Contractor in the form attached hereto as Exhibit F. Owner or Contractor's failure to co-operate in City's purchase of the Transfer Station Site and Improvements shall be a Material Default.

12.2 Prior Termination. If this Agreement is terminated before December 31, 2016 for any reason, City shall have the option to do all, but not part, of the following: (a) purchase or lease from Owner the Transfer Station Site pursuant to Sections 13.1 or 13.2, (b) purchase from Owner the Improvements pursuant to Section 13.3, and (c) purchase from Contractor all the Equipment pursuant to Section 10.2.2. City's option under this Section 12.2 shall be exercised by written notice to Owner and Contractor given within sixty (60) days before the termination date, unless the Agreement is terminated

based on a Material Breach, in which event notice of the election must be given within sixty (60) days after the termination date.

13. Purchase or Lease of Site and Purchase of Improvements.

13.1 Purchase of Site. If City elects to purchase the Transfer Station Site in accordance with Section 12.2 above, Owner shall sell City the Transfer Station Site for a purchase price equal to the lesser of (a) \$487,000 increased by the percentage increase in the CPI between November 7, 2001 and the date of termination of this Agreement, or (b) the then actual fair market value of the Transfer Station Site; provided, however, that the purchase price shall be One Dollar (\$1.00) if the closing of the purchase occurs after September 30, 2016. The purchase shall be on a then "as-is" basis, and otherwise on commercially reasonable terms then applicable to the purchase and sale of real property, except that Owner shall indemnify City against any cost or liability arising from hazardous or toxic waste contamination on the Transfer Station Site which occurred before escrow closes on City's purchase of the Transfer Station Site. At closing, Owner shall convey to City clear, unencumbered fee title to the Transfer Station Site.

13.2 Lease of Site. If City elects to lease the Transfer Station Site in accordance with Section 12.2 above, City's lease shall commence on January 1, 2017 or thirty (30) days after the notice of exercise in the case of termination for Material Default, and expire ten (10) years thereafter. Rent under the lease shall equal the then fair market lease value of the Transfer Station Site (excluding any value attributable to the Improvements) and the lease shall otherwise be on commercially reasonable terms then applicable to the ground lease of real property. If City and Owner are unable to agree on the fair market lease value, they shall select and share the cost of an appraiser to determine such value. If they cannot agree on a single appraiser, each may obtain an appraisal of such value from a qualified appraiser of its choice. If the separate appraisals are within ten percent (10%) of each other, fair market lease value shall be the average of the two appraisals. If the appraisals differ by more than ten percent (10%), the two appraisers shall select a third appraiser to review the appraisal reports and determine which report represents the fairest appraisal. The appraisal selected by the third appraiser shall constitute the fair market lease value of the Transfer Station Site. The parties shall each bear the expense of their separately selected appraisers and share equally the cost of the third appraiser.

13.3 Purchase of Improvements. If City elects to purchase the Improvements in accordance with Section 12.2 above, the purchase price that City shall pay Owner for the Improvements shall be One Dollar (\$1.00)

14. Waiver. The waiver by any party of any breach or violation of any term or condition of this Agreement or of any provision of law by the other party must be in writing signed by the party to be charged, and shall not be deemed to be a waiver of the term, condition or provision of law, or of any subsequent breach or violation of the same or any other term, condition or provision of law. The acceptance by City of any Surcharge or other fee or other monies which may become due hereunder to City shall not be deemed to be a waiver of any preceding breach or violation by Contractor.

15. Administration. The administration and enforcement of this Agreement shall be the responsibility of the City Manager or a designated representative of that office. This section is not intended to indicate or suggest the City Manager has the authority to grant, amend, or revoke the rights referenced herein or to prevent the City Manager from seeking approval from the City Council for any decision the City Manager is required or authorized to make hereunder.

16. Independent Contractor. Contractor, its employees and agents are independent contractors and not employees or agents of City.

17. Notices. Whenever notice or a document is required or permitted to be served or given hereunder, it shall be deemed given or served, when received if delivered by fax or email (with acknowledgment of receipt), certified U.S. Mail, overnight courier, such as UPS or Federal Express, or 48 hours after deposit in the U.S. Mail with first class postage affixed. Any such document or notice shall be addressed as follows:

City:	City Manager Ukiah Civic Center 300 Seminary Avenue Ukiah, California 95482
	FAX: Email:
Contractor:	Solid Wastes Systems, Inc. Attn: David M. Carroll, President P. O. Box 60 Ukiah, California 95482
	FAX: Email:
Owner:	Yulupa Investments, LLC Attn: David M. Carroll, President P. O. Box 60 Ukiah, California 95482
	FAX: Email:

or to such other person or address as may be specified from time to time in writing by any party in accordance with this Section.

18. Amendments. This Agreement may be amended from time to time only by written agreement between the parties signed by an authorized representative of each party. Any party may at any time request that the service or other provisions in this Agreement be modified by delivering written notice of its requested modifications to the other parties. Within thirty (30) days after receipt of any such request, the parties shall meet and negotiate in good faith on adopting such requested modifications, including, without limitation, any change to the Rates necessitated by such modifications, provided that nothing herein shall obligate any party to agree on any such requested modifications.

19. Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the permitted successors and assigns of the parties.

20. Integration; Severability. This Agreement, including the Exhibits hereto, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior or

contemporaneous agreements between the parties, whether written or oral, relating to such subject matter, including the Prior Agreement. If a court finds any provision of this Agreement invalid or unenforceable as applied to any circumstance, the remainder of this Agreement and the application of such provision to other persons or circumstances shall remain in effect. The parties further agree to replace such void or unenforceable provision with a valid and enforceable provision which will achieve, to the extent possible, the economic, business and other purposes of the void or unenforceable provision.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

Solid Wastes Systems, Inc.

By: _____
President

Yulupa Investments, LLC

By: _____
President

City of Ukiah

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

**FIRST AMENDED AND RESTATED AGREEMENT FOR RECEIPT OF WOOD WASTE,
GREEN WASTE AND MIXED ORGANIC WASTE**

EXHIBIT C

LEGAL DESCRIPTION OF TRANSFER STATION SITE

EXHIBIT D
RATE SCHEDULE

EXHIBIT E
TRANSFER STATION RATE CALCULATION

EXHIBIT F
TRANSFER STATION LEASE

EXHIBIT G

CURRENT GEOGRAPHIC AREA SERVED BY TRANSFER STATION

The areas marked as Franchise Areas 3 and 2 (Inland) on the attached map, including the incorporated City limits.

EXHIBIT D**FIRST AMENDED AND RESTATED AGREEMENT FOR RECEIPT OF
WOOD AND GREEN WASTE, GREEN WASTE AND MIXED ORGANIC WASTE**

THIS FIRST AMENDED AND RESTATED AGREEMENT FOR RECEIPT OF WOOD AND WASTE, GREEN WASTE AND MIXED ORGANIC WASTE (the "Agreement") is entered into as of 2011 October 2015 ("Effective Date") by and between Pacific Recycling Solutions, Inc., a California corporation ("PRS"), Ukiah Waste Solutions, Inc., a California corporation ("UWS"), and Solid Waste Systems, Inc., a California corporation ("SWS"), with reference to the following:

A. PRS owns and operates a green waste and wood waste processing facility located at 4260 North State Street and 3501 Taylor Drive and 3515 Taylor Drive, Ukiah, California (the "Facility").

B. The Facility is fully permitted to ~~accept and process~~ receive Green Waste and Wood Waste, and currently accepts and processes such materials received from SWS and UWS in accordance with that certain Agreement for Receipt of Wood and Green Waste dated December 12, 2011 (the "Prior Agreement") which provides for disposal of approximately 10,000 tons, but without limit subject to the Facility's permitted capacity, annually of Materials (as defined below ("Materials")) at the Facility.

C. SWS is party with the City of Ukiah (the "City") to that certain First Amended and Restated Transfer Station Agreement of even date herewith for the operation of the Ukiah Valley Transfer Station for the receipt, collection, transportation and disposal of municipal, commercial and industrial solid waste (the "TS Agreement"), and UWS is party with the City of Ukiah to that certain First Amended and Restated Waste Collection Agreement of even date herewith for the collection and disposal of solid waste (the "Collection Agreement"). ~~SWS and UWS desire to enter into an agreement with PRS which will provide for disposal of approximately 10,000 tons, but without limit subject to the Facility's permitted capacity, annually of Materials at the Facility.~~ which agreements have been amended and restated to allow for the recycling of Food Waste and Mixed Organic Waste.

D. Prior to receiving Food Waste or Mixed Organic Waste, the Facility must be fully permitted to receive, commingle, store and handle Food Waste and Mixed Organic Waste.

E. The parties wish to amend and restate the Prior Agreement on the terms herein effective as of the Effective Date, so that this Agreement shall supersede the Prior Agreement as of the Effective Date, when the Prior Agreement shall cease to have any effect (except for periods prior to the Effective Date).

In consideration of the aforementioned recitals and upon the terms and conditions herein set forth, the parties hereto agree as follows:

1. Definitions: The following terms shall have the respective meanings set forth below:

"Green Waste" shall mean green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small wood pieces and other types of organic yard waste, provided that dead trees and branches may not exceed six (6) inches in diameter and/or four (4) feet in length.

"Food Waste" shall mean food scraps, paper tissues, paper napkins and towels, coffee grounds and filters, pizza boxes, food soiled paper plates and cups, and miscellaneous paper not suitable for recycling that is discarded (as from a Commercial or Residential Property kitchen).

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"Mixed Organic Waste" shall mean Green Waste and Food Waste.

"Wood Waste" shall mean ~~clean pieces of~~ unpainted and untreated ~~wood~~ lumber and boards.

"Materials" shall mean Green Waste, Wood Waste, Food Waste and Mixed Organic Waste.

"Process" shall mean handle, grind or chip and recycle (including by composting or anaerobic digestion) Materials.

"CCC Agreement" shall mean the Agreement for Mixed Organic Waste Services between PRS and Cold Creek Compost, Inc. ("CCC") dated September 15, 2015, a true and correct copy of which is attached hereto as Exhibit 1.

2. **Agreement to Accept Materials:** PRS agrees to accept and Process all Materials ~~collected~~ received at SWS's transfer station or collected by UWS, as provided for under the TS Agreement ~~and~~ the Collection Agreement, and the CCC Agreement and delivered by SWS or UWS to the Facility, on the terms herein: provided, however, that PRS shall not accept Food Waste or Mixed Organic Waste until it has been fully permitted to receive, commingle, store and handle such Materials. PRS shall receive and process all such Materials in strict compliance with its permits.

3. **Processing ~~Rate~~ Rates:** As consideration for the receipt and proper Processing by PRS of the Materials delivered by SWS and UWS, SWS and UWS shall each pay PRS the following fees: (a-fee of) Thirty Dollars (\$30.00) per ton for Materials Green Waste and/or Wood Waste received by PRS at the Facility from SWS and UWS, respectively, as (the "GW Processing Rate"); and (b) Thirty Dollars (\$30.00) per ton for Food Waste and/or Mixed Organic Waste received by PRS at the Facility from SWS and UWS, respectively (the "MOW Processing Rate"). The GW Processing Rate and the MOW Processing Rate shall each be adjusted pursuant to Paragraph 4 herein (the "Processing Rate"). Fees shall be paid by SWS and UWS within thirty (30) days of receipt from PRS of a written invoice detailing the amount of Materials received by PRS for each month.

4. **Adjustment of Processing ~~Rate~~ Rates:**

a. **Adjustment based on CPI:** PRS shall have the right, commencing on ~~July~~ January 1, ~~2012~~ 2016 and annually thereafter, to increase ~~the~~ or decrease the GW Processing Rate and/or the MOW Processing Rate by a percentage equal to the applicable percentage increase or decrease, if any, in the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items (1982-1984=100), published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), for the preceding year, using the Index published for the month nearest the beginning and the month nearest the end of such year. The "applicable percentage" shall be 100% for the GW Processing Rate, and 90% for the MOW Processing Rate. If PRS forgoes the application of a CPI adjustment in any year, that adjustment will be treated as a zero increase (decrease) in subsequent years, and shall not be retroactively recouped.

b. **Adjustment for Government Taxes:** Notwithstanding any other provision herein, to the extent any government having jurisdiction over the Facility should impose any fee or tax ("Government Tax") on the Facility associated with the Processing of Materials, the GW Processing Rate and/or the MOW Processing Rate, as the case may be, shall be increased by the amount of such Government Tax, either at the per ton rate of such Tax or if such Tax is not assessed on a per ton basis, in the proportion that the total tonnage of relevant Materials PRS reasonably projects to accept from SWS ~~and~~ and UWS during the period for which the Government Tax will pertain compared with other users of

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the Facility. ~~On each adjustment of the GW Processing Rate and/or the MOW Processing Rate, PRS shall deliver to SWS and UWS written notice stating the adjusted Processing Rate. If PRS forgoes the application of a CPI adjustment in any year, that adjustment will be treated as a zero increase (decrease) in subsequent years, and shall not be retroactively recouped.~~ GW Processing Rate and/or MOW Processing Rate.

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~~b.~~ c. **Five year review:** Every five years During calendar year 2016 only, the parties and the City of Ukiah ("City") shall review the gate fee to determine whether per ton MOW Processing Rate to determine what increase to that rate is warranted, effective as of January 1, 2017, to cover the costs incurred by PRS to accommodate the processing of MOW (the "New Program"), including, but not limited to, the capital costs of improvements to the PRS Facility, operational costs, transportation costs, and other costs (not included under Section 4.d) required to accommodate the New Program and shall allow for a reasonable profit to PRS. During calendar year 2016 and every five years thereafter, the parties and the City shall review the GW Processing Rate to determine to what extent, if any, changes in 1) the market for green and wood waste value for Green Waste and Wood Waste, 2) attendant costs including, but not limited to, changes in processing, transfer and transportation costs, and 3) the gate fee charged by CCC, pursuant to the CCC Agreement, or any successor processing site agreement, warrant an adjustment in the gate fee-GW Processing Rate to account for changes in the cost of processing such costs, and the income produced from processed green waste and wood waste. #If receiving, transfer and processing costs have become substantially more or less and/or the income produced from processed material has substantially increased or decreased over during the five year period, the rates since the Effective Date or during the five year period since the last rate review, the GW Processing Rate shall be adjusted to account for these changes, starting on January 1, 2017, and every five (5) years thereafter based upon such five year review process, provided that no such adjustment shall reduce the GW Processing rate to less than Thirty Dollars (\$30.00) per ton.

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~~d.~~ **CCC Agreement Adjustments:** In addition to adjustments under subparagraphs a., b. and c. above, any change in the gate fee charged by CCC pursuant to the CCC Agreement for Local Annual Tonnage (as defined in the CCC Agreement), or by any City-approved successor processing site for similar Materials under its agreement with PRS, that are not in either case the subject of adjustments pursuant to subparagraphs a., b. or c. above, shall be treated as an immediate pass through adjustment to the MOW Processing Rate effective as of the date of such change. For example, effective January 1, 2017 and in addition to any adjustments under subparagraphs a., b. and c. above for the period from the Effective Date through January 1, 2017, the MOW Processing Rate will be increased by Ten Dollars (\$10.00) per ton by virtue of the Ten Dollar (\$10.00) per ton increase in the gate fee charged PRS by CCC for Local Annual Tonnage under the CCC Agreement effective on such date.

~~5.~~ **5. Term of Agreement:** This Agreement shall expire as to each of SWS and UWS on the expiration of the TS Agreement or the Collection Agreement, respectively, including extensions, subject to earlier termination, as follows. PRS, on the one hand, and either of SWS or UWS, on the other, shall be entitled to terminate this Agreement in the event of the other party's material breach hereof unless such breach is cured within thirty (30) days after written notice thereof. This Agreement shall terminate automatically as to any party in the event of such party's insolvency, bankruptcy, assignment for the benefit of creditors or other debt reorganization unless, in the case of bankruptcy, the petition is removed or withdrawn within thirty (30) days.

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~~6.~~ **6. Type of Waste:** PRS shall only accept, and SWS and UWS shall only be entitled to provide, Materials not containing any prohibited substances or hazardous waste. PRS shall be entitled to inspect the Materials and reject and/or return to SWS or UWS any Materials that are not in conformance with the standards set forth herein. Notice of rejection of non-conforming Materials shall be given in writing prior to the close of business on the day PRS receives such non-conforming Materials at the Facility. Failure to provide written notice in accordance with the terms of the preceding sentence shall

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ATTACHMENT 6

forfeit PRS's right to reject such non-conforming Materials. SWS or UWS, as the case may be, shall bear all costs associated with inspecting, testing and rejecting any non-conforming Materials. Each party agrees to comply with all laws applicable to such party in the performance of its duties hereunder.

~~7.~~ 7. **Amount of Waste to be Delivered:** SWS and UWS shall deliver an aggregate minimum of 30 tons per day and an aggregate maximum of 75 tons per day of Materials to the Facility.

~~8.~~ 8. **Time of Delivery:** SWS and UWS shall be entitled to deliver Materials to the Facility six (6) days a week, Monday thru Saturday during normal operating hours.-

~~9.~~ 9. **Attorney's Fees:** If any litigation is commenced between PRS and SWS or PRS and UWS to collect any sums due under this Agreement, or concerning any provisions of this Agreement, the prevailing party in such litigation shall be entitled, in addition to such other relief deemed appropriate by the court, to reasonable attorney's fees and expenses incurred in connection with such litigation.

~~10.~~ 10. **Binding Effect:** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of SWS, UWS and PRS.

~~11.~~ 11. **Confidentiality:** ~~Neither~~No party shall disclose the GW Processing Rate or the MOW Processing Rate to any person except with the express written permission of the other parties, which permission shall not be unreasonably withheld. Without limiting the generality of the foregoing, PRS shall agree to allow SWS or UWS to disclose ~~the~~such Processing ~~Rate~~Rates as may be reasonably requested or required by the City ~~of Ukiah~~ under the TS Agreement or the Collection Agreement.

~~12.~~ 12. **Counterparts:** This Agreement may be executed in counterparts, and shall be effective when fully executed by all of the parties. ~~The parties agree to accept signatures transmitted by facsimile.~~

~~13.~~ 13. **Third Party Beneficiaries:** The City of Ukiah shall be deemed a third party beneficiary of this Agreement with all of the rights of a party to enforce the terms of this Agreement.

~~14.~~ 14. **Assignment:** No assignment of this Agreement can be made without the prior written approval of the City ~~of Ukiah~~and may be assumable by the City, exercising its rights under Section 11 of each of the Waste Collection ~~and Transfer Station Agreements with UWS and SWS,~~ respectively Agreement or the TS Agreement.

IN WITNESS WHEREOF, this Agreement is entered into as of the date first set forth above.

PACIFIC RECYCLING SOLUTIONS, INC.

By: _____

SOLID WASTES SYSTEMS, INC.

By: _____

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ATTACHMENT 6

By: _____

UKIAH WASTE SOLUTIONS, INC.

