

PURCHASE AND SALE AGREEMENT

BY AND BETWEEN

THE COUNTY OF SONOMA, AS SELLER

AND

_____, AS PURCHASER

DATED AS OF _____, 2008

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PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is made as of _____, 2008, by and between **THE COUNTY OF SONOMA**, a political subdivision of the State of California (“**County**”), and _____, a _____ (“**Purchaser**”).

BACKGROUND

- A.** County owns certain real and personal property assets that are part of the County of Sonoma solid waste system, including locations commonly known as the Central Landfill and transfer stations located at Annapolis, Guerneville, Healdsburg, Sonoma and the Central Landfill.
- B.** County desires to sell to Purchaser the Property, as defined herein, including the assets as set forth in Recital A, the real property portion of which is described on Exhibit A, and the County’s landfill and solid waste disposal activities, and Purchaser desires to purchase these assets from County, all on the terms and conditions set forth herein.
- C.** The County has significant public policy goals in entering into this Agreement. Among these public policy goals, each of which form an essential part of this transaction and the consideration hereunder, the County desires to (i) transfer, on behalf of the County and the Committed Cities, and Purchaser is willing to accept and assume the past, present and future Closure and Post-Closure Obligations and environmental liabilities and obligations associated with the Property, and under the terms and conditions specified herein; (ii) enter into a long-term tip fee and disposal relationship with Purchaser whereby the County-Controlled Waste and the Waste of the Committed Cities will be disposed of by Purchaser at the Central Landfill or another facility owned or operated by Purchaser or an Affiliate at reasonable, fixed tip fees as set forth in this Agreement; and (iii) secure certain indemnities and releases from Purchaser in favor of the County and the Committed Cities with respect to the past, present and future use, operation and condition of the Property pursuant to the terms and conditions set forth herein.
- D.** County and Purchaser are entering into this Agreement to evidence their respective duties, obligations and responsibilities.

NOW, THEREFORE, in consideration of the respective representations, warranties, covenants and agreements contained in this Agreement, the receipt and sufficiency of which is hereby acknowledged by the Parties, each of County and Purchaser agrees as follows:

ARTICLE 1.

DEFINITIONS; INTERPRETATION; EXECUTION DATE

1.1 **Defined Terms.**

The following terms when used in this Agreement (or in the Recitals, Schedules and Exhibits to this Agreement) with initial letters capitalized have the meanings set forth below:

Adjustment Date. “**Adjustment Date**” means each anniversary of the Closing Date.

Affiliate. “**Affiliate**” of an Entity means any other Entity that (a) directly or indirectly controls the specified Entity; (b) is controlled by or is under direct or indirect common control with the specified Entity; (c) is an officer, director, employee, representative or agent or subsidiary of the Entity; or (d) acquires all or substantially all of the assets of such Entity. For the purposes of this definition, “**control**”, when used with respect to any specified Entity, means the power to direct the management or policies of the specified Entity, directly or indirectly, whether through the ownership of voting securities, partnership or limited liability company interests, by contract or otherwise.

Agency Agreement. “**Agency Agreement**” means the agreement by and between Purchaser and SCWMA providing for certain payments to such agency, the form of which is attached hereto as Exhibit K.

Agreement. “**Agreement**” means this Purchase and Sale Agreement, together with the Schedules and Exhibits hereto.

Approved Financial Assurances. “**Approved Financial Assurances**” means any one or any combination of the mechanisms specified in 27 Cal. Code Regs. 22200 et seq., as amended, to demonstrate, fund and maintain financial responsibility for solid waste landfills as required by Law and/or any Governmental Authority, including the cost of closure, corrective action, operating liability, construction and post-closure activities, or such other financial assurance mechanisms approved from time to time by any applicable Government Authority or by Law.

Article. “**Article**” means a numbered article of this Agreement. An Article includes all the numbered sections of this Agreement that begin with the same number as that Article.

Assigned Contracts. “**Assigned Contracts**” has the meaning set forth in Section 2.1(d).

Assignment of Purchase Agreement. “**Assignment of Purchase Agreement**” has the meaning set forth in Section 11.6.

Assumed Liabilities. “**Assumed Liabilities**” has the meaning set forth in Section 2.3.

CC&Rs. “CC&Rs” means that certain Declaration of Covenants, Conditions and Restrictions for each of the Facilities in the form of Exhibit C attached hereto to be executed and recorded as of the Closing.

CEQA. “CEQA” means the California Environmental Quality Act, Cal. Public Resources Code §§ 21000 *et seq.*, as amended.

CIWMB “CIWMB” means the California Integrated Waste Management Board.

CIWMB Settlement. “CIWMB Settlement” means, collectively, (a) that certain Stipulated Notice and Order and Cooperative Agreement, Case No. EA-2007-1, entered into by and between the County and the California Integrated Waste Management Board dated as of December 28, 2007; and (b) that certain Stipulated Notice and Order, Case No. 2008-011361-STA entered into by and between the County and the California Integrated Waste Management Board dated as of March 21, 2008, as issued and amended, and the associated listing of the Landfill on the CIWMB’s Inventory of Facilities Violating State Minimum Standards.

Capital Expenditure. “Capital Expenditure” means any additions to or replacements of property, machinery and equipment and any other expenditures or repairs that would be capitalized on County’s balance sheet in accordance with County’s capitalization policy.

Casualty Notice Date. “Casualty Notice Date” has the meaning set forth in Section 5.8.

Casualty Thresholds. “Casualty Thresholds” has the meaning set forth in Section 5.8.

Change in Law. “Change in Law” means (a) the adoption of any Law after the Effective Execution Date, or (b) any change in any Law or in the interpretation or application thereof by any Governmental Authority after the Effective Execution Date, in each case which was not reasonably and which is materially inconsistent with Laws in effect on the Effective Execution Date. “Change in Law” excludes (1) any change in or new Law proposed, pending, passed or adopted but not yet effective as of the Effective Execution Date or which was later enacted in similar form; and (2) any change or modification to any Permit. A reasonably foreseeable change in Law includes any changes to financial assurance mechanisms as a result of AB 2296.

City. “City” means a city located in the County of Sonoma, including cities that are formed or organized after the Effective Execution Date. As of the Effective Execution Date, the Cities include: Cloverdale, Cotati, Healdsburg, Petaluma, Rohnert Park, Santa Rosa, Sebastopol, Sonoma and the Town of Windsor.

City Disposal Agreement. “City Disposal Agreement” means an agreement between Purchaser and any City that wishes to become a Committed City, the form of which is attached hereto as Exhibit N.

Closed Landfills “**Closed Landfills**” means the former landfills located immediately adjacent to the Transfer Stations (other than the Central Transfer Station). The Central Landfill is not a “Closed Landfill” for purposes of this Agreement.

Closing. “**Closing**” has the meaning set forth in Section 2.4.

Closing Date. “**Closing Date**” has the meaning set forth in Section 2.4.

Closure and Post-Closure Obligations. “**Closure and Post—Closure Obligations**” means any and all obligations required by (i) Law, (ii) the Permits, (iii) the CC&Rs; or (iv) any Governmental Authority with jurisdiction over closure and post-closure of the Landfill, including (A) any obligation to decommission, deactivate, demolish, seal, cover, grade, landscape, monitor, clean, remediate, excavate, investigate, analyze, test, maintain or close the Property or any portion thereof, (B) any obligation to restore the Property to its natural state or other state as required by Permit, Law or any applicable Governmental Authority and (C) the obligation to fund, deposit and maintain with the CIWMB or any other applicable Government Authority, Approved Financial Assurances. It is the intent of the parties that the activities contemplated by this definition be interpreted consistently with applicable Law, including those Laws that relates to landfill closure and post-closure obligations, and consistently with the “Assumed Liabilities” hereunder. Except as expressly set forth in this Agreement, Closure and Post-Closure Obligations do not include obligations relating to the Closed Landfills.

Commercially Reasonable Efforts. “**Commercially Reasonable Efforts**” means efforts which are reasonably within the contemplation of the Parties at the time of executing this Agreement and which may require the performing Party to expend funds in amounts which are reasonable and which are customary in transactions of the kind and nature contemplated by this Agreement in order for the performing Party to satisfy its obligations hereunder.

Committed City. “**Committed City**” means a City that has committed its Waste in the manner described in Section 6.17(b). “**Committed Cities**” shall be the plural of Committed City.

Compost Agreement. “**Compost Agreement**” has the meaning set forth in Section 6.10.

Compost Facility. “**Compost Facility**” has the meaning set forth in Section 6.10.

Contract Documents. “**Contract Documents**” means this Agreement and all documents executed by either Party as part of the Closing, including the Deed, Deposit Letter of Credit, Post-Closing Letter of Credit and all documents listed in Schedules 8.4 and 9.6.

