UPPER VALLEY WASTE MANAGEMENT AGENCY
THIRD AMENDMENT TO
AGREEMENT #95-06

CLOVER FLAT LANDFILL
SOLID WASTE HANDLING
FRANCHISE AGREEMENT

THIS THIRD AMENDMENT TO AGENCY AGREEMENT #95-06 is made and entered into this 23rd day of June, 2010, by and between the UPPER VALLEY WASTE MANAGEMENT AGENCY, a joint powers authority organized under the laws of the STATE OF CALIFORNIA, hereinafter referred to as "AGENCY" and CLOVER FLAT LANDFILL, a California corporation, hereinafter referred to as "CONTRACTOR".

WHEREAS, the AGENCY acts as a consolidated franchisor for solid waste handling services, including landfill disposal, throughout the AGENCY Service Area and sets rates for those solid waste handling services; and

WHEREAS, AGENCY and CONTRACTOR originally entered into Agreement #95-06 on September 25, 1995 for disposal at the Clover Flat Landfill of all garbage and rubbish collected within the AGENCY Service Area; and

WHEREAS, Agreement #95-06 was amended for a first time in 2005 with respect to the acceptance at Clover Flat Landfill of solid waste generated outside the service area, and a second time in 2007 with respect to rates and rate setting methodology; and

WHEREAS, AGENCY and CONTRACTOR now desire to amend Agreement#95-06 for a third time with respect to the acceptance of solid waste generated outside of the service area; and

WHEREAS, this instrument is negotiated and executed by the parties hereto pursuant to the authority conferred on local agencies by Public Resources Code Sections 40059, et seq., to provide for solid waste handling services on an exclusive or non-exclusive basis and with or without competitive bidding, which has been delegated to AGENCY by the JOINT POWERS AGREEMENT pursuant to Government Code section 6500 et seq.

TERMS

NOW, THEREFORE, AGENCY AND CONTRACTOR AGREE as follows:

1. The foregoing recitals are true and correct.

2. AGENCY AGREEMENT #95-06 is hereby amended for a third time to read in full as set forth in Exhibits A through D as attached hereto.

3. This Third Amendment to AGENCY AGREEMENT #95-06 shall be effective as of July 1, 2010.

IN WITNESS WHEREOF, this AGREEMENT is executed by the parties hereto as of the date first above written.

UPPER VALLEY WASTE MANAGEMENT AGENCY

BY: _____
MARK LUCE, Chair of the Board of Directors of the Upper Valley Waste Management Agency

"AGENCY"

BY: _____
ATTEST:
Julia Travis, Secretary to the Board of Directors

CLOVER FLAT LANDFILL, INC.

BY: _____
Title:

BY: _____
Title

"CONTRACTOR"

BY: _____
APPROVED AS TO FORM:
ROBERT PAUL, Agency Legal Counsel

TO THIRD AMENDMENT TO AGENCY AGREEMENT #95-06

UPPER VALLEY WASTE MANAGEMENT AGENCY
SOLID WASTE HANDLING FRANCHISE AGREEMENT FOR THE CLOVER FLAT LANDFILL

TABLE OF CONTENTS

SECTION 1. ..... DEFINITIONS

SECTION 2. ..... PURPOSE

SECTION 3. ..... RATES

3.1 Rate Setting A-8
3.2 Concurrent Changes in Customer Rates A-9
3.3 Increases in Expenses Resulting from this AGREEMENT A-9

SECTION 4. ..... TERM

SECTION 5. ..... GENERAL PROVISIONS

5.1 Independent Contractor A-9
5.2 Specific Performance A-10
5.3 No Waiver A-10
5.4 Amendment A-10
5.5 Interpretation A-10
5.6 Severability A-10
5.7 Law Compliance A-10
5.8 [Reserved] A-10
5.9 Notices A-10
5.10 Indemnification A-11
5.11 Entirety of AGREEMENT A-11
5.12 Assignments A-12
5.13 Payment of Subcontractors and Agents A-12
5.14 Taxes and Fees A-12
5.15 Non-Discrimination A-12
5.16 Fair Employment and Housing Act A-12

SECTION 6. PERFORMANCE VIOLATIONS/BREACHES AND TERMINATION
6.1 Performance Bond A-13
6.2 Breaches of this AGREEMENT: General A-13
6.3 Breach Notification A-13
6.4 Major Breaches A-13
6.5 Minor Breaches A-14
6.6 Appeal of Breach A-14
6.7 Arbitration A-14
6.8 Cure of Breach A-14
6.9 Penalties A-14
6.10 Termination Due to Insolvency A-15
6.11 Termination - Significant Change in Circumstances A-15
6.12 AGENCY disbands A-16

SECTION 7. ..... ARBITRATION
7.1 Settlement by Arbitration A-16
7.2 Panel A-17
7.3 Appointments A-17
7.4 Meetings A-17
7.5 Non-Chairperson Compensation and Expenses A-17
7.6 Chairperson Compensation and Expenses A-17
7.7 Award A-18
7.8 Powers A-18
7.9 Enforcement of Award A-18

SECTION 8. ..... RESERVATION OF RIGHTS
8.1 Regulation A-18
8.2 SOLID WASTE generated outside of the SERVICE AREA A-18
8.3 Other Activities A-19

SECTION 9. ..... ACCIDENTS AND COMPLAINTS
9.1 Accident Notification A-19
9.2 Legal Action Response A-19
9.3 Other Complaints A-19

SECTION 10. ..... CLOSURE AND POST-CLOSURE FUNDS
10.1 Responsibility A-20
10.2 Closure and Post-Closure A-20
10.3 Operating Liability A-20

SECTION 11. ..... FACILITIES
11.1 Acquisition A-21
11.2 Use A-21

SECTION 12. QUALITY OF PERFORMANCE A-21

SECTION 13. CONTRACTOR REPRESENTATIONS AND WARRANTIES ... A-22

SECTION 14. PERMITS, LICENSES, ETC. A-23

SECTION 15. INSURANCE A-23

SECTION 16. RECORDS AND REPORTS A-24
16.1 Accurate and Accessible Records A-24
16.2 Monthly Reports A-25

SECTION 17. THE ACT A-25

SECTION 18. SOLID WASTE HANDLING SERVICES A-25
18.1 Disposal A-25
18.2 Billing A-25
18.3 LANDFILL Operations A-25
18.4 LANDFILL Hours A-26
18.5 LANDFILL Collection Center A-26
18.6 Household Hazardous Waste A-26
18.7 Special Handling Materials A-26
18.8 WASTE Disposal A-26
18.9 Violations A-26

EXHIBIT B: ..... CLOVER FLAT LANDFILL RATE METHODOLOGY
EXHIBIT C: ..... CLOVER FLAT LANDFILL RATES

UPPER VALLEY WASTE MANAGEMENT AGENCY
SOLID WASTE HANDLING FRANCHISE AGREEMENT
FOR THE
CLOVER FLAT LANDFILL

SECTION 1. DEFINITIONS

The terms defined in this Section that are capitalized in this AGREEMENT have the following meanings:

"ACT" means the California Integrated Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.) and all regulations adopted under that legislation, as that legislation and those regulations may be amended from time to time.

"AGREEMENT" means this franchise AGREEMENT, as it may be amended from time to time.

"AGENCY" means the Upper Valley Waste Management Agency, a joint exercise of powers authority created by the MEMBERS.

"CONTRACTOR" means Clover Flat Landfill.

"CUSTOMER" or "CUSTOMERS" means any or all accounts of CONTRACTOR for provision of SOLID WASTE HANDLING SERVICES, including all residential, commercial and industrial accounts.

"DIVERSION" means any technique for diverting SOLID WASTE from landfill disposal, including source reduction, recycling, reuse, reprocessing, and composting.

