

# INTEGRATED WASTE MANAGEMENT Transfer Services Contract

**Between  
[Contractor]  
And  
Mono County**



Contract Date: \_\_\_\_\_, 2021  
Operations Date: xxx months prior to Benton closure  
Expiraton Date: 20 years from operations date.

## INTRODUCTION

### Transfer Services Contract

This Transfer Services Contract is a complementary part of the Master Contract between Contractor and County.

1. The **Master Contract** provides general contract administration and enforcement.
2. This **Transfer Services Contract** requires Contractor to provide financing, permitting, infrastructure, equipment, and personnel to transfer solid waste from collection trucks and self-haulers to transport trailers that long-haul the solid waste to a landfill for disposal.

**Urgency of Timely Services Commencement.** The County's lease with the City of Los Angeles DWP for the Benton Crossing Landfill (BCLF) terminates on January 1, 2023; accordingly, transfer services at another location must be in place and operational by December 31, 2022.

1. **Incentive.** County will provide a timely services commencement incentive of \$30,000 in addition to the transfer service fees under this Transfer Contract if transfer services are in place and operational as of December 31, 2022. For each day thereafter that the services are not in place and operational, the timely commencement incentive will be reduced by \$330, until April 1, 2023.
2. **Liquidated Damages.** Commencing April 2, 2023, liquidated damages will be imposed in the amount of \$3000 per day that the transfer services are not in place and operational to provide County with funds to provide for alternative transfer services.

**20-year Term.** The term of this Transfer Contract allows Contractor to recover its capital investment over 20 years. At the expiration (or earlier termination) of this transfer Services Contract, when the infrastructure has been fully depreciated, County has the option to purchase all or part of the site (if not on County land), transfer station building, and equipment utilized by Contractor under this Transfer Contract (transfer facility), at a price equal to Contractor's development cost depreciated on a straight-line basis.

- (1) If County exercises its purchase option, Contractor must vacate the transfer facility. County can operate the transfer facility itself or contract with someone else.
- (2) If the County does *not* exercise its purchase option and transfer station is located on property leased from County, Contractor must remove all improvements and return the site to its former condition, unless otherwise agreed by County.

<b>INTRODUCTION .....</b>	<b>2</b>
<b>TABLE OF CONTENTS.....</b>	<b>3</b>
<b>PREAMBLE.....</b>	<b>5</b>
<b>FINDINGS.....</b>	<b>5</b>
<b>GLOSSARY .....</b>	<b>9</b>
<b>ARTICLE 1 – CONTRACT RIGHTS and OBLIGATIONS .....</b>	<b>13</b>
Section 1.01 Contractual Flow Control .....	13
Section 1.02 Sole Use .....	13
<b>ARTICLE 2 – TERM.....</b>	<b>13</b>
Section 2.01 20-year Term and Option to Extend.....	13
Section 2.02 Continuing Obligations; County Purchase Option.....	13
<b>ARTICLE 3 – SCOPE OF SERVICES/SPECIFICATION .....</b>	<b>14</b>
Section 3.01 Readiness Benchmarks .....	14
Section 3.02 Benchmark Extensions .....	15
Section 3.03 Parties’ Contribution and Acknowledgements .....	16
Section 3.04 Permits.....	16
Section 3.05 Transfer Station Standards.....	17
Section 3.06 Start-up.....	19
Section 3.07 Acceptance Testing.....	19
<b>ARTICLE 4 – SERVICE STANDARDS .....</b>	<b>23</b>
Section 4.01 Commencement of Services.....	23
Section 4.02 Transferable Waste .....	23
Section 4.03 Weight and Scale House.....	24
Section 4.04 Customer Delivery .....	27
Section 4.05 Delivery of Nontransferable Waste.....	28
Section 4.06 Vehicle Turnaround.....	30
Section 4.07 Safety.....	31
Section 4.08 Annual Free Dump Day.....	31
Section 4.09 Emergency Plan .....	31
Section 4.10 Back-Up Transfer Service.....	31
Section 4.11 Transfer Services .....	32
Section 4.12 Throughput Standard .....	32
Section 4.13 Loading and Weighing Containers.....	32
Section 4.14 Storage.....	33
Section 4.15 County Right to Observe Transfer Station Operations .....	34
Section 4.16 Operations and Maintenance.....	34
Section 4.17 Operation, Maintenance, Repair, and Replacement .....	34
Section 4.18 Equipment .....	35
Section 4.19 Tipping Floor.....	35
Section 4.20 Utility Costs.....	36
Section 4.21 Nuisance Control .....	37
Section 4.22 Damage or Destruction, Theft.....	37

Section 4.23 Security.....	37
Section 4.24 Safety.....	37
Section 4.25 Staffing.....	38
Section 4.26 Key personnel; Related Parties .....	38
<b>ARTICLE 5 – CONTRACTOR (“MARKET”) CUSTOMERS.....</b>	<b>38</b>
Section 5.01 Acknowledgements .....	38
<b>ARTICLE 6 – PURCHASE OPTION .....</b>	<b>41</b>
Section 6.01 County Purchase Options.....	41
Section 6.02 Sales Price.....	41
Section 6.03 Inspection and Condition .....	42
Section 6.04 Assets / Damaged Assets.....	42
Section 6.05 Repair or Replacement.....	42
Section 6.06 Clean and Functional.....	42
<b>ARTICLE 7 – OWNERSHIP OF SOLID WASTE; DISCLAIMERS .....</b>	<b>42</b>
<b>ARTICLE 8 – TRANSFER SERVICE FEES.....</b>	<b>42</b>
Section 8.01 Transfer Service Fee .....	42
Section 8.02 Transfer Service Fee Adjustments.....	43
Section 8.03 Invoicing and Payment .....	43
Section 8.04 Disputes.....	45
Section 8.05 Contractor’s Reimbursable Costs.....	45
Section 8.06 Offsets .....	45
<b>ARTICLE 9 – RECORDS .....</b>	<b>45</b>
<b>ARTICLE 10 – REPORTS.....</b>	<b>45</b>
<b>ARTICLE 11 – INDEMNIFICATION, HOLD HARMLESS AND DEFENSE.....</b>	<b>45</b>
<b>ARTICLE 12 – INSURANCE AND FINANCIAL ASSURANCES .....</b>	<b>46</b>
Section 12.01 Insurance .....	46
Section 12.02 Letter of Credit .....	46
Section 12.03 Guaranty.....	46
<b>ARTICLE 13 – BREACHES AND DEFAULTS .....</b>	<b>46</b>
Section 13.01 Contractor Default.....	46
<b>ARTICLE 14 – ENFORCEMENT OF AGREEMENT/REMEDIES .....</b>	<b>47</b>
Section 14.03b Liquidated Damages for Service Default.....	47
Section 14.05 Suspension or Termination .....	49
<b>ARTICLE 15 – GENERAL PROVISIONS.....</b>	<b>50</b>
Section 15.01 Subcontractors .....	50
Section 15.02 Party Representatives .....	51
<b>ARTICLE 16 – EXECUTION OF AGREEMENT.....</b>	<b>51</b>
<b>ATTACHMENT 3.01a TRANSFER SERVICES READINESS BENCHMARKS.....</b>	<b>52</b>
<b>ATTACHMENT 3.01b FORM OF LEASE.....</b>	<b>53</b>
<b>ATTACHMENT 3.01c OPERATIONS AND MAINTENANCE PLAN.....</b>	<b>54</b>
<b>ATTACHMENT 3.04a PERMITS.....</b>	<b>55</b>
<b>ATTACHMENT 3.04b AGREEMENT FOR THE PROVISIONS OF PROJET EVALUATION SERVICES .....</b>	<b>56</b>

**ATTACHMENT 3.07 ACCEPTANCE TESTS .....57**  
**ATTACHMENT 4.05c.....59**  
**ATTACHMENT 4.10 CONTRACTOR’S BACK-UP TRANSFER SITE.....60**  
**ATTACHMENT 4.13d CHECK SHEETS FOR TRANSPORT CONTAINERS.....61**  
**ATTACHMENT 4.18 EQUIPMENT SPECIFICATIONS.....62**  
**ATTACHMENT 4.19b TIPPING FLOOR BASELINE AND MONITORING PLAN .....63**  
**ATTACHMENT 4.26 KEY PERSONNEL .....64**  
**ATTACHMENT 8.02(1) TRANSFER SERVICE FEE ADJUSTMENTS: ANNUAL.....66**  
**ATTACHMENT 8.02(2) TRANSFER SERVICE FEE ADJUSTMENTS: CHANGE IN SERVICE .....69**  
**ATTACHMENT 9.00 RECORDS.....71**  
**ATTACHMENT 12.01 INSURANCE .....72**  
**ATTACHMENT 12.02 LETTER OF CREDIT.....73**  
**ATTACHMENT 12.03 GUARANTY .....74**  
**ATTACHMENT 15.01b LIST OF SUBCONTRACTORS .....75**  
**ATTACHMENT 15.02 PARTY REPRESENTATIVES FOR THIS TRANSFER CONTRACT.....76**  
**AMENDED ATTACHMENT 15.02 PARTIES REPRESENTATIVES.....77**

## PREAMBLE

Mono County ("**County**"), and [INSERT NAME OF CONTRACTOR] ("**Contractor**"), enter into this Transfer Contract on the date on the cover of this Transfer Contract ("contract date"). The County is a political subdivision of the State of California. The Contractor is [insert description of Contractor's form of organization, such as corporation or partnership] qualified to transact business under the laws of the State of [insert state of incorporation].

## FINDINGS: Time is of the Essence.

The County Board of Supervisors determines and finds as follows:

- (1) **Benton Crossing Landfill Closure.** After December 31, 2022, County can no longer dispose of solid waste at Benton Crossing Landfill (BCLF).
- (2) **No Other Disposal Option.** County has no other disposal option for MSW within the County.
- (3) **Direct-haul.** Even if County could secure a disposal Contract at another landfill, County's franchised haulers would have to transport collected solid waste long distances in their waste collection vehicles (direct haul). Haulers would incur unsupportable costs, including accelerated wear-and-tear on their collection vehicles, extra fuel, and longer driver hours and labor costs.
- (4) **Unaffordability of Direct Haul.** It is economically and practically infeasible for commercial waste collectors, such as County's franchisees under County's waste collection franchises, to collect solid waste and transport it in the collection vehicle to an alternative landfill (direct-haul).
- (5) **Solid Waste is a Public Health Concern.** If solid waste is not promptly removed for disposal it may over-fill discard containers and encourage illegal dumping. Solid waste, including putrescible garbage, threatens human health and the environment if not collected and disposed quickly. County is responsible for the health and safety of its residents and businesses.
- (6) **Illegally Dumped Waste.** County will incur significant costs if it must collect increased amounts of illegally dumped waste.
- (7) **Public Criticism.** County officials will suffer political repercussions if solid waste accumulates on the roads and streets.
- (8) **Contractor Experience.** County considered and relied on Contractor's representations as to its record of timely project build when it selected to contractor to entering into this Transfer Contract.
- (9) **Time is of the Essence.** transfer services must be fully operable before BCLF closes.

## FINDINGS: Tonnage Capacity

- (1) **County Waste Tonnage.** In the last year residents and businesses living and working in unincorporated areas of the County have discarded an average of 4500 tons of solid waste per year, with a weekly peak demand of 100 tons.

- (2) **Minimum Capacity.** At a minimum, the transfer facility provided by Contractor must be capable of accepting and transferring that tonnage of solid waste, including peak capacity amounts, in the interest of public health and safety.
- (3) **Excess Capacity.** Under this Transfer Contract, Contractor can develop a bigger facility and operation capable of accepting and transferring additional, larger volumes of solid waste, such as solid waste generated in the Town of Mammoth Lakes or outside of Mono County.
- (4) **Economies of Scale.** transferring more than County tonnage results in lower marginal costs for each extra ton. Theoretically, the operation becomes more economically feasible and profitable.
- (5) **Excess Tonnage.** Contractor will fund the costs of preparing existing facilities and equipment or developing/purchasing new facilities and equipment in order to provide the transfer services. This may be funded at least in part from tipping fees paid for excess tonnage delivered by its additional customers. Contractor bears the risk of securing that extra tonnage and raising more revenues.
- (6) **County transfer service fee fees.** County will compensate the Contractor from tipping fees set by the County and received at Contractor's transfer station. In awarding this Transfer Contract to Contractor, County believes that the Contractor's compensation from County will not include recovery for infrastructure investment to accommodate excess capacity.
- (7) **Contractor Financial Strength.** When evaluating Contractor's proposal to provide services under this Transfer Contract, County reviewed the financial strength of Contractor. Under this Transfer Contract, upon the occurrence of certain adverse, financial events, Contractor must give County further assurances of its financial health. For example, the County may require Contractor to increase the letter of credit which allows County to draw upon it to pay alternative service if transfer station fails. If Contractor cannot provide further assurances, County has additional remedies under this Transfer Contract.

## **FINDINGS: Non-County customers**

- (1) **Waste transfer.** Under this Transfer Contract, Contractor accepts solid waste that can be disposed of at the landfill under the Disposal Contract and loads it into transport trucks (or containers) for long-hauler transport to the landfill. Long haul transport is provided under a different contract.
- (2) **County customers.** Contractor must accept solid waste delivered to its transfer facility by residents living, and businesses located, in the unincorporated area of the County.
- (3) **Non-County customers.** Contractor may also accept and transfer solid waste delivered by individuals *not* living, and businesses *not* located in the unincorporated area of the County.

This includes the Town of Mammoth Lakes and locations outside of the County. The solid waste industry often refers to these as “market” customers. Each market customer must continue to pay a solid waste parcel fee pursuant to County Resolution R20-63 or any successor thereto.

- (4) **County Compensation.** Contractor sets its own tipping fee to Transfer Contractor customer (or “market”) tons. Those tipping fees cannot be less than County’s (“most favored nation”). Contractor also must pay the County its surcharge to compensate County for accelerated and increased extra wear-and-tear of the transfer facility and for continuing administrative costs.