By: _____

By: _____

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EXHIBIT 1

CCC AGREEMENT

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EXHIBIT D**FIRST AMENDED AND RESTATED AGREEMENT FOR RECEIPT OF
WOOD WASTE, GREEN WASTE AND MIXED ORGANIC WASTE**

THIS FIRST AMENDED AND RESTATED AGREEMENT FOR RECEIPT OF WOOD WASTE, GREEN WASTE AND MIXED ORGANIC WASTE (the "Agreement") is entered into as of October __, 2015 ("Effective Date") by and between Pacific Recycling Solutions, Inc., a California corporation ("PRS"), Ukiah Waste Solutions, Inc., a California corporation ("UWS"), and Solid Wastes Systems, Inc., a California corporation ("SWS"), with reference to the following:

A. PRS owns and operates a green waste and wood waste processing facility located at 4260 North State Street and 3501 Taylor Drive and 3515 Taylor Drive, Ukiah, California (the "Facility").

B. The Facility is permitted to receive Green Waste and Wood Waste and currently accepts and processes such materials received from SWS and UWS in accordance with that certain Agreement for Receipt of Wood and Green Waste dated December 12, 2011 (the "Prior Agreement") which provides for disposal of approximately 10,000 tons, but without limit subject to the Facility's permitted capacity, annually of Materials (as defined below) at the Facility.

C. SWS is party with the City of Ukiah (the "City") to that certain First Amended and Restated Transfer Station Agreement of even date herewith for the operation of the Ukiah Valley Transfer Station for the receipt, collection, transportation and disposal of municipal, commercial and industrial solid waste (the "TS Agreement"), and UWS is party with the City to that certain First Amended and Restated Waste Collection Agreement of even date herewith for the collection and disposal of solid waste (the "Collection Agreement"), which agreements have been amended and restated to allow for the recycling of Food Waste and Mixed Organic Waste.

D. Prior to receiving Food Waste or Mixed Organic Waste, the Facility must be fully permitted to receive, commingle, store and handle Food Waste and Mixed Organic Waste.

E. The parties wish to amend and restate the Prior Agreement on the terms herein effective as of the Effective Date, so that this Agreement shall supersede the Prior Agreement as of the Effective Date, when the Prior Agreement shall cease to have any effect (except for periods prior to the Effective Date).

In consideration of the aforementioned recitals and upon the terms and conditions herein set forth, the parties hereto agree as follows:

1. Definitions: The following terms shall have the respective meanings set forth below:

"Green Waste" shall mean green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small wood pieces and other types of organic yard waste, provided that dead trees and branches may not exceed six (6) inches in diameter or four (4) feet in length.

"Food Waste" shall mean food scraps, paper tissues, paper napkins and towels, coffee grounds and filters, pizza boxes, food soiled paper plates and cups, and miscellaneous paper not suitable for recycling that is discarded (as from a Commercial or Residential Property kitchen).

"Mixed Organic Waste" shall mean Green Waste and Food Waste.

“Wood Waste” shall mean unpainted and untreated lumber and boards.

“Materials” shall mean Green Waste, Wood Waste, Food Waste and Mixed Organic Waste.

“Process” shall mean handle, grind or chip and recycle (including by composting or anaerobic digestion) Materials.

“CCC Agreement” shall mean the Agreement for Mixed Organic Waste Services between PRS and Cold Creek Compost, Inc. (“CCC”) dated September 15, 2015, a true and correct copy of which is attached hereto as Exhibit 1.

2. Agreement to Accept Materials: PRS agrees to accept and Process all Materials received at SWS’s transfer station or collected by UWS, as provided for under the TS Agreement, the Collection Agreement, and the CCC Agreement and delivered by SWS or UWS to the Facility, on the terms herein; provided, however, that PRS shall not accept Food Waste or Mixed Organic Waste until it has been fully permitted to receive, commingle, store and handle such Materials. PRS shall receive and process all such Materials in strict compliance with its permits.

3. Processing Rates: As consideration for the receipt and proper Processing by PRS of the Materials delivered by SWS and UWS, SWS and UWS shall each pay PRS the following fees: (a) Thirty Dollars (\$30.00) per ton for Green Waste and/or Wood Waste received by PRS at the Facility from SWS and UWS, respectively (the “GW Processing Rate”); and (b) Thirty Dollars (\$30.00) per ton for Food Waste and/or Mixed Organic Waste received by PRS at the Facility from SWS and UWS, respectively (the “MOW Processing Rate”). The GW Processing Rate and the MOW Processing Rate shall each be adjusted pursuant to Paragraph 4 herein. Fees shall be paid by SWS and UWS within thirty (30) days of receipt from PRS of a written invoice detailing the amount of Materials received by PRS for each month.

4. Adjustment of Processing Rates:

a. **Adjustment based on CPI:** PRS shall have the right, commencing on January 1, 2016 and annually thereafter, to increase or decrease the GW Processing Rate and/or the MOW Processing Rate by a percentage equal to the applicable percentage increase or decrease, if any, in the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items (1982-1984=100), published by the United States Department of Labor, Bureau of Labor Statistics (“Index”), for the preceding year, using the Index published for the month nearest the beginning and the month nearest the end of such year. The “applicable percentage” shall be 100% for the GW Processing Rate, and 90% for the MOW Processing Rate. If PRS forgoes the application of a CPI adjustment in any year, that adjustment will be treated as a zero increase (decrease) in subsequent years, and shall not be retroactively recouped.

b. **Adjustment for Government Taxes:** Notwithstanding any other provision herein, to the extent any government having jurisdiction over the Facility should impose any fee or tax (“Government Tax”) on the Facility associated with the Processing of Materials, the GW Processing Rate and/or the MOW Processing Rate, as the case may be, shall be increased by the amount of such Government Tax, either at the per ton rate of such Tax or if such Tax is not assessed on a per ton basis, in the proportion that the total tonnage of relevant Materials PRS reasonably projects to accept from SWS and UWS during the period for which the Government Tax will pertain compared with other users of the Facility. On each adjustment of the GW Processing Rate and/or the MOW Processing Rate, PRS shall deliver to SWS and UWS written notice stating the adjusted GW Processing Rate and/or MOW Processing Rate.

c. **Five year review:** During calendar year 2016 only, the parties and the City shall review the per ton MOW Processing Rate to determine what increase to that rate is warranted, effective as

of January 1, 2017, to cover the costs incurred by PRS to accommodate the processing of MOW (the "New Program"), including, but not limited to, the capital costs of improvements to the PRS Facility, operational costs, transportation costs, and other costs (not included under Section 4.d) required to accommodate the New Program and shall allow for a reasonable profit to PRS. During calendar year 2016 and every five years thereafter, the parties and the City shall review the GW Processing Rate to determine to what extent, if any, changes in 1) the market value for Green Waste and Wood Waste, 2) attendant costs including, but not limited to, changes in processing, transfer and transportation costs, and 3) the gate fee charged by CCC, pursuant to the CCC Agreement, or any successor processing site agreement, warrant an adjustment in the GW Processing Rate to account for changes in such costs, and the income produced from processed green waste and wood waste. If receiving, transfer and processing costs have become substantially more or less and/or the income produced from processed material has substantially increased or decreased during the five year period since the Effective Date or during the five year period since the last rate review, the GW Processing Rate shall be adjusted to account for these changes starting on January 1, 2017, and every five (5) years thereafter based upon such five year review process, provided that no such adjustment shall reduce the GW Processing rate to less than Thirty Dollars (\$30.00) per ton.

d. **CCC Agreement Adjustments:** In addition to adjustments under subparagraphs a., b. and c. above, any change in the gate fee charged by CCC pursuant to the CCC Agreement for Local Annual Tonnage (as defined in the CCC Agreement), or by any City-approved successor processing site for similar Materials under its agreement with PRS, that are not in either case the subject of adjustments pursuant to subparagraphs a., b. or c. above, shall be treated as an immediate pass through adjustment to the MOW Processing Rate effective as of the date of such change. For example, effective January 1, 2017 and in addition to any adjustments under subparagraphs a., b. and c. above for the period from the Effective Date through January 1, 2017, the MOW Processing Rate will be increased by Ten Dollars (\$10.00) per ton by virtue of the Ten Dollar (\$10.00) per ton increase in the gate fee charged PRS by CCC for Local Annual Tonnage under the CCC Agreement effective on such date.

5. **Term of Agreement:** This Agreement shall expire as to each of SWS and UWS on the expiration of the TS Agreement or the Collection Agreement, respectively, including extensions, subject to earlier termination, as follows. PRS, on the one hand, and either of SWS or UWS, on the other, shall be entitled to terminate this Agreement in the event of the other party's material breach hereof unless such breach is cured within thirty (30) days after written notice thereof. This Agreement shall terminate automatically as to any party in the event of such party's insolvency, bankruptcy, assignment for the benefit of creditors or other debt reorganization unless, in the case of bankruptcy, the petition is removed or withdrawn within thirty (30) days.

6. **Type of Waste:** PRS shall only accept, and SWS and UWS shall only be entitled to provide, Materials not containing any prohibited substances or hazardous waste. PRS shall be entitled to inspect the Materials and reject and/or return to SWS or UWS any Materials that are not in conformance with the standards set forth herein. Notice of rejection of non-conforming Materials shall be given in writing prior to the close of business on the day PRS receives such non-conforming Materials at the Facility. Failure to provide written notice in accordance with the terms of the preceding sentence shall forfeit PRS's right to reject such non-conforming Materials. SWS or UWS, as the case may be, shall bear all costs associated with inspecting, testing and rejecting any non-conforming Materials. Each party agrees to comply with all laws applicable to such party in the performance of its duties hereunder.

7. **Amount of Waste to be Delivered:** SWS and UWS shall deliver an aggregate minimum of 30 tons per day and an aggregate maximum of 75 tons per day of Materials to the Facility.

8. **Time of Delivery:** SWS and UWS shall be entitled to deliver Materials to the Facility six (6) days a week, Monday thru Saturday during normal operating hours.

9. **Attorney's Fees:** If any litigation is commenced between PRS and SWS or PRS and UWS to collect any sums due under this Agreement, or concerning any provisions of this Agreement, the

prevailing party in such litigation shall be entitled, in addition to such other relief deemed appropriate by the court, to reasonable attorney's fees and expenses incurred in connection with such litigation.

10. Binding Effect: This Agreement shall be binding upon and inure to the benefit of the successors and assigns of SWS, UWS and PRS.

11. Confidentiality: No party shall disclose the GW Processing Rate or the MOW Processing Rate to any person except with the express written permission of the other parties, which permission shall not be unreasonably withheld. Without limiting the generality of the foregoing, PRS shall agree to allow SWS or UWS to disclose such Processing Rates as may be reasonably requested or required by the City under the TS Agreement or the Collection Agreement.

12. Counterparts: This Agreement may be executed in counterparts, and shall be effective when fully executed by all of the parties. The parties agree to accept signatures transmitted by facsimile.

13. Third Party Beneficiaries: The City of Ukiah shall be deemed a third party beneficiary of this Agreement with all of the rights of a party to enforce the terms of this Agreement.

14. Assignment: No assignment of this Agreement can be made without the prior written approval of the City and may be assumable by the City, exercising its rights under Section 11 of each of the Waste Collection Agreement or the TS Agreement.

IN WITNESS WHEREOF, this Agreement is entered into as of the date first set forth above.

PACIFIC RECYCLING SOLUTIONS, INC.

By: _____

SOLID WASTES SYSTEMS, INC.

By: _____

UKIAH WASTE SOLUTIONS, INC.

By: _____

EXHIBIT 1

CCC AGREEMENT



ITEM NO.: 12e

MEETING DATE: October 7, 2015

AGENDA SUMMARY REPORT

SUBJECT: ANNUAL RATE ADJUSTMENT REVIEW AND APPROVAL OF ADJUSTMENTS FOR TRANSFER STATION AND GARBAGE COLLECTION RATES EFFECTIVE JANUARY 1, 2016 - Continued from the September 16, 2015, City Council Meeting.

Summary:

Annually, the City reviews and adjusts rates for the transfer station and garbage collection based on the Consumer Price Index (CPI), Fuel Index, and other pass-through costs. For 2016, the rates for both the transfer station and garbage collection are recommended for a net decrease of .11% and 2.16% respectively, primarily due to dropping fuel costs.

Background:

In 2011, the City of Ukiah renegotiated contracts for garbage collection services and for Transfer Station operations. Both contracts identify procedures for adjusting rates annually.

1. Transfer Station Agreement (Solid Waste Systems or SWS) - Section 6.2 – Modification Based on Consumer Price Index (CPI), Fuel Index, and Certain Pass-through Costs. Section 6.2(f) of the agreement outlines the procedures for computing rate adjustments on an annual basis.
2. Waste Collection Agreement (Ukiah Waste Solutions or UWS) - Section 6.2 – Modification Based on Consumer Price Index (CPI), Fuel Index, Recycling Reduction and Certain Pass-through Costs. Section 6.2(d) of the agreement outlines the procedures for computing rate adjustments on an annual basis.

Both agreements require the City Manager to inform the City Council by October 20th of his determination regarding the proposed new rates. The City Council may review and confirm that the proposed rates are within the limit of Section 6.2 or establish by mutual agreement with the Contractor any necessary changes to the proposed rates. The Council's confirmation shall occur no later than November 20th.

Recommended Action(s): Confirm the proposed rates are within the limit of Section 6.2 of the Amended and Restated Transfer Station Agreement and the Waste Collection Agreement.

Alternative Council Option(s): Establish a process to meet with the contractor to reach mutual agreement, by November 20, 2015, on the rates that are within the limit of Section 6.2 of the Amended and Restated Transfer Station Agreement and the Waste Collection Agreement.

Citizens advised:

Requested by: City Manager per Transfer Station and Collection Contracts

Prepared by: Karen Scalabrini, Finance Director

Coordinated with: Sage Sangiacomo, City Manager; Solid Wastes Systems, Inc.; Ukiah Waste Solutions, Inc.

Attachments: #1 Letter of intent to adjust rates and supporting documents for Solid Waste Systems (SWS).
#2 Letter of intent to adjust rates and supporting documents for Ukiah Waste Solutions (UWS)

Approved: 
Sage Sangiacomo, City Manager

Discussion:

In August, the City received letters of intent to reduce rates on January 1, 2016, based on the Consumer Price Index which adheres to the contract language. This is the fourth year's application of the formula-driven rate adjustment mechanism adopted in 2011. This report provides detailed rate schedules. The proposed decrease is 0.11% or (\$0.09) a ton at the transfer station and about 2.16% reduction for Ukiah Waste Solution (UWS) ((\$0.11)/month for a ten-gallon can and (\$ 0.40)/month for a 32-gallon can) for collection services. The summary of rates and adjustments for UWS is found on page three of attachment #2. Rate adjustments for Solid Waste Systems (SWS) can be found in Attachment #1.

City staff reviewed computations, which are consistent with the contract. Detailed rate schedules, for both curb-side service and transfer station service, are included in the attachments.

The City Manager reviewed the notice of rate adjustment and determined that the proposed rates are within the limit of Section 6.2 of both the Transfer Station and the Collection Service contracts.

These are the sections of the contracts identifying the Council's options:

Amended and Restated Transfer Station Agreement, Section 6.2(f)(iii) Not later than October 20th, the City Manager shall inform the City Council in writing of his or her determination regarding the proposed new Rates and **the City Council shall be entitled to review and confirm that the proposed Rates are within the limit of Section 6.2 above or establish by mutual agreement with Contractor any necessary changes to the proposed Rates to make such confirmation, not later than November 20th.** Any Rates shall become effective on the following January 1st, provided that the Contractor shall post notice of the revised Rates at the Transfer Station not later than December 1st.

Waste Collection Agreement, Section 6.2(d)(iii) Not later than October 20th, the City Manager shall inform the City Council in writing of his or her determination regarding the proposed new Rates and **the City Council shall be entitled to review and confirm that the proposed Rates are within the limit of Section 6.2 above or establish by mutual agreement with Company any necessary changes to the proposed Rates to make such confirmation, not later than November 20th.** Any new Rates shall become effective on the following January 1st, provided that the Company and the City shall give the respective Customers each bill's written notice of the new Rates not later than December 1st.

Recommendation:

Confirm the proposed Rates are within the limit of Section 6.2 of both the Amended and Restated Transfer Station Agreement and the Waste Collection Agreement.

Fiscal Impact:

☐ Budgeted FY 15/16 ☐ New Appropriation ☒ Not Applicable ☐ Budget Amendment Required

Amount Budgeted Source of Funds (title and #) Account Number Addtl. Appropriation Requested

**Solid Wastes Systems, Inc.
P.O. Box 60
Ukiah, CA 95482**

Mr. Sage Sangiacomo
City Manager
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

August 14, 2015

RE: SWS letter of intention to adjust rates.

Dear Mr. Sangiacomo,

Please accept this letter as our formal notification of intention to adjust each of the current Solid Wastes Systems, Inc. (Ukiah Transfer Station) rates effective as of January 1, 2016 in accordance with Section 6.2(a) through (e) of the Amended and Restated Transfer Station Agreement dated December 12, 2011.

Thank you,

SOLID WASTES SYSTEMS, INC.