"DIVERTIBLE MATERIAL" means discarded material processed for disposition other than disposal by landfill. DIVERTIBLE MATERIALS, listed herein, may change from time to time with the approval of AGENCY by resolution.

"FACILITY" or "FACILITIES" means the land and all those improvements necessary to carry out the SOLID WASTE HANDLING SERVICES described in this AGREEMENT at the LANDFILL.

"HOUSEHOLD HAZARDOUS WASTE ELEMENT" or "HHWE" means the element prepared pursuant to the ACT, which identifies a program for the safe collection, recycling, treatment and disposal of hazardous wastes which are generated by households within a jurisdiction and which should be separated from the SOLID WASTE stream.

"JOINT POWERS AGREEMENT" means Napa County Agreement No. 3265, as it may be amended from time to time.

"LANDFILL" means the Clover Flat Sanitary Landfill, including any accessory FACILITIES related thereto.

"MANAGER" means the person, MEMBER agency or firm hired or contracted by AGENCY Board of Directors as AGENCY's administrative officer to manage the affairs of AGENCY and to effect the policies of AGENCY.

"MEMBER" means any of the governing bodies of the signatories to the JOINT POWERS AGREEMENT and "MEMBERS" means all of the governing bodies of the signatories to the JOINT POWERS AGREEMENT.

"NAPA COUNTY SOLID WASTE SERVICE ZONE THREE (3)" means that area defined in the Second Amendment to the JOINT POWERS AGREEMENT, as it may be amended from time to time.

"NON-DISPOSAL FACILITY ELEMENT" or "NDFE" means the element which describe new facilities and the expansion of existing facilities, which will be needed to implement a jurisdiction's SRRE.

"PERMITTED CAPACITY" means that capacity approved in the LANDFILL's most current approved California Integrated Waste Management Board Solid Waste Facility Permit.

"SERVICE AREA" means those incorporated areas of the Cities of Calistoga and St. Helena and the Town of Yountville and those unincorporated areas within NAPA COUNTY SOLID WASTE SERVICE ZONE THREE.

"SOLID WASTE" means the type of materials commonly collected including putrescible and nonputrescible solid, semisolid and liquid wastes, including garbage, trash, refuse, paper rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. SOLID WASTE also includes source separated recyclable or compostable materials, and other DIVERTIBLE MATERIALS intended for collection as part of this AGREEMENT. SOLID WASTE does not include any wastes defined as "hazardous wastes" or "medical wastes" under federal or state laws or regulations.

"SOLID WASTE HANDLING SERVICE" or "SOLID WASTE HANDLING SERVICES" means those service or services provided, including FACILITY(IES) owned, operated or used by CONTRACTOR for the collection, transportation, processing, storage, transfer and/or disposal of SOLID WASTE generated in the SERVICE AREA.

"SOURCE REDUCTION AND RECYCLING ELEMENT" or "SRRE" means the element prepared pursuant to the ACT, which includes a program for management of SOLID WASTE generated within a jurisdiction, consistent with the California Integrated Waste Management Board's waste management hierarchy.

"WASTE" means those materials that are delivered for disposal at the LANDFILL with no further processing intended other than burial and/or natural decomposition.

SECTION 2. PURPOSE

2.1 General. While the franchise granted herein to CONTRACTOR to provide SOLID WASTE HANDLING SERVICES is exclusive as to WASTE, nothing in this AGREEMENT shall affect or limit the right of any person to sell any DIVERTIBLE MATERIAL or other valuable commodity to CONTRACTOR or to any other person lawfully doing business within the SERVICE AREA in lieu of depositing such commodity in an authorized location for receipt by CONTRACTOR under this AGREEMENT. The purpose of this AGREEMENT is not to affect or limit the right of any person to sell any valuable commodity to CONTRACTOR or to any other person lawfully doing business within the SERVICE AREA. Any person or her/his agent or employee may provide similar services to CONTRACTOR's SOLID WASTE HANDLING SERVICES for her/his own SOLID WASTE. CONTRACTOR hereby agrees, for and during the term of this AGREEMENT, to furnish all labor, equipment, FACILITIES and services necessary to provide those SOLID WASTE HANDLING SERVICES described herein, at the times, in the manner as stated herein, and at the rates set forth in Exhibit C, developed in accordance with the methodologies set forth in Exhibit B, said exhibits being attached hereto and incorporated by reference herein.

SECTION 3. RATES

3.1 Rate Setting. In accordance with the rate methodologies set forth in Exhibit B, AGENCY shall establish and may unilaterally amend at any time by resolution all rates, tolls, tipping fees, other fees, and other charges for those SOLID WASTE HANDLING SERVICES provided by CONTRACTOR as described herein. Such resolutions shall be deemed automatically incorporated into this AGREEMENT as Exhibit "C-[*date of resolution*]", with the currently-effective rates being those in the resolution bearing the

latest date. No such changes in rates by AGENCY shall be effective until a certified copy of the resolution approving such changes has been delivered or otherwise sent to CONTRACTOR as provided in Section 5.9 (Notices).

3.2 Concurrent Changes in Customer Rates. All new or revised rate(s), tolls, tipping fees, rentals and other fees and charges set in accordance with Section 3.1 shall be passed on to CUSTOMERS through a corresponding addition or revision in the rates charged by CONTRACTOR to those CUSTOMERS receiving the affected SOLID WASTE HANDLING SERVICES, and such pass-through shall be effective concurrently with the effective date of the changes approved under Section 3.1.

3.3 Increases in Expenses Resulting from this AGREEMENT. In this AGREEMENT there are Paragraphs requiring CONTRACTOR to perform services, acquire property or equipment, or purchase services at the expense of CONTRACTOR. Reimbursement of all such additional expenses shall be evaluated according to the provisions of the Rate Methodology set forth in Exhibit B. In the case of conflict between this AGREEMENT and the Rate Methodology, the Rate Methodology shall prevail over this AGREEMENT.

SECTION 4. TERM

4.1 The term of this AGREEMENT shall commence on the date first above written and shall expire at the end of day on July 1, 2025. The AGREEMENT can be thereafter be renewed for succeeding ten (10) year terms provided that the permitted life of the LANDFILL has been extended for at least ten additional years thirty-six (36) months before the termination date of this AGREEMENT and written notice of intent to renew is given by AGENCY to CONTRACTOR at least thirty-six (36) months prior to the next termination date, or unless otherwise terminated as provided in Section 6.

SECTION 5. GENERAL PROVISIONS

5.1 Independent Contractor. CONTRACTOR shall perform this AGREEMENT as an independent contractor. CONTRACTOR and the officers, agents and employees of CONTRACTOR are not, and shall not be deemed, AGENCY employees for any purpose, including workers' compensation. CONTRACTOR shall, at its own risk and expense, determine the method and manner by which duties imposed on CONTRACTOR by this AGREEMENT shall be performed; provided however that AGENCY may monitor the work performed by CONTRACTOR. CONTRACTOR shall be entitled to none of the benefits accorded to an AGENCY employee. AGENCY shall not deduct or withhold any amounts whatsoever from the compensation paid to CONTRACTOR, including, but not limited to amounts required to be withheld for state and federal taxes. CONTRACTOR

alone shall be responsible for all such payments.

5.2 Specific Performance. Because the services to be performed by CONTRACTOR under the terms of this AGREEMENT relate to preservation of the health and safety of persons residing, working, and visiting Napa County and, if not provided in a timely and proper manner could result in immediate hazard to such persons and to the economy of the County as a whole, which cannot be reasonably or adequately compensated in damages in an action of law, in addition to any other rights or remedies which AGENCY may possess, shall be entitled to injunctive and other equitable relief through arbitration under Section 7 herein, to prevent a breach, either major or minor, of this AGREEMENT by CONTRACTOR.

5.3 No Waiver. The waiver by either party of any breach or violation of any requirement of this AGREEMENT shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this AGREEMENT.