**THEREFORE, County and Contractor find that this Transfer Contract is in their mutual interest.**

- (1) **County.** County customers will pay a lower transfer service fee than they would have paid without supplemental market revenue. The transfer services might not have been practically, politically, and economically infeasible without supplemental, market revenue.
- (2) **Contractor.** Contractor has the opportunity to develop a profitable business that might not have been economically feasible without additional, supplemental income.



## GLOSSARY

Words in this Transfer Contract have the meanings given in the Master Contract and this Glossary, whether they are capitalized or in lower case font. If a defined term in this Transfer Contract differs from the corresponding defined term in the Master Contract, the Master Contract governs.

<b>Defined Term</b>	<b>Definition or Section Cross-Reference</b>
<b>acceptance (or accept or other variation)</b>	Section 3.07h
<b>acceptance test (or testing)</b>	Section 3.07a
<b>actual acceptance date</b>	Section 3.07h
<b>BCLF</b>	Benton Crossing Landfill
<b>commercial customers (or market customers)</b>	Article 5
<b>commercial vehicle tip area</b>	Section 4.07a
<b>containers</b>	Sections 4.13 and 4.18 and Attachments 4.13 and 4.18
<b>contract date</b>	Cover
<b>contract term</b>	Cover, 2.01
<b>Contractor</b>	Introduction
<b>Contractor equipment</b>	Section 4.18 and Attachment 4.18
<b>Contractor representative</b>	On contract date Attachment 15.02; following any replacement Amended Attachment 15.02
<b>Contractor Service Plans Or Plans</b>	Plans, specifications, protocols, procedures, and other obligations that are incorporated by reference in this Transfer Contract, such as <ul style="list-style-type: none"> <li>• O&amp;M Plan (for transfer station)</li> <li>• Unacceptable materials Screening and Handling Plan</li> <li>• Emergency and Back-up Plan (for transfer station)</li> </ul>
<b>County</b>	Introduction; for purposes of Indemnities, County and County's related parties
<b>County representative</b>	On contract date Attachment 15.02; following any replacement Amended Attachment 15.02
<b>customer(s)</b>	Section 4.03b(iii)
<b>damaged assets</b>	Sections 6.04 and 6.05
<b>Default</b>	Article 13
<b>deliver, delivered, delivery</b>	Section 4.04a

<b>Disposal Contract</b>	<ul style="list-style-type: none"> <li>On the contract date, the Contract of that name between County and the owner or operator of a disposal facility or contractor for disposal services,</li> <li>After the contract date, the County itself or someone else who disposes of transferable waste at the Disposal Facility</li> </ul>
<b>Disposal Facility</b>	The solid waste management facility described in the Disposal Contract or other solid waste management facility to which County transports transferable waste for final deposition
<b>Emergency &amp; Backup Plan</b>	Sections 4.09 and 4.10
<b>entry scale</b>	Attachment 4.18
<b>equipment</b>	Attachment 4.18
<b>equipment vendor</b>	Attachment 3.01c - Operations & Maintenance Plan
<b>event of default</b>	Section 13.01
<b>expiration date</b>	Cover
<b>Free Dump Day</b>	Section 4.08
<b>hazardous waste</b>	Section 4.05; Attachment 4.05c and Master Contract; Master Contract governs
<b>Hazardous Waste Handling Protocol</b>	Attachment 4.05c
<b>holidays</b>	Section 4.04a
<b>IMMC</b>	Integrated Materials Management Site
<b>Integrated materials management site</b>	The location for conducting recycling operations; see “recycling operations site”
<b>Independent MSW Expert</b>	Master Contract Attachment 15.06
<b>key personnel</b>	Attachment 4.26
<b>Law</b>	Master Contract 4.04
<b>liquidated damages</b>	Section 14.03; supplementing Master Contract 14.03b
<b>Load Check Protocol</b>	Section 4.05b; part of Contractor’s O&M Plan 3.01c
<b>Maximum transfer service fee Increase</b>	Attachment 8.02
<b>Monthly Report</b>	Article 10, supplementing Master Contract; and Sections 3.05c, 3.07, 8.03b
<b>non-transferable waste</b>	Section 4.05
<b>O&amp;M Plan or Operations &amp; Maintenance Plan)</b>	Attachment 3.01c
<b>operating hours</b>	4.13b
<b>performance standards</b>	<ul style="list-style-type: none"> <li>Throughput Standard</li> <li>Vehicle Turnaround Standard</li> <li>professional standards (Master Contract).</li> </ul>
<b>permits</b>	Section 3.04, Attachment 3.04a, supplementing Master Contract
<b>permitted waste</b>	Master Contract

<b>Pumice Valley Landfill</b>	County's C&D disposal site
<b>readiness</b>	3.01
<b>Readiness Benchmark</b>	3.01 and Attachment 3.01
<b>Readiness Schedule</b>	3.01 and Attachment 3.01
<b>Readiness Schedule Benchmarks</b>	3.01
<b>recyclable materials</b>	<p>Specific types of materials managed by the County, or under materials management contracts with the County, including any or all of the following:</p> <ul style="list-style-type: none"> <li>• Treated Wood</li> <li>• Inerts</li> <li>• Clean construction &amp; demolition debris</li> <li>• Clean wood waste</li> <li>• Green Waste (wood &amp; brush)</li> <li>• Tires</li> <li>• Scrap metal</li> <li>• White goods (appliances: refrigerators, washers, driers)</li> <li>• Recyclables: beverage containers, OCC / old, corrugated cardboard, mixed paper</li> <li>• Carpets</li> <li>• Mattresses</li> <li>• Sludge</li> <li>• Universal waste</li> <li>• Electronic waste</li> <li>• Autos</li> <li>• household hazardous waste</li> <li>• Other materials identified by County</li> </ul>
<b>receiving hours</b>	4.04a
<b>records</b>	Article 9; supplementing Master Contract Article 9
<b>reports</b>	Article 10 and Attachment 10; supplementing Master Contract Article 10
<b>rolling stock</b>	Attachment 4.18
<b>satellite transfer station</b>	Section 1.01
<b>scheduled acceptance date</b>	April 2, 2023, or other date established by the County in the Readiness Schedule (see Section 3.01a and Attachment 3.01)
<b>self-hauler, self-haul customer</b>	Section 4.03b
<b>self-haul tip area</b>	Section 4.07a
<b>satellite transfer stations</b>	1.01
<b>start-up</b>	Section 3.06
<b>scale house</b>	Attachment 8.03
<b>scale house scales</b>	Attachment 8.03

<b>site (or “transfer station site”)</b>	Section 3.01b
<b>stated amount (letter of credit)</b>	Attachment 12.02
<b>subcontractor</b>	Section 15.01 and Attachment 15.01b, supplementing Master Contract
<b>Throughput Standard</b>	Section 4.12
<b>tipping fee</b>	Findings: Tonnage Capacity (6) and (7)
<b>transfer</b>	Section 4.02
<b>transfer fee</b>	see “transfer service fee”
<b>transfer service fee</b>	Attachment 8.01
<b>transfer service fee payment date</b>	Section 8.03c
<b>transfer station or facility</b>	Facility where Contractor accepts transferable waste and transfers it into vehicles or containers for long-haul transport to the disposal facility, including all of the following: <ul style="list-style-type: none"> <li>• building,</li> <li>• fixtures,</li> <li>• equipment,</li> <li>• furnishings,</li> <li>• parking lots, and</li> <li>• landscaping.</li> </ul>
<b>transfer station site</b>	3.03b
<b>transferable waste</b>	Section 4.02
<b>Vehicle Turnaround Standard</b>	4.06a
<b>uncontrollable circumstances</b>	Master Contract
<b>Vehicle Turnaround Standard</b>	see “Vehicle Turnaround Standard

## ARTICLE 1 – CONTRACT RIGHTS AND OBLIGATIONS

### Section 1.01 Contractual Flow Control

County will use best efforts in waste collection franchises or contracts between the County and commercial waste haulers, to require the haulers to deliver all transferable waste that they collect in the unincorporated County to the transfer station, except to the extent that direct transport for out-of-county disposal is authorized under a franchise agreement existing on the contract date and hauler complies with all requirements for out-of-county disposal under the franchise agreement, and

- **Satellite Transfer Contracts:** In waste transfer contracts between the County and a contractor that manages one or more of the County’s satellite transfer stations, require the transport contractor to deliver all transferable waste that it collects at the satellite transfer stations to the transfer station.

**satellite transfer stations** means the following waste management sites where the public can discard waste and other materials, and an operator transports the waste and other materials for disposal or processing:

- Benton,
- Bridgeport,
- Chalfant,
- Paradise,
- Pumice (unless Pumice becomes the transfer site and is operated under this Transfer Contract),
- Walker, and
- Other sites or County facilities where the public can discard waste.

### Section 1.02 Sole Use

Contractor will not use its transfer station for any purpose other than meeting its obligations to perform transfer services under this Transfer Contract unless County consents in its sole discretion. Examples of prohibited use include waste management activities unrelated to transfer services, such as operating lumber yards, food processing facilities, and auto repair shops.

## ARTICLE 2 – TERM AND OPTION TO EXTEND

### Section 2.01 20-year Term

The term of this Transfer Contract begins on the contract date and ends upon the expiration of this Transfer Contract, as indicated on the cover of this Transfer Contract.

County may extend the term at its sole option one or more times, for a total period no greater than 3 years, upon provision of written notice to Contractor no less than 90 days prior to the expiration of the then-current term. *For example, the County could extend the term for:*

- a. 2 years and then 1 year (for a total of 3 years), or
- b. Merely 2 years (without exercising right to extend a third year).

### **Section 2.02 Continuing Obligations; County Purchase Option**

On the expiration date, County has the option, exercised in its sole discretion, to purchase the transfer station under Article 6. In addition to Contractor’s obligations under the Master Contract that survive expiration, Contractor’s obligation to complete its sale of the transfer station and property to County, survive the expiration of this Transfer Contract.

## **ARTICLE 3 – SCOPE OF SERVICES/SPECIFICATIONS**

### **Section 3.01 Readiness Benchmarks**

**readiness** means preparing an existing transfer station and site to provide transfer services under this Transfer Contract or developing a transfer station from a bare, earthen site to operating facility, including all of the following:

- funding
- siting
- designing
- site preparation
- preparing or constructing transfer station
- ordering specified equipment and materials
- submitting as-built plans & specifications to County
- starting up
- acceptance testing
- achieving acceptance (Scheduled Acceptance Date)
- operating transfer station on the commencement date.

**Readiness Benchmark** means the tasks and related dates in the Readiness Schedule.

**Readiness Schedule or transfer Station Readiness Schedule** means the timetable listing Readiness Benchmarks in Attachment 3.01.

#### **a. Time is of the Essence**

Contractor acknowledges “Findings: Time is of the Essence”. Without limiting its obligations under this Transfer Contract, Contractor will commence accepting and transferring waste by the Scheduled Acceptance Date or will pay liquidated damages under Section 3.07i. To comply, Contractor will meet the transfer Services Readiness Benchmarks in the Readiness Schedule. If Contractor commences accepting and transferring waste before the Scheduled Acceptance Date

(e.g., before December 22, 2023), it will receive an early performance incentive of up to \$30,000. Commencing January 1, 2023, that amount will be reduced by \$3000 per day for each day that Contractor does not accept and transfer waste.

**b. Transfer Services Site**

Contractor will complete all of the following before the corresponding benchmark for securing or identifying the site:

- (1) **Contractor-Ownership or Private Lease:** provide evidence to County of fee simple title or long-term (at least 20 year) lease with a non-County person or entity, without conditions or limitations that would impede intended uses to the property where transfer services will be provided; or
- (2) **Lease with County:** complete required environmental review and execute a 20-year ground lease or other Contract with County in Attachment 3.01b for providing transfer services on a County-owned site.

**c. Scheduled Acceptance Date**

Contractor will achieve acceptance by the later of the following dates and begin operations of the transfer services:

- the Scheduled Acceptance Date, or
- the date the Operations & Maintenance Plan is accepted by County.

**Scheduled Acceptance Date** means the date of the Readiness Benchmark for acceptance of transfer operations per County specifications, as may be extended under section 3.02 below.

**Operations & Maintenance Plan** is in Attachment 3.01c, entitled “Operations & Maintenance Plan”.

The County’s interest in Contractor’s preparedness to commence transfer services is in ensuring that the aggressive time table for BCLF closure is met, that all services described in this Transfer Contract (plus ancillary services, if any) can be accommodated and, if transfer services are to be located on a County-leased site, to ensure that the facility does not interfere with County or third-party operations or provision of ancillary services and does not create or result in the creation of undue risks or hazards.

**Section 3.02 Benchmark Extensions**

Transfer Services Readiness Benchmarks will be extended as follows:

EXTENDED DATE OF BENCHMARK	REASON FOR EXTENSION	LENGTH OF EXTENSION (working days)

		The County may allow a longer extension considering the nature of its questions or requested information.
<b>Acceptance Tests</b>	County does not reject or accept test result	5 working days from date County receives test results
<b>O&amp;M Plan</b>	County does not accept or reject the O&M Plan	5 working days from date County receives the O&M Plan
<b>Injunction</b>	N/A	Duration of injunction. Contractor must continue to perform unrelated work
<b>Uncontrollable Circumstances</b>	N/A	Continuation of uncontrollable circumstances affecting the Contractor's specific obligation, despite Contractor using best efforts to meet its obligation under the Master Contract.

Contractor will answer County questions or give County-requested information satisfactory to County in County's sole discretion during the extension. That extension will *not* be further extended if Contractor's response or information is unsatisfactory to County.

### Section 3.03 Parties' Contribution and Acknowledgements

#### a. Contractor Capital Contribution

Contractor will contribute all funds necessary to achieve acceptance of the transfer services by the Scheduled Acceptance Date.

#### b. County Site Contribution.

County is not obligated to contribute any capital to acquire any equipment or build any structure, regardless of completion delay, cost over-runs, or any other incident. County is not obligated to give or sell any equipment to Contractor that County might own on the contract date.

If Contractor proposes to lease land from the County for providing transfer services, then following review by County under the California Environmental Quality Act (CEQA), as described in section 3.04b, and upon approval by the Board of Supervisors in its sole discretion, County will lease the site to Contractor in substantially the form in Attachment 3.01b.