County. “**County**” has the meaning set forth in the introductory paragraph of this Agreement.

County-Controlled Waste. “**County-Controlled Waste**” means Waste from the unincorporated portions of the County of Sonoma that is collected and hauled by haulers

franchised or licensed by the County, as such franchises or licenses may be amended by the County from time to time. County-Controlled Waste excludes (i) Source Separated green waste, Source Separated wood waste and other Source Separated recyclables (e.g., 100% recyclable, except for minor residual amounts); (ii) Self-Haul Waste; and (iii) Waste collected, hauled, delivered or disposed of by or on behalf of the Cities. By way of example and not of limitation, the amount of County-Controlled Waste was approximately 71,637 Tons during calendar year 2007.

County Group. “**County Group**” means County and its supervisors, officers, directors, employees, representatives, consultants, successors, assigns and agents.

CPI. “**CPI**” means the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, “All Items” for All Urban Consumers in the San Francisco-Oakland-San Jose metropolitan area (1982-1984=100). If the CPI index is no longer in effect, the successor index that replaces the CPI index will be utilized for purposes of this Agreement.

CPI Factor. “**CPI Factor**” means the increase, if any in the CPI during the preceding year. The CPI factor shall be determined pursuant to a ratio, the denominator of which is the CPI for the last calendar month immediately preceding the prior Adjustment Date and the numerator of which is the CPI for the calendar month immediately preceding the then current Adjustment Date, except that for purposes of the first Adjustment Date, the denominator shall be the CPI for the last calendar month immediately preceding the Closing Date and the numerator of which is the CPI for the calendar month immediately preceding the first Adjustment Date.

Deed. “**Deed**” means a grant deed from County conveying fee simple title in the Land to Purchaser, the form of which is attached hereto as Exhibit B.

Deposit Letter of Credit. “**Deposit Letter of Credit**” has the meaning set forth in Section 2.6(a).

Discriminatory Change in Law. “**Discriminatory Change in Law**” means any Change in Law after the Effective Execution Date which is principally directed at and the effect of which is principally borne by Purchaser or owners of landfills in the State, except where such change (a) is in response, in whole or in part, to any failure to perform or breach of the Contract Documents, violation of applicable Law or Permit, culpable act or culpable omission on the part of Purchaser, its Affiliates or any of their respective officers, directors, employees, agents, representatives, contractors and consultants, (b) is otherwise contemplated under the Contract Documents; (c) relates to or arises out of the Assumed Liabilities; (d) relates to or arises out of the Permits; (e) changes in any item covered by the “Government Fee” component or the “Other Public Agency Host Fee” component of the tip fees as set forth in Schedule 6.17; or (g) has a cost impact of less than \$50,000.

Distributions. “**Distributions**” means any distribution, dividend, interest payment, repayment of principal, breakage cost, guaranteed payment, reduction in capital, redemption or purchase of shares or variation of share capital, loan, transfer of assets or rights not received in the ordinary course of business, other payment, monetary or in-kind, or other delivery of any

other benefit which is not in the ordinary course of business, made or projected to be made by Purchaser to the shareholders, members, partners, joint venture members or other holders of an equity interest in Purchaser or to Purchaser's Affiliates, including from proceeds of any refinancing, on account of or related to equity investment in Purchaser or its Affiliates or on account of or related to any loan from any such Entity to Purchaser or its Affiliates. Distributions shall not include Operating Expenses.

Due Diligence Inspections and Reviews. "Due Diligence Inspections and Reviews" means all inspections, reports, analyses, studies, assessments and investigations of the Property that Purchaser deems necessary or desirable to protect its interests in acquiring the Property, whether occurring prior to or after the ~~Effective~~Execution Date, including review and investigation of (i) the Assigned Contracts, (ii) governmental permits, licenses, authorizations, approvals, decrees, orders and consents, (iii) certificates of occupancy, if applicable, (iv) environmental audits and assessments, (v) toxic and Hazardous Substance reports, (vi) surveys, (vii) land use and development rights, (viii) development restrictions and conditions that are or may be imposed by Governmental Authorities, (ix) the condition of title, (x) soils, rock extraction, hydrology and geological reports, (xi) engineering and structural tests, (xii) contracts for work in progress, (xiii) marketing studies, (xiv) cost-to-complete studies, (xv) capacity and tonnage studies; (xvi) architectural plans, grading plans and site plans; (xvii) existing CEQA documentation relating to the Property; (xviii) the materials and documents relating to the permit status at the Landfill, including all court documents and filings and any notices or orders; (xix) the County's closure and post-closure maintenance and monitoring plans for the Landfill; and (xx) the other Due Diligence Materials.

Due Diligence Materials. "Due Diligence Materials" means all materials relating to the Property which were made available to Purchaser for its review or otherwise delivered to Purchaser by County prior to the ~~Effective~~Execution Date, including all materials posted on the Website and provided to Purchaser on CD-ROM format prior to issuance of the Request for Proposals.

Effective Date. "Effective Date" means the date on which ~~this Agreement has been executed and delivered by the Parties~~the condition set forth in Section 1.3(a) shall have been satisfied or waived by Purchaser.

Entity. "Entity" means an individual, partnership, joint venture, corporation, limited liability company, trust, association or unincorporated organization, or any Governmental Authority.

Environmental Conditions. "Environmental Conditions" means the presence, release, threat of release or existence of Hazardous Substances, Leachate and/or Landfill Gas introduced into, on, over or about (i) the Property; (ii) the soil, surface impoundments, ditches, trenches, surface water, water runoff, stormwater runoff and/or groundwater at the Property; and (iii) any improvements, buildings, structures, fixtures, machinery or equipment at the Property, in all cases set forth in clauses (i)-(iii), whether before or after the Closing, including any migration or threat of migration of such Hazardous Substances, Leachate and/or Landfill Gas through soil, surface impoundments, ditches, trenches, surface water, water runoff, stormwater runoff,

groundwater, improvements, buildings, structures, fixtures, machinery and/or equipment to or from the Property.

Environmental Laws. “**Environmental Laws**” means any applicable statutes, regulations, rules, guidance or ordinances, as in effect from time to time, relating to air emissions, hazardous or toxic substances, solid and/or hazardous wastes, hazardous materials, wastewater discharges and similar environmental matters, including the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Oil Pollution Act (33 U.S.C. § 2701 et seq.) and the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 et seq.), the Porter-Cologne Water Quality Control Act (Cal. Wat. Code § 13020, et seq.), the Safe Drinking Water and Toxic Enforcement Act of 1986 (Cal. Health & Safety Code § 25249.5, et seq.), the Hazardous Substance Account Act (Cal. Health & Safety Code § 25300, et seq.), California Integrated Waste Management Act of 1989 (Cal. Public Resources Code § 40000 et seq.), Cal. Health & Safety Code § 39000 et seq., 14 Cal. Code of Regulations § 18010 et seq., 23 Cal. Code of Regulations § 2510 et seq., 27 Cal. Code of Regulations § 20005 et seq., and the Hazardous Waste Control Act (Cal. Health & Safety Code § 25100, et seq.).

Estimate. “**Estimate**” has the meaning set forth in Section 5.8.

Event of Loss. “**Event of Loss**” has the meaning set forth in Section 5.8.

Excluded Property. “**Excluded Property**” has the meaning set forth in Section 2.2.

Execution Date. “**Execution Date**” means the date on which this Agreement has been executed and delivered by the Parties.

Exhibits. “**Exhibits**” means the exhibits to this Agreement.

Facility. “**Facility**” means one of the Landfill or Transfer Stations. “**Facilities**” means the Landfill and Transfer Stations.

Force Majeure Event. “**Force Majeure Event**” means the occurrence of any of the following events that materially and adversely affects Purchaser’s costs in operating the Facilities, provided that such events (or the effects of such events) could not have been avoided by the exercise of caution, due diligence, or reasonable efforts by Purchaser and subject to notice requirements and the duty to mitigate: (a) war (including civil war and revolution), invasion, armed conflict, violent act of foreign enemy, military or armed blockade, or military or armed takeover of the Facility, in each case occurring within the State of California; (b) any act of terrorism or sabotage that causes direct physical damage to a Facility; (c) nuclear explosion or nuclear contamination that causes direct physical damage or effects to a Facility; (d) riot and civil commotion on or in the immediate vicinity of a Facility; (e) fire, explosion, flood, earthquake,

volcanic activity, tsunami, ionizing radiation that causes direct physical damage to a Facility; and (f) a national strike.

Fuel Cost Index. “Fuel Cost Index” means and refers to series ID:WPU057303 as issued by the U.S. Department of Labor, Bureau of Labor Statistics.

Fuel Cost Factor. “Fuel Cost Factor” means the increase, if any in the Fuel Cost Index during the preceding 12 month period, as determined pursuant to Schedule 6.17.