5.4 Amendment. Except as specifically provided herein, this AGREEMENT may be modified or amended only in writing and with the prior written consent of both parties.

5.5 Interpretation. The headings used herein are for reference. The terms of the AGREEMENT are set out in the text under the headings. This AGREEMENT shall be governed by the law of the State of California.

5.6 Severability. If any provision of this AGREEMENT, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this AGREEMENT.

5.7 Law Compliance. In providing the SOLID WASTE HANDLING SERVICES required by this AGREEMENT, CONTRACTOR shall observe and comply with all applicable federal and, state laws, regulations and codes regarding the provision of the SOLID WASTE HANDLING SERVICES described herein, as such may be amended from time to time, including where required by such laws, the funding and maintenance of sufficient closure and post-closure maintenance financial assurances for any landfill operated or utilized by CONTRACTOR for disposal of the SOLID WASTE. Any violation of this Paragraph shall constitute a major breach.

5.8 [Reserved]

5.9 Notices. All notices which CONTRACTOR or AGENCY may wish to give in connection with this AGREEMENT shall be in writing and shall be served by personal delivery or fax during usual business hours at the principal office of CONTRACTOR or

AGENCY, to an officer or person apparently in charge of that office, or by depositing the same in the United States mail, postage prepaid, and addressed to CONTRACTOR or AGENCY at its principal office, or to such other address as AGENCY or CONTRACTOR may designate from time to time by written notice given to CONTRACTOR in the manner specified in this Section. Service of notice pursuant to this Section shall be deemed complete on the day of service by personal delivery or fax (if received during normal business hours, or the next business day if received after normal business hours), or three (3) days after mailing if deposited in the United States mail. Until changed by written notice to AGENCY and CONTRACTOR, notice shall be delivered as follows:

AGENCY:

Upper Valley Waste Management Agency
c/o Environmental Management Department
1195 Third Street, Room 101
Napa, CA 94559
FAX (707)253-4545

CONTRACTOR:

Clover Flat Landfill
1285 Whitehall Lane
P.O. Box 382
St. Helena, CA 94574
FAX (707)963-7641

5.10 Indemnification. CONTRACTOR, for itself, and its successors in interest, if any, agrees to indemnify and save harmless AGENCY, its officers, employees, and agents, from claim, suit, liability including without limitation, those for personal injury (including death) or damage to property, or action made or brought against AGENCY, its officers, employees, and agents, for any injuries or damages resulting from or caused by the acts of CONTRACTOR, or its officers, employees, and agents, in the performance of any work and the rendering of any service provided for under this AGREEMENT. Such indemnification shall include CONTRACTOR holding harmless and indemnifying AGENCY for any action brought against AGENCY, its officers, employees, and agents, under any federal or state anti-trust laws, environmental laws, or laws such as "Superfund" which impose financial liability for cleanup of contaminated landfill sites. Indemnification under this Section shall include all attorneys' fees and other expenses incurred by AGENCY, its officers, employees, and agents, in the course of the defense of any such claim, suit, or action.

5.11 Entirety of AGREEMENT. This AGREEMENT constitutes the entire agreement between the parties relating to the subject of this AGREEMENT and supersedes all previous agreements, promises, representations, understandings and negotiations, whether written or oral, among the parties with respect to the subject matter hereof.

5.12 Assignments. A consideration of this AGREEMENT is the past record, experience, and local knowledge of the needs of the SERVICE AREA by CONTRACTOR; therefore, CONTRACTOR shall not assign any interest in this AGREEMENT, or subcontract any of the services CONTRACTOR is to perform hereunder without the prior written consent of AGENCY. AGENCY may not unreasonably withhold its consent to assignment to a substitute contractor who is possessed of similar or greater experience and financial responsibility. No consent shall be required for assignment of an interest in CONTRACTOR to a relative of a shareholder of CONTRACTOR, but notification of such assignment must be provided to the AGENCY within thirty (30) days of the assignment. Any violation of this Paragraph shall constitute a minor breach.

5.13 Payment of Subcontractors and Agents. Unless a reasonable dispute exists concerning payment, CONTRACTOR shall promptly pay all subcontractors, suppliers, or laborers engaged for purposes of this AGREEMENT in accordance with the contract or agreement between that Party and CONTRACTOR. Any violation of this Paragraph shall constitute a minor breach.

5.14 Taxes and Fees. CONTRACTOR shall be responsible and liable for payment of all federal, state and local taxes and fees, and surcharges of every kind, that apply to any and all persons, property, income, equipment, materials, supplies, structures, or activities that are involved in the performance of this AGREEMENT, including but not limited to, any income taxes, real property, excise, sales and use taxes, surcharges imposed by AGENCY under the ACT, business and occupation taxes and fees that arise in connection with the AGREEMENT. Any violation of this Paragraph shall constitute a minor breach.

5.15 Non-Discrimination. CONTRACTOR and its officers, employees, agents and subcontractors shall not deny the benefits of this AGREEMENT to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age or sex. CONTRACTOR shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Any violation of this Paragraph shall constitute a minor breach.

5.16 Fair Employment and Housing Act. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900, et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, Section 7285.0, et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Sections 11135-11139.5) and any state or local regulations adopted to implement any of the foregoing, as such may be amended from time to time. Any violation of this Paragraph shall constitute a minor breach.

SECTION 6. PERFORMANCE VIOLATIONS/BREACHES AND TERMINATION

6.1 Performance Bond. CONTRACTOR shall obtain and maintain during the term of this AGREEMENT at its own expense from a corporate surety entitled to do business in the State of California and provide to the AGENCY a performance bond in the amount of no less than twenty five thousand dollars ($25,000), securing full and faithful performance by CONTRACTOR of all of its obligations under this AGREEMENT, including payment of any penalties/liquidated damages assessed for violations of this AGREEMENT under Paragraph 6.9. The form of said bond shall be subject to the prior approval of AGENCY and may be in the form of a corporate surety bond, an irrevocable letter of credit, or a cash deposit established in a local bank in an interest-bearing account payable to the order of AGENCY as trustee for CONTRACTOR, with all interest distributed to the CONTRACTOR. Said bond shall be renewed annually during the life of this AGREEMENT and evidence of said renewal shall be furnished to AGENCY prior to the expiration of the bond then in effect. Any violation of this Paragraph shall constitute a major breach.

6.2 Breaches of this AGREEMENT: General. CONTRACTOR shall be required to comply with the provisions of this AGREEMENT and its failure to fulfill in a timely and proper manner CONTRACTOR's obligations under this AGREEMENT shall constitute a breach of this AGREEMENT. A breach of this AGREEMENT shall fall into one of two categories, major or minor.

6.3 Breach Notification. In the event AGENCY finds that CONTRACTOR has violated any provision of this AGREEMENT, AGENCY shall provide CONTRACTOR with written notice of the violation, by certified mail to the CONTRACTOR, including all relevant details and an opportunity to cure the violation within a reasonable period of time. The notice referred to in this paragraph, shall have no effect if it comes from a MEMBER of the AGENCY. In order to have effect it must come from the AGENCY after a duly noticed meeting of the AGENCY Board of Directors. The written notice shall state the nature of the breach and whether it is considered major or minor by the AGENCY.

6.4 Major Breaches. Major breaches shall be identified under the provisions of this AGREEMENT and shall be grounds for revocation of this AGREEMENT. AGENCY shall give written notice of a major breach of this AGREEMENT and this AGREEMENT may be revoked if CONTRACTOR has failed to correct such breach within six (6) months after notice. However, AGENCY may require a longer or shorter period of time for correction depending on the circumstances, and immediate compliance may be required by AGENCY to the extent any problem represents a substantial and immediate

threat to the public health and safety.

6.5 Minor Breaches. Minor breaches of this AGREEMENT shall not constitute grounds for revocation. CONTRACTOR shall correct such minor breach within thirty (30) days after written notification from the AGENCY of such breach. If such breach is not corrected within thirty (30) days AGENCY may impose a penalty appropriate to the nature and extent of the breach which may not be passed through to the CUSTOMERS as an expense under the rate methodology.