<b>transfer station site</b> means the location where the transfer station is located.
--

If Contractor proposes to provide the land for providing transfer service, then it will identify the transfer station site in its Operations and Maintenance Plan.

#### c. County Purchase Option

Contractor acknowledges that County entered into this Transfer Contract for a 20-year term, which enables Contractor to recover its capital investment under this Transfer Contract over 20



years.

Upon expiration or earlier termination of this transfer Services Contract, County will have the option to purchase unencumbered fee simple title to the transfer services site (if not on County Property) under Section 6.01 and the transfer station (regardless of its location) at scheduled or depreciated prices under Section 6.02.

County is ultimately responsible for solid waste management. It has determined that it is in its citizens' best interest to retain the option for ultimate control of its contractual and physical, solid waste infrastructure.

### Section 3.04 Permits

#### a. Schedule

**permits** means the permits, authorizations or approvals required for the provision of transfer services under this Transfer Contract.

Required permits include those specified in Attachment 3.04a.

#### b. Environmental Review for Pumice Valley Landfill

The County has performed required environmental review under CEQA for any action undertaken directly by County, or any action undertaken by a third party for which the County provided discretionary approval prior to and including execution of the Master Contract and this Transfer Contract with respect to the Pumice Valley Landfill.

Further review and processing under CEQA is required if Contractor carries out an activity which potentially impacts the environment and for which a further discretionary permit or approval is required from the state or a local government entity. In such event, Contractor is solely responsible for the costs of that review and processing and will execute and comply with County's standard "Agreement for the Provision of Project Evaluation, Environmental Review and Processing Services", in Attachment 3.04b.

#### c. Records

Contractor will keep records of all the following:

- **Permits:** including all conditions, requirements or other documentation attached to permits,
- **Related Documentation:** All documentation regarding permits, including:
  - applications
  - Correspondence with regulatory agencies, such as letters, email, or other on-line communications; notes of conversations, whether on telephone, on-line, in person, or in meetings, and
- **Related Communication:** Any other communication relevant to permits.

When County asks for copies of records listed in this subsection, Contractor will promptly give them to County.

### Section 3.05 Transfer Station Facility Standards

**a. Standards**

In providing transfer services under this Transfer Contract, Contractor will provide and/or utilize a transfer station that meets accepted industry standards for municipal solid waste transfer facilities, such as standards cited in the Master Contract.

**b. Contractor Responsibility**

Contractor is solely responsible for the adequacy, safety, and suitability of the transfer station, transfer services, and transfer station site.

Without limitation, Contractor is responsible for the acts and omissions of its subcontractors, materialmen, suppliers, employees, and anyone else hired to provide services or materials.

**c. Progress Reports**

Due to the limited time-period in which Contractor must prepare to provide and commence providing transfer services, and the County’s interest in ensuring that those services are fully operational by the time that BCLF is closed, Contractor will keep County informed regarding Contractor’s progress in reaching benchmarks and completing tasks necessary to commence operations. Accordingly, Contractor must provide County with reports of its progress in meeting the transfer Services Readiness Benchmarks. Reports will be due as follows:

REPORT PERIOD	REPORT DUE DATE	REPORT CONTENT
Each month		
1 <sup>st</sup> through 15 <sup>th</sup> days	5 <sup>th</sup> day of following month	Contractor must include: <ul style="list-style-type: none"> <li>• detail of commenced, on-going and completed permitting, building, site preparation, equipment and asset acquisition and staff retention,</li> <li>• comparisons with the transfer Services Schedule, and</li> <li>• additional information requested by County.</li> </ul>
16 <sup>th</sup> through last day	20 <sup>th</sup> day of following month	

**d. Failure to Meet Benchmarks**

**(i) 30-days Behind Schedule.** In addition to County’s rights of termination in Section 14.06b of the Master Contract, including for defaults in this Transfer Contract, County may terminate this Transfer Contract if a Transfer Services Readiness Benchmark is 30 or more days late or if the transfer station is not accepted within 15 days of the Scheduled Acceptance Date, even if Contractor is paying liquidated damages.

Each Party will bear any costs they have spent prior to termination.

**(ii) Remedies**

If County terminates this Transfer Contract, County may exercise all remedies under the Master Contract and this Transfer Contract including all of the following:

- (1) **Letter of Credit:** drawing on the letter of credit,
- (2) **Guaranty:** enforcing the Guaranty,
- (3) **Contractor:** collecting compensatory and liquidated damages from Contractor.

**(iii) Contractor**

If County terminates this Transfer Contract, Contractor will do all of the following promptly, but in no more than 5 working days:

- (1) **Permit Documentation:** give County permit documentation that is complete by the date of termination;
- (2) **Equipment:** allow County to use equipment on the transfer services site, for 45 days without cost and to purchase it for its cost depreciated over 5 years; evidenced to County satisfaction;
- (3) **Warranties:** assign any warranties;
- (4) **Leases:** assign any service asset documents, such as for rolling stock;
- (5) **Subcontracts:** assign to County subcontracts, purchase orders, records, and permit documentation relating to building services and purchases;
- (6) **Building and Site:** allow County to use other tangible and intangible assets that Contractor used in preparing to provide Transfer Services, including the transfer station and transfer site.

**permit documentation** includes all recorded information about Contractor's performance obligations, including:

- Permit applications, their attachments, and permits
- Warranties for materials, equipment, building, and other documentation County asks for regarding permits.

**Section 3.06 Start-Up**

**a. Notice of Start-up**

Contractor will begin start-up no later than November 30, 2022 or other date in the Readiness Schedule. Contractor will give County 2 weeks advance Notice of the date Contractor will begin start-up and acceptance testing, allowing County to inform customers of the volume and dates of transferable waste needed for start-up and acceptance testing.

**Start-up** means beginning preliminary operations for the first time, before acceptance testing.

**b. Start-up Demonstration**

Contractor will demonstrate for a period of 5 consecutive days that its transfer facility can accept

and transfer at least the minimum tons of transferable waste on each day prescribed in the Operations & Maintenance Plan.

### Section 3.07 Acceptance Testing

#### a. Notice

During start-up, Contractor will reconfirm the date it will begin acceptance testing by Notice given at least 24 hours in advance.

**acceptance tests (or acceptance testing)** means the acceptance tests prescribed in Attachment 3.07.

#### b. Acceptance Testing Protocol

Contractor will:

- (1) conduct acceptance tests prescribed in Attachment 3.07;
- (2) give County (including its representatives) access to observe and monitor all tests and to make its own tests;
- (3) identify instances where test results show that the transfer station does *not* comply with the Operations & Maintenance Plan.

Contractor will correct the noncompliance, but the transfer Services Readiness Benchmark will not be extended.

#### c. Acceptance Tests Results

##### (i) Contractor Obligation

Within 5 working days of completing the acceptance test, Contractor will do all of the following:

- (1) **Report:** give County a written report in format acceptable to County containing all information in Attachment 3.07, including all data recorded during acceptance testing.
- (2) **Warrant Completion:** warrant that Contractor has completed development of the transfer station and can comply with all performance obligations, and meet all performance standards, under this Transfer Contract;
- (3) **Conclude:** state, in its judgment, whether the transfer station passed or failed the acceptance test;
- (4) **Document Insurance:** submit evidence satisfactory to County that it has secured all financial assurances and insurance required under this Transfer Contract; and
- (5) **Permits:** submit evidence satisfactory to County that it has obtained all permits and approvals necessary to operate the transfer station, and that those permits are in effect.

**permits** means the authorization required by law to provide and operate the transfer station

If County asks Contractor for more information, Contractor will provide that information within 2 working days. The Scheduled Acceptance Date may be extended under Section 3.02 by 2 working days for each of County's request, not for each item of requested information.

**d. County Review of Acceptance Test Results**

County will give Contractor Notice of County's determination, whether it agrees or disagrees with Contractor's conclusion. If County does not give Notice within 10 working days from the date it receives Contractor's insurance and permit information listed in items (4) and (5) of preceding sub-subsection c(i), the Scheduled Acceptance Date may be extended under Section 3.02 by one day until the day County gives Notice.

**e. Failing Acceptance Test**

If County determines that it disagrees with Contractor's conclusion in subsection item (3) of sub-subsection c (i) above, (that the transfer station passed the acceptance test), then Contractor will endeavor to pass it, including doing one or more of the following:

- adding additional Contractor or subcontractor personnel;
- working over-time;
- purchasing replacement or additional equipment;
- increasing employee training; and
- following recommendations made by the Independent MSW Expert.

Contractor must pay for that work. County is not obligated to reimburse Contractor. Contractor actions taken after failing the acceptance tests do not extend the Scheduled Acceptance Date or waive liquidated damages under item (2) of sub subsection i.

**f. Contractor Fixes**

After Contractor passes the acceptance test, it must again do both of the following:

- (1) **Conclude:** state, in its judgment, whether the transfer station passed or failed the second acceptance test;
- (2) **Warrant Completion:** warrant that it can comply with all its performance obligations and meet all its performance standards under this Transfer Contract;

This warranty survives the termination or expiration of this Transfer Contract.

**g. Disputes**

The Parties will submit any dispute to the Independent MSW Expert described in the Master Contract to resolve as prescribed in the Master Contract in the following events:

- County disagrees with any of Contractor's conclusions,
- County notifies Contractor of its disagreement, and
- Contractor and County cannot reach agreement within 5 working days after Contractor receives that Notice.

**h. Acceptance**

The transfer Station will be deemed accepted on the date when County Notifies Contractor that Contractor has satisfied all the following conditions:

- (1) Pass Acceptance Test:** County or the Independent MSW Expert determines that the transfer station has passed the acceptance test; and
- (2) Satisfactory Operations and Maintenance Plan:** Contractor gives County the Operations and Maintenance Plan reflecting County’s comments, to County’s satisfaction; and
- (3) Evidence of Warranties:** Contractor demonstrates to County that it has secured all available warranties on equipment and furnishings given by the equipment vendors and listed in the Inventory. It will provide County copies promptly upon County request.

Any warranties of Contractor, including those under item (2) of sub-subsection c(i) and item (3) of subsection h, do not modify, limit, or lessen in any way any rights or remedies that County may otherwise have against Contractor.

**acceptance** means County has notified Contractor that Contractor has satisfied the preconditions in this subsection respecting:

1. Passing the Acceptance Test,
2. Submitting satisfactory O&M Plan,
3. Provide warranties.

**actual acceptance date** means the date of “acceptance”.

**i. Delayed Acceptance**

**(1) Acknowledgements**

Contractor re-acknowledges the Findings “Time is of the Essence” at the beginning of this Transfer Contract

**(2) Liquidated Damages**

Therefore, the following liquidated damages represent a reasonable estimate of County’s damages, considering all of the circumstances existing on the contract date, including both of the following:

- the relationship of the sums to the range of harm that reasonably could be anticipated, and
- anticipation that proof of actual damages would be costly or inconvenient.

By executing this Transfer Contract, each party explicitly confirms both of the following:

- the accuracy of the statements made above, and
- that it had ample opportunity to consult with legal counsel and obtain an explanation of this liquidated damage provision.

### **(3) Amount**

If County does not accept the transfer services as operational by the Scheduled Acceptance Date, Contractor will pay County the following liquidated damages: \$3,000 for each day on and after the Scheduled Acceptance Date, up to and including the actual acceptance date. This amount is County's best estimated costs of disposing its transferable waste that would have been managed through the transfer Services Contract if the transfer services were operating, including any or all of the following:

- incremental direct haul of waste to landfill;
- substitute transfer and transport; and
- consequential fines.

### **(4) Date**

If Contractor does not pay liquidated damages within 3 days County may draw on the letter of credit.

## **ARTICLE 4 – SERVICE STANDARDS**

### **Section 4.01 Commencement of Services**

#### **a. Acceptance Tests**

After completing acceptance tests, if Contractor warrants that it has passed the acceptance tests it may operate the transfer station on an interim basis with County consent. Interim operation is not County acceptance. County will pay Contractor the transfer service fee during interim operations. If County determines that the transfer station fails the acceptance tests, Contractor must nevertheless fix the problems that caused that failure and re-test under 3.07e and 3.07f and pay any liquidated damages under 3.07i(3).

#### **b. Acceptance**

When County accepts the transfer station, under 3.07h, then Contractor will begin to provide transfer services on a full-time basis.

### **Section 4.02 “Transferable Waste “**

#### **a. Transfer Station**

Contractor will transfer transferable waste delivered to its transfer station during operating hours. Contractor has no rights to transfer materials delivered to or by the transfer station site for handling or processing by County or by contractors under a Materials Management Contract.

**operating hours** means the period of time when Contractor loads waste from the transfer service fee floor into containers or performs other work in the transfer station. It may begin (and end) before (and after) receiving hours when the public delivers waste.

**materials handlers** means contractors under contract with the County to accept, store, process, or transport for re-use, recycling, or (with respect to C&D), disposal.

**transferable waste** means permitted waste discarded onto the tipping floor of the transfer station. **Transferable waste** does *not* include separated recyclables (for example, treated wood, tires, and clean C&D), including recyclables handled under Materials Management Contracts.

**b. No County Warranty**

**(i) Waste Volume**

County does not represent, warrant, or guaranty that any volume or weight of transferable waste will be delivered for transfer. County may develop programs to reduce the disposal of permitted waste, including transferable waste.

**(ii) Waste Characterization**

County expressly disclaims any warranties, either express or implied, as to the merchantability or fitness of transferable waste for any particular purpose.

**Section 4.03 Weight and Scale House**

**a. Scale house**

County will operate the scale house unless (1) the scale house is located on a site other than Pumice Valley Landfill, and (2) an alternative plan has been proposed by Contractor, accepted by County, and attached to this Transfer Contract as part of the Operations and Maintenance Plan. At its alternative transfer station site Contractor will allow County and its employees, subcontractors and other County-authorized individuals or customers:

- to enter the transfer site, at any time, including giving County representatives keys or codes to locked gates and buildings (including the transfer station) operated and maintained by Contractor,
- access to and from the scale house at any time,
- use of amenities available to Contractor’s employees, including:
  - parking for personal vehicles,
  - lavatories,
  - locker rooms and
  - luncheon or recreational areas.