Governmental Authority. “Governmental Authority” means any federal, state, local or other governmental, regulatory or administrative agency, governmental commission, department, board, subdivision, court, tribunal, or other governmental arbitrator, arbitral body or other authority.

Grant Agreements. “Grant Agreements” means those certain grants and funding instruments relating to certain improvements and structures located on the Land that are set forth on Exhibit P. [NOTE TO PROPOSERS – THESE AGREEMENTS RELATE TO THE FUNDING OF CERTAIN LIMITED AREAS OF THE FACILITIES – MOST SIGNIFICANTLY USED OIL COLLECTION TANKS, SHEDS, ETC. THEY ARE BEING COMPILED AND WILL BE PROVIDED ON THE WEBSITE AND LISTED ON A NEW EXHIBIT – EXHIBIT P. THE AGREEMENTS GENERALLY PROVIDE THAT THE ITEM HAS TO BE USED FOR THE PURPOSE FOR WHICH THE GRANT WAS PROVIDED OR THE GRANT THEORETICALLY WOULD NEED TO BE REPAID.]

Guaranty. “Guaranty” has the meaning set forth in Section 11.6.

Hazardous Substances. “Hazardous Substances” means any waste (including solid wastes), chemical, material or substance that is listed or regulated, whether presently or in the future, under Environmental Laws as a “hazardous” or “toxic” substance, material or waste, or as a “contaminant,” or is otherwise listed or regulated under Environmental Laws (irrespective of whether it is listed as a “hazardous” or “toxic” substance, material or waste or as a “contaminant”), including solid wastes and municipal wastes.

HHW Lease. “HHW Lease” has the meaning set forth in Section 6.9.

HHW Program. “HHW Program” has the meaning set forth in Section 6.9.

Indemnified Claims. “Indemnified Claims” has the meaning set forth in Section 7.1.

Initial Purchase Price. “Initial Purchase Price” means _____ Dollars (\$_____). *[to be filled in based on Purchaser’s proposal]*

Knowledge. “Knowledge” or similar phrases in this Agreement has the meaning set forth in Section 4.3(m).

Land. “Land” means that certain real property located in the County of Sonoma, State of California and more particularly described on Exhibits A-1, A-2, A-3, A-4 and A-5, together

with all rights, privileges, easements and appurtenances thereto, including all rights-of-way and other appurtenances used in connection with the beneficial use or enjoyment of all such real property.

Landfill. “**Landfill**” means that certain landfill located on the portion of the Land described on Exhibit A-1 and commonly known as the Central Landfill.

Landfill Gas. “**Landfill Gas**” means methane or other gas generated by the decomposition of, or a chemical activity occurring within, waste deposited within a landfill.

Landfill Royalty. “**Landfill Royalty**” has the meaning set forth in Section 6.13.

Landfill Survey. “**Landfill Survey**” has the meaning set forth in Section 5.1(c)(2).

Law or Laws. “**Law**” or “**Laws**” means (a) any statute, law, code, regulation, ordinance, rule or common law, including Environmental Laws, (b) any binding judgment, (c) any binding judicial or administrative order or decree, (d) any written directive, guideline, policy requirement or other governmental restriction (including those resulting from the initiative or referendum process) or (e) any similar form of decision of or determination by, or any written interpretation or administration of any of the foregoing by, any Governmental Authority, in each case, which is applicable to or has an impact on this Agreement, the Facilities, the Property or any Party, whether taking effect before or after the Effective Execution Date. Notwithstanding anything stated to the contrary in this Agreement, “Laws” exclude Permits.

LEA. “**LEA**” has the meaning set forth in Section 11.17.

Leachate. “**Leachate**” means liquid generated by waste deposited within a landfill, by the extended contact of water or other liquid with waste deposited within a landfill or by the flowing of water through landfill underdrains and similar equipment.

Leachate Pipeline Claims. “**Leachate Pipeline Claims**” means those certain claims and actions and potential claims and actions for payment, defective design and defective construction by and among the County and the engineer and contractors and/or subcontractors that designed and constructed an approximately 5 mile leachate pipeline from the Landfill to the interconnect with the Rohnert Park sewer line located at the intersection of Rohnert Park Expressway and Stony Point Road, for ultimate transmission of untreated Leachate from the Landfill to the Subregional Wastewater Treatment and Reclamation System Laguna Plant.

LIBOR. “**LIBOR**” means the offered rate per annum (rounded up to the next highest one one-thousandth of one percent (0.001%)) for deposits in U.S. dollars for a one-month period which appears on the Reuters Screen LIBOR01 Page at approximately 11:00 A.M., London time, on the date of determination, or if such date is not a date on which dealings in U.S. dollars are transacted in the London interbank market, then on the next preceding day on which such dealings were transacted in such market. All interest based on LIBOR shall be calculated on the basis of a 360-day year for the actual days elapsed.

Losses. “**Losses**” means any and all damages, demands, claims, losses, liabilities, judgments, actions, suits, investigations, orders, proceedings, hearings, interest, costs, expenditures, attorneys’ fees, debts, liens of any kind and nature whether known or unknown, penalties, fines and expenses, including legal, accounting and other fees and expenses. Losses include Third Party Claims.

Material adverse disclosure. “**Material adverse disclosure**” has the meaning set forth in Section 5.1(d)(2).

Material adverse survey exception. “**Material adverse survey exception**” has the meaning set forth in Section 5.1(c)(5).

Material adverse title exception. “**Material adverse title exception**” has the meaning set forth in Section 5.1(b)(4).

Necessary Capital Expenditure. “**Necessary Capital Expenditure**” means any Capital Expenditure which, in the exercise of Prudent Solid Waste Practices, is reasonably necessary for the continued operation or maintenance of the Facilities or that is required by applicable Law or a Permit (except for any Remediation required by applicable Law).

Notice of Claim. “**Notice of Claim**” has the meaning set forth in Section 7.4.

Official Records. “**Official Records**” means the Official Records of the County of Sonoma, State of California.

Open Book Basis. “**Open Book Basis**” means allowing the County to review all underlying assumptions and all back up and supporting data associated with the costs, pricing or compensation or adjustments thereto, including assumptions as to costs of the Facilities, the tip fees, schedule, composition of equipment spreads, equipment rates (including rental rates), transportation, fuels, consumables, supplies, labor rates and benefits, productivity, estimating factors, design and productivity allowance, contingency and indirect costs, risk pricing, discount rates, interest rates, inflation and deflation rates, swap and hedge rates, insurance rates, bonding rates, letter of credit fees, overhead, profit, Waste volumes and other items reasonably required by the County to satisfy itself as to the reasonableness, validity and accuracy of the amount.

Operating Expenses. “**Operating Expenses**” means the reasonable and necessary costs spent or incurred by Purchaser for maintaining and operating the Property, calculated in accordance with generally accepted accounting principles, including all reasonable and necessary expenses of management and repair and other expenses necessary to maintain and preserve the Property in good repair and working order, and including all reasonable and necessary administrative costs of Purchaser attributable to the Property and to this Agreement, such as salaries and wages of employees, overhead, insurance, taxes (if any), expenses, payments to other entities providing solid waste services pursuant to an agreement with Purchaser, reasonable compensation and fees of auditors, accountants, attorneys or engineers, and including all other reasonable and necessary costs of Purchaser or charges required to be paid by it to comply with the terms hereof and all applicable federal, state and local requirements pertaining to the

operation of the Property, but excluding depreciation, replacement and obsolescence charges or reserves therefor and amortization of intangible or other bookkeeping entries of a similar nature. Operating Expenses also include (i) debt service, including the repayment of principal and accrued interest, that is secured in whole or in part by the Land, and (ii) all real and personal property, income, payroll and other taxes currently due and payable arising out of the Property or the operations and use thereof.

Outside Closing Date. “**Outside Closing Date**” means _____, 20__ [six months after Execution Date – to be filled in upon execution], which date may be extended by the County for an additional six months and which may be further extended upon mutual written agreement of the Parties.

Party. “**Party**” means either County or Purchaser, as the context requires; “**Parties**” means, collectively, County and Purchaser.

Permits. “**Permits**” means the Solid Waste Permits, the permits listed on Schedule 2.1 and all other governmental permits, licenses, consents, certificates, authorizations, waivers, approvals and variances, including, in each case, all orders, agreements, mandates, requirements, directives related thereto, necessary for the ownership, operation and management of the Property currently in effect or issued after the Effective Execution Date (including any transfers, modifications, successors or reissuances thereof).