6.6 Appeal of Breach. CONTRACTOR may request a hearing regarding the alleged breach by filing a written request with the AGENCY Board of Directors. Such request shall be filed not more than fifteen (15) calendar days after notice of the breach. If such request is received, the AGENCY shall set the matter for public hearing on a date not more than sixty (60) calendar days following receipt of such written request, and shall give CONTRACTOR at least fifteen (15) calendar days written notice of the time, date and place of the hearing. AGENCY shall issue its written decision and findings within thirty (30) calendar days after the date of the close of the hearing.

6.7 Arbitration. Contest of any decision made under Paragraph 6.6 shall be subject to the arbitration provisions of Section 7 of this AGREEMENT. If the parties differ over the question of whether or not the breach has been cured, the question shall be resolved by arbitration under the provisions of Section 7 of this AGREEMENT.

6.8 Cure of Breach. Notwithstanding the above, CONTRACTOR shall be entitled to cure the problem(s) to the satisfaction of the MANAGER at any time prior to the hearing before AGENCY Board of Directors. In the event of such cure of the default, the hearing shall be canceled and the suspension or revocation shall not become effective.

6.9 Penalties. For the purposes of this Section, penalties shall be in the nature of Liquidated Damages. If the violation is reasonably curable within thirty (30) days of receipt of AGENCY's written notice, and if CONTRACTOR has not commenced appropriate corrective action within that thirty (30) day period, or provided a plan to correct the violation in accordance with subsection (b) below, then AGENCY may proceed to assess damages for CONTRACTOR's individual or repeated willful violation of a material franchise requirements of up to One Hundred Dollars ($100) per day, or per incident, for all minor breach violations, and up to Five Hundred Dollars ($500) per day, or per incident, for major breach violations, provided that all such violations of similar nature occurring at the same time shall be deemed one (1) incident.

(a) In the event any stated violation is not reasonably curable within thirty (30) days, damages shall not be assessed if the CONTRACTOR has provided, within the

said thirty (30) days, a plan, satisfactory to the AGENCY, to remedy the violation and continues to demonstrate good faith in seeking to correct said violation.

(b) In determining which remedy or remedies for CONTRACTOR's violation are appropriate, AGENCY shall take into consideration the nature of the violation, whether the violation was chronic, the person or persons bearing the impact of the violation, the nature of the remedy required in order to prevent further such violations and such other matters as the AGENCY may deem appropriate.

6.10 Termination Due to Insolvency. If at anytime during the term of this AGREEMENT, CONTRACTOR shall become "insolvent" as hereinafter defined, then this AGREEMENT, and all of the rights and privileges granted thereby, shall immediately cease, be forfeited, and canceled without notice and without suit or other proceeding. For purposes of this Section, "insolvent" shall mean any one of the following events:

(a) Bankruptcy proceedings as commenced by or against CONTRACTOR, its parent corporation or owner; or

(b) The appointment of a receiver for any property of CONTRACTOR, parent corporation or owner; or

(c) Assignment, whether voluntary or involuntary, for the benefit of CONTRACTOR's creditors or creditors of CONTRACTOR's parent corporation or owner.

6.11 Termination - Significant Change in Circumstances. This AGREEMENT may also be terminated in the event that any of the following significant changes in circumstances occurs:

(a) Court Decisions. This AGREEMENT is approved pursuant to Section 40059 of the California Public Resources Code. If that provision should be declared invalid by a court of competent jurisdiction in Napa County or by an appellate court whose decisions are binding within Napa County, or such a court determines that this AGREEMENT could have been entered into only after AGENCY complied with Section 49200 of the Public Resources Code, then all rights under this AGREEMENT shall be deemed terminated as of the date of entry of the judgment containing such determination, without notice and without suit or other proceeding by AGENCY or CONTRACTOR, and without any right of compensation by either party against the other for losses incurred as a result of such termination.

(b) Undue Hardship on Rate Payers as Result of Unexpected Change in Laws, Markets, or Technologies. If, as the result of an unexpected change in the laws, markets or technologies applicable to the SOLID WASTE HANDLING SERVICES, the continued existence of this AGREEMENT would result in an increase in LANDFILL rates greater than fifteen percent (15%) higher than those disposal or transfer station rates charged at other solid waste facilities in Napa County, AGENCY may, in its discretion and after no less than one year written notice to CONTRACTOR and after consultation with CONTRACTOR, unilaterally terminate this AGREEMENT without obligation to CONTRACTOR for any additional losses, which were not approved by the AGENCY, incurred by CONTRACTOR as a result of such termination. Specifically, AGENCY shall be obligated to continue to provide for the funding of its obligations concerning payment of the CONTRACTOR's approved closure and post-closure cost estimates at the level included in the rates over the remaining length of the term of this AGREEMENT. The AGENCY shall determine and provide for the expenses incurred by CONTRACTOR for providing the SOLID WASTE HANDLING SERVICES described herein, for the original remaining term of this AGREEMENT. If any costs are recovered or avoided by CONTRACTOR concerning the above obligations and expenses paid by the AGENCY, CONTRACTOR shall reimburse AGENCY those appropriate amounts. AGENCY shall not be entitled to terminate this AGREEMENT if the rates are greater than fifteen percent (15%) higher than those Napa County disposal or transfer station rates if the difference is due to anything other than an unexpected change in the law, markets or technology. Specifically, this AGREEMENT may not be terminated if the difference in rates is due to lower volume at the LANDFILL or higher volume at those Napa County disposal or transfer stations, or any other change due to competition.

6.12 AGENCY Disbands. If the AGENCY disbands for any reason, its MEMBERS shall be bound by the provisions of this AGREEMENT pursuant to the JOINT POWERS AGREEMENT.

SECTION 7. ARBITRATION

7.1 Settlement by Arbitration. Any matter arising out of or relating to this AGREEMENT, other than claims for personal injury or property damage or hold harmless/indemnification for such claims, shall be settled by arbitration conducted in compliance with the provisions of the California Arbitration Act, commencing with Section 1280 of the California Code of Civil Procedure.

7.2 Panel. Each arbitration shall be conducted by a panel of three (3) impartial arbitrators. Arbitrators shall be required to have a minimum of five (5) years experience in the landfill disposal industry. One arbitrator shall be appointed by CONTRACTOR, one arbitrator shall be appointed by AGENCY, and the third arbitrator, who shall be the chairperson of the panel, shall be appointed by the other two arbitrators. If the other two arbitrators are unable to agree upon an appointment, the third arbitrator shall be appointed by the Presiding Judge of the Superior Court in Napa County. The chairperson of the arbitration panel shall be an attorney licensed to practice within the courts of the State of California. No member of the panel shall be an officer, employee, agent or attorney of CONTRACTOR, or any affiliate of CONTRACTOR or AGENCY.

7.3 Appointments. CONTRACTOR and AGENCY shall each appoint its arbitrator and mail notice to the other of its selection not later than fifteen (15) calendar days following filing of a notice of appeal to arbitration or mailing of the initiation of arbitration. The third arbitrator shall be appointed not later than thirty (30) calendar days following filing of the notice of appeal to arbitration or mailing of the initiation of arbitration.

7.4 Meetings. The chairperson of the arbitration panel shall select the site of the hearing, retain a stenographic reporter (or recording mechanism authorized at the time of the arbitration to officially record proceedings in the Napa County Courts) to report the hearing, and, in consultation with the other members of the panel and the parties, schedule the hearing. The hearing shall be scheduled to commence no later than seventy-five (75) calendar days following filing of the notice of appeal to arbitration or mailing of the initiation of arbitration. The chairperson of the panel shall mail written notice of the time, date and place of the hearing to the other two arbitrators, AGENCY and CONTRACTOR not later than twenty (20) calendar days in advance of the hearing.