**“scale house”** means the structure, furnishings and equipment located at the entry to the transfer station site, described in Attachment 4.18.

The language in this section contemplates that the County will operate the scale-house. If Contractor operates the scale-house, then conversely, the Contractor will perform County’s obligations and County will enjoy Contractor’s rights.

**b. Weighing**

**(i) Measuring Weight.** County will weigh each commercial waste collector’s truck delivering waste to the transfer station upon entrance and exit *unless* it maintains records of tare weights. Records of tare weight include the following:

- the **gross weight** of the filled vehicle entering the transfer station site;
- the **tare weight** of the empty vehicle leaving the transfer station site,
- the **net weight**, which serves as the basis for calculating Contractor’s transfer service fee payable by the County or Contractor’s compensation payable by Contractor’s customers.

**commercial waste collector** means a business that collects transferable waste from generators for a fee, on the contract date in trucks designed for waste collection, such as front-end loaders for waste bins or dumpsters, or automated side-loaders for carts.

**(ii) Self-hauler Tracking.** County will weigh or estimate the volume of transferable waste delivered by self-haulers to the transfer station, which determines tonnage for calculation of the transfer service fee. Upon request by Contractor, County will provide a copy of its volume/weight conversion schedule. If Contractor operates the scale-house, it will use the County’s volume/weight conversion Schedule I

**self-haulers** means:

- individuals who deliver their transferable materials in automobiles, vans, or pick-up trucks on their own behalf, and not as a commercial waste hauling enterprise, and
- others that County names to Contractor.

**(iii) Customers.** County will identify to the best of its ability, whether customers are County customers or Contractor (“market”) customers.

**customers** means both of the following:

- County customers, and
- Contractor customers.

**County customers** means all of the following:

- County and its franchised, contracted, licensed, or permitted haulers;
- self-haul customers who live or conduct business in the unincorporated County; and
- others who transport transferable waste, added, or deleted by County in notice to Contractor.

**Contractor customers (or market customers)** means individuals or entities that are not County customers, such as local governments that enter agreements with Contractor to provide transfer services.

**c. Identifying Customers**

The County may record additional information at its sole discretion, including:

- **Truck:** Identification of customer's vehicle (such as numbers on commercial haulers' trucks), and
- **Time and date** of delivery.

**(i) Record-Keeping.** County will keep copies of these records. On Contractor request, County will do both of the following:

- give Contractor copies of weigh records, and
- allow Contractor to inspect the records on working days.

**d. Weigh Master**

Unless Contractor has proposed an alternative plan for it to staff the scale house and County has accepted it, County will weigh the tons of transferable waste brought by County customers to calculate Contractor's transfer service fee. County will give Contractor the tons of transferable waste brought by Contractor's customers. In consideration for County's providing weighing and record-keeping service, Contractor will pay County's monthly direct costs of employing staff. County will deduct that amount from the transfer service fee monthly.

**e. Scale**

**(i) Certification**

County will calibrate the scale house scale under law and maintain State certification as to accuracy.

**(ii) Testing**

**A. County-Initiated**

County will give Contractor at least 2 working days' advance notice of tests that County plans to conduct. Contractor may observe all tests. County will give Contractor a copy of all test results.

**B. Contractor -Requested**

County will test or calibrate, or both, the scale house scale within 3 days of Contractor request.

**C. Compliance**

If the test results show that the transfer scale complied with law, Contractor will reimburse County the direct costs of those tests.

**D. Non-Compliance**

If test results show that the transfer scale did *not* comply with law, County will pay the costs of:

- Conducting those tests, and
- Making repairs to bring the transfer scale into compliance with law.
- Correct weights and transfer service fee fees re-calculated from:
  - the date County conducted the test (or Contractor asked County to conduct the test) until
  - the transfer scale complies

**f. Substitute Scales**

If the scale is being tested, repaired, or otherwise unavailable, County will use a substitute scale (such as a portable scale) until the permanent scale is again available. If there are no operable scales (for example, pending the installation of portable scales), County will estimate the quantity of transferable waste based on its choice of either of the following:

- weights recorded upon delivery at the disposal facility, subject to audit and verification by County, or
- estimated weights based on any or all of the following:
  - container volumes,
  - historical tare weights, and
  - either or both historical transfer station and disposal facility weight records.

**Section 4.04 Customer Delivery**

**a. Receiving Hours**

Contractor will accept all transferable waste that County customers dump onto the tipping floor during receiving hours. It will accept waste continuously, without stopping, for example, during lunch-time hours or employee breaks. Contractor does not have to accept transferable waste delivered to the transfer station outside receiving hours *unless* County has requested it to accept the waste at least 24 hours in advance.

Contractor will provide transfer services in a courteous and professional manner.

**deliver** means to dump, tip, unload, discharge, or dispose of transferable waste on the transfer station tipping floor.

**receiving hours** means the following:

- 5:00 AM to 4:00 PM on three weekdays designated by County,
- 7:30 AM to 4:00 PM Saturday,
- Other times requested by County and agreed to by Contractor,
- Other times allowed by Contractor,

**receiving hours** does not include hours on **holidays** which are:

- January 1
- Thanksgiving
- December 25, and
- other days designated by County in notice to Contractor.

**b. Signage**

Contractor will produce, install, and maintain signs informing customers simply and clearly - in language and format (such as font size) satisfactory to County - describing all of the following:

- **transferable**: transferable waste that customers can deliver to the transfer station,
- **Recyclable or Processible**: upon County request, materials that customers deliver to materials handlers,
- **Household hazardous waste**: the household hazardous waste that customers can deliver to contractors under Materials Management Contracts, and
- **Unacceptable**: hazardous materials that they cannot deliver to either the transfer station or ancillary operations.

**c. Non-discrimination of Customers**

Contractor will not discriminate against anyone using the transfer station on account of race, color, national origin, ancestry, religion, sex, sexual orientation, marital status, disability, or any other basis prohibited by state or federal law.

## Section 4.05 Delivery of Non-Transferable Waste

**a. "Non-transferable waste"**

Contractor will *not* knowingly accept non-transferable waste.

**non-transferable waste** means substances that are not permitted waste. Examples include:

- certain **contaminated soils**;
- **asbestos**, including friable materials that can be crumbled with pressure and are therefore likely to emit fibers, being a naturally occurring family of carcinogenic fibrous mineral substances, which may be a Hazardous Waste if it contains more than one percent asbestos *other than* non-friable materials containing asbestos which are triple bagged, boxed and taped;
- **ash residue** from the incineration of solid wastes, including municipal waste, infectious waste described in item (6) below, sludge, and agricultural wastes described in item (1) above;
- **auto shredder "fluff"** consisting of upholstery, paint, plastics, and other non-

metallic substances which remains after the shredding of automobiles;

- **infectious wastes** which have disease transmission potential and are classified as Hazardous Wastes by the State Department of Health services, including pathological and surgical wastes, medical clinic wastes, wastes from biological laboratories, syringes, needles, blades, tubing's, bottles, drugs, patient care items such as linen or personal or food service items from contaminated areas, chemicals, personal hygiene wastes, and carcasses used for medical purposes or with known infectious diseases *other than* patient care items that have been disinfected;
- **liquid wastes** which are cannot be lifted in a spade, usually containing less than 50% solids, including cannery and food processing wastes, landfill leachate and gas condensate, boiler blow down water, grease trap pumping's, oil and geothermal field wastes, septic tank pumping's, rendering plant byproducts, sewage sludge, and those liquid wastes which may be Hazardous Wastes, and specifically in the State, such as liquid wastes that does not pass the paint filter test established by the OR DEQ.; **and**
- **radioactive wastes** that contain a radioactive material, the storage or disposal of which is subject to any other State or federal regulation.
- **hazardous waste.**

**hazardous waste** means any substance waste which is defined or regulated under law such as any or all of the following:

- **"hazardous waste"**,
- **"toxic waste"**, or
- **hazardous chemical substance or mixture**

Examples of hazardous wastes include materials regulated under any or all of the following laws:

- Resource Conservation and Recovery Act (**RCRA**), 42 U.S.C. Section 6901 et seq., as amended (including amendments thereto made by the Solid Waste Disposal Act Amendments of 1980);
- **Toxic Substance Control Act**, 15 U.S.C. Section 2601 et seq.;
- Comprehensive Environmental Response, Compensation and Liability Act (**CERCLA**), 42 U.S.C. 9601, et seq., as amended, and regulations promulgated under it.

**b. Load Check**

Contractor will implement its Load Check Protocol. Contractor acknowledges that:

- (1) it has indemnified County for liabilities related to hazardous waste, and
- (2) compliance with the Load Check Protocol does *not* relieve Contractor of its indemnification obligations.

Contractor will record the volume or weight of non-transferable waste that it discovers during load check.

**Load Check Protocol** is described in the O&M Plan, Attachment 3.01c

**c. Customer Responsibility**

**(i) While Unloading**

If Contractor spots a customer unloading non-transferable materials, it will instruct customer to re-load and remove those materials, if allowed by law. It will remove hazardous waste according to its Hazardous Waste Handling Protocol.

**Hazardous Waste Handling Protocol** means the procedure in Attachment 4.05c

**(ii) Identification After Leaving**

Contractor will use reasonable business efforts to identify the customer that delivered that non-transferable waste, including:

- searching for addresses on mail in that customer's delivered waste;
- obtaining customer or truck identity recorded at the scale house; and
- asking employees or other individuals present at the time of the delivery whether they could personally identify the customer.

Contractor will keep records of information that it collects on non-transferable waste.

**(iii) Cost Recovery**

If Contractor identifies that customer, Contractor will further use reasonable business efforts to do or both of the following:

- **Customer Removal:** require the customer to return and remove the Customer's non-transferable waste, if allowed under law, or
- **Customer Payment:** recover from a County customer the Contractor's cost of handling, removing, and disposing of County customer's non-transferable waste. Contractor acknowledges that it is the County's interest for Contractor to recover payment from the County customer, since County compensates Contractor for half of Contractor's costs of handling unacceptable materials under the following subsection.

**d. Costs of Handling Non-transferable Waste.**

If County customers neither remove non-transferable waste nor pay for its handling, Contractor will handle, remove, and dispose of it under its Hazardous Waste Handling Protocol in Attachment 4.05c. Contractor may charge County for 50% of Contractor's direct costs of handling, removing, and disposing of non-transferable waste delivered by County customers, to County satisfaction. Contractor may *not* charge County for costs incurred because of Contractor customers.

## Section 4.06 Vehicle Turnaround

Contractor acknowledges that it is in County's interest that County customers can efficiently and quickly enter and leave the transfer station. For example, the more quickly commercial haulers can deliver transferable waste, the lower their labor and fuel costs, which might reduce cost of waste management for County's residents and businesses.

Therefore, Contractor will comply with the Vehicle Turnaround Standard.

**Vehicle Turnaround Standard** means that each customer can do both of the following:

- **Unload:** unload its transferable waste at
  - the commercial tip area,
  - self-haul tip area or
  - other location designated by Contractor, and
- **Exit:** leave the transfer station site within 30 minutes of leaving the scale house, *unless*:
  - customer's vehicle breakdown, or
  - drivers get out of their vehicles, for example to socialize or use rest facilities.

Contractor will allow County customers to discard transferable waste before Contractor customers.

## Section 4.07 Safety

### a. Self-haul Tipping Area

Contractor acknowledges that for the safety of self-haulers, it must keep self-haulers, who deliver transferable waste in autos and pickup trucks, separate from commercial haulers who deliver transferable waste in large trucks. Contractor will instruct self-haul customers to deliver transferable waste to the self-haul tip area under the protocol in Contractor's O&M Plan, separate from the tip area for commercial customers.

**self-haul tip area** means the area in the transfer station where only self-haul customers deliver their transferable waste.

### b. No Scavenging

Contractor will not allow anyone to sort through, pick, or otherwise scavenge materials from transferable waste on the tipping floor, including both the public and employees.

#### Section 4.08 Annual Free Dump Day

If requested by County, Contractor will accept up to 3 yards per self-haul customer of the following materials *without* charge to County or customer once each contract year on a day designated by County at least 30 days in advance:

- transferable waste, and
- rimless tires from passenger or pick-up trucks.

#### Section 4.09 Emergency Plan

Contractor will develop an emergency plan together with the Mono County Office of Emergency Services. It will give emergency contact communications means such as phones or computer applications so County can always reach Contractor all day, every day including holidays. Contractor will transfer materials other than transferable waste at County request, such as C&D debris. Contractor will charge County directly, no more than 20% of its then-current transfer service fee, unless Contractor provides documentation satisfactory to the County that its actual costs exceeded the 20% surcharge.

#### Section 4.10 Back-up Transfer Service

**a. Notice.** If Contractor cannot provide transfer services at the transfer station for any reason (including uncontrollable circumstances), Contractor will immediately notify County and provide back-up transfer service, including both of the following:

- **Site:** directing customers to deliver transferable waste to a back-up transfer site identified in Attachment 4.10 on the contract date or other site satisfactory to County following the contract date;
- **Transfer Service:** transfer all transferable waste using best efforts to maintain the same performance standards that it would use at the transfer station (such as the Vehicle Turnaround Standard, performing load checking, identifying customers that deliver non-transferable waste.)

**b. Compensatory Damages.**

(1) **Uncontrollable Circumstances.** If Contractor cannot provide transfer services at the transfer station because of uncontrollable circumstances, Contractor will pay County customers ½ of compensatory damages under Section 14.03a of the Master Contract.

(2) **Not Uncontrollable Circumstances.** If Contractor cannot provide services for any reason other than uncontrollable circumstances, Contractor will pay County customers full compensatory damages under Section 14.03a of the Master Contract.

#### Section 4.11 “Transfer Services”

**transfer services** means Contractor’s obligations under the Master Contract and this Transfer Contract.



## Section 4.12 Throughput Standard

### a. Acceptance and Transfer

Contractor will meet its Throughput Standard.

**Throughput Standard** means Contractor's two-part obligation to do both of the following at the transfer station:

- (1) **Acceptance:** accept delivery of all transferable waste delivered by County customers up to the permitted daily capacity regardless of daily, weekly, seasonal, and annual fluctuations, and
- (2) **transfer:** transfer all transferable waste accepted from County customers from the floor of the transfer station and load it into containers or trucks for transport at least every 24 hours, or shorter time required under its permits.