Permitted Encumbrances. “**Permitted Encumbrances**” means (a) liens for taxes and other governmental charges and assessments which are not yet due and payable, (b) other nonmonetary liens, encumbrances or title imperfections with respect to the Property which do not materially detract from the value of or materially impair the existing use of the Property affected by such lien, encumbrance or title imperfection (as such use exists as of the Effective Execution Date), (c) all other exceptions set forth in the PTR, (d) any reservations and easements set forth in the Deed, including those relating to the County’s rights under Section 6.5; ~~(e) the landfill and methane gas rights and related rights of third parties, if any, in and to Property and the existence of, and rights of third parties in, the physical facilities associated therewith;~~ (f) liens, encumbrances or title imperfections with respect to the Property created by or resulting from the act, omission, negligence, recklessness, willful misconduct, fault, breach of contract, breach of the requirements of the Contract Documents, violation of Law; or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit by Purchaser or any other member of the Purchaser Group; ~~(g)~~ subject to Section 5.1(b), any new title exceptions recorded against the Property after the date of the PTR and set forth in any update to the PTR undertaken prior to Closing; ~~(h)~~ subject to Section 5.1(c), any exceptions arising out of the Surveys and, if completed by Purchaser, the Landfill Survey; ~~(h)~~ the Assigned Contracts; (i) the Permits; and (j) the Grant Agreements.

Personal Property. “**Personal Property**” means any equipment, machinery and other personal property, if any, owned by County and located on the Land, as more particularly described in Schedule 2.1(c).

Post-Closing Letter of Credit. “**Post-Closing Letter of Credit**” has the meaning set forth in Section 6.6.

Pre-Approved Capital Expenditures. “**Pre-Approved Capital Expenditures**” means those Capital Expenditures relating to the Facilities described on Schedule 5.11.

PTR. “**PTR**” means those certain preliminary title reports numbered 62244991 to 62244995, issued by North American Title Company on February 26, 2008.

Priority Use. “**Priority Use**” has the meaning set forth in Section 6.8(a).

Program Fee. “**Program Fee**” means, collectively, the Solid Waste System Fee and the SCWMA Fee.

Property. “**Property**” means the Land and the associated improvements, buildings, structures, fixtures and Personal Property owned by County and located on the Land, excluding the Excluded Property. “**Property**” includes the Facilities, but excludes the Closed Landfills.

Prudent Solid Waste Practices. “**Prudent Solid Waste Practices**” means any of the practices, methods and acts engaged in or approved by a significant portion of the solid waste and landfill industry during the relevant time period and consistent with applicable Law, or any of the practices, methods or acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental compliance and stewardship and expedition. Prudent Solid Waste Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the solid waste and landfill industry.

Purchaser. “**Purchaser**” has the meaning set forth in the introductory paragraph of this Agreement.

Purchaser Group. “**Purchaser Group**” means Purchaser, its Affiliates or any of their respective officers, directors, employees, agents, representatives, contractors, consultants, successors and assigns.

Purchaser Casualty Termination Notice. “**Purchaser Casualty Termination Notice**” has the meaning set forth in Section 5.8.

Purchaser New Disclosure Termination Notice. “**Purchaser New Disclosure Termination Notice**” has the meaning set forth in Section 5.1(d)(2).

Purchaser New Title Exception Termination Notice. “**Purchaser New Title Exception Termination Notice**” has the meaning set forth in Section 5.1(b)(1).

Purchaser Survey Exception Termination Notice. “**Purchaser Survey Exception Termination Notice**” has the meaning set forth in Section 5.1(c)(2).

PWRPA. “**PWRPA**” has the meaning set forth in Section 6.8.

PWRPA Agreement. “**PWRPA Agreement**” has the meaning set forth in Section 6.8.

Reference Information Documents. “**Reference Information Documents**” means all information and materials provided by County to Purchaser, including the Due Diligence Materials, all documents posted on the Website and all information provided to Purchaser on CD-ROM format prior to issuance of the Request for Proposals.

Remediation. “**Remediation**” means any or all of the following activities, to the extent they relate to or arise from the actual or threatened presence of Environmental Conditions whether such activity is conducted at the Property or off-site of the Property boundary: (i) monitoring, investigation, testing, analysis, treatment, cleanup, containment, remediation, removal, burning, mitigation, disposal, handling, response or restoration work; (ii) obtaining any permits, Permit revisions or modifications, consents, approvals, directives or authorizations of any applicable Governmental Authority necessary to conduct any such work; (iii) preparing and implementing any reports, plans or studies for such work; and (iv) any other activities to address any Environmental Conditions that are desired by Purchaser, reasonably necessary or appropriate or required under applicable Law or by any Governmental Authority, any Permit or Prudent Solid Waste Practices.

Required Consents. “**Required Consents**” has the meaning set forth in Section 5.2(a).

Royalty Payment. “**Royalty Payment**” means the System Royalty and the Landfill Royalty, collectively.

RWQCB. “**RWQCB**” means the North Coast Regional Water Quality Control Board.

Schedules. “**Schedules**” means the schedules to this Agreement.

SCWMA. “**SCWMA**” means the Sonoma County Waste Management Agency.

SCWMA Fee. “**SCWMA Fee**” means fees and charges associated with funding certain of the SCWMA programs, including the HHW Program.

Section. “**Section**” means a numbered section of this Agreement included within the Article that begins with the same number as that section.

Self-Haul Waste. “**Self-Haul Waste**” means all Waste that is delivered to the Facilities other than County-Controlled Waste and Waste from the Cities delivered by haulers licensed or franchised by such Cities.

Solid Waste Permits. “**Solid Waste Permits**” means those certain Solid Waste Facility Permits Number 49-AA-0001 issued on September 5, 2005 with respect to the Landfill and

Central Transfer Station; Number 49-AA-0364 issued on January 17, 2007 with respect to the Annapolis Transfer Station; Number 49-AA-0139 issued on July 24, 2007 with respect to the Guerneville Transfer Station; Number 49-AA-0245 issued on June 21, 2006 with respect to the Healdsburg Transfer Station; and Number 49-AA-0144 issued on February 23, 2007 with respect to the Sonoma Transfer Station, including any revisions or modifications thereto as well as any revisions or modifications as a result of the CIWMB Settlement.

Solid Waste System Fee. “Solid Waste System Fee” means a program fee on Waste.

Source Separated. “Source Separated” means discarded materials separated from the owner’s mixed solid waste at the owner’s premises ~~with~~with the intention of diversion for a beneficial use. Such materials include, ~~but are not limited to,~~ wood, metal, glass, plastic, cardboard, officer paper and yard debris. For purposes of this definition, “owner” means the individual resident or commercial business generating the discarded materials.

State. “State” means the State of California.

Survey. “Survey” means, collectively, (i) that certain ALTA survey of the Land on which the Annapolis Transfer Station is located, prepared by Cinquini & Passarino, Inc. and dated as of April 14, 2008; (ii) that certain ALTA survey of the Land on which the Guerneville Transfer Station is located, prepared by Cinquini & Passarino, Inc. and dated as of April 29, 2008; (iii) that certain ALTA survey of the Land on which the Healdsburg Transfer Station is located, prepared by Carlenzoli & Associates. and dated as of May 1, 2008; and (iv) that certain ALTA survey of the Land on which the Sonoma Transfer Station is located, prepared by Cinquini & Passarino, Inc. and dated as of April 16, 2008.

Survey Date. “Survey Date” has the meaning set forth in Section 5.1(c)(2).

System Royalty. “System Royalty” has the meaning set forth in Section 6.13.

Title Company. “Title Company” means North American Title Company, or its successor, as applicable.

~~**Three Phases Contract.** “Three Phases Contract” has the meaning set forth in Section 6.8.~~

Third Party. “Third Party” means any Entity other than the County, the County Group, a Committed City, Purchaser and any of Purchaser’s Affiliates.

Third Party Claim. “Third Party Claim” means an action, suit, demand, investigation, proceeding or claim by an Entity other than the County or a Committed City, including any Governmental Authority.

Tip Fee Adjustment Event. “Tip Fee Adjustment Event” means any of the following events, provided that (1) such events (and the effects of such events) are beyond Purchaser’s control, were not foreseen by Purchaser and would not have been reasonably foreseeable by an Entity exercising Prudent Solid Waste Practices and are not due to any act, omission, negligence,

recklessness, willful misconduct, fault, breach of contract, breach of the requirements of the Contract Documents, violation of Law; or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit of or by Purchaser or any other member of the Purchaser Group, and (2) such events (and the effects of such events) could not have been avoided by the exercise of caution, due diligence or reasonable efforts by Purchaser, and subject to notice requirements and the duty to mitigate the consequences of any Tip Fee Adjustment Event in accordance with Schedule 6.17 or other provisions of this Agreement:

- a. A Discriminatory Change in Law; and
- b. A Force Majeure Event that has been in effect or is reasonably expected to continue for 90 consecutive days or more.

Ton and Tonnage. "Ton" and "Tonnage" means a "short ton" of 2,000 pounds.