7.5 Non-Chairperson Compensation and Expenses. The compensation and expenses of the arbitrator appointed by CONTRACTOR shall be borne and paid solely by CONTRACTOR. The compensation and expenses of the arbitrator appointed by AGENCY shall be borne and paid solely by AGENCY. CONTRACTOR and AGENCY shall each bear and solely pay its own costs and attorney's fees, expert and other witness fees and other expenses incurred in the preparing and prosecuting their respective cases. In proceedings where the record of a public hearing of AGENCY Board of Directors is to constitute by the arbitration panel, the costs of transcribing, typing and copying the record shall be borne and paid equally by CONTRACTOR and AGENCY.

7.6 Chairperson Compensation and Expenses. The compensation and expenses of the chairperson of the arbitration panel, rental, if any, for the place of the hearing, per diem costs of the stenographic reporter (or other authorized recording system), costs of transcribing and costs of the arbitration proceeding not otherwise identified in this AGREEMENT shall be divided equally between, borne and paid by CONTRACTOR and

AGENCY. The arbitration panel shall not be empowered to order a division of costs, fees or expenses different from that prescribed by this Section.

7.7 Award. The arbitration award shall be determined by a majority of the members of the arbitration panel, and shall be in writing. If it is necessary for the panel to make determinations of fact, it shall include findings of fact and conclusions with the award. The award shall be issued and mailed to the parties not later than sixty (60) calendar days following the close of the arbitration hearing.

7.8 Powers. The arbitration panel shall have no authority to add to, delete or alter any provisions of the AGREEMENT, but shall limit its interpretation to the express terms of the AGREEMENT. The arbitration panel shall have the power to award the prevailing party as monetary damages from the non-prevailing party the prevailing party's full costs incurred in connection with the arbitration, including but not limited to, that party's share of the panel and hearing expenses, attorney's fees, and expert witness fees, if the panel concludes that the request for arbitration made by the non-prevailing party was frivolous and without significant merit.

7.9 Enforcement of Award. The arbitration award may be judicially enforced, shall be final, binding and conclusive upon the parties and shall not be subject to judicial review or vacation except on ground set forth in Sections 1286.2 and 1286.6 of the Code of Civil Procedure.

SECTION 8. RESERVATION OF RIGHTS

8.1 Regulation. AGENCY reserves its right to regulate or further regulate aspects of SOLID WASTE HANDLING SERVICES including, but not limited to, level of service, charges and fees, nature, location and extent of providing SOLID WASTE HANDLING SERVICES.

8.2 SOLID WASTE generated outside of the SERVICE AREA. CONTRACTOR reserves the right to accept SOLID WASTE from areas other than the SERVICE AREA. However, CONTRACTOR shall at all times maintain permitted LANDFILL capacity for the approved AGENCY's estimated WASTE disposal needs at LANDFILL over the term of this AGREEMENT. If CONTRACTOR desires to accept SOLID WASTE from areas other than the SERVICE AREA, CONTRACTOR may accept up to 5% of the maximum annual waste volume accepted by the landfill without prior AGENCY approval. Acceptance of SOLID WASTE greater than 5% can be requested by CONTRACTOR and will be considered by AGENCY (with possible conditions added to manage traffic or other potential impacts). AGENCY approval will not be unreasonably withheld. From

July 1, 2010 to June 30, 2012, the 5% limitation in the previous sentences is hereby waived. Any such violation shall constitute a major breach.

8.3 Other Activities. CONTRACTOR reserves the right to conduct other activities at the LANDFILL which are either regulated or not regulated by the AGENCY, provided that such activities do not interfere with CONTRACTOR's duties hereunder and provided that such activities are lawful under Federal and State laws and regulations.

SECTION 9. ACCIDENTS AND COMPLAINTS

9.1 Accident Notification. CONTRACTOR shall be responsible for all injuries, accidents and other mishaps associated with its operations. CONTRACTOR shall report any accidents resulting from the performance of this AGREEMENT to AGENCY as soon as practicable by telephone or messenger. For purposes of this Section, "accident" shall include the death of any person, any personal injury resulting in inpatient hospitalization or out-patient treatment by a physician, or damage to any real or personal property exceeding $10,000. CONTRACTOR shall report, in writing, to AGENCY, within seven (7) days of knowledge that the accident exceeds ten thousand dollars ($10.000), complete details of the accident, including witness statements. Any violation of this reporting requirement shall constitute a minor breach.

9.2 Legal Action Response. CONTRACTOR shall respond in a reasonable manner to legal actions, complaints, charges and allegations related to CONTRACTOR's performance under this AGREEMENT within thirty (30) days of receipt of that legal action, complaint, charge, or allegation, including but not limited to, those legal actions made or actions brought by citizens, citizen groups and public agencies. In the event any legal action is filed against CONTRACTOR, CONTRACTOR shall report, in writing, to AGENCY, within seven (7) days of the legal action filing, complete details of the action, including the nature of the response. Any violation of this reporting requirement shall constitute a minor breach.

9.3 Other Complaints. CONTRACTOR shall keep a log of complaints if reasonably practical. If AGENCY requires activities which result in a rate increase which causes excessive complaints, CONTRACTOR shall be excused from logging complaints relative to those activities for a period of three (3) months from the effective date of the increase, but shall refer complainants to the MANAGER. CONTRACTOR shall not be required to keep a log of complaints related to any legal complaint. If complaints are deemed reasonable, CONTRACTOR shall take whatever action it deems necessary to respond to such complaint. Any violation of this Paragraph shall constitute a minor breach.

SECTION 10. CLOSURE AND POST-CLOSURE FUNDS

10.1 Responsibility. CONTRACTOR shall be responsible for all closure and thirty years of post-closure costs relating to the LANDFILL. CONTRACTOR shall establish and maintain at its sole expense any closure and post-closure trust fund now or hereafter required under any applicable federal, or state law or regulation. Any violation of this Paragraph shall constitute a major breach.

10.2 Closure and Post-Closure CONTRACTOR shall comply with the provisions of Title 14 Article 3.5 and following of the California Code of Regulation in the manner required by the California Integrated Waste Management Board and the AGENCY. Any violation of this Paragraph shall constitute a major breach.

(a) Trust Fund. In the event a "trust fund" and\or an "enterprise fund" is created and funds are collected from the rate payers for closure and post-closure costs, CONTRACTOR shall collect such funds and hold such funds as trustee for AGENCY and shall not own such funds and shall not be required to include such funds in its income for tax purposes. CONTRACTOR shall use such funds for closure and post-closure only and only as trustee for AGENCY. In the event that the value of the trust fund is greater than the required amount of coverage minus the amount of coverage demonstrated by other mechanisms, and in the further event that such excess funds are released to CONTRACTOR under the provisions of CRC 18284 (c), then such funds will become revenue for the CONTRACTOR and an appropriate adjustment shall be made in applying the Rate Methodology attached in Exhibit B. Treatment of Trust Funds created prior to this AGREEMENT for LANDFILL financial assurance may be treated differently concerning ownership of those trust funds than that which is outlined in this paragraph.

(b) In the event CONTRACTOR proposes to use other financial mechanisms for providing financial assurance for closure and post-closure, prior approval of such financial mechanism and the associated impacts to this agreement, including the attached Rate Methodology and Rates, shall be required by the AGENCY. Such approval shall not be unreasonably withheld if such mechanisms comply with State and Federal laws and regulations.

10.3 Operating Liability. CONTRACTOR shall make the contributions required pursuant to the ACT to provide for the Operating Liability. If a trust fund is used, such fund shall be considered a Third Party Trust Fund according to the Rate Methodology (Exhibit B). If CONTRACTOR proposes to use other financial mechanisms for providing the Operator Liability required pursuant to State and Federal laws and regulations, such financial

mechanism shall be subject to approval by the AGENCY. Any violation of this Paragraph shall constitute a major breach.