David M. Carroll

David M. Carroll
President

Cc: Karen Scalabrini

Solid Wastes Systems Transfer Station Components
Annual Adjustment Calculations
Effective Date January, 2016

<u>COSTS Subject to adjustment</u>	Cost	Index		Adjustment Allowed
Operating Costs subject to CPI	\$1,480,527.44	CPI		\$ 1,776.63
Fuel	\$183,299.72	Fuel		(\$44,707.56)
Disposal - Garbage	\$978,220.31	Contract rate	Pass Through	\$ 39,128.81
Disposal - Processing	\$192,394.15	Negotiated	Pass Through	\$ -
Construction/Lease \$2.36/ton	\$75,377.55	Contract rate	Pass Through	\$ -
Construction/Lease \$10/ton	\$319,396.40	Contract rate	Pass Through	\$ -
City Landfill Fee \$2/ton	\$65,963.41	Set by City	Pass Through	\$ -
MSWMA Fee \$5/ton	\$164,830.32	Set by City	Pass Through	\$ -
Total COSTS Subject to adjustment	<u>\$3,460,009.30</u>			<u>-\$3,802.12</u>

Adjustments:

	\$0.00	\$ -
	\$0.00	\$ -
		\$ -
Total Adjustments	<u>-</u>	<u>-</u>
Adjusted Cost	<u>\$3,460,009.30</u>	<u>-\$3,802.12</u>

Revenue base

Comparison Year Revenue	\$3,188,720.11
Fuel	(\$44,707.56)
Landfill Destination Change	\$0.00
Disposal - garbage	\$39,128.81
Disposal - processing	\$0.00
CPI adjustment	\$1,776.63
Construction/Lease \$2.36/ton	\$0.00
Revenue change	<u>(\$3,802.12)</u>
Adjusted revenue	<u>\$3,184,917.99</u>
Revenue Increase	<u>(\$3,802.12)</u>

		Current	Adjustment	New
Contractor Rate increase as a percent	-0.12%	\$74.30	(\$0.09)	\$74.21
MSWMA Rate increase as a percent	0.00%	\$5.00	\$0.00	\$5.00
City Rate increase as a percent	0.00%	\$2.00	\$0.00	\$2.00
		\$81.30	Total Rate	\$81.21
EFFECTIVE RATE ADJUSTMENT PERCENT				-0.11%

**Solid Wastes Systems Transfer Station Components
Annual Adjustment Calculations
Effective Date January, 2016**

**Worksheet for computing the change in various indexes and factors which
comprise the components on which rates are adjusted**

Fuel - June to June (EIA Petroleum & Other Liquids)

See Fuel cost adjustment worksheet

CPI - June to June (CPI-U All US Cities)

June 2014	June 2015	Index Increase (Decrease)
238.343	238.638	0.295
CPI % Change		0.12%

Landfill Fee Jan to Jan

January 2015	January 2016	Increase (Decrease)
\$ 39.78	\$ 41.37	1.590
Disposal - Garbage Cost % Change		4.00%

Disposal Processing Fee Jan to Jan

January 2015	January 2016	Increase (Decrease)
\$ 30.00	\$ 30.00	\$ 0.00
Disposal - Green Waste Cost % Change		0.00%

Transfer Station Tonnage at gate, Year to Year

December 2013	December 2014	Increase (Decrease)
31,939.88	31,939.64	(0.24)
Tonnage % Change		0.00%

City Landfill Fee June to June

January 2015	January 2016	Increase (Decrease)
\$ 2.00	\$ 2.00	\$ 0.00
City Landfill Fee % Change		0.00%

MSWMA Fee June to June

January 2015	January 2016	Increase (Decrease)
\$ 5.00	\$ 5.00	\$ 0.00
MSWMA Fee % Change		0.00%

Fuel Revenue Adjustment Worksheet, based on Fuel Index change, June to June						Fuel Exhibit #2
Base Year Fuel Index and Cost		3.102		\$152,533.47	As negotiated	
Index Change - New vs. Base Year						
1	Estimated Fuel index adjustment at June 2011	4.213	35.82%	\$54,637.49	Plus: Base Year Cost X Index Change	
	Revenue adjustment for January 2012 rate revision		\$54,637.49	\$0.00	Less: Prior Fuel Cost applied to rate	
				\$207,170.96	Fuel Cost Allowed Year 1	
Annual adjustment based on Fuel Index change, year to year (using example fuel index changes)						
2	Estimated Fuel index adjustment at June 2012	4.027	29.82%	\$45,485.48	Plus: Base Year Cost X Index Change	
	Revenue adjustment for January 2013 rate revision		(\$9,152.01)	\$54,637.49	Less: Prior Fuel Cost applied to rate	
				\$198,018.95	Fuel Cost Allowed Year 2	
3	Estimated Fuel index adjustment at June 2013	4.023	29.69%	\$45,287.19	Plus: Base Year Cost X Index Change	
	Revenue adjustment for January 2014 rate revision		(\$198.29)	\$45,485.48	Less: Prior Fuel Cost applied to rate	
				\$197,820.66	Fuel Cost Allowed Year 3	
4	Estimated Fuel index adjustment at June 2014	4.101	32.21%	\$49,131.03	Plus: Base Year Cost X Index Change	
	Revenue adjustment for January 2015 rate revision		\$3,843.84	\$45,287.19	Less: Prior Fuel Cost applied to rate	
				\$201,664.50	Fuel Cost Allowed Year 4	
5	Estimated Fuel index adjustment at June 2015	3.192	2.90%	\$4,423.47	Plus: Base Year Cost X Index Change	
	Revenue adjustment for January 2016 rate revision		(\$44,707.56)	\$49,131.03	Less: Prior Fuel Cost applied to rate	
				\$156,956.94	Fuel Cost Allowed Year 5	
6	Estimated Fuel index adjustment at June 20	3.192	2.90%	\$4,423.47	Plus: Base Year Cost X Index Change	
	Revenue adjustment for January 2017 rate revision		\$0.00	\$4,423.47	Less: Prior Fuel Cost applied to rate	
				\$156,956.94	Fuel Cost Allowed Year 6	

Solid Wastes Systems, Inc.
Transfer Station Rate Schedule
Effective Date January, 2016

<u>Item</u>		2015 Rate	Calculated 2016 FA Rate	NEW 2016 Rate Rounded *
MSW - Ton		\$81.30	\$81.21	\$81.20
MSW - Yard		\$19.15	\$19.11	\$19.10
Minimum Gate Fee - MSW	Up to 3 cans	\$9.55	\$9.56	\$9.55
Per Can Rate - 32 gallon	After 3 cans	\$3.20	\$3.19	\$3.20
Green Waste - Ton		\$42.30	\$42.25	\$42.25
Green Waste - Yard		\$6.20	\$6.19	\$6.20
Minimum Gate Fee - Green Waste		\$6.10	\$6.09	\$6.10
Mixed Load - Additional Charge		\$18.90	\$18.88	\$18.90
Appliances		\$10.40	\$10.39	\$10.40
Oil Filters - Small		\$0.35	\$0.35	\$0.35
Oil Filters - Medium		\$0.65	\$0.65	\$0.65
Oil Filters - Large		\$0.90	\$0.90	\$0.90
Concrete - Ton		\$66.35	\$66.27	\$66.25
Dirt - Ton		\$66.35	\$66.27	\$66.25
Sheetrock - Clean		\$42.30	\$42.25	\$42.25
Sheetrock - Dirty		\$66.35	\$66.27	\$66.25
Tires - Bicycle		\$1.20	\$1.20	\$1.20
Tires - Motorcycle		\$2.30	\$2.30	\$2.30
Tires - Passenger Car		\$3.45	\$3.45	\$3.45
Tires - Passenger Car with Rim		\$5.40	\$5.39	\$5.40
Tires - Truck		\$7.35	\$7.34	\$7.35
Tires - Truck with Rim		\$9.90	\$9.89	\$9.90
Tires - Tractor		43.70 - 330.45	43.65 - 330.05	43.65 - 330.05
E-Waste - Computers		No Charge	No Charge	No Charge
E-Waste - Monitors		No Charge	No Charge	No Charge
Scrap Metal		No Charge	No Charge	No Charge

* Rates are rounded to the nearest five cents

Solid Wastes Systems, Inc.
Transfer Station Rate Schedule
Effective Date January 01, 2016

<u>Item</u>	<u>NEW 2016 Rate Rounded *</u>
MSW - Ton	\$81.20
MSW - Yard	\$19.10
Minimum Gate Fee - MSW	Up to 3 cans \$9.55
Per Can Rate - 32 gallon	After 3 cans \$3.20
Green Waste - Ton	\$42.25
Green Waste - Yard	\$6.20
Minimum Gate Fee - Green Waste	\$6.10
Mixed Load - Additional Charge	\$18.90
Appliances	\$10.40
Oil Filters - Small	\$0.35
Oil Filters - Medium	\$0.65
Oil Filters - Large	\$0.90
Concrete - Ton	\$66.25
Dirt - Ton	\$66.25
Sheetrock - Clean	\$42.25
Sheetrock - Dirty	\$66.25
Tires - Bicycle	\$1.20
Tires - Motorcycle	\$2.30
Tires - Passenger Car	\$3.45
Tires - Passenger Car with Rim	\$5.40
Tires - Truck	\$7.35
Tires - Truck with Rim	\$9.90
Tires - Tractor	43.65 - 330.05
E-Waste - Computers	No Charge
E-Waste - Monitors	No Charge
Scrap Metal	No Charge

* Rates are rounded to the nearest five cents

SWS Transfer Station Agreement

		Cost/Rev	Adjustment Period	Adjustment Method	Index Used	Cost Group
1,2,4	Construction / Lease	\$2.36 / MSW ton	Annual	100% of index change	CPI - US Cities CPI-U	Base Rate as Adjusted
3	Construction / Lease	\$10.00 / MSW ton	Time to Time	Per City	N/A	Pass Through
1,2	Fuel		Annual	100% of index change	eia CA #2 Diesel Retail all sellers	Base Rate as Adjusted
	Disposal - Landfill		Time to Time	Per Landfill Agreement	N/A	Pass Through
9	Disposal - Processing		Time to Time	Per Processor Agreements	N/A	Pass Through
1,2	Operating Costs		Annual	100% of index change	CPI - US Cities CPI-U	Base Rate as Adjusted
	Per Ton Contractor Gate					
4	City Franchise Fee	\$2.00	Time to Time	Per City	N/A	Pass Through
4	MSWMA Fee	\$5.00	Time to Time	Per MSWMA	N/A	Pass Through
6,7,8	TOTAL GATE FEE					

Notes

- 1 Agreement should state mutually agreed upon Index if Index becomes unavailable
- 2 June to June change
- 3 Lease rate replaces construction rate January 1, 2017 - \$10.00 per ton MSW
- 4 Part of Construction rate left in gate rate to cover triple net lease costs (adjusts by CPI) starting January 1, 2017. i.e.. Prop tax, Insurance & R&M.
- 4 Agreement should state initial rate, subject to change by City / MSWMA action
- 5 Exhibit of calculation to be made part of agreement
- 6 SWS requests new rate by Aug 15, City approves by Oct 15, Pub Notice given by Nov 1, Adjusted Rate goes into effect following January 1.
- 7 Per Yard Gate Fee shall be equal to 24.05% of per ton contractor gate fee PLUS per ton City & MSWMA fees divided by 5.54 (MSWMA yards / ton)
- 8 Rate change is calculated as follows: % annual adjustment X actual prior year (July to June) component cost = new funds needed / total gate revenue
= % adjustment to gate rate.
- 9 Processing contract mutually agreed to with city - i.e. PRS grinding yard rate charged SWS for greenwaste.

City can direct SWS to implement other programs, provided the costs of such programs are covered through increased rates.

Solid Wastes Systems, Inc.

Statement of Profit & Loss

Comparison Year July 2014 to June 2015

TOTAL REVENUE	\$3,529,692.78
Less: Scrap Metal Revenue	\$114,151.50
 Buyback Recycle Revenue	\$143,397.35
 Compost/Landscape Revenue	\$83,423.82
Comparison Year Rate Revenue	\$3,188,720.11

EXPENSES

Fuel Cost	\$183,299.72
Disposal - MSW	\$978,220.31
Disposal - Processing	\$192,394.15
Construction/Lease \$2.36/ton	\$75,377.55
Construction/Lease \$10.00/ton	\$319,396.40
City Landfill Fee \$2.00 /ton	\$65,963.41
MSWMA Fee \$5.00/ton	\$164,830.32
All Other Costs (CPI driven costs)*	\$1,480,527.44
TOTAL OPERATING EXPENSES	\$3,460,009.30

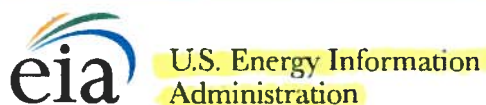
* Excludes: Fuel Costs, Pass-through Costs, Purchase of Scrap Metal, Buy-back recycle purchased and Compost/Landscaping Material Cost.

Table 24. Historical Consumer Price Index for All Urban Consumers (CPI-U): U. S. city average, all items-Continued

(1982-84=100, unless otherwise noted)

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.
1970	37.8	38.0	38.2	38.5	38.6	38.8	39.0	39.0	39.2	39.4	39.6	39.8
1971	39.8	39.9	40.0	40.1	40.3	40.6	40.7	40.8	40.8	40.9	40.9	41.1
1972	41.1	41.3	41.4	41.5	41.6	41.7	41.9	42.0	42.1	42.3	42.4	42.5
1973	42.6	42.9	43.3	43.6	43.9	44.2	44.3	45.1	45.2	45.6	45.9	46.2
1974	46.6	47.2	47.8	48.0	48.6	49.0	49.4	50.0	50.6	51.1	51.5	51.9
1975	52.1	52.5	52.7	52.9	53.2	53.6	54.2	54.3	54.6	54.9	55.3	55.5
1976	55.6	55.8	55.9	56.1	56.5	56.8	57.1	57.4	57.6	57.9	58.0	58.2
1977	58.5	59.1	59.5	60.0	60.3	60.7	61.0	61.2	61.4	61.6	61.9	62.1
1978	62.5	62.9	63.4	63.9	64.5	65.2	65.7	66.0	66.5	67.1	67.4	67.7
1979	68.3	69.1	69.8	70.6	71.5	72.3	73.1	73.8	74.6	75.2	75.9	76.7
1980	77.8	78.9	80.1	81.0	81.8	82.7	82.7	83.3	84.0	84.8	85.5	86.3
1981	87.0	87.9	88.5	89.1	89.8	90.6	91.6	92.3	93.2	93.4	93.7	94.0
1982	94.3	94.6	94.5	94.9	95.8	97.0	97.5	97.7	97.9	98.2	98.0	97.6
1983	97.8	97.9	97.9	98.6	99.2	99.5	99.9	100.2	100.7	101.0	101.2	101.3
1984	101.9	102.4	102.6	103.1	103.4	103.7	104.1	104.5	105.0	105.3	105.3	105.3
1985	105.5	106.0	106.4	106.9	107.3	107.6	107.8	108.0	108.3	108.7	109.0	109.3
1986	109.6	109.3	108.8	108.6	108.9	109.5	109.5	109.7	110.2	110.3	110.4	110.5
1987	111.2	111.6	112.1	112.7	113.1	113.5	113.8	114.4	115.0	115.3	115.4	115.4
1988	115.7	116.0	116.5	117.1	117.5	118.0	118.5	119.0	119.8	120.2	120.3	120.5
1989	121.1	121.6	122.3	123.1	123.8	124.1	124.4	124.6	125.0	125.6	125.9	126.1
1990	127.4	128.0	128.7	128.9	129.2	129.9	130.4	131.6	132.7	133.5	133.8	133.8
1991	134.6	134.8	135.0	135.2	135.6	136.0	136.2	136.6	137.2	137.4	137.8	137.9
1992	138.1	138.6	139.3	139.5	139.7	140.2	140.5	140.9	141.3	141.8	142.0	141.9
1993	142.6	143.1	143.6	144.0	144.2	144.4	144.4	144.8	145.1	145.7	145.8	145.8
1994	146.2	146.7	147.2	147.4	147.5	148.0	148.4	149.0	149.4	149.5	149.7	149.7
1995	150.3	150.9	151.4	151.9	152.2	152.5	152.5	152.9	153.2	153.7	153.6	153.5
1996	154.4	154.9	155.7	156.3	156.6	156.7	157.0	157.3	157.8	158.3	158.6	158.6
1997	159.1	159.6	160.0	160.2	160.1	160.3	160.5	160.8	161.2	161.6	161.5	161.3
1998	161.6	161.9	162.2	162.5	162.8	163.0	163.2	163.4	163.6	164.0	164.0	163.9
1999	164.3	164.5	165.0	166.2	166.2	166.2	166.7	167.1	167.9	168.2	168.3	168.3
2000	168.8	169.8	171.2	171.3	171.5	172.4	172.8	172.8	173.7	174.0	174.1	174.0
2001	175.1	175.8	176.2	176.9	177.7	178.0	177.5	177.5	178.3	177.7	177.4	176.7
2002	177.1	177.8	178.8	179.8	179.8	179.9	180.1	180.7	181.0	181.3	181.3	180.9
2003	181.7	183.1	184.2	183.8	183.5	183.7	183.9	184.6	185.2	185.0	184.5	184.3
2004	185.2	186.2	187.4	188.0	189.1	189.7	189.4	189.5	189.9	190.9	191.0	190.3
2005	190.7	191.8	193.3	194.6	194.4	194.5	195.4	196.4	198.8	199.2	197.6	196.8
2006	198.3	198.7	199.8	201.5	202.5	202.9	203.5	203.9	202.9	201.8	201.5	201.8
2007	202.416	203.499	205.352	206.686	207.949	208.352	208.299	207.917	208.490	208.936	210.177	210.036
2008	211.080	211.693	213.528	214.823	216.632	218.815	219.964	219.086	218.783	216.573	212.425	210.228
2009	211.143	212.193	212.709	213.240	213.856	215.693	215.351	215.834	215.969	216.177	216.330	215.949
2010	216.687	216.741	217.631	218.009	218.178	217.965	218.011	218.312	218.439	218.711	218.803	219.179
2011	220.223	221.309	223.467	224.906	225.964	225.722	225.922	226.545	226.889	226.421	226.230	225.672
2012	226.665	227.663	229.392	230.085	229.815	229.478	229.104	230.379	231.407	231.317	230.221	229.601
2013	230.280	232.166	232.773	232.531	232.945	233.504	233.596	233.877	234.149	233.546	233.069	233.049
2014	233.916	234.781	236.293	237.072	237.900	238.343	238.250	237.852	238.031	237.433	236.151	234.812
2015	233.707	234.722	236.119	236.599	237.805	238.638	-	-	-	-	-	-

See footnotes at end of table.



PETROLEUM & OTHER LIQUIDS

OVERVIEW DATA ANALYSIS & PROJECTIONS

GLOSSARY FAQs

Referring Pages:

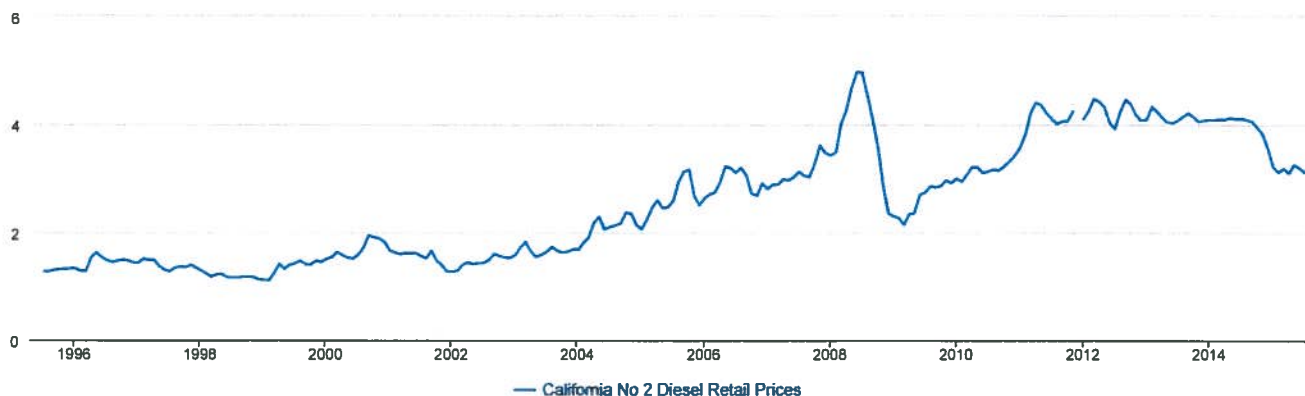
- California Gasoline and Diesel Retail Prices
- Retail Prices for Diesel (On-Highway) - All Types

View History: ☐ Weekly ☒ Monthly ☐ Annual

Download Data (XLS File)

California No 2 Diesel Retail Prices

Dollars per Gallon



Source: U.S. Energy Information Administration

Chart Tools

no analysis applied

This series is available through the EIA open data API and can be downloaded to Excel or embedded as an interactive chart or map on your website.