Transaction Records. "Transaction Records" has the meaning set forth in Section 6.14.

Transfer Stations. "Transfer Stations" means those certain transfer stations located on the portion of the Land described on (i) Exhibit A-1 and commonly known as the Central Transfer Station; (ii) Exhibit A-2 and commonly known as the Annapolis Transfer Station; (iii) Exhibit A-3 and commonly known as the Guerneville Transfer Station; (iv) Exhibit A-4 and commonly known as the Healdsburg Transfer Station; and (v) Exhibit A-5 and commonly known as the Sonoma Transfer Station. The Transfer Stations expressly exclude the Closed Landfills.

Waste. "Waste" means any and all putrescible and nonputrescible solid waste materials, whether solid, semi-solid or liquid, of any size, characteristic, shape or volume, including all materials allowed under the Permits, County-Controlled Waste, Self-Haul Waste and waste from the Cities. Waste expressly includes all items referenced on Schedule 6.17 attached hereto and made a part hereof.

Website. "Website" means and refers to the websites established by the County pursuant to either the Request for Qualifications or Request for Proposals, which websites contain materials relevant to the transaction contemplated by this Agreement, including Due Diligence Inspections and Reviews.

West Canyon. "West Canyon" means that portion of the Landfill depicted on Exhibit J.

1.2 **Interpretation.**

In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Entity includes such Entity's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement,

and reference to an Entity in a particular capacity excludes such Entity in any other capacity;

- (c) reference to any gender includes the other gender;
- (d) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as amended, modified, restated, substituted and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof;
- (e) reference to any Article, Section, Schedule or Exhibit means such Article, Section, Schedule or Exhibit to this Agreement, and references in any Article, Section, Schedule, Exhibit or definition to any clause means such clause of such Article, Section, Schedule, Exhibit or definition;
- (f) “hereunder,” “hereof,” “hereto” and words of similar import are references to this Agreement as a whole and not to any particular Section or other provision hereof or thereof;
- (g) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term;
- (h) relative to the determination of any period of time, “from” means “from and including,” “to” means “to but excluding” and “through” means “through and including;”
- (i) reference to any “day” shall mean a calendar day unless otherwise specified; and
- (j) reference to the “County of Sonoma” shall mean the geographic area of the County of Sonoma and references to the “County” shall, as set forth in Section 1.1, mean the County of Sonoma as an entity and contracting party.

To the extent that this Agreement may be uncertain or ambiguous such that it requires interpretation or construction, then it shall be interpreted and construed in such a way that meets the public policy goals referenced in Recital C of this Agreement. It is the intention of the Parties that any interpretation or construction shall promote those public policy goals.

1.3 **Effective Date.**

- (a) Notwithstanding the occurrence of the Execution Date, but subject to Section 1.3(f), the Parties’ obligations under this Agreement shall be expressly conditioned on the execution of a City Disposal Agreement by the number of Cities necessary to achieve a commitment of Waste by the Cities in an amount equal to _____ Tons of Waste per day, on the basis of a 260 calendar day year and based on the calculation described in Section 1.3(b). [amount to be filled in from Purchaser’s Proposal]

- (b) For purposes of calculating the sum of Tons of Waste per day committed by Cities to determine if the condition set forth in Section 1.3(a) has been satisfied, upon the execution of a City Disposal Agreement by a City set forth in the table below, the amount of Tons of Waste per day indicated next to its name shall be deemed “committed Waste” and shall be included in the calculation for purposes of this Section 1.3.

<u>City</u>	<u>Tons Per Day</u>
<u>Cotati</u>	<u>16</u>
<u>Cloverdale</u>	<u>19</u>
<u>Healdsburg</u>	<u>36</u>
<u>Petaluma</u>	<u>120</u>
<u>Rohnert Park</u>	<u>90</u>
<u>Santa Rosa</u>	<u>317</u>
<u>Sebastopol</u>	<u>22</u>
<u>Sonoma</u>	<u>36</u>
<u>Windsor</u>	<u>54</u>

- (c) Purchaser shall use best efforts to cooperate with the County in securing the Waste commitments necessary to satisfy the condition set forth in Section 1.3(a).
- (d) Purchaser acknowledges that the commitment of Waste by a City and the execution of a City Disposal Agreement is not a guaranty of any amount of Waste flow or represent a “put or pay” relationship. Purchaser acknowledges that the actual Waste flow may be higher or lower than its projections, proposal assumptions or historical averages.
- (e) The date on which the Tons of Waste committed by the Cities exceeds the amounts set forth in Section 1.3(a) shall be deemed the “Effective Date”. If the Effective Date is not achieved by the later of (i) January 15, 2009 or (ii) 60 days after the Execution Date, either Party shall have the sole right to terminate this Agreement by delivering written notice of its election to terminate to the other Party; provided, however, that the County may extend the deadline set forth in this Section 1.3(e) in its sole discretion for up to an additional 60 days upon written notice to Purchaser.
- (f) Irrespective of the occurrence of the Effective Date, the Parties shall, as of the Execution Date, be bound and obligated by the provisions of this Section 1.3, Section 2.6, Article 3, Article 4, Article 5 (except Section 5.5 and Section 5.7), Sections 10.1-10.2 and Article 11 (except Section 11.15).

ARTICLE 2.
PURCHASE AND SALE OF PROPERTY; DEFAULT

2.1 Transfer of Property.

Subject to the terms and conditions of this Agreement, County shall sell, convey, assign, transfer and deliver to Purchaser and Purchaser shall purchase and acquire from County, all of County's right, title and interest in and to the following, subject to the Permitted Encumbrances and excluding the Excluded Property (collectively, "**Property**"):

- (a) **Real Property Rights and Facilities.** The Land and the Facilities.
- (b) **Improvements, Buildings, Structures and Fixtures.** All improvements and structures located on the Land owned by County, together with any and all site improvements and fixtures.
- (c) **Personal Property.** The Personal Property.
- (d) **Assigned Contracts.** All of County's right, title and interest in and to those assignable written contracts and agreements as set forth on Schedule 2.1(d) attached hereto (collectively, the "**Assigned Contracts**"). Nothing contained herein is intended to assign to Purchaser, and Purchaser shall have no responsibility for, the County's labor agreements or any successor labor agreements.
- (e) **Permits.** The Permits set forth on Schedule 2.1(e), subject, however, to the terms and provisions of Section 5.2 herein.

2.2 **Excluded Property; Reservation of Rights.**

- (a) Nothing in this Agreement shall constitute or be construed as conferring on Purchaser, and Purchaser is not acquiring, any right, title or interest in or to (a) any personal property of any kind or nature owned by any Third Party, including that personal property owned or leased by the current operator of the Transfer Stations and the Governmental Authorities and other Entities that operate the composting operation and household hazardous waste operation at the Landfill, (b) the Leachate Pipeline Claims; (c) any rights, claims and actions of the County with respect to the Closed Landfills; or (d) any properties, assets, business or operation of County, whether tangible or intangible, real, personal or mixed, not expressly set forth in Section 2.1 (the items described in clauses (a)-(d) above shall collectively be referred to herein as the "**Excluded Property**").
- (b) County expressly retains and reserves any and all claims, rights, actions, causes of action, suits, and obligations of any kind it has against all Entities other than Committed Cities for any and all Losses that County has sustained or incurred as a result of its ownership and operation of the Landfill prior to the Closing Date, including Losses for Closure and Post-Closure Obligations, Remediation, and Environmental Conditions.

2.3 **Assumed Liabilities.**

Subject to the terms and conditions set forth herein, upon the Closing, Purchaser shall assume and retain, at its sole cost and expense, all obligations and liabilities of any kind or nature whatsoever related to, arising from or associated with any of the following items set forth in this Section 2.3 (collectively, “**Assumed Liabilities**”). Except as expressly set forth below, the Assumed Liabilities include obligations and liabilities arising out of, relating to or associated with the period prior to and after Closing.

- (a) **Indemnification Obligations.** Payment and performance of all of Purchaser’s obligations under Article 7.

- (b) **Ownership Liabilities.** Ownership or possession of the Property, including liability for or arising out of: (i) any Remediation determined necessary or desirable by Purchaser or required by the Permits, applicable Law or any Governmental Authority; (ii) any Environmental Conditions; (iii) the ownership or possession of any equipment, structures, fixtures, surface impoundments or any other facility used for the treatment, storage, handling or disposal of Hazardous Substances, Leachate and/or Landfill Gas; (iv) liabilities pursuant to applicable Law and Governmental Authorities; (v) Closure and Post-Closure Obligations and (vi) taxes (including property, business and income taxes). Notwithstanding the foregoing, Assumed Liabilities shall not include liabilities (1) arising out of the Leachate Pipeline Claims; or (2) under this Section 2.3(b), to the extent arising out of or directly caused by the Closed Landfills (unless exacerbated or worsened by the affirmative actions of Purchaser or any other member of the Purchaser Group, in which case, to the extent of such exacerbation or worsening, they will be included as Assumed Liabilities).