SECTION 11. FACILITIES

11.1 Acquisition. As reasonably required by AGENCY, CONTRACTOR agrees to acquire and maintain in good repair all FACILITIES, vehicles, LANDFILL scales, and all other equipment necessary to meet its obligations herein, including, but not limited to, administrative offices, as well as buildings and other improvements for storage and maintenance of vehicles and equipment, for the DIVERSION of SOLID WASTE, including yard waste, and for the transfer of WASTE and/or DIVERTIBLE MATERIALS if necessary. CONTRACTOR agrees to promptly remove or have removed any liens or encumbrances that, because of any act or default of CONTRACTOR, its officers, employees, or agents, or of CONTRACTOR's subcontractors or sub-subcontractors, or material suppliers, or equipment owners are filed against the LANDFILL or other FACILITY. CONTRACTOR reserves the right to contest liens prior to their payment. Any violation of this Paragraph shall constitute a major breach.

11.2 Use. The FACILITIES may be used for activities unrelated to this AGREEMENT including, but not limited to, other contracts or franchises with other governmental agencies, private agencies, other businesses related to the SOLID WASTE business and businesses unrelated to the SOLID WASTE business, provided that such other uses do not prevent, hamper or delay uses reasonably necessary for performance by CONTRACTOR of its obligations under the AGREEMENT. Any violation of this Paragraph shall constitute a major breach.

SECTION 12. QUALITY OF PERFORMANCE

12.1 CONTRACTOR shall coordinate and schedule in an orderly manner and manage all work done by CONTRACTOR's officers, employees, and subcontractors. CONTRACTOR and subcontractors shall perform every act or service under this AGREEMENT in a skillful and competent manner in accordance with the standards of the SOLID WASTE HANDLING SERVICES industries. All workers and subcontractors shall be skilled in their trades. All operators shall be licensed or otherwise qualified as required by law. Any violation of this Paragraph shall constitute a minor breach, unless the violation results in personal injury or property damage, or a significant threat of the same, in which case the violation may constitute a major breach.

SECTION 13. CONTRACTOR REPRESENTATIONS AND WARRANTIES

13.1 CONTRACTOR makes the following representations and warranties to and for the benefit of AGENCY:

(a) CONTRACTOR is duly organized and validly existing as a corporation in good standing under the laws of the State of California and is duly qualified to do business in the State of California.

(b) CONTRACTOR has full legal right, power and authority to execute and deliver, and perform its obligations under this AGREEMENT, and has duly authorized the execution and delivery of this AGREEMENT. This AGREEMENT has been duly executed and delivered by CONTRACTOR and constitutes a legal, valid and binding obligation of CONTRACTOR enforceable against CONTRACTOR in accordance with its terms.

(c) Neither the execution or delivery by CONTRACTOR of this AGREEMENT, the performance by CONTRACTOR of its obligations hereunder, nor the fulfillment by CONTRACTOR of the terms and conditions hereof:

(i) conflicts with, violates or results in a breach of any applicable law; or

(ii) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other governmental authority, or to the best of CONTRACTOR's knowledge, any agreement or instrument, to which CONTRACTOR is a party or by which CONTRACTOR or any of its properties or assets are bound, or constitutes a default thereunder.

(d) No approval, authorization, license, permit, order or consent of, or declaration, registration or filing with, any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery of this AGREEMENT by CONTRACTOR, except such as has been duly obtained or made or such as CONTRACTOR has given AGENCY adequate assurance will be obtained or made before the commencement of services by CONTRACTOR under this AGREEMENT.

(e) Except as herein stated, CONTRACTOR holds, or is expressly licensed to use, all patents, rights, licenses, and franchises necessary or appropriate to operate and maintain all FACILITIES and vehicles pursuant to and in accordance with the terms of the AGREEMENT.

(f) A misrepresentation or breach under this Section shall constitute a minor breach, unless expressly designated by this AGREEMENT as a major breach.

SECTION 14. PERMITS, LICENSES, ETC.

14.1 CONTRACTOR shall obtain, maintain and pay for, at CONTRACTOR's sole expense, all permits, licenses and approvals required by federal and state law for its operations and activities under this AGREEMENT. CONTRACTOR shall file with AGENCY a list of all such permits, licenses and approvals designating the issuing agency, the dates of issuance, the expiration of those permits, and shall file a copy of all current permits. CONTRACTOR shall be solely liable for all fines or civil penalties that may be imposed by any regulatory agency for CONTRACTOR-caused violations of permits, laws, or regulations; AGENCY shall not be liable for and shall not reimburse CONTRACTOR for payment of those fines or civil penalties. CONTRACTOR reserves the right to contest any fine in an administrative proceeding or in court prior to its payment. Any violation of this Section shall constitute a major breach.

SECTION 15. INSURANCE

15.1 Insurance. CONTRACTOR shall obtain and maintain in full force and effect throughout the term of this AGREEMENT the following insurance coverage:

(a) Workers' Compensation insurance. CONTRACTOR shall provide, to the extent required by law, workers' compensation insurance in the performance of any of CONTRACTOR's duties under this AGREEMENT; including but not limited to, workers' compensation and disability, and shall provide AGENCY with certification of all such coverages upon request by AGENCY.

(b) General Liability insurance. CONTRACTOR shall obtain and maintain in full force and effect during the term of this AGREEMENT commercial or comprehensive general liability insurance policy (bodily injury and property damage) of not less than Two Million Dollars ($2,000,000) combined single limit per occurrence, issued by a company duly and legally licensed to transact business in the State of California, covering liability for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of CONTRACTOR or any officer, agent, or employee of CONTRACTOR under this AGREEMENT.

(c) Comprehensive Motor Vehicle Liability Insurance. CONTRACTOR shall obtain

and maintain in full force and effect during the term of this AGREEMENT, a motor vehicle liability insurance policy (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with CONTRACTOR's business of not less than Two Million Dollars ($2,000,000) combined single limit per occurrence.

(d) Insurance Required by Statutes or Regulations. CONTRACTOR shall also obtain and maintain in full force and effect during all periods required by statutes or regulations any insurance coverage required by federal or state laws or regulations or as a condition of any local land use permits, which may include but is not limited to, environmental liability/operator insurance required of the operator of a landfill.

(e) All insurance coverages referenced above in (b), (c) and (d) above shall be evidenced by a Certificate of Coverage which shall be filed with the MANAGER of AGENCY prior to commencement of performance of any of CONTRACTOR's duties, shall name AGENCY, its officers, employees, and agents as additional insureds, shall be kept current during the term of this AGREEMENT; shall provide that AGENCY shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change; shall provide that the insurance provided is primary coverage to AGENCY with respect to any insurance or self-insurance programs maintained by AGENCY; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability. Upon request of AGENCY, CONTRACTOR shall provide or arrange for the insurer to provide within thirty (30) days of the request, certified copies of the actual insurance policies.

(f) Any deductibles or self-insured retentions shall be declared to, and be approved by, AGENCY. At the option of AGENCY, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects AGENCY, its officers, employees and volunteers or CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

SECTION 16. RECORDS AND REPORTS

16.1 Accurate and Accessible Records. CONTRACTOR shall keep accurate records of all transactions connected with this AGREEMENT including, but not limited to, all

correspondence and invoices, transaction tickets, or receipts issued at all FACILITIES. CONTRACTOR shall at all times maintain an accounting system acceptable to AGENCY's Auditor-Controller that uses generally accepted accounting principles for all services rendered and materials supplied, including additional and deleted work, in connection with this AGREEMENT. The records of CONTRACTOR will be open to inspection at any reasonable times by a representative to be designated by AGENCY. Persistent and/or multiple violations of this Paragraph shall constitute a major breach.