California No 2 Diesel Retail Prices (Dollars per Gallon)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1995							1.266	1.271	1.294	1.307	1.313	1.322
1996	1.322	1.277	1.276	1.529	1.615	1.529	1.471	1.440	1.467	1.486	1.471	1.433
1997	1.427	1.509	1.475	1.486	1.376	1.304	1.267	1.337	1.357	1.347	1.390	1.340
1998	1.286	1.226	1.174	1.217	1.222	1.163	1.157	1.158	1.167	1.172	1.169	1.123
1999	1.110	1.104	1.237	1.404	1.314	1.392	1.415	1.468	1.401	1.393	1.466	1.447
2000	1.505	1.536	1.629	1.570	1.524	1.509	1.580	1.713	1.940	1.904	1.882	1.816
2001	1.659	1.618	1.593	1.610	1.609	1.612	1.561	1.514	1.651	1.475	1.384	1.270
2002	1.269	1.289	1.394	1.444	1.411	1.427	1.428	1.484	1.597	1.557	1.532	1.524
2003	1.579	1.725	1.818	1.650	1.543	1.581	1.635	1.725	1.656	1.622	1.639	1.681
2004	1.677	1.809	1.897	2.171	2.284	2.056	2.098	2.128	2.164	2.361	2.348	2.137
2005	2.059	2.244	2.455	2.590	2.450	2.469	2.578	2.945	3.125	3.160	2.668	2.504
2006	2.630	2.703	2.738	2.932	3.222	3.192	3.104	3.193	3.053	2.721	2.679	2.906
2007	2.803	2.886	2.885	2.985	2.964	3.019	3.123	3.049	3.024	3.267	3.608	3.475
2008	3.423	3.488	4.014	4.265	4.673	4.968	4.965	4.542	4.087	3.568	2.832	2.345
2009	2.297	2.260	2.139	2.336	2.354	2.697	2.734	2.850	2.837	2.856	2.962	2.913
2010	2.997	2.938	3.058	3.206	3.205	3.102	3.124	3.164	3.144	3.214	3.305	3.408
2011	3.560	3.804	4.187	4.400	4.362	4.213	4.106	4.009	4.057	4.059	4.245	NA
2012	4.103	4.251	4.474	4.419	4.316	4.027	3.917	4.240	4.456	4.376	4.170	4.076
2013	4.083	4.325	4.245	4.134	4.040	4.023	4.068	4.138	4.209	4.134	4.048	4.073
2014	4.082	4.084	4.092	4.089	4.119	4.101	4.110	4.085	4.054	3.938	3.813	3.542
2015	3.212	3.110	3.182	3.098	3.254	3.192	3.115					

SOLID WASTE SYSTEMS - UKIAH TRANSFER STATION

MUNICIPAL SOLID WASTE

2014	CITY SELF-HAUL			UKIAH WASTE SOLUTIONS	Total City	COUNTY SELF-HAUL			EMPIRE WASTE MGMT	ANDERSON VALLEY	BOONVILLE TRANSFER STATION	POTTER VALLEY TRANSFER STATION	Total County	TOTAL, City + County
MONTH	YARDS	yds to tons	TONS	TONS	TONS	YARDS	yds to tons	TONS	TONS	TONS	TONS	TONS	TONS	TONS
Jan-14	874.29	157.81	124.26	839.14	1121.21	1586.21	286.31	452.33	737.88	48.80	30.10	15.11	1570.53	2691.74
Feb-14	770.19	139.02	60.48	709.02	908.52	1079.14	194.78	390.33	655.68	49.01	34.24	18.96	1343.00	2251.52
Mar-14	980.68	177.01	71.04	818.72	1066.77	1307.24	235.96	560.50	740.62	56.34	45.13	12.05	1650.60	2717.37
Apr-14	1059.34	191.21	243.71	835.96	1270.88	1520.73	274.49	440.47	763.69	55.44	33.84	23.72	1591.65	2862.53
May-14	938.57	169.41	116.73	859.64	1145.78	1683.16	303.81	551.05	720.70	63.66	36.65	11.53	1687.40	2833.18
Jun-14	1054.97	190.42	148.51	773.71	1112.64	1286.04	232.13	616.91	669.30	72.17	41.42	19.61	1651.54	2764.18
Jul-14	978.54	176.63	245.31	846.28	1268.22	1413.35	255.11	415.68	723.08	67.32	33.09	13.88	1508.16	2776.38
Aug-14	1015.93	183.38	177.41	769.15	1129.94	1254.69	226.47	505.88	747.98	70.14	40.75	9.22	1600.44	2730.38
Sep-14	839.00	151.44	84.44	807.04	1042.92	1260.33	227.49	498.35	696.35	65.72	27.93	14.42	1530.26	2573.18
Oct-14	976.76	176.31	115.41	868.50	1160.22	1410.76	254.64	434.25	761.88	59.41	28.19	8.80	1547.17	2707.39
Nov-14	664.67	119.97	67.62	805.10	992.69	1495.02	269.85	403.13	701.91	50.18	35.96	15.92	1476.95	2469.64
Dec-14	932.89	168.39	103.07	911.51	1182.97	1229.26	221.88	252.91	801.86	56.26	29.57	16.70	1379.18	2562.15
TOTAL	11,085.83	2,000.99	1,557.99	9,843.77	13,402.75	16,525.93	2,982.93	5,521.79	8,720.93	714.45	416.87	179.92	18,536.89	31,939.64

MONTH	TOTAL CITY TONS	TOTAL COUNTY TONS	TOTAL MSW TONS	% CITY	% COUNTY
Jan-14	1121.21	1570.53	2691.74	41.65%	58.35%
Feb-14	908.52	1343.00	2251.52	40.35%	59.65%
Mar-14	1066.77	1650.60	2717.37	39.26%	60.74%
Apr-14	1270.88	1591.65	2862.53	44.40%	55.60%
May-14	1145.78	1687.40	2833.18	40.44%	59.56%
Jun-14	1112.64	1651.54	2764.18	40.25%	59.75%
Jul-14	1268.22	1508.16	2776.38	45.68%	54.32%
Aug-14	1129.94	1600.44	2730.38	41.38%	58.62%
Sep-14	1042.92	1530.26	2573.18	40.53%	59.47%
Oct-14	1160.22	1547.17	2707.39	42.85%	57.15%
Nov-14	992.69	1476.95	2469.64	40.20%	59.80%
Dec-14	1182.97	1379.18	2562.15	46.17%	53.83%

31939.64

SOLID WASTE SYSTEMS - UKIAH TRANSFER STATION

MUNICIPAL SOLID WASTE

2013	CITY SELF-HAUL			UKIAH WASTE SOLUTIONS	Total City	COUNTY SELF-HAUL			EMPIRE WASTE MGMT	ANDERSON VALLEY	BOONVILLE TRANSFER STATION	POTTER VALLEY TRANSFER STATION	Total County	TOTAL, City + County
MONTH	YARDS	yds to tons	TONS	TONS	TONS	YARDS	yds to tons	TONS	TONS	TONS	TONS	TONS	TONS	TONS
Jan-13	1053.09	190.08	74.60	858.03	1122.71	1315.65	237.47	344.68	732.57	45.75	29.77	19.06	1409.30	2532.02
Feb-13	926.70	167.27	129.48	777.78	1074.53	1324.94	239.15	530.58	594.99	44.28	29.04	16.37	1454.41	2528.94
Mar-13	1092.55	197.21	158.68	747.20	1103.09	1409.37	254.39	270.92	724.60	47.83	27.81	16.18	1341.73	2444.82
Apr-13	1040.72	187.85	108.60	752.14	1048.59	1552.05	280.15	587.65	749.78	52.88	36.33	23.92	1730.71	2779.29
May-13	1001.82	180.83	90.93	800.37	1072.13	1655.71	298.86	493.59	814.80	72.50	33.26	15.94	1728.95	2801.07
Jun-13	1066.33	192.47	194.77	732.56	1119.80	1701.37	307.10	324.80	672.12	70.88	26.13	24.29	1425.32	2545.12
Jul-13	975.39	176.06	266.02	807.92	1250.00	1663.11	300.19	466.71	750.30	100.19	30.39	15.89	1663.67	2913.67
Aug-13	999.68	180.44	302.03	821.77	1304.24	1659.42	299.53	527.07	776.41	84.24	33.23	26.15	1746.63	3050.87
Sep-13	986.95	178.14	145.56	814.30	1138.00	1336.75	241.28	362.85	769.48	67.92	31.21	10.66	1483.40	2621.41
Oct-13	1013.47	182.93	154.25	829.28	1166.46	1577.72	284.78	477.25	762.09	51.19	35.14	25.38	1635.83	2802.29
Nov-13	1088.08	196.40	79.19	759.99	1035.58	1498.25	270.43	418.72	721.46	50.09	44.71	12.03	1517.44	2553.02
Dec-13	746.74	134.79	89.96	769.26	994.01	1243.68	224.48	313.82	752.20	39.28	29.59	13.98	1373.35	2367.36
TOTAL	11,991.52	2,164.47	1,794.07	9,470.60	13,429.14	17,938.02	3,237.81	5,118.64	8,820.80	727.03	386.61	219.85	18,510.74	31,939.88

MONTH	TOTAL CITY TONS	TOTAL COUNTY TONS	TOTAL MSW TONS	% CITY	% COUNTY
Jan-13	1122.71	1409.30	2532.02	44.34%	55.66%
Feb-13	1074.53	1454.41	2528.94	42.49%	57.51%
Mar-13	1103.09	1341.73	2444.82	45.12%	54.88%
Apr-13	1048.59	1730.71	2779.29	37.73%	62.27%
May-13	1072.13	1728.95	2801.07	38.28%	61.72%
Jun-13	1119.80	1425.32	2545.12	44.00%	56.00%
Jul-13	1250.00	1663.67	2913.67	42.90%	57.10%
Aug-13	1304.24	1746.63	3050.87	42.75%	57.25%
Sep-13	1138.00	1483.40	2621.41	43.41%	56.59%
Oct-13	1166.46	1635.83	2802.29	41.63%	58.37%
Nov-13	1035.58	1517.44	2553.02	40.56%	59.44%
Dec-13	994.01	1373.35	2367.36	41.99%	58.01%
			31939.88		

Solid Wastes Systems, Inc.

this Agreement and provided Contractor shall have fulfilled all requirements for the renewal of such permits, licenses and approvals. Contractor shall provide City's City Manager or his or her designee with copies of all permits or amendments or renewals thereof which are not issued by City.

4.14 Applicable Law. Contractor shall perform all its obligations under this Agreement in accordance with all applicable laws, including, without limitation, the permits, licenses and approvals described in Section 4.12 above, and shall be solely liable for all fines and penalties that may be imposed on Contractor for violations thereof.

5. Landfill Fee and Other Surcharges. Within forty-five (45) days after the end of each calendar month during the term of this Agreement, Contractor shall remit to City as a landfill fee a sum of money equal to Two Dollars (\$2.00) per ton (or the equivalent amount for a cubic yard), or such other amount approved by City, of Acceptable Waste received by Contractor at the Transfer Station, and any other Surcharge, approved by and acceptable to the City still in force shall be remitted to an entity, as directed by the City, within ninety (90) days after the end of each calendar month. If these fees are not paid on or before such due date, a late payment fee in an amount equal to eighty-three one-hundredths of a percent (0.83%) of the amount owing per month will be charged for each thirty (30) day period, or portion thereof, that the fee remains unpaid. Each monthly remittance to City shall be accompanied by a statement detailing the Acceptable Waste received at the Transfer Station for the period covered.

6. Gate Rate and Other Service Fees.

6.1 Establishment. Exhibit D sets forth the gate rate and other service fees for services provided by Contractor under this Agreement (collectively, the "Rates") effective as of the Effective Date. Contractor shall not charge lower Rates to any Franchised Waste Hauler or Self Hauler serving or from areas outside the City. Such Rates shall be subject to review and revision as set forth in Sections 6.2, 6.3, 6.4 and 6.5 below. Contractor shall not charge any amount in excess of the approved Rates for services required by or permitted under this Agreement.

6.2 Modification Based on Consumer Price Index, Fuel Index and Certain Pass-Through Costs.

(a) Per Ton MSW Rate. The per ton Municipal Solid Waste ("MSW") Rate shall be adjusted January 1st every year, beginning January 1, 2013 ("Rate Adjustment Date") to reflect changes in the CPI, the Fuel Index and certain Pass-Through Costs by an amount determined in accordance with the Transfer Station Rate Calculation attached hereto as Exhibit E (the "Calculation").

(b) Definitions. For purposes of Rate adjustments pursuant to this Section 6.2 and the Calculation, the following terms shall have the following meanings.

(i) "Base Fuel Cost" means Contractor's actual costs for diesel and other fuels used in performing services under this Agreement for the year ended December 31, 2010 or \$152,533.47.

(ii) "Base Revenue" means Contractor's total revenue received from Franchised Haulers and Self-Haulers during the Comparison Year, excluding revenue from the sale of scrap metal, Recyclables purchased under the buy-back program, and compost.

(iii) "Base Year" means the year ended June 30th one year prior to June 30th of the Comparison Year.

(iv) "Comparison Year" means the year ended June 30th immediately prior to the relevant Rate Adjustment Date.

(v) "Contractor Rate" means the per ton MSW Rate minus the per ton Franchise Fees.

(vi) "CPI" means the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items (1982-1984=100), published by the United States Department of Labor, Bureau of Labor Statistics.

(vii) "Disposal Fees – Garbage" means the actual Disposal Costs paid by Contractor for Solid Waste delivered by Contractor to the Disposal Facility during the Comparison Year.

(viii) "Disposal Fees – Processing" means the actual Processing Costs paid by Contractor to CCC, PRS or any other Authorized Facility for Recyclables, Green Waste and Food waste delivered by Contractor to the CCC facility, the PRS Facility or such Authorized Facility, respectively, during the Comparison Year.

(ix) "Fuel Costs" means Contractor's actual costs for diesel and other fuels used in performing services under this Agreement during the Comparison Year.

(x) "Fuel Index" means the California No.2 Diesel Retail Sales by all Sellers (Dollars Per Gallon) published by the U. S. Energy Information Administration.

(xi) "Operating Costs" means all of Contractor's costs to operate the Transfer Station under this Agreement, including, without limitation, labor costs, vehicle and vehicle-related costs, maintenance, insurance and transportation costs, but excluding Fuel Costs, Pass-Through Costs and the costs of purchasing scrap metal, Recyclables purchased under the buy-back program, and compost (including sales taxes).

(c) Rules. For purposes of Rate adjustments pursuant to this Section 6.2 and the Calculation, the following rules shall apply.

(i) "CPI Change" shall be calculated as one hundred percent (100%) of the percentage increase or decrease, if any, in the CPI during the Comparison Year, using the CPI published for June of such Year as compared with the CPI published for June of the Base Year.

(ii) "Fuel Index Change" shall be calculated as one hundred percent (100%) of the percentage increase or decrease, if any, in the Fuel Index from June of the Base Year through June of the Comparison Year; provided, however, that, notwithstanding Section 6.2(b)(iii) above, "Base Year" for purposes of the Fuel Index Change shall mean the year ended June 30, 2010; and, provided, further, that the Fuel Index Change adjustment (i.e., Fuel Index Change multiplied by Base Fuel Cost) for any Rate Adjustment Date shall be calculated after removal of such adjustment for the prior Rate Adjustment Date.

(iii) The Adjustments for destination charges and Disposal Fees with respect to the use of the Eastlake landfill that appear in the Calculation are not recurring.

(iv) Rate adjustments for changes in Franchise Fees that take effect on a date other than January 1st, as well as changes in other Pass-Through Costs, will be determined under Section 6.3 below and not under this Section 6.2.

(v) If City elects to purchase the Transfer Station Site and the Improvements on December 31, 2016 pursuant to Section 12 below, the cost entitled "Construction/Lease \$2.36/ton" in the Calculation will be increased annually commencing January 1, 2018 by one hundred percent (100%) of the percentage increase or decrease, if any, in the CPI during the Comparison Year, using the CPI published for June of such Year as compared with the CPI published for June of the Base Year.

(vii) As set forth in the Calculation, each adjustment in the per ton MSW Rate pursuant to this Section 6.2 shall equal the percentage adjustment in the Contractor Rate plus the per ton Franchise Fees.

(d) Per Yard MSW and Minimum MSW Rates. Each of the per yard MSW Rate, minimum MSW Rate and per can MSW Rate shall be adjusted January 1st every year (beginning January

1, 2013), as follows: the per yard MSW Rate shall equal 24.05% of the Contractor Rate, plus the per ton Franchise Fees divided by 5.54; the minimum MSW Rate shall equal the per yard MSW Rate divided by two (2); and the per can MSW Rate shall equal the minimum MSW Rate divided by three (3). All rates in this Section 6.2(d) shall be rounded to the nearest five cents.

(e) All Other Rates. Each of the Rates set forth on Exhibit D other than the MSW Rates shall be adjusted January 1st every year (beginning January 1, 2013) by an amount equal to the percentage increase or decrease, if any, in the Contractor Rate (i.e., determined before adjusting for Franchise Fees). All rates in this Section 6.2(e) shall be rounded to the nearest five cents.

(f) Procedure. The procedure for Rate adjustments under this Section 6.2 shall be as follows:

(i) Not later than August 15th of each year, Contractor shall file with the City Manager a written notice of intention to adjust each of the then current Rates effective as of January 1st of the next year in accordance with Section 6.2(a) through (e) above.

(ii) Within sixty (60) days of the filing of the notice of intention, the City Manager shall review the notice and either confirm that the proposed Rates are within the limit of Section 6.2 above or establish by mutual agreement with Contractor any necessary changes to the proposed Rates to make such confirmation.

(iii) Not later than October 20th, the City Manager shall inform the City Council in writing of his or her determination regarding the proposed new Rates and the City Council shall be entitled to review and confirm that the proposed Rates are within the limit of Section 6.2 above or establish by mutual agreement with Contractor any necessary changes to the proposed Rates to make such confirmation, not later than November 20th. Any Rates shall become effective on the following January 1st, provided that Contractor shall post notice of the revised Rates at the Transfer Station not later than December 1st.

(iv) In the event that the CPI or the Fuel Index described in Section 6.2 above shall be discontinued or materially modified during the term of this Agreement, the parties shall together select a replacement index and/or otherwise change Section 6.2 above so as to replicate, as nearly as possible, the mutual intention of the parties to rely on the results of either index described in Section 6.2 as in effect on the date hereof.

6.3 Modification Based on Changes in Pass-Through Costs. In addition to adjustments under Section 6.2 above, each Rate shall be adjusted to reflect changes in Pass-Through Costs that are not the subject of Rate adjustments pursuant to Section 6.2 above, as follows. Using the section of the Calculation entitled "Revenue Base," each Rate shall be increased by an amount equal to the increase in applicable Pass-Through Costs, and decreased by an amount equal to the decrease in applicable Pass-Through Costs, in each case so as to cause such Rate to compensate for such change in Pass-Through Costs as of the date such change becomes effective and either payable by or a benefit to Contractor, and taking into account the increase or decrease in Franchise Fees payable in respect of such change. Changes in Pass-Through Costs resulting from a change in Disposal Facilities or Processing Facilities shall cause an increase in Rates as provided herein only if Contractor has complied with Sections 4.1.1 and 4.1.2 and City has approved the successor or alternate Facilities in accordance with such Sections.