- (c) **Certain Pre-Ownership Liabilities.** Any and all liability for the matters and items described in Section 2.3(b), ~~and~~ Section 2.3(d) and Section 2.3(e) relating to, associated with or arising out of the period prior to Closing. Notwithstanding the foregoing, Assumed Liabilities shall not include liabilities (1) arising out of the Leachate Pipeline Claims; or (2) under this Section 2.3(c), to the extent arising directly out of or directly caused by the Closed Landfills (unless exacerbated or worsened by the affirmative actions of Purchaser or any other member of the Purchaser Group, in which case, to the extent of such exacerbation or worsening, they will be included as Assumed Liabilities).

- (d) **Use and Operation Liabilities.** Any and all liabilities and obligations related to the use or operation of the Property or the business conducted with the Property, including: (i) all Closure and Post-Closure Obligations; (ii) the disposal, handling, treatment, sorting and processing of Waste and other materials at the Facilities; ~~and~~ (iii) any Environmental Conditions; and (iv) Remediation. Notwithstanding the foregoing, Assumed Liabilities shall not include (1) liabilities arising out of the Leachate Pipeline Claims; (2) liabilities under this Section 2.3(d), to the extent arising out of or directly caused by the Closed Landfills (unless exacerbated or worsened by the affirmative actions of Purchaser or any other member of the Purchaser Group, in which case, to the extent of such exacerbation or worsening,

they will be included as Assumed Liabilities); or (3) liability or responsibility for Closure and Post-Closure Obligations relating to the Closed Landfills (unless exacerbated or worsened by the affirmative actions of Purchaser or any other member of the Purchaser Group, in which case, to the extent of such exacerbation or worsening, they will be included as Assumed Liabilities).

- (e) **Compliance Liabilities.** Any and all liabilities and obligations arising out of or related to compliance with (i) the Permits; (ii) Governmental Authority consents, mandates, approvals, directives, authorizations, orders or agreements; and (iii) applicable Law. Notwithstanding the foregoing, Assumed Liabilities shall not include liabilities under this Section 2.3(e) to the extent arising out of or directly caused by the Closed Landfills (unless exacerbated or worsened by the affirmative actions of Purchaser or any other member of the Purchaser Group, in which case, to the extent of such exacerbation or worsening, they will be included as Assumed Liabilities).
- (f) **Pending Permit Applications.** Obligations to process, obtain approval of and satisfy any applicable conditions relating to any pending Permit applications, new Permits or any amendments, modifications, extensions or renewals of any existing Permits, variances, certificates, licenses, consents, authorizations and approvals.
- (g) **Contractual Liabilities.** Obligations and liabilities under the City Disposal Agreements and the Assigned Contracts arising or accruing from and after the Closing; provided, however, Purchaser shall assume all obligations and liabilities under the Assigned Contracts relating to Environmental Conditions and Remediation irrespective of the date on which such obligations or liabilities arise or accrue. Notwithstanding the foregoing, Assumed Liabilities shall not include liabilities under this Section 2.3(g) to the extent arising directly out of or directly caused by the Closed Landfills (unless exacerbated or worsened by the affirmative actions of Purchaser or any other member of the Purchaser Group, in which case, to the extent of such exacerbation or worsening, they will be included as Assumed Liabilities). Nothing contained in this Section 2.3(g) is intended to relieve, limit or modify the obligations or liabilities of any Third Party under the Assigned Contracts or with respect to the Property, including the existing third party operator of certain of the Transfer Stations; provided, however, that the County shall not have or retain any obligations, responsibility or liabilities associated with the actions, omissions or performance of any Third Party and, as to the County, Purchaser assumes the Assumed Liabilities irrespective of such actions, omissions or performance of any Third Party.
- (h) **Changes in Assumed Liabilities.** Any modification, increase, alteration or change in the Assumed Liabilities prior to or after the Closing for any reason, including modifications, increases, alterations or changes arising out of, related to or caused by a Change in Law, a Force Majeure Event or a change in Permit requirements or obligations.

- (i) **Other Specified Liabilities.** All other liabilities, obligations or responsibilities expressly allocated to Purchaser in this Agreement.

2.4 **Closing.**

Subject to the terms and conditions of this Agreement, the closing (the “**Closing**”) of the sale of the Property to, and the assumption of the Assumed Liabilities by, Purchaser shall take place at the offices of Nossaman, Guthner, Knox & Elliott LLP, 50 California Street, 34th Floor, San Francisco, California, at 10:00 a.m. local time on or before fifteen (15) days following the date on which the conditions set forth in Article 8 and Article 9 have been either satisfied or waived by the Party for whose benefit such conditions precedent exist, or on such other date and at such other place as the Parties may mutually agree. The date of Closing is hereinafter called the “**Closing Date.**” The Parties agree that the Closing shall take place no later than the Outside Closing Date, as it may be extended in writing by the County for up to an additional six (6) months and which may be further extended by mutual agreement of the Parties.

2.5 **Purchase Price.**

- (a) The Initial Purchase Price shall be paid by Purchaser at Closing in immediately available funds by wire transfer. There is no financing contingency in connection with this transaction or Purchaser’s obligations under this Agreement.
- (b) Allocation of the Initial Purchase Price among the Facilities shall be determined by Purchaser in accordance with applicable Law.
- (c) In addition to the Initial Purchase Price, Purchaser shall pay to the County a Royalty Payment as described in Section 6.13.

2.6 **Deposit**

- (a) **Deposit Letter of Credit.** On or before the ~~Effective~~Execution Date, Purchaser shall deliver to County an irrevocable, direct draw letter of credit in the form of Exhibit D-1 attached hereto (the “**Deposit Letter of Credit**”), which Deposit Letter of Credit shall constitute Purchaser’s deposit under this Agreement. The Deposit Letter of Credit shall (i) be issued by _____ [*insert Proposer’s L/C bank*] or such other financial institution organized under the Laws of the United States that County reasonably approves in advance; (ii) name County as the beneficiary; (iii) be in the amount of \$10,000,000; (iv) have an initial term of 12 months; (v) be automatically renewed by the issuer for additional 12 month periods unless written notice is delivered to County at least 60 days prior to the then current expiration of the Deposit Letter of Credit; (vi) provide that County may draw upon presentation of a sight draft in accordance with the provisions of this Section 2.6(a); and (vii) otherwise be acceptable to County, in its reasonable discretion. The Letter of Credit shall be renewed and remain in effect until the earlier of (x) subject to Section 10.3, the termination of this Agreement for a reason other than pursuant to Section 10.1(a) or (y) the Closing. The Deposit

Letter of Credit shall be immediately drawable in part or in full by County upon County's presentation of a sight draft to the issuer stating that (1) the issuer has notified County that it will not renew the then-current Deposit Letter of Credit and Purchaser has not replaced the Deposit Letter of Credit with another letter of credit acceptable to County, in its sole discretion, at least 30 days prior to the expiry date of the then-current Deposit Letter of Credit or (2) Purchaser has defaulted under this Agreement beyond the applicable cure period, if any, after written notice thereof, if applicable. The Deposit Letter of Credit shall also be immediately drawable by County pursuant and subject to the terms of Section 10.3. Upon Closing and the delivery of the Post-Closing Letter of Credit, the original Deposit Letter of Credit shall be promptly returned to Purchaser.

- (b) **Termination Before Closing - Other Than Purchaser Default.** Subject to Section 10.3, if this Agreement is terminated before Closing for a reason other than Section 10.1(a), County shall deliver the Deposit Letter of Credit to Purchaser within 10 Business Days after County's receipt of written notification of such termination (but Purchaser shall remain obligated for its share of any escrow fees and costs).
- (c) **Termination Before Closing - Purchaser Default.** If this Agreement is terminated before Closing pursuant to Section 10.1(a), County may, in its sole discretion and as more particularly described in Section 2.7(a), draw upon the Deposit Letter of Credit and retain all proceeds thereof (and Purchaser shall additionally remain obligated for its share of any escrow fees and costs).