## Section 4.13 Loading and Weighing Containers

### a. Volume and Weight

Contractor will load transferable waste that customers discharge into transport containers or trucks. Contractor is not obliged to load any prescribed weight or volume of transferable refuse in the transport containers but will endeavor to fill containers to the maximum weight limits in effect for County, State, and Interstate roads.

### b. Loading Hours

Contractor will load discharged, transferable waste into containers provided by the transport hauler during receiving hours, at a minimum and may do so under operating hours agreed by Contractor and County.

### c. Weight

Contractor will load containers under the O&M Plan. It will maintain a scale in the loading bay subject to the same provisions regarding maintenance and testing as the scale at the scale house.

### d. Check

Contractor will check containers before loading to identify existing damage, and after loading, to identify new damage. It will record the information listed on the Check Sheets in Attachment 4.13d.

### e. Repair of Damaged Transport Containers

If Contractor damages transport containers, such as ripping or tearing lids, walls, doors, or floors, resulting from tamping refuse into them during loading it must do either of the following:

- (1) Repair the transport containers to their state prior to damage Contract caused; or
- (2) reimburse the owner of the transport containers the cost of conducting repairs.

Contractor is *not* obligated to repair damages from normal wear and tear, such as dings, dents, or bulging of lids and walls.

### f. Container Information.

Contractor will note the number or other identification on each container and print a weight ticket from the scale in the loading indicating at a minimum:

- The content of the container, including garbage and refuse; recyclables; organics; or food waste,
- Number or other identification of container,
- the tare weight of the empty container prior to loading,
- the gross weight of the filled container after loading,
- the net weight, which County may use to corroborate weight tickets from the Disposal Facility or other waste management facility that serves as the basis for calculating the transfer service fee,
- time of loading, and
- date of loading.

#### **Section 4.14 Storage**

##### **a. Uncontainerized**

Contractor will not store *un-containerized* transferable or non-transferable waste at the transfer site, including the following:

- the floor of the transfer station, or
- outdoor grounds on the transfer site.

##### **b. Containerized**

Neither will Contractor store *containerized* garbage, rubbish, or unacceptable materials on site *except* for limited storage of:

- transferable waste in containers allowed under Section 4.13, and
- non-transferable materials pending prompt removal and disposal.

#### **Section 4.15 County Right to Observe Transfer Station Operations**

In addition to County's right to enter the transfer station, Contractor will also allow County to observe and inspect transfer station operations at any time if it complies with both of the following:

- Contractor's reasonable safety and security rules, and
- Non-interference transfer operations.

County representatives may speak to everyone employed in the transfer station, including contract workers and subcontractors. It may speak privately with them without the presence of their supervisor or a Contractor representative. Upon County request, Contractor will allow requested personnel to accompany the County. Contractor will ensure that everyone cooperates with County and responds to County's questions.

## Section 4.16 Operations and Maintenance

The parties acknowledge all of the following:

- **County Obligation.** County is responsible for the health and safety of the public, including waste management, and must act in the public’s best interest. It is obligated to maintain public health and safety.
- **Waste Management.** County need not directly provide waste management services itself. It may contract with others to provide direct service, such as this Transfer Contract to transfer transferable waste. However, County deems it in the public interest to maintain authority and control over where and how waste generated in the County is handled. This is often referred to as “flow control”.
- **Environmental Health and Safety.** To protect public health and safety and preserve the environment of Mono County, the County must ensure functionality and operability of transfer operations, whether by ownership or control.
- **Purchase Rights.** Therefore, County is acting in the public interest by its reserving the option and right to purchase the transfer station, in its sole discretion, on the expiration or termination of this Transfer Contract.
- **O&M.** Additionally, County has the utmost interest that the Contractor operates, maintains, and repairs assets in manner that preserves (subject to ordinary wear and tear) their value and functionality.

By placing initials below at the places provided, each Party explicitly confirms these acknowledgements and consulted with legal counsel to explain them, or knowingly waived their right to do so as of the contract date.

\_\_\_\_\_ Contractor                      \_\_\_\_\_ County

## Section 4.17 Operation, Maintenance, Repair, and Replacement

Contractor will operate, maintain, and repair the transfer station under standards listed in the following sections. Contractor will use reasonable business efforts to perform maintenance and repairs outside receiving hours.

## Section 4.18 Equipment

Contractor will maintain an equipment inventory. Contractor will continually update it upon acquisition of new equipment and retirement of old equipment.

**equipment** means electrical or mechanical machines, instruments, and other devices used to provide services under this Transfer Contract, including those listed on the inventory in Attachment 4.18. **“Contractor equipment”** includes all of the following:

- **rolling stock,**
- **tools,**

- **spare parts and supplies** used to operate, maintain, and repair equipment, such as oils and lubricants specified in operating manuals,
- **Intellectual property** used to provide services, such as patents, licenses, warranties,
- **Computers** and their software, such as programs, to register weight and other information at the scale house and the loading pit,
- **leases, installment sale agreements, and security agreements** related to Contractor's equipment,
- **vendor's operating manuals,**
- Contractor's **repair-and-maintenance logs.**

Contractor may purchase supplemental equipment in its sole discretion, at its sole cost (without adjustment to the transfer service fee).

*For example, during the contract term, Contractor will acquire equipment to replace depreciated, worn, inoperable, or obsolete equipment, such as a skip loader or pickup truck.*

*For example, Contractor might purchase new rolling stock that uses less fuel and runs more efficiently than existing County equipment, because it reduces Contractor's operating costs.*

Contractor must update the equipment inventory upon acquisition of new equipment and retirement of old equipment.

## Section 4.19 Tipping Floor

### a. County's Interest

Contractor acknowledges that transferable waste discarded on the tipping floor contains acidic and caustic liquids that break down the cement in the tipping floor, and that it anticipates repairing and replacing the floor not less than every 3-5 years.

Contractor further acknowledges that because County has the option to assume ownership and use of the transfer station on the contract termination or expiration date, it is in County's interest that the tipping floor be maintained, monitored, and replaced routinely, not only when it is already significantly degraded with cracks or concrete spalling, flacking, or peeling; rebar is exposed; or structure otherwise damaged.

### b. Baseline

On the service date, Contractor will establish the baseline condition of the tipping floor against which subsequent wear-and-tear can be compared, in the manner described in Attachment 4.19b (for example based on plans and specifications or measuring the thickness of the tipping floor with a laser ("shooting the floor")).

### c. Monitoring

Contractor will monitor the wear-and-tear on the tipping floor under the plan included in Exhibit 4.19b on the contract date, accepted by County.

*Examples of monitoring tools include inspecting wear indicators buried in the concrete, creating topographic models of the floor, graphing wear rates, calculating volume loss, and modeling surfaces of several different portions of the tipping floor.*

**d. Assessments**

Contractor will do all of the following:

- (1) plan for repairs in advance and prevent emergency shut-downs;
  - (2) assess the need for replacing the tipping floor whenever it is worn and a hazard to workers or the public or when its thickness is reduced by ½", but at a minimum, annually;
  - (3) hire an independent engineer acceptable to County to conduct the assessment; and
  - (4) implement the engineer's recommendation. County may confer with the engineer.
- Contractor will check to confirm that engineer gives County a copy of the engineer's assessment and other documentation requested by City, such as test results.

**d. Repair**

Contractor will produce plans and specifications for repair and hire a company to complete the repairs that is also acceptable to County.

To provide uninterrupted transfer services, Contractor will minimize the time that the transfer station is closed for repair, for example, by repairing only a portion of the tipping floor at a time. Contractor will repair the tipping floor with an engineered, iron/ concrete aggregate or other topping acceptable to County, rather than tearing up and re-installing the existing concrete or merely pouring fresh concrete on the worn surface.

Contractor will notify the County of the planned repair date at least two weeks in advance. County may observe the repair and conduct tests to determine whether the tipping floor was repaired in the manner previously accepted by County.

**e. Cost**

The transfer service fee includes Contractor's compensation for replacing the tipping floor every 3-5 years, as determined necessary, during this transfer contract term. Contractor will pay the replacement cost, whether from a replacement fund or other capital, its own or borrowed. If County and Contractor disagree on whether the tipping floor should be replaced earlier than the 5-year mark, County may ask the Independent MSW Expert to resolve the dispute. The independent MSW Expert's decision is binding.

**Section 4.20 Utility Costs**

Contractor will subscribe to and pay for all utilities, such as electricity, water, phone, and internet access, that connect with the transfer facility.

**Section 4.21 Nuisance Control**

Contractor will minimize nuisances under its O&M Plan, including:

- vectors,
- odor,
- noise,
- dust, and
- litter, refuse.

It will manage transferable waste inside the transfer station. If Contractor does *not* timely clean up spilled or scattered materials, County may clean it up and offset County's reimbursement costs from the transfer service fee.

#### **Section 4.22 Damage or Destruction, Theft**

If any part of the transfer facility, which includes equipment and furnishings, is damaged, destroyed, or stolen, Contractor will use reasonable business efforts to repair or replace it using either or both insurance proceeds and its own capital. Contractor acknowledges that waste management is an issue of public health and safety, and time is of the essence. If Contractor does *not* use reasonable business efforts in the judgement of the County, County may draw on the letter of credit or other performance assurance and use the proceeds to pay the cost of repairing or replacing that property either itself or through another.

#### **Section 4.23 Security**

Contractor will maintain security at the transfer station, such as the following:

- entirely surrounded by cyclone fence,
- accessed by a single locked gate,
- all doors to structures on the site are locked.

#### **Section 4.24 Safety**

##### **a. Best Practices**

Contractor acknowledges that worker and customer safety is in the public interest and important to County. Contractor will operate the transfer station safely, not only to meet minimal legal and insurance requirements, but also best practices in the municipal waste management industry, policies, and publications of the Solid Waste Association of North America (SWANA) and National Waste and Recycling Association (NWRA).

Contractor further acknowledges that transferable waste contains putrescible materials that can attract vectors and spread disease. A fundamental County obligation is to protect public health. Therefore, Contractor will comply with its health and safety plan contained in the O&M Plan.

##### **b. Equipment**

Contractor will provide and maintain safety equipment under its O&M Plan. Examples include gloves, masks, eye wash stations, first aid kits, and fire extinguisher.

##### **c. Worker Education**

Contractor will regularly instruct workers on safety precautions to protect themselves and others from injury while providing services, under its O&M Plan.

## Section 4.25 Staffing

### a. Sufficiency

Contractor must employ sufficient workers to meet its contract obligations and comply with the Through-put Standard and Turn-around Standard, direct self-haulers and commercial haulers to safely discharge their materials in self-haul or commercial areas and move all transferable waste from the floor of the transfer station into containers by the close of each day.

### b. Wages

Contractor acknowledges that Contractor has paid for in full the development and operation of the transfer station, which is not a public works project under CA Labor Code 1720.

### c. Employment

Contractor will engage and train staff under its O&M Plan.

## Section 4.26 Key Personnel; Related Parties

In addition to the key personnel and Related Parties that Contractor identified in the Master Contract, Contractor identifies key personnel with respect to operation of the transfer facility and Related Parties with respect to criminal conduct, in Attachment 4.26 of this Transfer Contract.

## ARTICLE 5 – CONTRACTOR (“MARKET”) CUSTOMERS

### Section 5.01 Acknowledgements

#### a. Town Waste

Contractor acknowledges the following:

- By entering into this Transfer Contract, Contractor has the opportunity to increase its revenue by providing transfer service to Contractor customers.
- The Town of Mammoth Lakes is an incorporated jurisdiction, separate from County and is not obligated to direct materials generated within its jurisdiction to the transfer station.
- Contractor did not rely on any representations or promises of the County that the Town will deliver materials to the transfer station or that providing service to Town would generate any revenues.

#### b. Representation

Contractor represents that when submitting its proposal to enter into Transfer Contract it relied only upon its own investigation of the likelihood of that anyone, including the Town of Mammoth Lakes, would enter into an agreement with Contractor to provide transfer services.

#### c. Contractor Business

Contractor may provide its own Contractor customers transfer service at the transfer station upon approval of County in accordance with all of the following, satisfactory to County:

<b>Contractor customer</b>	Identifying the Contractor customer and contact person
<b>transferable waste volume</b>	Estimating the amount of transferable waste that Contractor customer will deliver to the transfer station, daily, monthly, and annually
<b>Capacity</b>	Demonstrating that after adding the anticipated volume of Contractor transferable waste, transfer station will continue to have sufficient permitted capacity to accept and transfer waste currently delivered by County customers and projected to be delivered by County customers in the next 5 years.
<b>Additional Capacity</b>	Demonstrating that Contractor will bear the entire capital and operating costs of building increased transfer station capacity or employing more labor to transfer the additional transferable waste delivered by Contractor's customer
<b>transfer service fee Impact</b>	Warranting that it will not request a transfer service fee increase to transfer future increased volume of transferable waste delivered by County customers, if the transfer station capacity would have been sufficient to transfer that waste before Contractor customers began delivering additional transferable waste.
<b>Delivery times</b>	Disclosing the anticipated times that Contractor customer will deliver transferable materials to the transfer station and demonstrating that Contractor can continue to meet the Throughput Standard
<b>Weighing priority</b>	Allowing County to weigh County customers before Contractor customers
<b>Billing information</b>	Describing to County what information it needs County to record when County weighs a Contractor customer and how County can obtain that information from the Contractor customer using means available to County at the scale house, such as recording weight, truck number, customer identity, and when to give Contractor that information
<b>Transport Hauler</b>	Transporting transferable waste from the transfer station itself or through a subcontractor, evidenced by documentation such as a contract between contractor and transport hauler
<b>Queuing priority</b>	Allowing County customers to deliver transferable waste to the tipping floor of the transfer station before Contractor customers after they exit the entry scale
<b>Loading Priority</b>	Loading transport containers of County's transport contractor before loading transport containers of its own or of its transport contractor
<b>Transport</b>	Ensuring that Contractor will transport transferable waste delivered by its customers itself or by subcontract
<b>Terms</b>	Disclosing (1) the gross and any net fee that Contractor is charging Contractor customers, which cannot be more than the transfer service fee that County pays Contractor under this Transfer Contract, and (2) other terms of Contractor's agreement with Contractor customer
<b>County Compensation</b>	Fixing the amount of compensation that Contractor will pay County for reasons including compensation for additional wear-and-tear on the transfer station and equipment that County has the option to purchase at the expiration or earlier termination of this Transfer Contract
<b>Offset</b>	Allowing County to deduct County's compensation from amounts that County owes Contractor under this Transfer Contract
<b>Insurance</b>	Providing additional or amended insurance coverage satisfactory to County, for additional County risk of liability, such as amendment of policies to provide that Contractor service to Contractor customers is included in the insurance that Contractor must carry this Transfer Contract with respect to scope of liability,
<b>Other</b>	Other provisions negotiated between County and Contractor



**b. Inadequate Permitted Capacity**

If customers deliver transferable waste in amounts greater than or equal to the transfer station's permitted capacity and the Local Enforcement Agency issues a notice of non-compliance, Contractor and County will determine whether the volume of transferable waste delivered by County customers is within the permitted capacity *without* including transferable waste delivered by Contractor customers. They will make this determination based on the permitted capacity of the transfer station and records of the tons of transferable waste delivered by County customers alone.