6.4 Five Year Review. Once every five (5) years (beginning no later than April 2, 2016 for purposes of adjusting the Rates effective January 1, 2017), City shall conduct a review for the purpose of determining whether or not the automatic adjustments provided in Sections 6.2, 6.3 and 6.5 have adequately adjusted the Rates to cover the actual increase or decrease in the Contractor's reasonable operating costs or have exceeded those costs and whether the Rates remains fair to the ratepayer and the

Contractor. Depending on the results of that review the City may approve an increase or decrease in the Rates. City shall complete each such review and adjustment, if any, at least three months (3) prior to the beginning of such year (by September 30, 2016 in the case of the first such review), and Contractor shall cooperate with such review. In conducting each such review, City shall consider the following information: financial records of Contractor (including operating expenses and revenues and Disposal, Processing, Regulatory and other costs of Contractor, and Contractor revenues), the factors described in Section 6.5 below, and rates charged for comparable services at similar facilities. Increases or decreases in the Rates pursuant to this Section 6.4 shall be subject to the notice and public hearing requirements in the Ukiah City Code, Division 4, Chapter 6, Article 1, commencing with Section 3950. The City may conduct such investigation as it deems necessary to perform this review and Contractor shall cooperate with such investigation, which may include the City's inspection and copying of Contractor records and review and/or audit of Contractor's financial records by a City retained CPA, the costs of which shall be reimbursed to City from Base Revenue but treated as a Pass-Through Cost for rate setting purposes.

6.5 Modification Based on Extraordinary Items. In addition to adjustments under Sections 6.2, 6.3, and 6.4 above, Contractor may request an increase in the Rates if Contractor's costs increase or its revenues decrease solely as the result of extraordinary circumstances beyond its control that could not have been reasonably anticipated by Contractor (such as a Change in Law) and if the increase in costs or decrease in revenues unavoidably adversely affects Contractor's opportunity to operate at a reasonable profit. Contractor shall have the burden of producing evidence satisfactory to City demonstrating its need for a rate increase prior to the regular Five Year Review pursuant to Section 6.4 above, including, but not limited to, Reviewed or Audited financial statements of Contractor, if requested by City. The City Council shall consider the request pursuant to the notice and public hearing procedures in Ukiah City Code, Division 4, Chapter 6, Article 1, commencing with Section 3950.

6.6 Billing. Contractor shall charge and collect from all customers at the Transfer Station upon receipt of materials, or bill such customers, for all services hereunder. Interest of one percent (1%) per month or the highest rate permitted under applicable law, whichever is less, shall be applied to any past due amounts until paid in full. Amounts shall be past due if not paid within thirty (30) days of billing. Contractor shall have the right to refuse service to any customer that is more than sixty (60) days delinquent on his, her or its account.

7. Provisions Applicable to Equipment and Personnel.

7.1 Equipment. Contractor shall provide all equipment necessary to perform the services described in the Agreement, sufficient in number and capacity to efficiently perform the work required by this Agreement. All equipment used at the Transfer Station shall be maintained in good working condition and be suitable for use at the facility without causing unreasonable wear and tear or damage to the improvements constructed on the Site. The equipment shall comply with all applicable legal requirements. Contractor shall keep the outside of the truck bodies free from dirt and filth, and shall clean the inside of the trucks in a sanitary manner on a regular basis. Suitable measures shall be taken to prevent refuse from falling into public streets or places. Contractor shall keep all trucks freshly painted in a uniform manner, and the firm name or logo, telephone number, and truck number of each truck shall appear in a conspicuous manner. Contractor shall keep all equipment in good maintenance and repair, regularly inspect same, and keep accurate records of all maintenance.

7.2 Facility Maintenance. Contractor shall maintain the Site and the tipping floor in an

**Ukiah Waste Solutions, Inc.
P.O. Box 60
Ukiah, CA 95482**

Mr. Sage Sangiacomo
City Manager
City of Ukiah
300 Seminary Avenue
Ukiah, CA 95482

August 14, 2015

RE: UWS letter of intention to adjust rates.

Dear Mr. Sangiacomo,

Please accept this letter as our formal notification of intention to adjust each of the current Ukiah Waste Solutions, Inc. rates effective as of January 1, 2016 in accordance with Section 6.2(a) through (c) of the Waste Collection Agreement dated December 12, 2011.

Thank you,

UKIAH WASTE SOLUTIONS, INC.

David M. Carroll

David M. Carroll
President

Cc: Karen Scalabrini

Ukiah Waste Solutions Curbside Rate Components
Annual Adjustment Calculations
Effective Date January, 2016

<u>Comparison Year Costs</u>		Index	Increase / Decrease Allowed	
TOTAL COSTS	<u>\$3,028,068.47</u>			
Less: Fuel Cost	\$181,939.66	Fuel	(58,807.92)	
Less Disposal Fees - Garbage	\$809,674.57	SWS TS Gate	(971.61)	
Less Disposal Fees - Green Waste	\$55,785.84	Negotiated	0.00	
Less City Landfill Closure Costs	\$60,000.00	Set by City	0.00	
Less City Commercial Oversight fee	\$9,999.96	Set by City	0.00	
Collection Costs before Recycle Credit	<u>\$1,910,668.44</u>			
Recycle Credit	-\$16,323.15			
Change in Franchise Fee & Billing Costs			(11,260.40)	
Collection COSTS Subject to CPI adj.	<u>\$1,894,345.29</u>	CPI	2,273.21	
			<u>(68,766.72)</u>	TOTAL

<u>Revenue base</u>	Residential	Commercial	Roll Off	Total Revenue
	27.64%	67.17%	5.19%	100.00%
2015 Comparison Year Revenue	<u>\$878,256.06</u>	<u>\$2,134,702.00</u>	<u>\$165,013.48</u>	<u>\$3,177,971.54</u>
Fuel Cost	(\$16,252.01)	(\$39,502.36)	(\$3,053.55)	(\$58,807.92)
Disposal Fees - Greenwaste	\$0.00	\$0.00	\$0.00	\$0.00
Landfill closure cost	\$0.00	\$0.00	\$0.00	\$0.00
Commercial Oversight fee	\$0.00	\$0.00	\$0.00	\$0.00
Other Regulatory & Governmental Costs	\$0.00	\$0.00	\$0.00	\$0.00
Disposal Fees - Garbage	(\$268.51)	(\$652.65)	(\$50.45)	(\$971.61)
CPI adjustment	\$628.22	\$1,526.96	\$118.03	\$2,273.21
Total before franchise and billing fees	\$862,363.76	\$2,096,073.95	\$162,027.51	\$3,120,465.22
Franchise Fee	(\$3,022.05)	(\$7,086.18)	(\$547.76)	(\$10,655.99)
Billing Fee	(\$604.41)	\$0.00	\$0.00	(\$604.41)
Adjusted revenue	<u>\$858,737.30</u>	<u>\$2,088,987.77</u>	<u>\$161,479.75</u>	<u>\$3,109,204.82</u>
Revenue Adjustment	(\$19,518.76)	(\$45,714.23)	(\$3,533.73)	(\$68,766.72)

Rate adjustment as a percent	-2.16%
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Ukiah Waste Solutions Curbside Rate Components
Annual Adjustment Calculations
Effective Date January, 2016

Fuel - June to June (Fuel Index)

June 2014	June 2015	Index Increase (Decrease)
\$4.101	\$3.192	-\$0.909
		Fuel % Change
		-22.17%

CPI - June to June (Index)

June 2014	June 2015	Index Increase (Decrease)
238.343	238.638	0.295
		CPI % Change
		0.12%

Transfer Station Fee (Disposal Fees - Garbage) Jan to Jan

January 2015	January 2016	Increase (Decrease)
\$81.30	\$81.20	-0.100
		Transfer Station Fee % Change
		-0.12%

Green Waste Disposal Fee (Disposal - Green Waste) Jan to Jan

January 2015	January 2016	Increase (Decrease)
\$30.00	\$30.00	\$ -
		Disposal Fee - Green Waste % Change
		0.00%

Landfill Closure Costs Jan to Jan

January 2015	January 2016	Increase (Decrease)
\$60,000.00	\$60,000.00	\$ -
		Landfill Closure Costs % Change
		0.00%

Commercial Oversight Fee Jan to Jan

January 2015	January 2016	Increase (Decrease)
\$10,000.00	\$10,000.00	\$ -
		Commercial Oversight Fee % Change
		0.00%

Recycle Credit June to June

	Tons	Value/Ton	Credit
June 2015	3,264.63	\$5.00	\$ 16,323.15
		Recycle Credit	\$ 16,323.15

City Franchise Fee	15%	City Billing Fee - Residential Customers	3%
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Ukiah Waste Solutions, Inc.
2016 RATE ADJUSTMENT

	2016 Adjustment
Final Adjustment	(\$68,766.72)
% Rate Adjustment	-2.16%

<u>Revenue base</u>	<u>Comparison Year Revenue</u>	<u>Adjusted FA 2016 Revenue</u>
Residential	\$878,256.06	\$859,285.73
Commercial	\$2,134,702.00	\$2,088,592.44
Roll Off	\$165,013.48	\$161,449.19
Total Revenue base	\$3,177,971.54	\$3,109,327.35

SUMMARY OF RATE ADJUSTMENT FOR STANDARD SERVICES

YEAR 2016	Current 2015 Rate	New 2016 Rate	Effective Percentage Adjustment	Total Monthly Adjustment	Rate Per Gallon / Yard
<u>Curbside Service</u>					
No Service & 10 gallon can rate	\$ 4.91	\$ 4.80	-2.24%	\$ (0.11)	\$ 0.480
20 gallon can rate	\$ 10.34	\$ 10.12	-2.13%	\$ (0.22)	\$ 0.506
32 gallon can rate	\$ 18.57	\$ 18.17	-2.15%	\$ (0.40)	\$ 0.568
68 gallon can rate	\$ 43.88	\$ 42.93	-2.16%	\$ (0.95)	\$ 0.631
95 gallon can rate	\$ 61.82	\$ 60.48	-2.17%	\$ (1.34)	\$ 0.637
Other combinations - rate per gallon	\$ 0.72	\$ 0.70	-2.78%	\$ (0.02)	\$ 0.700
1 yard bin rate	\$ 122.88	\$ 120.23	-2.16%	\$ (2.65)	\$ 120.23
1.5 yard bin rate	\$ 145.21	\$ 142.07	-2.16%	\$ (3.14)	\$ 94.71
2 yard bin rate	\$ 193.63	\$ 189.45	-2.16%	\$ (4.18)	\$ 94.73
3 yard bin rate	\$ 290.42	\$ 284.15	-2.16%	\$ (6.27)	\$ 94.72
4 yard bin rate	\$ 387.23	\$ 378.87	-2.16%	\$ (8.36)	\$ 94.72
6 yard bin rate	\$ 580.86	\$ 568.31	-2.16%	\$ (12.55)	\$ 94.72
<u>Packout Service</u>					
10 gallon can rate	\$ 7.58	\$ 7.42	-2.11%	\$ (0.16)	\$ 0.742
20 gallon can rate	\$ 12.97	\$ 12.69	-2.16%	\$ (0.28)	\$ 0.635
32 gallon can rate	\$ 22.75	\$ 22.26	-2.15%	\$ (0.49)	\$ 0.696
68 gallon can rate	\$ 53.43	\$ 52.28	-2.15%	\$ (1.15)	\$ 0.769
95 gallon can rate	\$ 77.20	\$ 75.53	-2.16%	\$ (1.67)	\$ 0.795
Other combinations - rate per gallon	\$ 0.83	\$ 0.81	-2.41%	\$ (0.02)	\$ 0.810
<u>Remote Area Service</u>					
Add to the Packout Service rate.	\$ 7.58	\$ 7.42	-2.11%	\$ (0.16)	N/A
In areas with limited access, an additional fee is charged to fund the costs of special equipment and special handling necessary to provide garbage pickup services. This fee is in addition to the "Packout Service" fee listed in this schedule.					
<u>Commercial / Multi-Family Service</u>					
10 gallon can rate	\$ 5.12	\$ 5.01	-2.15%	\$ (0.11)	\$ 0.501
20 gallon can rate	\$ 10.72	\$ 10.49	-2.15%	\$ (0.23)	\$ 0.525
32 gallon can rate	\$ 19.28	\$ 18.86	-2.18%	\$ (0.42)	\$ 0.589
68 gallon can rate	\$ 45.56	\$ 44.58	-2.15%	\$ (0.98)	\$ 0.656
95 gallon can rate	\$ 64.21	\$ 62.82	-2.16%	\$ (1.39)	\$ 0.661
1 yard bin rate	\$ 122.88	\$ 120.23	-2.16%	\$ (2.65)	\$ 120.23
1.5 yard bin rate	\$ 145.21	\$ 142.07	-2.16%	\$ (3.14)	\$ 94.71
2 yard bin rate	\$ 193.63	\$ 189.45	-2.16%	\$ (4.18)	\$ 94.73
3 yard bin rate	\$ 290.42	\$ 284.15	-2.16%	\$ (6.27)	\$ 94.72
4 yard bin rate	\$ 387.23	\$ 378.87	-2.16%	\$ (8.36)	\$ 94.72
6 yard bin rate	\$ 580.86	\$ 568.31	-2.16%	\$ (12.55)	\$ 94.72

Calculation to adjust fuel costs						
Fuel Revenue Adjustment Worksheet, based on Fuel Index change, June to June						
Base Year Fuel Index and Cost		3.102		\$200,641.15	2010 Actual	
Index Change - New vs. Base Year						
1	Fuel index adjustment at June 2011	4.213	35.82%	\$71,869.66	Plus: Base Year Cost X Index Change	
	Revenue adjustment for January 2012 rate revision			\$71,869.66	Less: Prior Fuel Cost applied to rate	
				\$0.00		
				\$272,510.81		Fuel Cost Allowed Year 1
Annual adjustment based on Fuel Index change, year to year (using example fuel index changes)						
2	Fuel index adjustment at June 2012	4.027	29.82%	\$59,831.19	Plus: Base Year Cost X Index Change	
	Revenue adjustment for January 2013 rate revision			(\$12,038.47)	Less: Prior Fuel Cost applied to rate	
				\$71,869.66		
				\$260,472.34		Fuel Cost Allowed Year 2
3	Estimated Fuel index adjustment at June 2013	4.023	29.69%	\$59,570.36	Plus: Base Year Cost X Index Change	
	Revenue adjustment for January 2014 rate revision			(\$260.83)	Less: Prior Fuel Cost applied to rate	
				\$59,831.19		
				\$260,211.51		Fuel Cost Allowed Year 3
4	Estimated Fuel index adjustment at June 2014	4.101	32.21%	\$64,626.51	Plus: Base Year Cost X Index Change	
	Revenue adjustment for January 2015 rate revision			\$5,056.15	Less: Prior Fuel Cost applied to rate	
				\$59,570.36		
				\$265,267.66		Fuel Cost Allowed Year 4
5	Estimated Fuel index adjustment at June 2015	3.192	2.90%	\$5,818.59	Plus: Base Year Cost X Index Change	
	Revenue adjustment for January 2016 rate revision			(\$58,807.92)	Less: Prior Fuel Cost applied to rate	
				\$64,626.51		
				\$206,459.74		May be RESET during rate review process
6	Estimated Fuel index adjustment at June 20	3.192	2.90%	\$5,818.59	Plus: Base Year Cost X Index Change	
	Revenue adjustment for January 2017 rate revision			\$0.00	Less: Prior Fuel Cost applied to rate	
				\$5,818.59		
				\$206,459.74		Fuel Cost Allowed Year 6

Ukiah Waste Solutions, Inc.
Statement of Profit & Loss
Comparison Year July 2014 to June 2015

REVENUE

Residential	\$878,256.06
Commercial	\$2,134,702.00
RollOff	\$165,013.48
TOTAL REVENUE	<u>\$3,177,971.54</u>

EXPENSES

Fuel Cost	\$181,939.66
Disposal - MSW	\$809,674.57
Disposal - Green Waste	\$55,785.84
City Landfill Closure Costs	\$60,000.00
City Commercial Oversight Fee	\$9,999.96
All Other Costs (CPI driven costs)	\$1,910,668.44
TOTAL OPERATING EXPENSES	<u>\$3,028,068.47</u>

Recycle Credit Analysis

2014	Tons
Jul	264.32
Aug	248.42
Sep	257.73
Oct	269.05
Nov	258.06
Dec	331.32

2015	
Jan	270.88
Feb	259.20
Mar	272.37
Apr	281.77
May	272.73
Jun	278.78

Curbside	3,264.63	Tons
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2014-15	\$117.78	Annual average actual market price
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Recycle Credit 2015 \$16,323.15

Composite Market Value Grid
Annual Mo Average 2014 / 2015

% Composition	Commodity	Scrap Value/Ton	CRV Value/Ton	Weighted Value/Ton
16.75%	OCC #11	\$112.67		\$18.87
23.07%	ONP #7	\$66.00		\$15.23
21.01%	Mixed Paper	\$66.00		\$13.87
0.53%	HDPE Color	\$421.58	\$100.00	\$2.76
0.51%	HDPE Natural	\$649.08	\$100.00	\$3.82
1.94%	PET	\$238.83	\$1,140.00	\$26.75
1.25%	#3 - #7 MRP	\$78.08		\$0.98
1.82%	Tin	\$60.46		\$1.10
24.41%	Glass 3 Mix	(\$40.00)	\$84.00	\$10.74
0.71%	Alum Cans	\$1,388.42	\$2,860.00	\$30.16
8.00%	Residue	(\$81.30)		(\$6.50)
100.00%				\$117.78

Ukiah Waste Solutions Curbside Agreement

		Cost/Rev	Adjustment Period	Adjustment Method	Index Used	Cost Group
1,2	Fuel		Annual	100% of index change	eia Ca #2 Diesel Retail all sellers	Base Rate as Adjusted
	Disposal - Solid Waste		Time to Time	Per TS (SWS) Agreement	N/A	Pass Through
1,2	Operations (all other costs)		Annual	100% of index change	CPI - US Cities CPI-U	Base Rate as Adjusted
3	Recycle Reduction		Annual	Per Recycle Agreement	Rec Market Value Grid - \$5 base	Operating Cost Reduction
1,2	Green Waste Disposal	\$30 / Ton	Annual	Up to CPI (Contractor Choice)	CPI - US Cities CPI-U	Base Rate as Adjusted
1,2,8	Food Waste Disposal (Comm)	Up to \$40 / ton	Annual	Up to CPI (Contractor Choice)	CPI - US Cities CPI-U	Base Rate as Adjusted
4	City Franchise Fee	15%	Time to Time	City Action	N/A	Pass Through
4	City Bill Fee	3%	Time to Time	City Action	N/A	Pass Through
4	City Oversight Fee	\$10,000.00	Time to Time	City Action	N/A	Pass Through
4	City Landfill Closure Fee	\$60,000.00	Time to Time	City Action	N/A	Pass Through
6,9	TOTAL NET COST					

Notes

- 1 Agreement should state mutually agreed upon Index if Index becomes unavailable
- 2 June to June change
- 3 Recycle Agreement with PRS renewable every 5 years with Base Market Value per mixed ton to provide for Rev sharing with City (reduction of operating costs).
- 4 Agreement should state initial rate, subject to change by City action
- 5 Exhibit of calculation to be made part of agreement
- 6 UWS requests new rate by Aug 15, City approves by Oct 15, Pub Notice given by Nov 1, Adjusted Rate goes into effect following January 1.
- 7 Agreement must provide for City Flow Control with language that directs flow to contractor facilities when available.
- 8 FOOD WASTE - UWS will implement a pilot and or full commercial food waste program in place by June 2013 provided proper permits can be obtained
Details still to be worked out.
- 9 Rate change is calced as follows: % annual adjustment X actual prior year (July to June) actual component cost = new funds needed / collection revenue
= % adjustment per rate. New cost adj dollars (fuel, disposal, city fees etc..) need to be adjusted for city fees - CPI adj does not.