2.7 **Default By Purchaser**

- (a) **Default by Purchaser Before Closing.** If the purchase of the Property is not consummated in accordance with this Agreement because of a breach or default by Purchaser that is not cured after any applicable cure period, if any, after written notice thereof, if applicable, County, as its sole right and remedy, shall be entitled to draw upon the Deposit Letter of Credit by presenting the Deposit Letter of Credit for payment by the issuer thereof and retain the entire amount of the proceeds of the Deposit Letter of Credit. County shall have no other remedy, whether at Law or in equity, for the failure to close by Purchaser hereunder (provided County shall still be entitled to the benefit of any obligations, covenants and indemnities hereunder which expressly survive the termination of this Agreement). PURCHASER EXPRESSLY AGREES AND ACKNOWLEDGE THAT THE COUNTY'S ACTUAL DAMAGES IN THE EVENT OF A BREACH OR DEFAULT WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO ASCERTAIN AND THAT THE \$10,000,000 DEPOSIT LETTER OF CREDIT REPRESENTS THE PARTIES' REASONABLE ESTIMATE OF SUCH DAMAGES. THE PAYMENT OF SUCH AMOUNT IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT

IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677.

County's Initials _____

Purchaser's Initials _____

(b) Default By Purchaser After Closing.

- (1) From and after Closing, Purchaser shall be in default under this Agreement upon the occurrence of any one or more of the following events or conditions:
 - (i) Purchaser fails to make any payment to the County under the Contract Documents, including any Royalty Payment or any payment under Section 6.12;
 - (ii) Purchaser fails to timely observe or perform or cause to be observed or performed any other covenant, agreement, obligation, term or condition required to be observed or performed by Purchaser under the Contract Documents after Closing, including the obligations under Article 6 and Article 7;
 - (iii) Purchaser commences a voluntary case seeking liquidation, reorganization or other relief with respect to itself or its debts under any U.S. or foreign bankruptcy, insolvency or other similar Law now or hereafter in effect, seeks the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets; becomes insolvent, or generally does not pay its debts as they become due; admits in writing its inability to pay its debts; makes an assignment for the benefit of creditors; or takes any action to authorize any of the foregoing;
 - (iv) An involuntary case is commenced against Purchaser seeking liquidation, reorganization, dissolution, winding up, a composition or arrangement with creditors, a readjustment of debts or other relief with respect to Purchaser or Purchaser's debts under any U.S. or foreign bankruptcy, insolvency or other similar Law now or hereafter in effect; seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of Purchaser or any substantial part of Purchaser's assets; seeking the issuance of a writ of attachment, execution, or similar process; or seeking like relief, and such involuntary case shall not be contested by Purchaser in good faith or shall remain undismissed and unstayed for a period of 60 days;
 - (v) Any voluntary or involuntary case or other act or event described in Sections 2.7(b)(1)(iii) and 2.7(b)(1)(iv) shall occur (and in the case of an involuntary case shall not be contested in good faith or shall remain undismissed and unstayed for a period of 60 days) with respect to any

guarantor of material Purchaser obligations to the County under the Contract Documents, unless another guarantor of the same material Purchaser obligations then exists, is solvent, is not and has not been the debtor in any such voluntary or involuntary case, has not repudiated its guaranty and is not in breach of its guaranty;

- (vi) Purchaser breaches a representation or warranty under this Agreement (as of the date such representation or warranty is made);
- (vii) Any guarantor of Purchaser's obligations under this Agreement or any part thereof, repudiates, attempts to revoke or otherwise withdraw its guaranty; or
- (viii) Purchaser ceases to provide Waste handling, processing, disposal and transportation services as required under this Agreement for a period of 2 consecutive business days for any reason other than a Force Majeure Event (and the excuse to performance provided by a Force Majeure Event is subject to Purchaser's performance of its obligations under this Agreement with respect thereto).

- (2) If Purchaser breaches or defaults under this Agreement after Closing, then, in addition to any other rights and remedies of County under this Agreement (including drawing upon the Post-Closing Letter of Credit as described further in Section 6.6), at Law or in equity, County shall be entitled to seek specific performance against Purchaser and to recover its actual damages (including consultants' and attorneys' fees and costs) arising out of such default or breach. In the event of a breach or default by Purchaser, County shall deliver written notice thereof to Purchaser. Except for breaches or defaults by Purchaser under Sections 2.7(b)(1)(iii), 2.7(b)(1)(iv), 2.7(b)(1)(v), 2.7(b)(vii) and 2.7(b)(viii) (in which case, no cure period shall be applicable and the County may immediately, without notice, exercise its rights and remedies), Purchaser shall be afforded a 30 day cure period after delivery of written notice in which to cure such breach or default before the County may exercise its rights and remedies; provided, however, that, except for breaches or defaults relating to the failure to pay any amounts when due (in which case the maximum cure period shall be 30 days), the 30 day cure period shall be extended for up to 60 additional days in the event that Purchaser has commenced cure within such 30 day cure period, such breach or default is not capable of being cured within such 30 day period and Purchaser continues to diligently pursue such cure to completion.

2.8 **Default by County.**

- (a) **Default by County Before Closing.** If this Agreement is terminated pursuant to Section 10.1(b), then, subject to the next sentence, Purchaser's sole remedy is to terminate Purchaser's obligations under this Agreement, obtain a return of the

Deposit Letter of Credit and recover damages equal to Purchaser's actual, reasonable and documented out-of-pocket costs and expenses (including all contractors' and attorneys' fees) incurred in connection with the transaction contemplated by this Agreement up to a maximum amount equal to \$2,000,000. Purchaser shall have no other remedies, whether at Law or in equity, for any default hereunder. Purchaser may only avail itself of the remedies in this Section 2.8(a) if, at the time of County's default, Purchaser is not in default hereunder.

- (b) **Default By County After Closing.** If County breaches or defaults under this Agreement or breaches a representation or warranty under this Agreement (as of the date such representation or warranty is made) after Closing, then Purchaser shall be entitled to recover its actual damages (including consultants' and attorneys' fees and costs) arising out of such default or breach. In no event shall Purchaser be entitled to terminate this Agreement or be relieved from its post-Closing obligations hereunder, including its obligations under Article 6. The right to seek specific performance against the County and the right to recover its actual damages shall be Purchaser's sole and exclusive right and remedy. The County shall be afforded a 30 day cure period after delivery of written notice in which to cure such breach or default before Purchaser may exercise its rights and remedies; provided, however, that, except for breaches or defaults relating to the failure to pay any amounts when due (in which case the maximum cure period shall be 30 days), the 30 day cure period shall be extended for up to an additional 60 days in the event that the County has commenced cure within such 30 day cure period, such breach or default is not capable of being cured within such 30 day period and the County continues to diligently pursue such cure.

2.9 **Limitation on Damages.**

In no event shall any Party be entitled to any punitive, incidental, indirect, special or consequential damages resulting from or arising out of any post-Closing default under this Agreement or the other Contract Documents.

ARTICLE 3.

DISCLAIMERS OF COUNTY; CEQA

3.1 **DISCLAIMER**

COUNTY EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE PROPERTY OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE PROPERTY AND COUNTY SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE PROPERTY, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH LAWS OR PERMITS, OR

THE POSSIBILITY, LIKELIHOOD OR POTENTIAL TO MODIFY OR EXTEND OR EXPAND OPERATIONS UNDER THE PERMITS, OR AS TO THE CONDITION OF, OR COUNTY'S RIGHTS IN, OR ITS TITLE TO, THE PROPERTY, OR ANY PART THEREOF, OR WHETHER COUNTY POSSESSES SUFFICIENT REAL PROPERTY OR PERSONAL PROPERTY INTERESTS TO OWN OR OPERATE THE PROPERTY OR TO CONVEY THE PROPERTY. COUNTY FURTHER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY REGARDING THE PRESENCE OR ABSENCE OF ENVIRONMENTAL CONDITIONS OR LIABILITY OR POTENTIAL LIABILITY ARISING UNDER APPLICABLE LAW WITH RESPECT TO ALL OR ANY PORTION OF THE PROPERTY AND TO THE AMOUNT, COMPOSITION OR ONGOING NATURE OF DELIVERY TO OR DISPOSAL IN THE FACILITIES OF ANY COUNTY-CONTROLLED WASTE, SELF-HAULED WASTE OR WASTE FROM THE CITIES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, COUNTY EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF ANY KIND REGARDING THE CONDITION OF THE PROPERTY OR THE SUITABILITY OF ANY PORTION OF THE PROPERTY FOR OPERATION AS A LANDFILL OR TRANSFER STATION, THE SUITABILITY OF THE PROPERTY AS A ROCK QUARRY, THE AVAILABILITY, QUALITY OR SUITABILITY OF ROCK OR SOIL FOR DAILY COVER ON THE PROPERTY OR THE SUITABILITY, AVAILABILITY AND QUALITY OF THE ENERGY PRODUCED OR GENERATED BY THE PROPERTY. THE COUNTY EXPRESSLY DISCLAIMS ANY REPRESENTATIONS AND WARRANTIES CONCERNING THE PERMIT STATUS RELATING TO THE LANDFILL OR THE OUTCOME OF ANY DISCUSSIONS OR DISPUTES ARISING THEREFROM WITH ANY GOVERNMENTAL AUTHORITY, INCLUDING THE LIKELIHOOD OF REPERMITTING THE LANDFILL. THE COUNTY EXPRESSLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES OR COVENANTS REGARDING CURRENT OR FUTURE COMPLIANCE OF THE WEST CANYON PORTION OF THE LANDFILL WITH CEQA. COUNTY RESERVES ALL RIGHTS, WHETHER IN ITS ROLE AS LEAD AGENCY PURSUANT TO CEQA OR OTHERWISE, REGARDING ENVIRONMENTAL REVIEW OR PERMITTING OF THE PROPERTY, INCLUDING THE WEST CANYON AREA OF THE LANDFILL. IN ALL CASES WITH RESPECT TO THE ITEMS REFERENCED IN THIS SECTION, NO SCHEDULE OR EXHIBIT TO THIS AGREEMENT, NOR ANY OTHER MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY COUNTY, SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE PROPERTY. NOTWITHSTANDING THE FOREGOING, THE DISCLAIMERS SET FORTH HEREIN SHALL NOT LIMIT OR MODIFY THE COUNTY'S REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, INCLUDING SECTION 4.3 OR IN THE DOCUMENTS SET FORTH IN SCHEDULE 8.4 TO BE EXECUTED AND DELIVERED BY THE COUNTY AT CLOSING,