**(i) Due to Contractor Customers' Incremental Deliveries**

If they determine that the volume of transferable waste delivered by County customers alone is *less* than permitted capacity, then Contractor may increase the throughput capacity of the transfer station by the following:

- enlarging the building or adding equipment, with or without
- increasing employment, and
- revising the transfer facility permit.

Contractor will take these actions at its own expense, without adjustment of the transfer service fee. It will make changes to the transfer station only after County review and consent, including with respect to Contractor's financial capacity.

**(ii) Due to County Customers' Delivery**

If they determine that the volume of transferable waste delivered by County customers alone is *greater* than the permitted capacity, then Contractor and County will meet to discuss their response, including all of the following:

- **Waste Projections:** Conduct waste generation projections for all of the following:
  - County transferable waste, until the expiration of this Transfer Contract;
  - Contractor transferable waste until the expiration of Contractor's agreement with each Contractor customer; and
  - County and Contractor waste, together.
- **Manner of Increasing Capacity:** Each party's preferred manner of increasing permitted capacity including enlarging the building, adding equipment, increasing employment, or any combination of them;
- **Cost and Time Estimates:** Contractor projecting the cost and timeline for implementing the changes;
- **Transfer Service Fee Adjustment;** the increase in the transfer service fee.

The parties will adjust the transfer service fee in the manner outlined in the Master Contract and Section 8.02 of this Transfer Contract. Additional changes that require capital investment or hiring more labor may occur for many other reasons, including increased delivery of transferable waste by Contractor customers described above. The Master Contract provides for the parties to mediate their disputes through a qualified "Independent MSW Expert" in solid waste management, not primarily an arbitration lawyer.

## ARTICLE 6 – PURCHASE OPTION

### Section 6.01 County Purchase Options

Contractor gives County 2 separate options to purchase the transfer station/site, in County’s sole discretion:

- 1) upon expiration of this Transfer Contract, or
- 2) upon termination of this Transfer Contract.

### Section 6.02 Sales Price

Contractor will sell the transfer station at the following price, calculated as straight-line depreciation over 20 years. The prices will be adjusted in the same manner as the annual transfer service fee adjustment under the Master Contract and this transfer Services Agreement.

Year	Price	2030		2038	
2023		2031		2039	
2024		2032		2040	
2025		2033		2041	
2026		2034		2042	
2027		2035			
2028		2036			
2029		2037			

### Section 6.03 Inspection and Condition

Contractor will accompany County to inspect the transfer station and its surrounding for damages at the following times:

- (1) 6 months prior to expiration of this Transfer Contract,
- (2) 3 months prior to County’s exercise of its purchase option, and
- (3) promptly at a date requested by County.

Contractor will help County identify and list damages (often known as “punch lists”). If Contractor disagrees with County’s punch list, it may ask the Independent MSW Expert to examine disputed damage and determine its cause, due to either of the following:

- (1) anticipated wear-and-tear resulting from operations, or
- (2) damage/

Its determination is final. Contractor will fix damaged assets within one week.

Contractor will cooperate with County, including promptly giving County requested documents, returning calls in any media, and attending meetings.

### Section 6.04 “Assets” / “Damaged Assets”

<p><b>“damaged assets”</b> means assets that are broken; fully or partially inoperable; functionally impaired; or deteriorated in excess of normal wear-and-tear.</p>
---

## Section 6.05 Repair or Replacement

Contractor will repair or replace damaged assets to satisfaction of County within one month of receiving the punch list. If Contractor does not timely complete repair or replacements, County may draw on the letter of credit for its direct costs of repairing or replacing the damaged assets itself. If Contractor disagrees with County, it may ask the Independent MSW Expert to examine the assets and make its determine whether Contractor must conduct additional repair or provide an alternative asset equivalent in function and value with the damaged asset.

## Section 6.06 Clean and Functional

Contractor will leave the transfer station and site in clean and functional condition, operable by County in accordance with the Operation and Maintenance Plan and equipment operation manuals, subject to ordinary wear and tear.

[See *ARTICLE 7 – OWNERSHIP OF SOLID WASTE; DISCLAIMERS in the Master Contract*]

## ARTICLE 8 - TRANSFER SERVICE FEES

### Section 8.01 Transfer Service Fee

#### a. Amount

County will compensate Contractor for performing its obligations under this Transfer Contract as follows:

- 1) **\$/ton:** The transfer service fee expressed in *dollars per ton* of transferable waste, multiplied by
- 2) **Tons:** The tons of transferable waste that County customers deliver to the transfer station, weighed at the scale- house.

**transfer service fee** means the dollar amount that County pays Contractor under this Transfer Contract, which may be measured over multiple time periods such as monthly and annually. **Transfer service fee** is not the gate (or tipping fee), which County shall set in its sole discretion as described in the Master Contract.

Contractor acknowledges that the transfer service fee and any explicitly reimbursable costs under Section 8.05 are the only fees that County is obligated to pay Contractor for performing services and satisfying all its obligations under this Transfer Contract.

**b. Payment**

**(1) Transfer Service Fee.** County will pay Contractor the transfer service fee when there is no default and Contractor provides transfer services, including meeting both of the following:

- Throughput Standard, and
- Vehicle Turnaround Standard.

**(2) Consideration.** Contractor acknowledges that County pays Contractor transfer service fees in consideration for Contractor performing services. County is not obligated to pay Contractor transfer service fees if Contractor is *not* providing services, *except* in uncontrollable circumstances. Contractor may procure business interruption insurance, but the transfer service fee is not adjusted for the cost of that insurance.

**c. Calculation**

**(1) Tonnage Weighed at Scale House.** Each ton of transferable waste delivered by County customers will be weighed on the scale at the transfer *station scale house* (not when loading containers or delivering containers to the *disposal facility*). Permitted waste (up to 3 cubic yards per Customer) that self-haulers deliver on Free Dump Day is excluded from tonnage used to calculate the transfer service fee.

**Section 8.02 Transfer Service Fee Adjustments**

**a. Events**

County will adjust the transfer service fee under Attachment 8.02(1) and Attachment 8.02(2) as soon as practicable for:

- (1) Annual adjustments,** and
- (2) Changes in Services,** for the following reasons:
  - uncontrollable circumstances, or
  - a change in service specifications directed by County.
  -

**b. Effective Date**

Adjustments will be effective retroactively on:

- (1) the scheduled date for annual adjustments, or
- (2) the date stated in a change order.

**Section 8.03 Invoicing and Payment**

**a. Transfer Scale Weight**

Contractor will calculate each component of the transfer service fee based upon the tons of permitted waste weighed on the scale at the scale house. Contractor may dispute weights, including:

- (1) requiring County to test the transfer scale, and
- (2) auditing County's records.

**b. Contractor Submission of Invoice to County**

**(1) Tonnage Report.** As soon as possible after the last day of each month (for example April 1), but not later than 5 working days after the last day of each month, County will report to Contractor the tonnage for the preceding month.

**(2) Invoice.** Contractor will submit its itemized invoice for services provided - and any reimbursable direct costs under 8.05 incurred – during the preceding month (for example, March) on or before the 10<sup>th</sup> day of the month (for example, by April 10). The invoice must be in a media and form satisfactory to County, including:

- 1) tonnage,
- 2) transfer service fee, and
- 3) Acknowledgement that payment to Contractor constitutes full and complete discharge of County's obligations and liabilities to Contractor under this Transfer Contract.

**transfer service fee invoice date** means the date described in the preceding paragraph.

**c. County Payment to Contractor**

**Timing.** If Contractor submits its invoice *by* 12:00 P.M. at least one week prior to the first of each month (for example, June 24), County will pay it by the first day of the next month (for example, July 1), *unless* County disputes those amounts.

If Contractor submits its invoice *after* 12:00 P.M. less than one week prior to the first of each month (for example, June 25), County will pay it on the first day of the next succeeding month (for example, August 1). The County may change the monthly submission schedule (such as requiring advance submission by a different day).

**transfer service fee payment date** means the date described in the preceding paragraph.

**d. Disputes**

If County disputes any amount on the invoice, it will pay the undisputed amount pending resolution of the dispute.

**e. Overdue Payments**

County will pay Contractor interest on overdue payments, but not including amounts withheld as disputed, at the rate of 1% per month from the time originally due until paid.

#### **Section 8.04 Disputes**

Disputes regarding invoices or transfer service fees will be resolved in accordance with the Master Contract.

#### **Section 8.05 Contractor's Reimbursable Costs**

County will reimburse Contractor for Contractor's direct costs, if any, explicitly identified in this Transfer Contract, such as with respect to:

- (1) a portion of the cost of handling, removing, and disposing of certain non-transferable waste delivered to the transfer station;
- (2) certain scale testing requested by Contractor.

#### **Section 8.06 Offsets**

In addition to any offsets under the Master Contract, County may deduct the County reimbursement costs charged under this Transfer Contract, such as for litter cleanup.

### **Article 9 - RECORDS**

Contractor will keep records under Section 9.02 of the Master Contract and Attachment 9.00.

### **Article 10 - REPORTS**

Contractor will submit reports under Article 10 of the Master Contract including the following Information:

- 1) tons of transferable waste it loads into containers,
- 2) any injuries to customer delivering waste,
- 3) non-transferable waste that customers delivered; the efforts Contractor made to require them to recover it and take it away, as permitted by law; the efforts Contractor made to determine the identity of customer who delivered the waste; the manner and means of handling the waste; and the costs of handling the waste.

**[See ARTICLE 11 – INDEMNIFICATION, HOLD HARMLESS AND DEFENSE in the Master Contract]**

## ARTICLE 12 – INSURANCE AND FINANCIAL ASSURANCES

### Section 12.01 Insurance

Contractor will carry insurance prescribed in the Master Contract, with any changes or additions in coverage listed in Attachment 12.01. Contractor will append insurance documentation to Attachment 12.01.

**“Insured equipment”** means the equipment on and Contractor Equipment Inventory.

### Section 12.02 Letter of Credit

To provide County with liquid sources of money to handle waste before it becomes a health threat, Contractor will secure a letter of credit in substantially the form under the Master Contract and in the amount under Attachment 12.02. County may draw on the letter of credit in any of the following events:

- (1) Events described in the Master Contract, and
- (2) Uncured Contractor breach for failure to transfer waste, to provide the necessary liquidity for County pay for transfer, long-haul transport costs if Contractor does not pay the related damages under Section 14.03 of the Master Contract within 5 days of County request. Contractor will attach the executed letter of credit to Attachment 12.02.

### Section 12.03 Guaranty

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

## ARTICLE 13 BREACHES AND DEFAULTS

### Section 13.01 Contractor Default

In addition to defaults under the Master Contract, the following are defaults under this Transfer Contract:

CONTRACT SECTION	DEFAULT	TERMINATION DATE # days following County Notice of default (or longer number of days determined by County in its sole discretion)
This Transfer Contract 4.12 Throughput	Failure to accept all transferable waste delivered by customers to the transfer station for more than 3	30

Standard	consecutive days, unless excused by uncontrollable circumstances.	
Master Contract 4.04: Compliance with Law	<p>Breach of the provision of a permit requiring that Contractor clear the tipping floor 10 times during a period of 5 rolling, consecutive years beginning the first year of this Transfer Contract; provided that if 10 breaches occur before the end of that 5-year period, they constitute a default at that time.</p> <p>For example, 4 breaches occurring during the 1st, 2nd, and 3<sup>rd</sup> year of a 5-year period add up to 12 breaches which constitutes a default at that time (the 3<sup>rd</sup> year) without waiting for years 4 and 5 to pass.</p>	Immediately

The preceding defaults are not subject to cure rights.

**Default** means the preceding failures to comply with this Transfer Contract listed in this subsection and Contractors’ defaults under the Master Contract.

## ARTICLE 14 – ENFORCEMENT OF AGREEMENT/REMEDIES

[There are no sections 14.01-14.03a. See Article 14 of Master Contract, including compensatory damages under 14.03a. ]

### Section 14.03b Liquidated Damages for Service Default

Contractor acknowledges the following likely consequences of its failure to meet its Throughput Standard or transfer all transferable waste delivered to the transfer station by County customers:

**1) Excess Haul Costs:** If County’s franchised haulers or other contractors cannot deliver transferable waste to the transfer station, they will incur the following damages:

- Their cost of driving their collection trucks on a long-haul to the disposal facility instead of to directly to the transfer station, costs, including accelerated wear-and-tear on their collection vehicles, extra fuel, and longer driver hours and labor costs, in excess of:
- Their cost of driving their collection trucks directly to the transfer station.

The haulers might ask County for a rate adjustment to recompense their extra costs that would that raise County customers’ tipping fee. A rate increase would create a financial burden on County’s residents and businesses. County officials will suffer political repercussions if solid waste accumulates. create political problems for the County and its elected officials. The County to recompense might be shifted from to the rate payers to the County.

The incremental costs of County’s franchised haulers would be difficult to determine. Each hauler would have trucks with different depreciation schedules and fuel efficiencies, and drivers with different hourly labor costs (including overtime). Their extra mileage would vary depending on their collection routes.