RE-OPENER - the contract should have a mutual re-opener for other new items

**Ukiah Waste Solutions, Inc.
2016 Rate Schedule**

RESIDENTIAL / COMMERCIAL

Residential Carts			1 - 10	11 - 20	21 - 32	33 - 68	69 - 95	Gallons
2016 Rates	No Service Fee		1x/WK	1x/WK	1x/WK	1x/WK	1x/WK	
Roadside	4.80		4.80	10.12	18.17	42.93	60.48	
Pack Out*	7.42		7.42	12.69	22.26	52.28	75.53	
Remote**	14.84		14.84	20.11	29.68	59.70	82.95	

* Pack Out service is limited to the elderly and disabled who apply directly through Ukiah Waste Solutions @ 707-234-6400.

** The additional charges of Remote service may be required for certain areas with difficult access.

Commercial / Multi-Family Carts			1 - 10	11 - 20	21 - 32	33 - 68	69 - 95	Gallon
2016 Rates								
1 Can - 1x/WK			5.01	10.49	18.86	44.58	62.82	
1 Can - 2x/WK					41.92	99.24	139.65	
1 Can - 3x/WK					70.04	152.16	212.58	
2 Cans - 1x/WK					41.92	99.24	139.65	

Commercial / Multi-Family Bins			Number of pick-ups per week						Extra Pick-up
Yards	2016 Rates		1x/WK	2x/WK	3x/WK	4x/WK	5x/WK	6x/WK	
1.0			120.23	0.00	0.00	0.00	0.00	0.00	27.77
1.5			142.07	284.14	426.21	568.28	710.35	852.42	32.81
2.0			189.45	378.90	568.35	757.80	947.25	1,136.70	43.75
3.0			284.15	568.30	852.45	1,136.60	1,420.75	1,704.90	65.62
4.0			378.87	757.74	1,136.61	1,515.48	1,894.35	2,273.22	87.50
6.0			568.31	1,136.62	1,704.93	2,273.24	2,841.55	3,409.86	131.25

Extra p/u calculated at 1/wk divided by 4.33

Clean-Up Bins and Boxes		Rate 1/1/2016	
3.0 Yd	3 day rental	98.30	
15.0 Yd	7 day rental	222.74	Plus \$81.20 per ton tip fee
20.0 Yd	7 day rental	222.74	Plus \$81.20 per ton tip fee
30.0 Yd	7 day rental	222.74	Plus \$81.20 per ton tip fee
Compactors		222.74	Plus \$81.20 per ton tip fee

Misc Charges		Rate 1/1/2016	
Bulky Items (appliances, Lg Tires, Furniture etc.)		24.72	Plus tip fee
Tires - each - (Automotive or motorcycle)		5.21	
Damage Cart Replacement		67.28	
Additional Green Waste or R/C Cart		6.63	
Extra Residential Pick-up		6.46	
Extra Commercial Pick-up		12.05	
Compactor Cleaning		290.05	
Container Cleaning		104.41	
Locking bin, one-time setup fee		33.07	Plus Materials
Replacement Key		11.60	
Contamination Fee		33.12	
Returned Check Fee		35.00	
Roll Off or Bin Extra Day Charge		12.05	
Exchange Cart Size		24.83	

Table 24. Historical Consumer Price Index for All Urban Consumers (CPI-U): U. S. city average, all items-Continued

(1982-84=100, unless otherwise noted)

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.
1970	37.8	38.0	38.2	38.5	38.6	38.8	39.0	39.0	39.2	39.4	39.6	39.8
1971	39.8	39.9	40.0	40.1	40.3	40.6	40.7	40.8	40.8	40.9	40.9	41.1
1972	41.1	41.3	41.4	41.5	41.6	41.7	41.9	42.0	42.1	42.3	42.4	42.5
1973	42.6	42.9	43.3	43.6	43.9	44.2	44.3	45.1	45.2	45.6	45.9	46.2
1974	46.6	47.2	47.8	48.0	48.6	49.0	49.4	50.0	50.6	51.1	51.5	51.9
1975	52.1	52.5	52.7	52.9	53.2	53.6	54.2	54.3	54.6	54.9	55.3	55.5
1976	55.6	55.8	55.9	56.1	56.5	56.8	57.1	57.4	57.6	57.9	58.0	58.2
1977	58.5	59.1	59.5	60.0	60.3	60.7	61.0	61.2	61.4	61.6	61.9	62.1
1978	62.5	62.9	63.4	63.9	64.5	65.2	65.7	66.0	66.5	67.1	67.4	67.7
1979	68.3	69.1	69.8	70.6	71.5	72.3	73.1	73.8	74.6	75.2	75.9	76.7
1980	77.8	78.9	80.1	81.0	81.8	82.7	82.7	83.3	84.0	84.8	85.5	86.3
1981	87.0	87.9	88.5	89.1	89.8	90.6	91.6	92.3	93.2	93.4	93.7	94.0
1982	94.3	94.6	94.5	94.9	95.8	97.0	97.5	97.7	97.9	98.2	98.0	97.6
1983	97.8	97.9	97.9	98.6	99.2	99.5	99.9	100.2	100.7	101.0	101.2	101.3
1984	101.9	102.4	102.6	103.1	103.4	103.7	104.1	104.5	105.0	105.3	105.3	105.3
1985	105.5	106.0	106.4	106.9	107.3	107.6	107.8	108.0	108.3	108.7	109.0	109.3
1986	109.6	109.3	108.8	108.6	108.9	109.5	109.5	109.7	110.2	110.3	110.4	110.5
1987	111.2	111.6	112.1	112.7	113.1	113.5	113.8	114.4	115.0	115.3	115.4	115.4
1988	115.7	116.0	116.5	117.1	117.5	118.0	118.5	119.0	119.8	120.2	120.3	120.5
1989	121.1	121.6	122.3	123.1	123.8	124.1	124.4	124.6	125.0	125.6	125.9	126.1
1990	127.4	128.0	128.7	128.9	129.2	129.9	130.4	131.6	132.7	133.5	133.8	133.8
1991	134.6	134.8	135.0	135.2	135.6	136.0	136.2	136.6	137.2	137.4	137.8	137.9
1992	138.1	138.6	139.3	139.5	139.7	140.2	140.5	140.9	141.3	141.8	142.0	141.9
1993	142.6	143.1	143.6	144.0	144.2	144.4	144.4	144.8	145.1	145.7	145.8	145.8
1994	146.2	146.7	147.2	147.4	147.5	148.0	148.4	149.0	149.4	149.5	149.7	149.7
1995	150.3	150.9	151.4	151.9	152.2	152.5	152.5	152.9	153.2	153.7	153.6	153.5
1996	154.4	154.9	155.7	156.3	156.6	156.7	157.0	157.3	157.8	158.3	158.6	158.6
1997	159.1	159.6	160.0	160.2	160.1	160.3	160.5	160.8	161.2	161.6	161.5	161.3
1998	161.6	161.9	162.2	162.5	162.8	163.0	163.2	163.4	163.6	164.0	164.0	163.9
1999	164.3	164.5	165.0	166.2	166.2	166.2	166.7	167.1	167.9	168.2	168.3	168.3
2000	168.8	169.8	171.2	171.3	171.5	172.4	172.8	172.8	173.7	174.0	174.1	174.0
2001	175.1	175.8	176.2	176.9	177.7	178.0	177.5	177.5	178.3	177.7	177.4	176.7
2002	177.1	177.8	178.8	179.8	179.8	179.9	180.1	180.7	181.0	181.3	181.3	180.9
2003	181.7	183.1	184.2	183.8	183.5	183.7	183.9	184.6	185.2	185.0	184.5	184.3
2004	185.2	186.2	187.4	188.0	189.1	189.7	189.4	189.5	189.9	190.9	191.0	190.3
2005	190.7	191.8	193.3	194.6	194.4	194.5	195.4	196.4	198.8	199.2	197.6	196.8
2006	198.3	198.7	199.8	201.5	202.5	202.9	203.5	203.9	202.9	201.8	201.5	201.8
2007	202.416	203.499	205.352	206.686	207.949	208.352	208.299	207.917	208.490	208.936	210.177	210.036
2008	211.080	211.693	213.528	214.823	216.632	218.815	219.964	219.086	218.783	216.573	212.425	210.228
2009	211.143	212.193	212.709	213.240	213.856	215.693	215.351	215.834	215.969	216.177	216.330	215.949
2010	216.687	216.741	217.631	218.009	218.178	217.965	218.011	218.312	218.439	218.711	218.803	219.179
2011	220.223	221.309	223.467	224.906	225.964	225.722	225.922	226.545	226.889	226.421	226.230	225.672
2012	226.665	227.663	229.392	230.085	229.815	229.478	229.104	230.379	231.407	231.317	230.221	229.601
2013	230.280	232.166	232.773	232.531	232.945	233.504	233.596	233.877	234.149	233.546	233.069	233.049
2014	233.916	234.781	236.293	237.072	237.900	238.343	238.250	237.852	238.031	237.433	236.151	234.812
2015	233.707	234.722	236.119	236.599	237.805	238.638	-	-	-	-	-	-

See footnotes at end of table.

PETROLEUM & OTHER LIQUIDS

OVERVIEW DATA ANALYSIS & PROJECTIONS

GLOSSARY FAQs

Referring Pages:

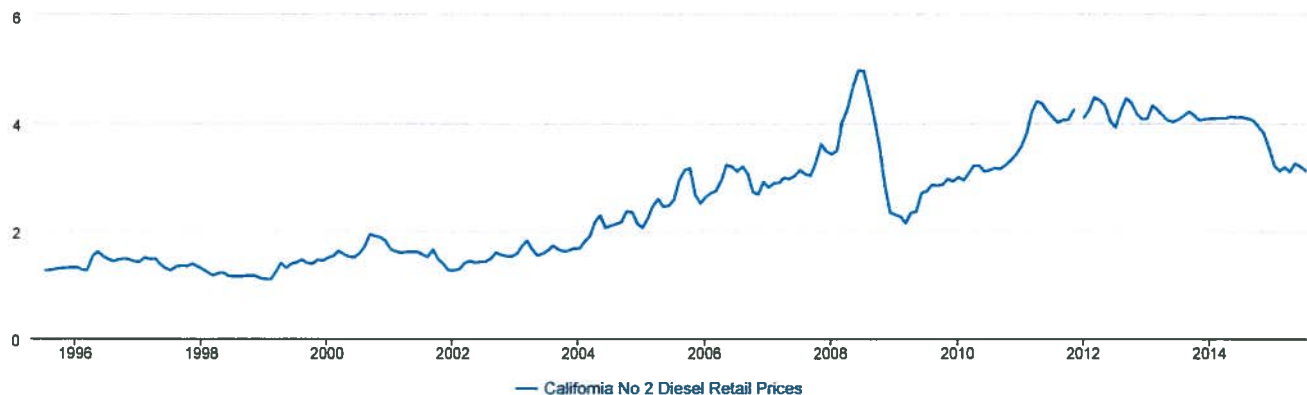
- California Gasoline and Diesel Retail Prices
- Retail Prices for Diesel (On-Highway) - All Types

View History: ☐ Weekly ☒ Monthly ☐ Annual

Download Data (XLS File)

California No 2 Diesel Retail Prices

Dollars per Gallon



Source U.S. Energy Information Administration

Chart Tools

no analysis applied

This series is available through the EIA open data API and can be downloaded to Excel or embedded as an interactive chart or map on your website.

California No 2 Diesel Retail Prices (Dollars per Gallon)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1995							1.266	1.271	1.294	1.307	1.313	1.322
1996	1.322	1.277	1.276	1.529	1.615	1.529	1.471	1.440	1.467	1.486	1.471	1.433
1997	1.427	1.509	1.475	1.486	1.376	1.304	1.267	1.337	1.357	1.347	1.390	1.340
1998	1.286	1.226	1.174	1.217	1.222	1.163	1.157	1.158	1.167	1.172	1.169	1.123
1999	1.110	1.104	1.237	1.404	1.314	1.392	1.415	1.468	1.401	1.393	1.466	1.447
2000	1.505	1.536	1.629	1.570	1.524	1.509	1.580	1.713	1.940	1.904	1.882	1.816
2001	1.659	1.618	1.593	1.610	1.609	1.612	1.561	1.514	1.651	1.475	1.384	1.270
2002	1.269	1.289	1.394	1.444	1.411	1.427	1.428	1.484	1.597	1.557	1.532	1.524
2003	1.579	1.725	1.818	1.650	1.543	1.581	1.635	1.725	1.656	1.622	1.639	1.681
2004	1.677	1.809	1.897	2.171	2.284	2.056	2.098	2.128	2.164	2.361	2.348	2.137
2005	2.059	2.244	2.455	2.590	2.450	2.469	2.578	2.945	3.125	3.160	2.668	2.504
2006	2.630	2.703	2.738	2.932	3.222	3.192	3.104	3.193	3.053	2.721	2.679	2.906
2007	2.803	2.886	2.885	2.985	2.964	3.019	3.123	3.049	3.024	3.267	3.608	3.475
2008	3.423	3.488	4.014	4.265	4.673	4.968	4.965	4.542	4.087	3.568	2.832	2.345
2009	2.297	2.260	2.139	2.336	2.354	2.697	2.734	2.850	2.837	2.856	2.962	2.913
2010	2.997	2.938	3.058	3.206	3.205	3.102	3.124	3.164	3.144	3.214	3.305	3.408
2011	3.560	3.804	4.187	4.400	4.362	4.213	4.106	4.009	4.057	4.059	4.245	NA
2012	4.103	4.251	4.474	4.419	4.316	4.027	3.917	4.240	4.456	4.376	4.170	4.076
2013	4.083	4.325	4.245	4.134	4.040	4.023	4.068	4.138	4.209	4.134	4.048	4.073
2014	4.082	4.084	4.092	4.089	4.119	4.101	4.110	4.085	4.054	3.938	3.813	3.542
2015	3.212	3.110	3.182	3.098	3.254	3.192	3.115					

9% decrease

Ukiah Waste Solutions, Inc.

require Company to adopt and implement various recycling, Solid Waste reduction, public education and reporting programs for City and its residents, subject to City taking all actions necessary to implement such programs and approving reasonable service rate increases needed, if any, in connection therewith.

6. Rates.

6.1 Establishment of Rates. The service rates specified in Exhibit E to this Agreement (the "Rates") shall take effect on the Effective Date, subject to approval by the City Council and compliance with the notice and hearing requirements in Article XIII.D of the California Constitution and Government Code Sections 53750 et seq. (collectively, "Proposition 218"). Such Rates shall be adjusted pursuant to Sections 6.2, 6.3, 6.4 and 6.5 below, subject to compliance with the notice and public hearing requirements of Proposition 218 as provided in such Sections. The parties' agreement to subject the Rates and certain adjustments thereto to the notice and public hearing requirements of Proposition 218 is precautionary only and shall not be deemed an admission that Proposition 218 applies to the Rates or such adjustments. Company shall not charge any amount in excess of the approved Rates for services required by or permitted under this Agreement.

6.2 Modification Based on Consumer Price Index, Fuel Index, Recycling Reduction and Certain Pass-Through Costs.

(a) Adjustment Calculation. Each Rate shall be adjusted January 1st every year, beginning January 1, 2013 ("Rate Adjustment Date") to reflect changes in the CPI, the Fuel Index, the amount paid to Company by PRS for Recyclables and certain Pass-Through Costs by a percentage determined in accordance with the Curbside Rate Calculation attached hereto as Exhibit C (the "Calculation").

(b) Definitions. For purposes of Rate adjustments pursuant to this Section 6.2 and the Calculation, the following terms shall have the following meanings.

(i) "Base Fuel Costs" means Company's actual costs for diesel and other fuels used in performing services under this Agreement for the year ended December 31, 2010 or \$200,641.15.

(ii) "Base Revenue" means Company's total revenue received from Customers during the Comparison Year.

(iii) "Base Year" means the year ended June 30th one year prior to June 30th of the Comparison Year.

(iv) "Comparison Year" means the year ended June 30th immediately prior to the relevant Rate Adjustment Date.

(v) "Commercial Oversight Fees" means the total amount of commercial oversight fees, including any fees or charges adopted to replace or supplement such fees, paid by Company to City in accordance with Section 4 and 6.6 during the Comparison Year.

(vi) "CPI" means the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items (1982-1984=100), published by the United States Department of Labor, Bureau of Labor Statistics.

(vii) "Disposal Fees – Garbage" means the actual Disposal Costs paid by

Company to SWS for Solid Waste delivered by Company to the Transfer Station during the Comparison Year.

(viii) "Disposal Fees – Green Waste" means the actual Processing Costs paid by Company to CCC, PRS or any other Authorized Facility for Green Waste delivered by Company to the CCC facility, the PRS Facility or such Authorized Facility, respectively, during the Comparison Year.

(ix) "Fuel Costs" means Company's actual costs for diesel and other fuels used in performing services under this Agreement during the Comparison Year.

(x) "Fuel Index" means the California No.2 Diesel Retail Sales by all Sellers (Dollars Per Gallon) published by the U. S. Energy Information Administration.

(xi) "Landfill Closure Costs" means the total amount of landfill closure fees, including any fees or charges adopted to replace or supplement such fees, paid by Company to City in accordance with Section 4 and 6.6 during the Comparison Year.

(xii) "Recycle Credit" means the product of (A) the average monthly weighted average price (AMWAP) per ton PRS is required to pay to Company under the Recycling Agreement for Source Separated Recyclables collected by Company curbside from Residential Customers during the Comparison Year, but not less than \$5.00, times (B) the total tons of such Recyclables so delivered by Company to PRS and accepted by PRS during the Comparison Year; provided, however, that if the amount of Recyclables rejected by PRS under Section 2 of the Recycling Agreement averages over any consecutive six month period more than 5% of the total Recyclables delivered to PRS ("the Acceptable Rejection Rate"), the credit shall include AMWAP, but not less than \$5.00, times the tons of Recyclables rejected by PRS for that same six month period in excess of the Acceptable Rejection Rate .