16.2 Monthly Reports. CONTRACTOR shall provide to AGENCY, in a manner and format mutually agreed upon by AGENCY and the CONTRACTOR, a report for the preceding reporting period summarizing routine and extraordinary activities during the prior reporting period, including information necessary to evaluate program effectiveness and comply with solid waste plans, laws and regulations, and plans and schedules for future activities. It is the intent of the AGENCY that the CONTRACTOR shall be responsible for collecting and complying data pursuant to solid waste planning requirements and that such activities shall be included in the Rate Methodology set forth in Exhibit B. Any violation of this Paragraph shall constitute a minor breach.

SECTION 17. THE ACT

17.1 Compliance. The ACT requires that the MEMBERS or AGENCY adopt a SRRE, which will identify how the MEMBERS or AGENCY will reduce landfill disposal by source reduction, recycling, and/or composting. CONTRACTOR agrees to satisfactorily carry out its responsibilities stated in the SRRE and HHWE as identified in those documents, or as modified by the AGENCY. Further, CONTRACTOR agrees to use its best efforts to meet or exceed the ACT's requirements or such modified requirements as may be promulgated by the State of California in the future. CONTRACTOR shall submit a plan for complying with the implementation of the SRRE and HHWE. Any violation of this Section shall constitute a major breach.

SECTION 18. SOLID WASTE HANDLING SERVICES

18.1 Disposal. All WASTE which is not diverted shall be removed and deposited at the LANDFILL. CONTRACTOR shall have the right to salvage materials prior to disposal, pursuant to the limitations of its solid waste facility permit. These salvaged materials then become DIVERTIBLE MATERIALS.

18.2 Billing. CONTRACTOR shall conduct all billings for the SOLID WASTE HANDLING SERVICES authorized under this AGREEMENT in a uniform and regular manner.

18.3 LANDFILL Operations. In conducting the disposal operations at the LANDFILL,

CONTRACTOR will apply modern standards of WASTE disposal practices. All WASTE shall be disposed of at the LANDFILL or such other landfill or transfer facility that is designated by AGENCY as the appropriate disposal site.

18.4 LANDFILL Hours. CONTRACTOR will operate said LANDFILL in such a fashion as to permit public access and use six (6) days per week, Tuesdays through Sundays, weekly, and to be closed on Mondays and the following holidays: New Years Day, Memorial Day, Fourth of July, Thanksgiving and Christmas.

18.5 LANDFILL Collection Center. CONTRACTOR shall provide a collection center for both buy-back and drop-off of listed DIVERTIBLE MATERIALS, as defined in the separate franchise agreement with Upper Valley Disposal Service (Authority Agreement #95-09), as that list may be amended, and for the following additional materials:

(a) Motor Oil;
(b) Latex Paint;
(c) Antifreeze (when permitted); and
(d) Automobile Batteries.

All of these materials shall be accepted at LANDFILL without charge from households, or as reflected in the current rates listed in Exhibit C. AGENCY may add or delete materials upon notification by the AGENCY. Hours of operation shall be Tuesday through Sunday 9:00 a.m. to 3:30 p.m. These materials shall be treated and reported in the manner pursuant to Authority Agreement #95-09 with Upper Valley Disposal Service.

18.6 Household Hazardous Waste. CONTRACTOR shall cooperate with AGENCY and MEMBERS in the conduct of hazardous waste collection days and related Public Awareness programs.

18.7 Special Handling Materials. CONTRACTOR shall accept materials at the LANDFILL which require special handling, such as tires and white metals, at rates established by the AGENCY which reflect the additional costs associated with handling those materials.

18.8 WASTE Disposal. WASTE may be disposed at sites other than the LANDFILL only upon the written agreement of the AGENCY and the CONTRACTOR.

18.9 Violations. Any violation of this Section shall constitute a minor breach.

EXHIBIT B
TO SECOND AMENDMENT TO
AGENCY AGREEMENT #95-06

UPPER VALLEY WASTE MANAGEMENT AGENCY
CLOVER FLAT LANDFILL RATE METHODOLOGY

Table of Contents:

I. INTRODUCTION

II. RATE SETTING PROCESS

1. Adjustment of Rates
2. Dates for Rate Applications and Rate Setting
3. Adjustments to Rate Setting Process

III. DEFINITIONS

CLOVER FLAT LANDFILL RATE METHODOLOGY

I. INTRODUCTION

The Rate Methodology contained herein is intended to provide a consistent framework for establishing the Rates to the Franchisee, the Clover Flat Landfill (the "CONTRACTOR") by the Rate Setting Agency, the Upper Valley Waste Management Agency (the "AGENCY").

To accomplish these goals, the AGENCY, and the CONTRACTOR have agreed on a methodology which incorporates the use of the Adjusted CPI Index for adjustment of the Landfill Tip Fee and Regulatory Mandated Expenses which will govern the sole means of compensation to the CONTRACTOR. This methodology has been developed in consultation with the members of the AGENCY, recognizing the importance of Landfill Rates at Clover Flat Landfill on the overall costs of waste management for the ratepayers within the AGENCY's MEMBER Jurisdictions.

II. RATE SETTING PROCESS

1. ADJUSTMENT OF RATES

a. Annual Adjustment

The Initial Year Rates beginning in July 1, 2007 are set forth in Exhibit C. Subject to the terms herein, the CONTRACTOR is entitled to one Landfill Tip Fee rate adjustment annually beginning on July 1, 2008. CONTRACTOR'S request for an adjustment shall be prepared in a format approved by the AGENCY Representative, and shall be submitted to the AGENCY by May 1st each year, beginning with May 1, 2008. Each adjustment is to be based on the change in data from the previous twelve (12) month period as specified in this Article II, is to be approved by the AGENCY in June of each year, and will be effective on each subsequent July 1st. Each component shall be adjusted as specified in this Article II.

The Agency shall adjust the Landfill Tip Fee up or down to reflect: 1) the product of the change in the annual CPI measured as the percentage change in the Adjusted CPI Index over the previous (12) months multiplied by the then current Landfill Tip Fee and 2) Agency approved Regulatory Mandated Expenses.

b. Calculation of Adjustment to Landfill Tip Fee

Landfill Tip Fee shall be adjusted as follows:

Adjusted Landfill Tip Fee = (previous year Approved Landfill Tip Fee) x [[(current year February CPI/12-month previous year February CPI) - 1] x 0.89 + 1]

Example: Assume the following change in CPI:

1. Current year February CPI = 123

2. Previous 12-month February CPI = 118

3. Previous year Approved Landfill Tip Fee = $61.00

Adjusted Landfill Tip Fee is calculated as follows:

Adjusted Landfill Tip Fee = $61.00 x [[(123/118) – 1] x 0.89] + 1] = $ 63.30

This example shall apply to all the categories of Solid Waste set forth in Exhibit C.

c. Change in Regulatory Mandated Expenses

Landfill Tip Fee shall be adjusted as follows:

Example of related expenses: Assume the following:

1. Regulatory change costs $250,000 (Should there be a need to finance any Regulatory Mandated Expenses that are incurred in full or in part prior to rate recovery occurring, then the amount of loan interest needed to finance the Regulatory Mandated Expenses incurred would also be included as part of the regulatory change costs).

2. Expenses will be incurred at Closure of the Landfill.

3. Estimated closure date is July 1, 2025

4. Number of Average tons disposed over the last 5 years = 44,000 tons.

5. New Annual State Mandated regulatory fee = $500

6. An average of 250 pound per cubic yard

Adjustment to Adjusted Landfill Tip Fee is calculated as follows:

Additional amount added to Adjusted Landfill Tip Fee =

[$250,000.00 / 18 / 44,000] / .89 = $.35

+ [$500 /44,000] = $.01

= $ .36 per ton or $ .05 cubic yard.

d. Change in the CPI Index

If the CPI Index is discontinued or revised during the Term such other index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the CPI Index had not been discontinued or revised.