**2) Foregone Transport Fee.** If County's contractor that long-hauls transferable waste from the transfer station to the disposal facility would forgo its transport fees. The transport hauler might ask County recompense it for those fees.

The transport hauler's lost revenue would be difficult to determine. A portion of their foregone transport fees represent operations cost that they did not incur. County does not pay transport haulers on a cost-plus basis and does not know the portion of operating expenses, overhead, and profit/mark-up, which might be proprietary.

**3) Illegal Dumping.** Solid waste, including putrescible garbage, threatens human health and the environment if not collected and disposed quickly. County is responsible for the health and safety of its residents and businesses. If it is infeasible, economically or practically, for other customers, including self-haulers, to direct-haul solid waste to an alternative landfill, their discarded solid waste may over-their waste containers and instigate illegal dumping. County officials will suffer political repercussions if solid waste accumulates.

The exact costs that County would incur to collect illegally dumped waste would be difficult to determine, but they would be significant.

**4) Lost transfer service fees.** County would not receive transfer service fee fees at the transfer station from County customers and any portion of fees from Contractor customer that Contractor pays County. which support solid waste management in the County. This would be time-consuming and difficult to determine the amount of transferable waste diverted from the transfer station for multiple waste haulers.

County considered and relied on Contractor's representations as to its record of timely project build in entering into this Transfer Contract.

Therefore, parties agree that the liquidated damages below represent a reasonable estimate of the amount of County's damages, including considering all of the circumstances existing on the contract date, and both of the following:

- the relationship of the sums to the range of harm that reasonably could be anticipated, and
- anticipation that proof of actual damages would be costly or inconvenient.

In signing this Agreement, each party explicitly confirms both of the following:

- the accuracy of the statements made above, and
- it had ample opportunity to consult with legal counsel and obtain an explanation of this liquidated damage provision when signed this Transfer Contract.

Contractor will pay County the following liquidated damages [to be filled in prior to Contract execution]:

- 1) **Excess Mileage:** XX cents per mile from the transfer station to the disposal facility by the shortest route via roads on which haulers could drive their heavy trucks, for each of County's franchised or contract haulers

- 2) **Lost Transport Fees:** XX% of the transport fee for the number of waste tons/day, based on the average daily tonnage over the prior month.
- 3) **Illegal Dumping:** \$XX / day.
- 4) **Lost transfer service fee fees.** \$XX/ day.

[See Section 3.07i for liquidated damages resulting from failure to meet readiness benchmark for acceptance]

[There is no Section 14.04. See Master Contract.]

## Section 14.05 Suspension or Termination

After Contractor receives County's Notice of Termination under 15.02 of the Master Contract or County Notice of determination that Contractor has engaged in criminal conduct under 4.07 of the Master Contract, it will take all the actions in this Section, *unless* that Notice explicitly directs otherwise.

### a. Vacate transfer Station

Immediately Contractor will vacate the transfer station and relinquish possession of the transfer station and its site, including its tangible assets inside or outside the transfer station, to County. County may use those assets for any purpose, including transferring materials. County may authorize other individuals, such as using solid waste operators, to use the transfer station.

**tangible assets** means all property that Contractor used to provide services and fulfill its obligations under this Transfer Contract, including:

- **Site** with improvements,
- **transfer station** building and fixtures, O&M Plan, any updated plans and specifications,
- **Equipment,**
- **Furnishings,**
- **Records,**
- Other items that Contractor used on site to provide services under this Transfer Contract.

### b. Transfer Assets

Promptly Contractor will transfer ownership of tangible assets to County, including equipment, equipment operating manuals and O&M plans.

Contractor will transfer intangible assets within two weeks

**c. Transfer Title**

Within 2 weeks, in consideration for paying previous transfer service fees to Contractor, Contractor will record with the County Recorder the deed transferring full ownership to of the transfer station including its site [if Contractor owns site] to the County, with all related documentation, such as mortgages, security interests, leases, and purchase agreements.

Within ten days Contractor will terminate its site lease with County [if County leases site to Contractor], in form satisfactory County.

**assets** means all personal and real, tangible and intangible property that Contractor used to provide services and fulfil its obligations under this Transfer Contract, including:

- **Permits,**
- **[Unencumbered] title** to the transfer station, and documentation regarding ownership or other assets, such as mortgages, security interests, leases, and purchase agreements.

**d. Transfer Permits**

Contractor will use reasonable business efforts transfer permits to County as soon as possible, including meeting with regulators.

**e. Take Reasonable and Necessary Acts**

Contractor will sign, execute, and deliver any instruments and perform any acts as may be necessary or reasonably requested by County to give full effect to this Section.

**Article 15 GENERAL PROVISIONS**

**Section 15.01 Subcontractors**

**a. Acknowledgements**

Contractor acknowledges that its experience and expertise weighted heavily in County’s evaluation of Contractor’s response to its Request for Proposals and in its selection of Contractor.

**b. Identification**

Therefore, Contractor represents that it has listed all its subcontractors on the contract date in Attachment 15.01b. Contractor will notify County of any proposed additional or replacement of the both the following subcontractors:

- On the contract date, subcontractors listed on Attachment 15.01b, and
- subcontractors with which Contractor contracts or engages for compensation of more than \$100,000.

Following County review and approval, Contractor will list those approved subcontractors in Attachment 15.01b.

**Section 15.02 Party Representatives**

**a. County Representative**

Under the Master Contract the County Director of Public Works or his designee is the County Representative. County identifies the additional County Representative with respect to operation of the transfer station in Attachment 15.02 of this Transfer Contract.

**b. Contractor Representative**

In addition to the Contractor Representative that Contractor identified in the Master Contract, Contractor identifies the Contractor Representative with respect to operation of the transfer station in Attachment 15.02 of this Transfer Contract.

**Article 16 - EXECUTION OF AGREEMENT**

The County warrants that it duly authorized the officers listed below to execute this Transfer Contract on behalf of the County.

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

IN WITNESS WHEREOF, the parties have signed this Transfer Contract as of the last contract date indicated below their names and entered into this Transfer Contract on the contract date:

COUNTY OF MONO:

CONTRACTOR:

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_

County Counsel

APPROVED BY RISK MANAGEMENT:

## **ATTACHMENT 3.01a      TRANSFER SERVICES READINESS BENCHMARKS**

Contractor will append the Transfer Services Readiness Schedule to this Attachment, including the following Benchmarks and the dates by which they will be performed.

**Readiness Benchmarks** mean the tasks and their corresponding dates in the Readiness Schedule, including:

- (1) funding
- (2) siting
- (3) designing
- (4) site preparation
- (5) preparing or constructing transfer station
- (6) ordering specified equipment and materials
- (7) Submitting as-built plans & specifications to County (if any)
- (8) starting up
- (9) acceptance testing
- (10) achieving acceptance (Scheduled Acceptance Date)
- (11) operating transfer station on the commencement date.
- (12) Other tasks listed in Section 3.01 and on the transfer Services Readiness Schedule

**ATTACHMENT 3.01b**      **FORM OF LEASE**  
[SEE ATTACHED]

### **ATTACHMENT 3.01c OPERATIONS AND MAINTENANCE PLAN**

Contractor will append the Operations and Maintenance Plan to this Attachment, including all of the following:

- 1) Plans & Specifications for traffic control on the entire transfer site, detailing design for safe use by the public that enters the site in automobiles and pickup trucks to drop off self-hauled transferable waste; and recyclables, tires, and household hazardous waste;
- 2) Transfer station site address and location map;
- 3) Plan to weigh transferable waste if scale-house is not at Pumice Valley Landfill (Section 4.03)
- 4) Load Check Protocol (Section 4.05b);
- 5) Hazardous Waste Handling Protocol (Section 4.05c)
- 6) Plan for unloading at the self-haul tip area (Section 4.07);
- 7) Emergency Plan (Section 4.09);
- 8) Back-up Plan (Section 4.10);
- 9) Plan for loading containers (Section 4.13c)
- 10) Health & Safety Plan (Section 4.24a)
- 11) required personal safety equipment (Section 4.24b);
- 12) required safety education for workers (Section 4.24c);
- 13) engaging and training staff (Section 4.25c);
- 14) plan for complying with Throughput Standard (Section 4.12) and Turn-around Standard (Section 4.06);

## ATTACHMENT 3.04a PERMITS

EXAMPLES: EDIT TO INCLUDE ACTUALLY REQUIRED PERMITS

PERMIT	CIRCUMSTANCES WHERE REQUIRED	APPROVAL AUTHORITY
County lease	For use of County Site	County
JTD Amendment	For new uses on County Site	CalRecycle and County
Solid Waste Facility Permit (or amendment)	For changes to existing facility or development of new facility	Local Enforcement Agency with concurrence by CalRecycle
Building and grading permits	For building (or remodeling existing) transfer station and/or preparing soil or floors for operation	Local agency with jurisdiction
Land use approval(s) (e.g., use permit or change in land use designation)	Where transfer services performed on property where use not currently authorized	Land use agency with jurisdiction
General industrial stormwater permit	For construction and/or operation	Regional Water Quality Control Board (RWQCB)
Wastewater discharge permits	For sanitary wastewater from: <ul style="list-style-type: none"> <li>• Restrooms,</li> <li>• Water used in washing floors</li> <li>• Water from truck washing, and</li> <li>• Water drained from transfer tunnel clarified to remove suspended and settleable solids such as oil,</li> </ul> And discharged to the County sewer system	RWQCB



**ATTACHMENT 3.04b      AGREEMENT FOR THE PROVISION OF PROJECT  
EVALUATION SERVICES**  
[SEE ATTACHED]

**ATTACHMENT 4.05c**  
[SEE ATTACHED]

**HAZARDOUS WASTE HANDLING PROTOCOL**

## ATTACHMENT 3.07 ACCEPTANCE TESTS

### GENERAL CONDITIONS

#### a. Scales

Within 30 days before beginning acceptance testing, Contractor will obtain certification of State-licensed weighmaster that all scales at the transfer station are accurate

#### b. Compliance: Operation Manual & Law

During acceptance testing, Contractor will do both of the following:

- (1) employ a similar number and type of staff, who do similar job tasks, and use similar equipment, level of utility usage and operating procedures, as reasonably expected to be used during transfer station operations;
- (2) will comply with law (such as OSHA), including permits (such as noise, fugitive dust, odor, and traffic requirements).

### TEST

#### a. Purpose

During the acceptance test Contractor must demonstrate that transfer station will do both of the following:

- (1) meet the Throughput Standard, and
- (2) meet the Vehicle Turnaround Standard.

#### b. Protocol

##### (i) Test Period

The acceptance test period:

- begins 12:00 a.m. on the first day of the acceptance test;
- ends at 11:59 p.m. of the following 5<sup>th</sup> working day.

Contractor will record both of the following:

- (1) **Time Additions:** time consumed by transfer interruptions or transfer station breakdown and repairs due to actions of anyone *other* than Contractor or force majeure events and add such time to the acceptance test period.
- (2) **No Time Adjustment:** the time consumed by transfer station breakdown and repairs due to actions of Contractor and its employees or normal wear and tear of transfer station equipment but may *not* add that time to such acceptance test period.

##### (ii) Weighing

Contractor will weigh and record the weight of all permitted waste:

- in commercial and self-haul vehicles at the entry weigh scale, and
- in loaded transport containers at the loading scale. If at the end of the acceptance test period Contractor has only partially filled a transport container, Contractor will weigh and record that partially filled container prior to filling it.

## **REPORT**

Contractor will include all of the following in the acceptance test report:

- the throughput calculations;
- copies of weight tickets and times for all loads transferred during the acceptance test,
- documentation supporting those calculations;
- pictures of the unloading and loading areas taken during peak traffic periods of the day, at least twice a day during the acceptance tests; and
- customers' comments.

## **PUNCH LIST AND ACCEPTANCE**

Contractor and County will inspect the transfer station and prepare a punch list of incomplete, non-complying, or defective work. County may bring solid waste management professionals, such as engineers, with it to the inspection.

Contractor will fix all items on the punch list prior to the Scheduled Acceptance Date and Notify County, certifying that Contractor has substantial completed work identified in the punch list.

- (1) If County and Contractor disagree on the punch list, they will submit the dispute to the Independent MSW Expert for final determination under Section 15.06 of the Master Contract
- (2) If County agrees to the punch list, it will Notify Contractor that it accepts the transfer station site improvements for operations, and Contractor may begin operating the transfer facility.

**ATTACHMENT 4.10      CONTRACTOR'S BACK-UP TRANSFER SITE**

[Contractor appended the identified back-up transfer site to this Attachment.]

**ATTACHMENT 4.13d CHECK SHEETS FOR TRANSPORT CONTAINERS**

<b>EMPTY CONTAINERS</b>	
<b>Check List / Inspection Report</b>	
<b>Date</b>	<b>Time</b>
Container number	
End gates are closed and latched	
Door seals are secure	
Exterior of container is not damaged or dirty	
Container top is free of holes / defects	
Container top: straps / buckles are fastened - secured	
System functions properly	
Container top is open prior to entering loading tunnel	
Interior of container is clean / free of debris	
Container floor has no holes	
Container is fit for loading	
Other:	
Comments	
Inspector name:	

<b>LOADED CONTAINERS</b>	
<b>Check List / Check List / Inspection Report</b>	
<b>Date</b>	<b>Time</b>
Container number	
End gates are closed and latched	
Door seals are secure <i>and not leaking</i>	
Exterior of container is not damaged or dirty; <i>there is no clinging debris</i>	
Container top is free of holes / defects	
Container top: straps / buckles are fastened - secured	
Container is properly attached to transport vehicle	
Container is suitable for transport	
Other:	
Comments	
Inspector name:	

**ATTACHMENT 4.18 EQUIPMENT SPECIFICATIONS**

Contractor will provide all of the equipment necessary to the provision of transfer services. Examples are listed below. Prior to commencing transfer services, Contractor will submit its final list of equipment to County for review and approval.