(xiii) "Total Costs" means all of Company's costs to provide Collection services under this Agreement, including, without limitation, labor costs, vehicle and vehicle-related costs, maintenance, insurance, and transportation costs, Fuel Costs and Pass-Through Costs.

(c) Rules. For purposes of Rate adjustments pursuant to this Section 6.2 and the Calculation, the following rules shall apply.

(i) "CPI Change" shall be calculated as one hundred percent (100%) of the percentage increase or decrease, if any, in the CPI during the Comparison Year, using the CPI published for June of such Year as compared with the CPI published for June of the Base Year.

(ii) "Fuel Index Change" shall be calculated as one hundred percent (100%) of the percentage increase or decrease, if any, in the Fuel Index from June of the Base Year through June of the Comparison Year; provided, however, that, notwithstanding Section 6.2(b)(iii) above, "Base Year" for purposes of the Fuel Index Change shall mean the year ended June 30, 2010; and, provided, further, that the Fuel Index Change adjustment (i.e., Fuel Index Change multiplied by Base Fuel Cost) for any Rate Adjustment Date shall be calculated after removal of such adjustment for the prior Rate Adjustment Date.

(iii) Each adjustment element in the first part of the Calculation will be grossed up for the corresponding increase or decrease in Franchise Fees and Billing Fees (where applicable) resulting from such adjustment, other than the CPI adjustment.

(iv) Rate adjustments for changes in Commercial Oversight Fees or

Landfill Closure Costs that take effect on a date other than January 1st, as well as changes in other Pass-Through Costs, will be determined under Section 6.3 below and not under this Section 6.2.

(d) Procedure. The procedure for Rate adjustments under this Section 6.2 shall be as follows:

(i) Not later than August 15th of each year, Company shall file with the City Manager a written notice of intention to adjust each of the then current Rates effective as of January 1st of the next year in accordance with Section 6.2(a) through (c) above.

(ii) Within sixty (60) days of the filing of the notice of intention, the City Manager shall review the notice and either confirm that the proposed Rates are within the limit of Section 6.2(a) through (c) above or establish by mutual agreement with Company any necessary changes to the proposed Rates to make such confirmation.

(iii) Not later than October 20th, the City Manager shall inform the City Council in writing of his or her determination regarding the proposed new Rates and the City Council shall be entitled to review and confirm that the proposed Rates are within the limit of Section 6.2 above or establish by mutual agreement with Company any necessary changes to the proposed Rates to make such confirmation, not later than November 20th. Any new Rates shall become effective on the following January 1st, provided that the Company and the City shall give the respective Customers that each bills written notice of the new Rates not later than December 1st.

(iv) In the event that the CPI or the Fuel Index described in Section 6.2(b) above shall be discontinued or materially modified during the term of this Agreement, the parties shall together select a replacement index and/or otherwise change Section 6.2(b) above so as to replicate, as nearly as possible, the mutual intention of the parties to rely on the results of the relevant index described in Section 6.2(b) as in effect on the date hereof.

6.3 Modification Based on Changes in Pass-Through Costs. In addition to adjustments under Section 6.2 above, each Rate shall be adjusted to reflect changes in Pass-Through Costs that are not the subject of Rate adjustments pursuant to Section 6.2 above, as follows. Using the section of the Calculation entitled "Revenue Base," each Rate shall be increased by an amount equal to the increase in applicable Pass-Through Costs, and decreased by an amount equal to the decrease in applicable Pass-Through Costs, in each case so as to cause all the Rates to compensate for such change in Pass-Through Costs as of the date such change becomes effective and either payable by or a benefit to Company, and taking into account the increase or decrease in Franchise Fees and/or Billing Fees payable in respect of such change.

6.4 Five Year Review. Once every five (5) years (beginning no later than April 2, 2016 for purposes of adjusting the Rates effective January 1, 2017), City shall conduct a review for the purpose of determining whether or not the automatic adjustments provided in Sections 6.2 and 6.5 have adequately adjusted the rates to cover the actual increase or decrease in the Company's reasonable operating costs or have exceeded those costs and whether the Rates remain fair to the ratepayer and the Company. Depending on the results of that review the City may increase or decrease the rates. City shall complete each such review and adjustment, if any, at least three months (3) prior to the beginning of such year (by September 30, 2016 in the case

of the first such review), and Company shall cooperate with such review. In conducting each such review, City shall consider the following information: financial records of Company (including operating expenses and revenues and Disposal, Processing, Regulatory and other costs of Company, and Company revenues), the factors described in Section 6.5 below, and rates charged for comparable services in similar communities. Increases or decreases in the Rates pursuant to this Section 6.4 shall be subject to the notice and public hearing requirements of Proposition 218. The City may conduct such investigation as it deems necessary to perform this review and Company shall cooperate with such investigation, which may include the City's inspection and copying of Company records and Review and/or Audit of Company's financial records by a City retained CPA, the costs of which shall be reimbursed to City from Base Revenue but treated as a pass-through cost for rate setting purposes.

6.5 Modification Based on Extraordinary Items. In addition to adjustments under Sections 6.2, 6.3 and 6.4 above, Company may request an increase in the Rates if Company's costs increase or its revenues decrease solely as the result of extraordinary circumstances beyond its control that could not have been reasonably anticipated by Company (such as a Change in Law) and if the increase in costs or decrease in revenues unavoidably adversely affects Company's opportunity to operate at a reasonable profit. Company shall have the burden of producing evidence satisfactory to City demonstrating its need for a rate increase prior to the regular Five Year Review pursuant to Section 6.4 above, including, but not limited to, reviewed or audited financial statements of Company, if requested by City. The City Council shall consider the request in good faith. Any such increase shall only be approved through the notice and hearing requirements in Proposition 218.

6.6 Billing. Company shall bill directly for all Solid Waste, Recyclables and Green and Food Waste Collection services provided herein to all Commercial and Institutional Customers, and to those Multi-Family Residential Customers assigned by City to Company for billing. Company and City shall regularly exchange billing lists to avoid double billing and to insure that Company is following the City's direction regarding its direct billing of Multi-Family Residential Customers. City shall bill all Residential Customers (except those currently billed by Company as approved by City) for all Solid Waste, Recyclables and Green and Food Waste Collection services hereunder. Each Commercial or Institutional Customer will be billed for one (1) month of service in advance upon commencement of service, and thereafter for one (1) month of service in arrears. Interest of one percent (1%) per month or the highest rate permitted under applicable law, whichever is less, shall be applied to any past due amounts from all Customers until paid in full. Amounts shall be past due if not paid within thirty (30) days of billing. Company shall have the right to refuse service to any Customer that is more than sixty (60) days delinquent on his, her or its account; provided, however, that if the City is forced to take enforcement action against a Customer who has been refused service, Company shall pay the City's costs to take such enforcement action as is necessary to protect public health and safety. Company shall pay City three percent (3%) of the amount billed by City to Residential Customers as a billing fee. City shall pay to Company all amounts billed to Residential Customers, less Billing Fees, Franchise Fees, commercial oversight fees and landfill closure costs (in accordance with Section 4 above), and a delinquency allowance equal to one-half



AGENDA SUMMARY REPORT

SUBJECT: AWARD CONTRACT FOR CROSSWALK AT NORTH STATE STREET AND GARRETT DRIVE, SPECIFICATION NO. 15-11 AND APPROVE CORRESPONDING BUDGET AMENDMENT

Summary: The Public Works Director will present a proposed project that will consist of constructing 3 ADA curb ramps, 2 curb bulb-outs, a refuge island and in-road flashing LED beacons as a new crosswalk on North State Street at Garrett Drive in the City of Ukiah.

Background: The City distributed plans and specifications to 28 builder's exchanges for the project Crosswalk at North State Street and Garrett Drive, Specification No. 15-11. The City publicly advertised this project on September 20th and 27th, 2015, in the *Ukiah Daily Journal*. A copy of the Notice to Bidders was sent to 85 Licensed Class A (General Engineering) contractors on the City's 2015 Qualified Contractors List. In addition, the plans and specifications were posted on the City's website. The plans and specifications can be accessed at the following link:

[Spec No 15-11 \(https://cityofukiah.app.box.com/s/x0x5skfzvrnuijkn0ffi72ecy46kts1l\)](https://cityofukiah.app.box.com/s/x0x5skfzvrnuijkn0ffi72ecy46kts1l)

Discussion: Sealed proposals will be received and opened by the City Clerk on October 6, 2015. A bid tabulation sheet will be provided to the Council and the public at the meeting.

If the bid is awarded, compensation for the performance of the work will be based on unit prices bid for contract item quantities actually installed. Bid totals are based on unit prices bid for contract items at estimated quantities, and therefore, the actual total paid to the contractor may be lower or higher than the bid total indicated. As with construction projects, there may be cost overruns by reason of unforeseen work or because actual quantities installed exceed estimated quantities. Policy Resolution No. 13, authorizes the responsible Department Head, with approval of the City Manager, to issue change orders not to exceed 10 percent of the original contract sum or \$5,000 whichever is greater provided that no change, when added to the original contract sum, exceeds the amount budgeted for the project.

The project management team will consist of Engineering staff Ben Kageyama, Senior Civil Engineer and Andrew Stricklin, Engineering Technician.

FISCAL IMPACT:				
Budgeted Amount in 15-16 FY	New Appropriation Source of Funds (Title & No.)	Account Number	Budget Amendment Required	Previous Contract or Purchase Order No.
\$0	Gas Tax Fund 2107	50124220.80230	Yes ☒ No ☐	N/A

RECOMMENDED ACTION(S): Award contract for Crosswalk at North State Street and Garrett Drive, Specification No. 15-11, to the lowest responsive, responsible bidder based on bids submitted on October 6, 2015, and approve corresponding budget amendment.

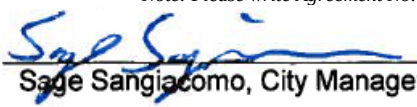
ALTERNATIVES: Do not award contract and provide direction to staff.

Citizens advised: N/A
Requested by: Tim Eriksen, Director of Public Works/City Engineer
Prepared by: Andrew Stricklin, Engineering Technician
Coordinated with: Sage Sangiacomo, City Manager
Presenters: Tim Eriksen, Director of Public Works/City Engineer
Attachments: None

COUNCIL ACTION DATE: _____ : ☐ Approved ☐ Continued to _____ ☐ Other _____

RECORDS APPROVED: ☐ Agreement: _____ ☐ Resolution: _____ ☐ Ordinance: _____

Note: Please write Agreement No. in upper right corner of agreement when drafted..

Approved: 
Sage Sangiacomo, City Manager



ITEM NO.: 13a

MEETING DATE: October 7, 2015

AGENDA SUMMARY REPORT

SUBJECT: APPROVAL OF AGREEMENT WITH GRANICUS, INC. TO UPGRADE INTERNET ENCODING APPLIANCE HARDWARE AND WEB DESIGN SERVICES.

Summary: Council will consider approving an agreement with Granicus, Inc., to upgrade the encoding hardware that provides internet broadcasting, and for a reorganization of the minutes and agendas webpage for easier public accessibility of documents.

Background and Discussion: The current encoding hardware, which enables audio/video recordation and web internet broadcasting of City Council, Planning Commission, and Successor Agency meetings among others, is no longer reliable due to technological advances. Additionally, the support by Chrome browsers has been terminated (Attachment 3). To ensure that the Public has access to agency meetings via the internet – both live-streaming and archival recordings, staff is recommending that the hardware be upgraded to SDI Encoding Appliance Hardware (Attachment 2). This upgrade will ensure that the City of Ukiah does not have a system failure during important meetings, and will enable web viewers to have access to video without the need of using a Silverlight plugin.

Additionally, the volume of documents and videos on the City's Agendas and Minutes page of the website is currently configured into one long column which has become cumbersome and requires extensive scrolling to access certain documents. Staff is recommending an improved design which will place tabs for the documents by year and by agency, making easier accessibility for the public and staff.

For current Granicus services, the City has been paying \$7,800 per year for software and maintenance. With the addition of the SDI Encoder Upgrade and Section View Page, the City's additional cost will be the following: a one-time hardware cost of \$3,909.38, a one-time professional service cost of \$2,875.00, and then an additional \$1,452 per year in software/maintenance fees. The annual software/maintenance cost per year is increasing by \$121 per month for the SDI technology over the current service for a total annual cost of \$9,252. The total contract for the next 3 years will be \$34,540.38 inclusive of the one-time hardware and setup cost.. The total cost for the FY 15/16 Budget year is \$16,036.38 for software/maintenance and hardware/setup. This is a planned upgraded and the cost was approved with the FY 15/16 Budget (IT Account #20922900.54320; \$24,000) Please see Attachment 1 for the complete cost analysis.

FISCAL IMPACT:				
Budgeted Amount in 15-16 FY	New Appropriation Source of Funds (Title & No.)	Account Number	Budget Amendment Required	Previous Contract or Purchase Order No.
\$24,000	N/A	20922900.54320	Yes ☐ No ☒	N/A

RECOMMENDED ACTION(S): Approve a three year agreement with Granicus, Inc. for internet encoding hardware and services, and web design services in the amount of \$34,540.38.

ALTERNATIVES: Do not approve agreement and continue using current encoder and current webpage design.

Citizens advised: N/A
Requested by: N/A
Prepared by: Kristine Lawler, City Clerk
Coordinated with: Sage Sangiacomo, City Manager; Scott Shaver, I.T. Specialist; Mary Horger, Purchasing Supervisor.
Presenters: Kristine Lawler, City Clerk.
Attachments: 1. Cost Analysis. 2. Granicus Spec Sheet. 3. News Article

COUNCIL ACTION DATE: _____: ☐ Approved ☐ Continued to _____ ☐ Other _____

RECORDS APPROVED: ☐ Agreement: _____ ☐ Resolution: _____ ☐ Ordinance: _____

Note: Please write Agreement No. in upper right corner of agreement when drafted..

Approved: 
Sage Sangiacomo, City Manager

GRANICUS COST PROPOSAL

CURRENT Granicus Managed Service at \$650 per month, \$7,800 per year = 3 year cost of:	\$23,400.00
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SDI Encoder Upgrade			
Hardware			
Name	Quantity	Unit (Upfront)	Total (Upfront)
Granicus SDI Encoding Appliance Hardware – Gov’t Transparency Suite	1	\$3,500	\$3,500
Shipping	1	\$125	\$125
Tax	1	\$284.38	\$284.38
<i>Subtotal:</i>			<i>\$3,909.38</i>
Software as a Service			
Name	Quantity	Unit (Monthly)	Total (Yearly)
Granicus Encoding Appliance Software – Government Transparency Suite	1.0 pkg	\$100.00	\$1,200.00
<i>Subtotal:</i>			<i>\$1,200</i>
Professional Services			
Name	Quantity	Unit (Upfront)	Total (Upfront)
Encoding Appliance Hardware Configuration - Government Transparency Suite	1	\$875	\$875.00
<i>Subtotal:</i>			<i>\$875</i>
<i>Total 3 year:</i>			<i>\$8,384.38</i>
Section View Page			
Software as a Service			
Name	Quantity	Unit (Monthly)	Total (Yearly)
Template - Sectioned View Page	1.0 Temp	\$21.00	\$252.00
<i>Subtotal:</i>			<i>\$252</i>
Professional Services			
Name	Quantity	Unit (Upfront)	Total (Upfront)
Web Design Services (Per Hour)	10 hrs.	\$200.00	\$2,000.00
<i>Subtotal:</i>			<i>\$2,000</i>
<i>Total 3 year:</i>			<i>\$2,756.00</i>
NEW Total 3 year cost:			\$34,540.38
BREAKDOWN			
Software fees for 3 years:		\$27,756.00	
Hardware Cost:		\$3,909.38	
Professional Services:		\$2,875.00	



Ukiah SDI Encoder Upgrade

PRESENTED BY: Ahmad Abderrahim, Granicus

PRESENTED TO: Ukiah

DELIVERED ON: September 29, 2015

Pricing Breakdown for your Solution

Hardware			
Name	Qty	Unit (Upfront)	Total (Upfront)
Granicus SDI Encoding Appliance Hardware - (GT)	1.0 Unit(s)	\$3,500.00	\$3,500.00
Shipping - Large Item	1.0	\$125.00	\$125.00
Total Hardware Upfront:			\$3,625.00

Software as a Service			
Name	Qty	Unit (Monthly)	Total (Monthly)
Granicus Encoding Appliance Software - (GT)	1.0 Package	\$100.00	\$100.00
Total Software Monthly Cost:			\$100.00

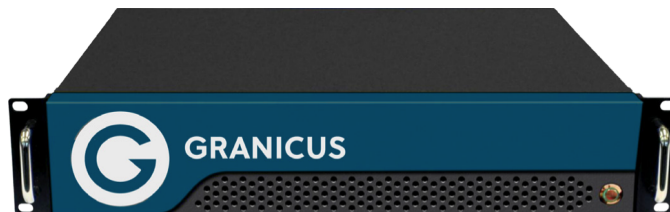
Professional Services			
Name	Qty	Unit (Upfront)	Total (Upfront)
Encoding Appliance Hardware Configuration - (GT)	1.0 Service(s)	\$875.00	\$875.00
Total Services Upfront:			\$875.00

Total Upfront Cost:	\$4,500.00
Total Monthly Cost:	\$100.00

Granicus Encoding Appliance

The Granicus Encoding Appliance is designed and built for our platform and streaming protocols to provide government organizations with superior live and on-demand webcasting performance. The hardware is pre-configured and delivered ready to stream. Simply connect power, network and an audio/video source. Full appliance control is available through a web browser or locally installed client application.

- Provides live and on-demand streaming – online and via mobile devices
- Remote systems monitoring and Granicus maintenance updates
- Up to 2TB of local storage (approximately 2,000 hours of archive content)
- Facilitates internal streaming across your local area network (LAN) – up to 50 concurrent viewers
- Supports extraction and display of embedded closed captions to help maintain ADA compliancy
- Faster archive upload times, less video buffering
- H.264 video codec encoding
- HTML5 and Flash compatible streaming delivery



Granicus' hosted infrastructure supports the encoding appliance and offers unlimited bandwidth, storage and the highest security standards through a cloud-based platform. Our remote, proactive system monitoring guarantees faster response time, predicts problems before they arise, and helps reduce the cost of IT support and maintenance. The Granicus team works around-the-clock to ensure your applications are protected and operating smoothly. This ensures long-lasting success with our technologies while maximizing your solution's performance.



Granicus® SDI Encoding Appliance

Hardware as a Service for Government Webcasting

The Granicus SDI Encoding Appliance supports Granicus' current and future software platforms and encoding formats. It has been rigorously tested and certified to work with Granicus technology. Device pre-configurations allow customers to get up and running quickly while maintaining the highest level of service at a low monthly cost.

The Granicus Customer Care team leverages a suite of tools that allow us to proactively monitor, maintain and support the appliance. Full patch management of Granicus software and the operating system eliminates any maintenance burden placed on government IT staff, including contacting multiple vendors for support.