2. DATES FOR RATE APPLICATIONS AND RATE SETTING

Rate applications will be submitted May 1st of each year for review and adjustments to Rates will be applied to the following Rate Year beginning on July 1st.

3. ADJUSTMENTS TO RATE SETTING PROCESS

If either the AGENCY or CONTRACTOR wishes to propose adjustments to the Rate setting process once the methodology has been adopted, a written proposal of these amendments shall be submitted by the party desiring the changes and distributed to all interested parties. Both parties will review the proposed adjustments in a timely manner and notify the other party as to their decision of whether to adopt or not adopt the amendment to the Rate Methodology. The adoption process will follow that of the original Rate Methodology adoption process.

III. DEFINITIONS

In addition to the Definitions stated in Exhibit A of this AGREEMENT, Section 1, the following definitions, that have the first letter capitalized in this Exhibit B, have the following meanings:

Adjusted CPI Index: the factor by which the prior year Approved Landfill Tip Fee (fiscal year 2007/2008 shall be defined as Initial Year Rate with no adjustment) is adjusted to address changes in CPI. The Index is defined as 89 % of the increase or decrease in the Consumer Price Index (CPI, the San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index for All Urban Consumers) over the previous twelve (12) months from the February CPI, not to exceed 8% in any given Rate Year (and therefore Index not to exceed 7.12% per year, or 89% of 8%). The CONTRACTOR may at their option, choose to round down the Approved Landfill Tip Fee.

CPI: the San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index for All Urban Consumers

Landfill Tip Fee: means charge for each category of Solid Waste delivered to Clover Flat Landfill as set forth in Exhibit C.

Rate(s): Rates are defined as:

a. Proposed Landfill Tip Fee's are those proposed by the CONTRACTOR for the new Rate Year
b. Adjusted Landfill Tip Fee's are those adjusted by the AGENCY from Proposed Rates supplied by the CONTRACTOR
c. Approved Landfill Tip Fees's are those set and approved by the AGENCY to be applied for the Rate Year.
d. Initial Year Rates for the period of July 1st 2007 through June 30th, 2008 is equal to those rate set forth in Exhibit C.

Rate Methodology: the method and steps set forth in this document, which shall be used to govern the calculation of solid waste and recyclables Rates by the AGENCY.

Rate Year: a one year period beginning July 1st and ending the subsequent June 30th during which time a single Rate per Solid Waste ton is charged.

Regulatory Mandated Expenses: includes only those expenses related to Federal, State or Local regulatory agency requirements as a result of change in law and approved by the AGENCY after July 1, 2007.

EXHIBIT C
TO SECOND AMENDMENT TO
AGENCY AGREEMENT #95-06

UPPER VALLEY WASTE MANAGEMENT AGENCY

RATES
Initial Year Rates
Effective July 1,2007

Minimum Rate (Loose Refuse)---------- $11.25 cyd
Per Yard Rate (Loose Refuse)---------- $11.25 cyd
TRUCKS & Trailers 10 yards and over (Per Ton) ---------- $61.00 ton

---

Clean Green Yard Debris (Minimum Rate) ---------- $10.00 cyd
Clean Green Yard Debris (Per Yard Rate)---------- $8.00 cyd
Clean Green Yard Debris (Per Ton Rate)---------- $48.00 ton

Stumps, Timbers---------- $48.00 ton

Water Heaters ----------$15.00 each
Stoves ----------$15.00 each
Washers/Dryers ----------$15.00 each
Dishwashers ----------$15.00 each
Mattresses with Springs ----------$12.00 each
Couches ----------$12.00 each
Refrigerators & Air Conditioners ----------$30.00 each
TV/Monitors (CRT's) All sizes ---------- N/C

Tires, Auto & Light Truck (inside diameter less than 16")---------- $5.00 each
Tires, Large Truck (inside diameter between 16" & 22") ----------$20.00 each
Tires, Tractor (inside diameter over 22") ---------- $100.00 each

Batteries---------- N/C
Latex Paint---------- N/C
Anti Freeze ---------- N/C
Motor Oil ---------- N/C

Asphalt, Concrete, Dirt (Based on quality of material) ----------$56.00 per ton Max.

Asbestos Not-Friable---------- $30.00 cyd
Bury Immediately & Special Handling of Materials ---------- $38.00 Surcharge
Offloading Assistance (Non-Hazardous materials only)---------- $80.00 per hour
Offloading Assistance (Non-Hazardous materials only)---------- $40.00 Min. Charge

EXHIBIT D
TO SECOND AMENDMENT TO
AGENCY AGREEMENT #95-06

UPPER VALLEY WASTE MANAGEMENT AGENCY

Example of Rate Calculation

Description	*Prior Approved Landfill Tip Fees*	*Adjustment based on Adjusted CPI Index*	*Adjustment for additional Regulatory Mandated Expenses*	*Proposed Landfill Tip Fees*
Minimum Rate (Loose Refuse)	$ 11.25 cyd	$ 0.42	$ 0.05	$ 11.72
Per Yard Rate (Loose Refuse)	$ 11.25 cyd	$ 0.42	$ 0.05	$ 11.72
TRUCKS & Trailers 10 yards and over (Per Ton)	$ 61.00 ton	$ 2.30	$ 0.36	$ 63.66
Clean Green Yard Debris (Minimum Rate)	$ 10.00 cyd	$ 0.38	$ 0.05	$ 10.43
Clean Green Yard Debris (Per Yard Rate)	$ 8.00 cyd	$ 0.30	$ 0.05	$ 8.35
Clean Green Yard Debris (Per Ton Rate)	$ 48.00 ton	$ 1.81	$ 0.36	$ 50.17
Stumps, Timbers	$ 48.00 ton	$ 1.81	$ 0.36	$ 50.17
Water Heaters	$ 15.00 each	$ 0.57	$ -	$ 15.57
Stoves	$ 15.00 each	$ 0.57	$ -	$ 15.57
Washers/Dryers	$ 15.00 each	$ 0.57	$ -	$ 15.57
Dishwashers	$ 15.00 each	$ 0.57	$ -	$ 15.57
Mattresses with Springs	$ 12.00 each	$ 0.45	$ -	$ 12.45
Couches	$ 12.00 each	$ 0.45	$ -	$ 12.45
Refrigerators & Air Conditioners	$ 30.00 each	$ 1.13	$ -	$ 31.13
TV/Monitors (CRT's) All Sizes	N/C			N/C
Tires, Auto & Light Truck (inside diameter less than 16")	$ 5.00 each	$ 0.19	$ -	$ 5.19
Tires, Large Truck (inside diameter between 16" & 22")	$ 20.00 each	$ 0.75	$ -	$ 20.75
Tires, Tractor (inside diameter over 22")	$ 100.00 each	$ 3.77	$ -	$ 103.77

EXHIBIT D
Example of Rate Calculation
(continued)

Batteries	N/C				N/C
Latex Paint	N/C				N/C
Anti Freeze	N/C				N/C
Motor Oil	N/C				N/C

Description	*Prior Approved Landfill Tip Fees*		*Adjustment based on Adjusted CPI Index*	*Adjustment for additional Regulatory Mandated Expenses*	*Proposed Landfill Tip Fees*
Asphalt, Concerte, Dirt (Based on quality of material) - Max.	$ 56.00	ton	$ 2.11	$ 0.36	$ 58.47
Asbestos Not-Friable	$ 30.00	cyd	$ 1.13	$ 0.05	$ 31.18
Bury Immediately & Special Handling of Materials	$ 38.00	charge	$ 1.43	$ -	$ 39.43
Offloading Assistance (Non-Hazardous terials only)	$ 80.00	hour	$ 3.02	$ -	$ 83.02
Offloading Assistance (Non-Hazardous materials only) - Min.	$ 40.00	charge	$ 1.51	$ -	$ 41.51