<p><b>Entry scale house for locations other than Pumice Valley</b></p> <p><b>Scale House</b> means the structure, furnishings and equipment located at the entry to the transfer site.</p>	<ul style="list-style-type: none"> <li>● Concrete weigh bridge</li> <li>● Incoming entry scale platform measuring 10' X 70' with a 40-ton capacity</li> <li>● Entry scale</li> </ul> <p><b>entry scale</b> means the equipment described in this subsection.</p>
<p><b>transfer Site</b></p>	<p>All equipment necessary to provide the services, for example:</p> <ul style="list-style-type: none"> <li>● <b>wheel loader</b> for loading permitted waste from tipping floor into transport containers, such as [Caterpillar 960 solid, rubber-tired tire wheel loader with three-way buckets],</li> <li>● <b>backhoe / loader</b> to compact permitted waste in container and for back-up to wheel loader, such as [Caterpillar 426 C with extended boom arm],</li> <li>● <b>knuckleboom crane</b> for loading and compacting materials into open topped transport containers, such as [North American Crane and equipment Company, Model SC2025],</li> <li>● <b>forklift</b> for moving empty and loaded transport containers and collecting dropped of recyclables such as a [6,000-pound Hyster forklift],</li> <li>● <b>tractor</b> (“yard goat”) for moving transport containers inside transfer station and chassis in- and- out of holding bay, such as [Peterbilt 375 single axle],</li> <li>● <b>sweeper</b> for cleaning spills and paved areas,</li> <li>● <b>transfer entry scales</b> such as a Mettler Toledo Model 7541 Truckmaster truck entry scale]; [container loading scale],</li> <li>● <b>recyclables bins</b>, upon County request, for self-haul recyclables drop-off: 30 or 40 cubic yard roll-off containers having hinged top, with sidewall access openings, sliding doors, including smaller to place inside for separating a variety of recyclable materials.</li> </ul> <p><b>rolling stock</b> means the equipment listed in this subsection, or its functional and quality equivalents</p>

**ATTACHMENT 4.19b TIPPING FLOOR BASELINE AND MONITORING PLAN**

[To be submitted by Contractor and approved by County.]



## ATTACHMENT 4.26 KEY PERSONNEL

### a. Contractor Representative

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

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

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

**Acknowledgment:** Contractor has submitted, and County has received, this list of Key Personnel as of the later of the following dates:

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

County Representative: Signature  Typed or Printed Name Date
--

Contractor Representative Signature  Typed or Printed Name Date
---

**c. Changes**

**(i) Updates**

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

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

**(ii) Acknowledgements**

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

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

**ATTACHMENT 8.02 (1) TRANSFER SERVICE FEE ADJUSTMENTS: ANNUAL**

The transfer service fee will be adjusted annually in the manner for adjusting transfer service fees outlined the Master Contract, including the definitions of CPI, CNG, LNG, and Diesel, and this Attachment. The following percentages of the service transfer fee will be adjusted by the corresponding partial percentage of the service transfer fee:

- 1) [PROPOSED %] by the CPI.
- 2) [PROPOSED %] by the DOE CNG.
- 3) [PROPOSED %] by the EIA LNG.
- 4) [PROPOSED %] by #2 Diesel.

Example: (See Master Contract for definitions and links to indices.)

- Numbers are hypotheticals, not derived from historical indices.
- The adjustment of the Transfer Service Fee is being calculated in April 2027, to be effective July 1, 2027

**Table 1 – Adjustment Due to Change in CPI.**

Calculate percent change in CPI (12 month average, not month-to-month)	April 1, 2026-March 31, 2027	220
	April 1, 2007-March 31, 2008	205
	Percent Change	2.27%
Adjustment to Service Fee Component		<b>2.27%</b>

**Table 2 - Adjustment Due to Change in LNG.**

Calculate percent change in LNG (4-quarter average, not quarter-to-quarter)	PRIOR YEAR CHANGE:	X
	July 2025	
	October 2025	
	January 2026	
	March 2026	
	July 2026	X
	October 2026	
	January 2027	
	March 2027	
	Percent Change	X %
Adjustment to Service Fee Component		X%

\*In this above example, the Contractor owns no LNG-fueled vehicles.

**Table 3 – Adjustment Due to Change in CNG**

Calculate percent change in CNG (4-quarter average, not quarter-to-quarter)	PRIOR YEAR CHANGE	
	July 2025	2.00+
	October 2025	2.10+
	January 2026	2.20+
	March 2026	2.30 / 4= <b>2.15</b>
July 2026	2.40+	
October 2026	2.50+	
January 2027	2.6+	
March 2027	2.7 / 4= <b>2.55</b>	
	Percent Change	2.55- 2.15= <b>18.6%</b>
Adjustment to CNG Fuel Component	30% of percent change in DOE CNG 3/10 Vehicles*	0.30 X 18.6%= <b>5.58%</b>

\*In this above example, the Contractor owns 3 LNG-fueled vehicles and 7 diesel-fueled vehicles.

**Table 4 – Adjustment Due to Change in Diesel**

Calculate percent change in Diesel (12 month average, not month-to-month)	April 1, 2005 - March 31, 2006	400
	April 1, 2006 - March 31, 2007	450
	Percent Change	12.5%
Adjustment to Diesel Fuel Component	70% of percent change in DOE Diesel (7/10 Vehicles)*	<b>8.75%</b>

\*In this above example, the Contractor owns 3 LNG-fueled vehicles and 7 diesel-fueled vehicles.

5) Weighted Service Fee Adjustment Percentage.

**Table 5 – Sum of Adjustments**

Rate Component	Relative weight of service fee	Adjustment due to Change in indices/change in disposal tipping fees	Weighted Rate Adjustment Percentage
Service Component (CPI)	85%	2.27%	1.93%

Fuel Component			
LNG			
CNG	5%	5.58%	0.28%
Diesel	10%	8.75%	0.88%
Weighted Rate Adjustment Percentage	100%		16.03%

**6) Adjusted Rate (Annual increase or decrease in CPI, LNG, CNG, Diesel)**

If the Weighted Service Fee Adjustment Percentage is 16.03% percent, then a hypothetical service fee of \$17.00 would be adjusted as follows:

$$\$17.00 + [16.03\% \times \$17.00] =$$

$$\$17.00 + \$2.72 =$$

$$\mathbf{\$19.72 = \text{adjusted Net Rate}}$$

## ATTACHMENT 8.02 (2) TRANSFER SERVICE FEE ADJUSTMENTS: CHANGE IN SERVICE

### a. Expected Changes

The Parties acknowledge that over the 20-year term of this Transfer Contract, County will request changes in service, and uncontrollable circumstances outside the parties' control may force change in service. The changes may require either or both a capital and operation expenditure by the Contractor and a transfer service fee increase for the County. Examples of possible changes include:

- 1) **Volume / Character.** Changes in the volume and character of transferable waste due to such as:
  - Increased reuse and recycling,
  - Decrease in population generating waste,
  - Obsolescence in consumer goods due to new technology and improved design,
  - mandates in laws enacted by CalRecycle which change what, where, and how, material are collected and used or disposed,
- 2) **Changes in Law.** More stringent environmental health and safety provisions under law and regulations air, land, water, energy that require purchase of new equipment.
- 3) **Competitive Pricing.** Parties further acknowledge that the County procured this Transfer Contract competitively. Contractor submitted proposals that the County compared and evaluated against other proposals. By letting the market set the price, County avoids extensive, cost-based negotiations.

### b. Minimizing Adjustments

Having competitively procured this Transfer Contract, the Parties expect to minimize, though not eliminate, future negotiations, including by the following means:

- 1) **Multiple Cost Indices.** The relative costs of goods and services may increase or decrease at a different rate than inflation or deflation in. They have anticipated and addressed that possibility by apportioning the transfer service fee into varying percentages, each percentage adjusted by different indices, such as labor and fuel
- 2) **Separate Ancillary Services:** If County requests Contractor to provide additional services, such as running an ancillary operation for food, they will strongly consider procuring that service separately from services under this Transfer Contract and avoid re-opening its competitive price approaching that service without re-opening.

These acknowledgments and tactics to avoid amending this Transfer Contract, are principles, but not obligations.

### c. Change Protocol

Adjustments for the transfer service fee due to changes in service will be done in the manner outlined in Attachment 8.02b in the Master Contract.

If the parties agree or the Independent MSW Expert identified pursuant to the Master Contract determines that the adjustment in the transfer service fee requires Contractor

expenditures or increased transfer service fees that exceeds any of the following amounts, the parties may terminate this Transfer Contract in the same manner as termination for convenience:

**(1) Contractor's Caps.**

1) **Caps on Capital Investment.** Contractor's capital investment to effectuate the change in service would exceed:

- \$xxxx [INSERT: based on Transfer Contractor's initial investment] at any one time or
- \$xxxx [INSERT: based on Transfer Contractor's initial investment] aggregated over the previous five years from the date of the determination, or

2) **Cap on Operating Costs:** Contractor's continuing expenses, such as labor, would be more than

- xx% [INSERT: based on initial transfer service fee] at any one time, or
- xx% [INSERT: based on initial transfer service fee] aggregated over the previous five years from the date of the determination.

**(2) County Cap:** transfer service fee increases would be more than:

- 10% at any one time or
- 25% aggregated over the previous five years from the date of the determination.

**Maximum transfer service fee Increase** means the limitations in this subsection.

## ATTACHMENT 9 RECORDS

<b>SECTION</b>	<b>RECORD</b>
<b>3.04</b>	environmental compliance
<b>3.04c</b>	permit documentation
<b>3.07c</b>	acceptance testing
<b>4.13d</b>	container checks
<b>4.05a</b>	non-transferable waste
<b>4.05c</b>	identification of load-search to determine who delivered non-transferable waste
<b>5.01c</b>	tons accepted from Contractor customers, item "billing information"
<b>5.01c</b>	Contractor customers, tonnage etc.



## ATTACHMENT 12.01 INSURANCE

In addition to the insurance coverage required under the Master Contract, Transfer Contractor will obtain the following:

1. **Commercial General Liability:** \$10 million umbrella coverage with endorsements providing “drop down” coverage solely for performance obligations effective when primary limits of General Liability described in the Master Contract are exhausted
2. **Pollution / Environmental Impairment Insurance** covering the following: emission, discharge, release or escape of pollutants comprised of solid, liquid, gaseous or thermal irritants or contaminants (including waste materials to be recycled, reconditioned or reclaimed) into or upon land, the atmosphere or any watercourse or body of water, and reimbursement of cleanup costs in accordance with law because of environmental damages, with limits of \$2 million occurrence / \$2 million aggregate, and
  - CGL Endorsement.** If coverage is under Commercial General Liability insurance, any endorsement required for County coverage.
  - Claims-Made.** If coverage is on a claims-made basis, an endorsement covering County during the extended reporting-period.
  - Subrogation.** Waiver of rights to subrogation that an insurer may acquire from Contractor with respect to payment of any loss.
  - Cross-liability coverage:** Clearly evidence that policy provides cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured-versus-insured exclusions or limitations;  
This obligation to maintain is pollution coverage survives the expiration or termination of this Transfer Contract.

### 3. Property

Amount sufficient to replace the facility (\$3m initially, reviewed by County Risk Manager as of July 1 every 3 years) Covering “All Risks” of loss or damage to physical property, including the periods of earthquake and flood, and including extensions for:

- Expediting Expense
- Boiler and Machinery (Systems Performance and Efficacy)
- On-Site or Off-Site Materials in storage or in the open

Minimum limits must be in an amount acceptable to the County, but no less than replacement cost of the project. The policy must be written on a replacement cost basis the policy must contain a valid agreed amount endorsement waiving any co-insurance penalty. Deductibles may not be greater than \$10,000 per loss. Transfer Contractor must pay deductibles.

Contractor may choose not to insure smaller pieces of equipment but rather pay for repair or replace them itself to save the cost of insurance premiums, if County consents.

4. **Builder’s Risk** If performing construction (including expansion, renovation, ore remodeling), then in an amount equal to the completed value of the project, *without* coinsurance penalty provisions.

## **ATTACHMENT 12.02      LETTER OF CREDIT**

The Stated Amount of the Letter of Credit is \$50,000. Contractor has appended the Letter of Credit to this Attachment.

**ATTACHMENT 12.03    GUARANTY**

[Attach form of guaranty]

**ATTACHMENT 15.01b LIST OF SUBCONTRACTORS**

As of Contract Date:	Replacements or Additions over \$100,000

ATTACH COPIES OF SUBCONTRACTS.

**ATTACHMENT 15.02 PARTY REPRESENTATIVES FOR THIS TRANSFER CONTRACT**

**a. Contractor**

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

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

**AMENDED ATTACHMENT 15.02 PARTIES REPRESENTATIVES**

a. **Acknowledgment:** Parties acknowledge that keeping this Attachment updated is of the utmost importance because it prescribes who has authority to act on behalf of the respective parties.

**Contractor Notice:** Contractor has submitted, and County has received this attachment as of the later of the following dates:

- (1) The contract date, evidenced by the execution of this Transfer Contract, or
- (2) With respect to subsequent changes, the following date, as evidenced by their following signatures.

**b. Amendments, Replacements, Updates**

- (1) Contractor’s changes to this attachment are evidenced by its dated signature below.
- (2) County changes to this attachment is evidenced by its dated signature below.

**c. Warranties**

- (1) **Contractor.** Contractor warrants both of the following:
  - A. Contractor Representative or other individual signing below has the authority to sign this attachment; and
  - B. Contractor has duly authorized that individual to execute this attachment on behalf of the County.
- (2) **County.** County warrants both of the following:
  - A. County Representative or other individual signing below has the authority to sign this attachment; and
  - B. County has duly authorized that individual to execute this attachment on behalf of the County.

Contract Representative / Name:  
 Signature:  
 Date:  
 -----  
 Attest / Name – Office  
 Signature:  
 Date:

County Representative / Name:  
 Signature:  
 Date:  
 -----  
 Attest / Name – Office  
 Signature:  
 Date:

d. **Filing.** Parties will file copies of this Attachment in both the following places:  
 (1) **Work Copy:** with the contract they personally use most frequently to implement and administer this Transfer Contract, for example in their own office, and  
 (2) **Records:** with the County Clerk and the appropriate Contractor officer, respectively, to file with the executed contracts they keep in their records.