As a fully-managed solution, Granicus will provide customers with all necessary upgrades, repairs or replacements to ensure that the appliance works effectively on the Granicus platform. To help maintain ADA compliance, the Granicus SDI Encoding Appliance supports extraction and display of embedded closed captions.

Optimized Streaming Platform

The Granicus SDI Encoding Appliance is designed and built for our platform and streaming protocols to provide government organizations with a complete streaming solution. Each pre-configured appliance is delivered ready to stream. Simply connect power, network and an audio/video source. Full appliance control is available through a web browser or locally installed client application.

This appliance is included with the Government Transparency Suite and can be added to the Granicus Open Platform.

Granicus SDI Encoding Appliance

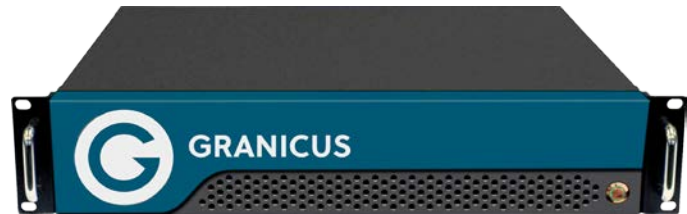
Local distribution & storage

The SDI Encoding Appliance can be configured to support local live and on-demand streaming for up to 50 concurrent users. For organizations that require enterprise-class distribution, Granicus' Performance Accelerator distributes hundreds of simultaneous local streams with minimal network impact.

Each device is equipped with 2 TBs of local storage, or roughly 4,000 hours at standard bit rates. Granicus provides unlimited cloud content storage and retention.

The Granicus SDI Encoding Appliance is lightweight and small enough to fit in any server rack. Encoder noise has been addressed as well. With a sound output less than 65db, the Granicus SDI Encoding Appliance is considerably quieter than standard off the shelf encoding hardware.

Front View



Rear View



Hardware Specifications

Dimensions	17.7"D x 17.2"W x 3.5"H 2U rack mountable chassis			
Weight	35 lbs			
Power		Idle	Load	Startup
	Watts	40	120	96
	Amps	0.226	0.965	0.755
	kVA	0.04	0.120	0.096
	BTU/hr	136	408	326
Connectivity	Ethernet: 2 auto-detecting x 1 Gbit ports			
Storage	- Up to 2TB capacity 4000 hours at standard bit rates			
Hardware Warranty	Granicus customer lifetime (managed hardware)			
Optional Components	- Rail kit * - Tower conversion kit *			
Management	Full remote management, monitoring patching & reporting			

Granicus SDI Encoding Appliance



Adobe Flash Player



Audio/Video Specifications

DIGITAL ENCODING APPLIANCE

Video	• SDI (BNC)
Audio	• Embedded audio on channel 1,2,3 or 4

Streaming Specifications

Live Streaming	• Static public IP address • Inbound pull over TCP Port 8080 (port changed upon request) • 650 Kbps upstream ** • Unlimited viewers
Encoding Formats	• Microsoft® Windows Media® (Silverlight®) • H.264 for Adobe® Flash® Player • H.264 in HTML (iOS and Andriod devices)
Local Distribution	• Live and on-demand (directly from Granicus Encoding Appliance) • 50 maximum concurrent streams

* Additional charges may apply

** Higher bitrates available, requires additional bandwidth

Professional Services

In order to ensure a successful implementation and user experience, Granicus provides professional services with each solution. Below is a list of the requisite professional services for your solution.

Granicus Differentiators

- World's most experienced provider of government transparency, citizen participation, meeting efficiency, and legislative management solutions with:
 - Over 1,000 clients in all 50 states, at every level of government
 - Over 31 million government webcasts viewed
 - More than 265,350 government meetings online
- First fully integrated legislative workflow management system for local government
- Open API architecture and SDK allow for seamless integrations with systems already in place
- Certified integrations provide flexibility and choice of agenda workflow solutions
- Exclusive provider of the iLegislate iPad application that allows users to review agendas and supporting materials, bookmark and take notes on items, stream archived videos, and review community feedback
- Only government webcasting service to provide encoding, minutes annotation, transcription, and closed captioning services
- Truly unlimited storage and distribution for all meeting bodies and non-meeting content
- Indefinite retention schedules for all archived meeting and non-meeting content
- Only provider of both government webcasting and citizen engagement services
- 24/7/365 customer service and support
- 97% customer satisfaction rating, 98.5% client retention rating
- One of the 100 companies that matter most in online video by Streaming Media magazine
- Ranked 185 on Deloitte 500 fastest growing companies
- Ranked 419 on Inc 500 fastest growing companies
- Client Success stories are available here: <http://www.granicus.com/customers/case-studies/>

Proposal Terms and Conditions

- Sales tax may apply depending on your organization's tax status and the tax laws unique to your state, county and/or municipality
- If Client's solution requires any onsite training, Client agrees to pay travel expenses for Granicus employees (including but not limited to airfare, lodging, meals) not to exceed two thousand dollars (\$2,000.00) per trip.

Google Chrome will block all NPAPI plugins by default in January, drop support completely in September

[Emil Protalinski](#) November 24, 2014 9:37 AM

Google today [provided](#) an update on its plan to remove Netscape Plugin Application Programming Interface ([NPAPI](#)) from Chrome, which the company says will improve the browser's security, speed, and stability, as well as reduce complexity in the code base. In short, the latest timeline is as follows: Block all plugins by default in January 2015, disable support in April 2015, and remove support completely in September 2015.

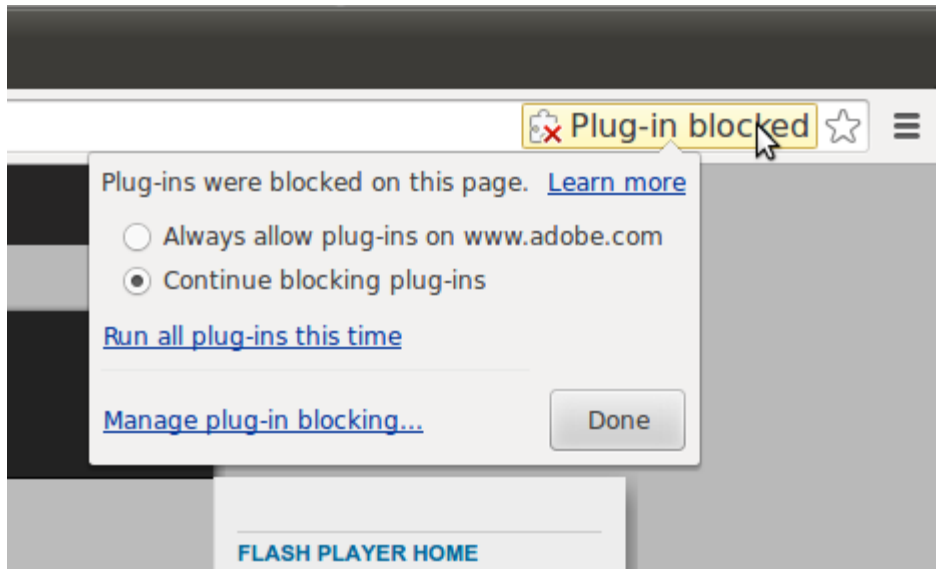
For context, Google first announced in September 2013 that it was planning to drop NPAPI. At the time, Google said anonymous Chrome usage data showed just six NPAPI plugins were used by more than 5 percent of users, and the company was hoping to remove support from Chrome "before the end of 2014, but the exact timing will depend on usage and user feedback."

While NPAPI usage has continued declining since then, the drop has not been as quick as Google hoped. The latest usage data (for October 2014) shows the following launch percentages:

- Silverlight (11 percent of Chrome users, down from 15 percent)
- Google Talk (7 percent of Chrome users, down from 8.7 percent)
- Java (3.7 percent of Chrome users, down from 8.9 percent)
- Facebook Video (3 percent of Chrome users, down from 6 percent)
- Unity (1.9 percent of Chrome users, down from 9.1 percent)
- Google Earth (0.1 percent of Chrome users, down from 9.1 percent)

The above six are part of a small number of popular plugins currently whitelisted and allowed by default in Chrome (Silverlight is primarily used by Netflix users, but the company has already [shifted to HTML5](#)). In January 2015, Google plans to remove the whitelist, blocking all plugins by default.

Users will still be able to allow NPAPI plugins for specific sites by clicking on the "Plug-in blocked" message in the URL bar and choosing "Always allow plug-ins on [website]." Here is how that looks:



In April 2015, this will no longer be an option as NPAPI support will be disabled by default in Chrome and Google will unpublish extensions requiring NPAPI plugins from the Chrome Web Store. That being said, Google will provide an override for advanced users (via an “enable-npapi” flag) and enterprises (via Enterprise Policy) to temporarily re-enable NPAPI.

Google says this will be necessary because it expects a small number of users will still rely on plugins that haven’t been ported to use alternative technologies. The two options will be temporary workarounds as some users wait for their “mission-critical” plugins to make the transition.

In September 2015, Google will scrap the workarounds and permanently remove NPAPI support from Chrome. NPAPI plugins will simply no longer load, regardless of whether they are needed by websites or extensions.

It’s worth noting that Google may once again delay its planned timeline for killing NPAPI, depending on how Chrome users react. Nevertheless, if you still use one or more NPAPI plugins, you should look for alternatives.

Web developers who use or build these plugins can find out more information in the [NPAPI deprecation guide](#).



AGENDA SUMMARY REPORT

SUBJECT: AWARD OF CONTRACT TO TEAM GHILOTTI, INC. FOR THE CONSTRUCTION OF THE NORTH STATE STREET SEWER MAIN IMPROVEMENT PROJECT, SPECIFICATION NO. 14-04, IN THE AMOUNT OF \$512,326 AND AUTHORIZE CORRESPONDING BUDGET AMENDMENT.

Summary: The proposed North State Street Sewer Main Improvement Project will consist of the construction of a new sewer main and manholes in the center of North State Street, abandonment of two existing mains and attaching all existing laterals to the new main. Funding for this project is provided from the City Sewer Capital Fund.

Background: On August 5, 2015, City Council approved the plans and specifications and directed staff to advertise for bids. The City distributed plans and specifications to 28 builder's exchanges and 6 contractors for the North State Street Sewer Main Improvement Project, Specification No. 14-04. The City publicly advertised this project on August 11 and 16, 2015, in the *Ukiah Daily Journal*. A copy of the Notice to Bidders was sent to 85 contractors including all Licensed Class A (General Engineering) contractors on the City's 2015 Qualified Contractors List. In addition, the plans and specifications were posted on the City's website. Sealed bids were received and opened by the City Clerk on September 9, 2015. The bid tabulation sheet is included as "Attachment 1". The location of this work is on North State Street from Low Gap Road to just south of Garrett Drive. The plans and specifications can be accessed at the following link: <https://cityofukiah.box.com/SPEC14-04>.

Discussion: If the bid is awarded, compensation for the performance of the work will be based on unit prices bid for contract item quantities actually installed. Bid totals are based on unit prices bid for contract items at estimated quantities, and therefore, the actual total paid to the contractor may be lower or higher than the bid total indicated. As with construction projects, there may be cost overruns by reason of unforeseen work or because actual quantities installed exceed estimated quantities. Policy Resolution No. 13, authorizes the responsible Department Head, with approval of the City Manager, to issue change orders not to exceed 10 percent of the original contract sum or \$5,000 whichever is greater provided that no change, when added to the original contract sum, exceeds the amount budgeted for the project. Staff recommends that City Council award the contract for North State Street Sewer Main Improvement Project, Specification No. 14-04. The Engineer's Estimate for this project was \$333,900. During the bidding process it was discovered that the subsurface of North State Street is 14 inches of concrete covered by an asphalt surface which will require the contractor to saw cut through it in order to install the new main which increased the cost of the project. In addition, Addendum No.1 was issued so that all contractors were informed of the existing conditions.

RECOMMENDED ACTION(S): Award of contract to Team Ghilotti, Inc. for the construction of the North State Street Sewer Main Improvement Project, Specification No. 14-04, in the amount of \$512,326 and authorize corresponding budget amendment.

ALTERNATIVES: Do not award contract and provide direction to staff

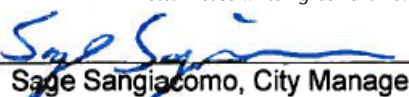
Citizens advised:

Requested by: Tim Eriksen, Director of Public Works/City Engineer
Prepared by: Jarod Thiele, Public Works Project Analyst
Coordinated with: Sage Sangiacomo, City Manager
Presenters: None
Attachments: 1. Bid Tabulation

COUNCIL ACTION DATE: _____ : ☐ Approved ☐ Continued to _____ ☐ Other _____

RECORDS APPROVED: ☐ Agreement: _____ ☐ Resolution: _____ ☐ Ordinance: _____

Note: Please write Agreement No. in upper right corner of agreement when drafted..

Approved: 
Sage Sangiacomo, City Manager

The project management team will be coordinated with Engineering Staff and Water/Sewer Staff and will consist of Jarod Thiele- Public Works Project Analyst, Don Brown- Water/Sewer Lead Worker and Andrew Stricklin- Engineering Intern

FISCAL IMPACT:				
Budgeted Amount in 15-16 FY	New Appropriation Source of Funds (Title & No.)	Account Number	Budget Amendment Required	Previous Contract or Purchase Order No.
\$0	City Sewer Capital Fund Balance	84424422.80230	Yes ☒ No ☐	N/A

CITY OF UKIAH
DEPARTMENT OF PUBLIC WORKS
North State Street Sewer Main Improvement Project
Specification No. 14-04
Bid Tabulation
Prepared By: Lory Limbird
Fund Account No. 84424422.80230
BID OPENING: September 9, 2015
ENGINEER'S ESTIMATE: \$333,900

ATTACHMENT #1

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	Team Ghilotti, Inc. Petaluma, CA		Granite Construction Company Ukiah, CA		Thompson Builders Novato, CA	
				UNIT	TOTAL	UNIT	TOTAL	UNIT	TOTAL
1	1	LS	Traffic Control System	\$18,500.00	\$18,500.00	\$20,000.00	\$20,000.00	\$13,000.00	\$13,000.00
2	1	LS	Mobilization	\$58,200.00	\$58,200.00	\$53,000.00	\$53,000.00	\$17,200.00	\$17,200.00
3	1894	LF	10" Sewer Main	\$139.00	\$263,266.00	\$150.00	\$284,100.00	\$154.00	\$291,676.00
4	8	EA	48" Sewer Manhole	\$7,700.00	\$61,600.00	\$7,000.00	\$56,000.00	\$13,850.00	\$110,800.00
5	1	EA	48" Cut-In Sewer Manhole	\$6,650.00	\$6,650.00	\$6,800.00	\$6,800.00	\$18,350.00	\$18,350.00
6	1	EA	48" Shallow Sewer Manhole	\$6,400.00	\$6,400.00	\$5,000.00	\$5,000.00	\$19,760.00	\$19,760.00
7	11	EA	4" Sewer Lateral	\$7,010.00	\$77,110.00	\$7,500.00	\$82,500.00	\$3,500.00	\$38,500.00
8	1	LS	Abandon and/or remove existing sewer system	\$16,500.00	\$16,500.00	\$25,000.00	\$25,000.00	\$19,500.00	\$19,500.00
9	1	LS	Trench Shoring and Bracing	\$4,100.00	\$4,100.00	\$6,820.00	\$6,820.00	\$15,000.00	\$15,000.00
TOTALS =					\$512,326.00		\$539,220.00		\$543,786.00



ITEM NO.: 13c

MEETING DATE: October 7, 2015

AGENDA SUMMARY REPORT

SUBJECT: AUTHORIZATION FOR CITY MANAGER TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE AGREEMENT WITH HDR ENGINEERING, INC., IN AN AMOUNT NOT TO EXCEED \$35,000 FOR PROFESSIONAL SERVICES FOR THE LAKE MENDOCINO HYDROELECTRIC PLANT. (EUD)

Summary: The City Council will receive a report for authorization for the City Manager to negotiate and execute an Amendment to the agreement with HDR Engineering, Inc. for professional services for the Lake Mendocino Hydroelectric Plant.

Background: The City's Hydroelectric Project is licensed by the Federal Energy Regulatory Commission (FERC). As such it comes under the FERC jurisdiction for compliance with the license conditions and for the inspection of the facility and recommend repairs as deemed necessary. FERC conducted its inspection on September 28, 2015. The City recently entered in to an agreement with HDR Engineering Inc., to conduct a field inspection of the hydroelectric facility with an emphasis on the Tainter Gate leakage in preparation for the FERC inspection.

Discussion: The major finding of the FERC inspection is the leakage at the Tainter Gate. FERC is strongly recommending that it be repaired without delay. HDR findings suggest that the top seal of the gate must be replaced to correct this problem. This structural steel gate is 17-foot wide by approximately 11-foot tall, and is at the outlet of the Coyote Dam (Lake Mendocino) tunnel. The gate is normally in closed position. The water from the Reservoir is passed through the City's hydroelectric facility generating renewable and valuable energy. Additionally, the City is obligated under the FERC license to provide water to the adjacent fish hatchery. Recently, the hatchery has advised the Staff that it would start pumping the water beginning December 1, 2015. To conduct the repair the gate must be open. That means water for the hatchery cannot be delivered. Therefore, the repair work must be completed prior to December 1, 2015; otherwise the repair would have to be delayed until next fall when the hatchery is closed.

Staff believes that the repair can be accomplished under this time frame. Once the technical specification has been prepared, Electric Utility Department would procure the material including the seal and bid the work immediately.

Continued on Page 2

RECOMMENDED ACTION(S): Authorize City Manager to negotiate and execute an Amendment to the Agreement with HDR Engineering, Inc. in the amount not to exceed \$35,000 for professional services for the Lake Mendocino Hydroelectric Plant. (EUD)

ALTERNATIVES: Do not approve amendment with HDR and remand to staff with direction.

Citizens advised: N/A
Requested by: Jim O'Brien, Electric Utility Technician, Steve Beaman, Electric Utility Technician
Prepared by: Diann Lucchetti, Electric Utility Program Coordinator, Jim O'Brien, Electric Utility Technician
Coordinated with: Mel Grandi, Electric Utility Director, Mary Horger, Purchasing Supervisor
Presenters: Mel Grandi, Electric Utility Director, Jim O'Brien, Electric Utility Technician
Attachments:

COUNCIL ACTION DATE: _____ : ☐ Approved ☐ Continued to _____ ☐ Other _____

RECORDS APPROVED: ☐ Agreement: _____ ☐ Resolution: _____ ☐ Ordinance: _____

Note: Please write Agreement No. in upper right corner of agreement when drafted..

Approved: 
Sage Sangiacomo, City Manager

In addition to the gate repair there are a few minor repair items such as pump and valve repairs that Staff would like HDR Engineering's assistance.

FISCAL IMPACT:				
Budgeted Amount in 15-16 FY	New Appropriation Source of Funds (Title & No.)	Account Number	Budget Amendment Required	Previous Contract or Purchase Order No.
\$175,000	Electric Generation (Hydro Capital Project)	80100000.80230	Yes ☐ No ☒	1516-011