3.2 West Canyon Expansion

Purchaser acknowledges and agrees that any expansion of the Landfill into the West Canyon area has not been analyzed or assessed under CEQA and that authorization, approvals and permits to undertake such expansion will only occur if and when the CEQA process is completed and expansion is selected and certified as the preferred alternative. The County makes

no representations and warranties about the CEQA process (including the time, cost and potential outcome thereof) and whether an expansion alternative will be selected through the CEQA process. This Agreement neither authorizes expansion of the Landfill into the West Canyon area nor commits the County or any other agency to take any action associated with implementing that alternative prior to the completion of the CEQA process and, following such completion, only to the extent that the CEQA process results in selection of expansion as the preferred alternative. Purchaser acknowledges that a no-expansion alternative may be selected or an expansion alternative that differs materially from Purchaser's plans, if any, may result from the CEQA process.

3.3 **Legal Non-Conforming Uses.**

Purchaser acknowledges and agrees that, as of the Closing Date, the Facilities shall be considered entitled as legal non-conforming uses and that the continued use and operation of the Facilities shall be permitted on that basis for the operational life of the Facilities. Future changes to the structure or the use of the Facilities may require Purchaser to obtain new or additional entitlements, permits or variances. Nothing contained in this Agreement grants those entitlements, permits or variances or guarantees that such entitlements, permits or variances shall be granted.

3.4 **Leachate Pipeline**

Purchaser acknowledges that the approximately 5 mile leachate pipeline from the Landfill to the interconnect with the Rohnert Park sewer line located at the intersection of Rohnert Park Expressway and Stony Point Road, for ultimate transmission of untreated Leachate from the Landfill to the Subregional Wastewater Treatment and Reclamation System Laguna Plant is not operative as of the ~~Effective~~Execution Date and may not be operative as of the Closing Date. Purchaser shall not be entitled to terminate this Agreement as a result of the leachate pipeline but will have the rights specified under Section 5.5 herein.

3.5 **Landfill Not Currently Accepting Waste**

Purchaser acknowledges that the Landfill is not currently accepting Waste for disposal therein and that it has not accepted Waste since September 2005.

3.6 **Closure and Post-Closure Plans**

Purchaser acknowledges that (i) consistent with the CIWMB Settlement, the County shall submit final closure and post-closure maintenance and monitoring plans for the Landfill to the CIWMB and the RWQCB; (ii) such plans may be changed and modified prior to Closing; (iii) such plans may be approved prior to Closing and closure activities may be initiated as required thereunder. The County shall have no liability or responsibility to Purchaser in the event that the closure and post-closure maintenance and monitoring plans are approved. Purchaser further acknowledges that the cost estimates set forth therein shall not be a guaranty of actual costs that Purchaser shall incur or conditions that Purchaser shall encounter as a result of the Closure and Post-Closure Obligations of the Landfill.

ARTICLE 4.
REPRESENTATIONS AND WARRANTIES

4.1 **Purchaser Transaction Representations.**

Purchaser represents and warrants to County as follows, which representations and warranties shall survive the Closing:

- (a) **Organization and Existence.** Purchaser is a _____ duly [organized, formed or incorporated], validly existing and in good standing under the laws of _____ and is qualified to do business in the State.
- (b) **Execution, Delivery and Enforceability.** Purchaser has full power to enter into, and to carry out its obligations under, this Agreement. The execution and delivery of this Agreement, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all necessary action required on the part of Purchaser. Assuming County's due authorization, execution and delivery of this Agreement, this Agreement constitutes the valid and legally binding obligations of Purchaser, enforceable against Purchaser in accordance with its and their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Laws of general application relating to or affecting the enforcement of creditors' rights and the rights of contracting parties and by general equitable principles.
- (c) **No Violation.** Subject to the Parties satisfying their respective obligations to obtain or process (as applicable) the Required Consents, neither the execution and delivery of this Agreement, nor the compliance by Purchaser with any provision hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby by Purchaser shall violate or conflict with, or result in a breach of, any provisions of the organizational documents of Purchaser or any material Law applicable to Purchaser.
- (d) **No Consents.** Subject to the Parties satisfying their respective obligations to obtain or process (as applicable) the Required Consents, no consent or approval of, filing with or notice to any Entity is required to be obtained or made by Purchaser in connection with Purchaser's execution, delivery and performance of this Agreement, or the consummation of the transactions contemplated hereby, which, if not obtained or made, would prevent Purchaser from performing its obligations hereunder or thereunder.
- (e) **No Brokers.** All negotiations relating to this Agreement and the transactions contemplated hereby have been carried on by Purchaser without the intervention of any other Entity and in such a manner as not to give rise to any valid claim against County for a brokerage commission, finder's fee or other like payment to any Entity.

Purchaser's representations and warranties set forth in this Section 4.1 shall be deemed made as of the ~~Effective~~Execution Date only, and shall survive the Closing for a period of twelve (12) months. Prior to the Closing Date, Purchaser shall notify the County in writing of any facts, conditions or circumstances known to it which render any of the representations and warranties set forth in this Section 4.1 in any way inaccurate, incomplete, incorrect or misleading.

4.2 "As Is" Sale.

Subject to the terms and conditions of this Agreement, in entering into this Agreement and except as set forth in Section 4.3 or in the documents set forth in Schedule 8.4 to be executed and delivered by the County at Closing, Purchaser has not relied on any representation, warranty, promise or statement, express or implied, of County, or anyone acting for or on behalf of County and that all matters concerning the Property have been or shall be independently verified by Purchaser prior to the Closing, and that Purchaser shall purchase the Property based solely upon Purchaser's own prior investigation and examination of the Property (or Purchaser's election not to do so). **EXCEPT AS SET FORTH IN SECTION 4.3 OR IN THE DOCUMENTS SET FORTH IN SCHEDULE 8.4 TO BE EXECUTED AND DELIVERED BY THE COUNTY AT CLOSING, PURCHASER UNDERSTANDS AND AGREES THAT THE PROPERTY IS BEING ACQUIRED "AS IS, WHERE IS" ON THE CLOSING DATE, AND IN ITS CONDITION ON THE CLOSING DATE, AND THAT PURCHASER IS RELYING ON ITS OWN EXAMINATION OF THE PROPERTY.** Notwithstanding anything to the contrary herein, Purchaser and County acknowledge that any written statements made or other materials provided by County prior to the Closing shall constitute notice to Purchaser of the matter disclosed, and County shall have no further liability thereafter if Purchaser thereafter consummates the transaction contemplated hereby.

4.3 County Transaction Representations.

County represents and warrants to Purchaser as follows, which representations and warranties shall survive the Closing:

- (a) **Organization and Existence.** County is a political subdivision of the State.
- (b) **Execution, Delivery and Enforceability.** County has full power to enter into, and to carry out its obligations under, this Agreement. The execution and delivery of this Agreement, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all necessary action required on the part of County. Subject to the satisfaction of the condition precedent set forth in Section 9.3 and assuming Purchaser's due authorization, execution and delivery of this Agreement, this Agreement constitutes the valid and legally binding obligations of County, enforceable against County in accordance with its and their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Laws of general application relating to or affecting the enforcement of creditors' rights and the rights of contracting parties and by general equitable principles.

- (c) **No Violation.** Subject to (i) the satisfaction of the conditions precedent set forth in Section 9.3 and Section 9.8, and (ii) the Parties satisfying their respective obligations to obtain or process (as applicable) the Required Consents, neither the execution and delivery of this Agreement, nor the compliance by County with any provision hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby by County shall violate or conflict with, or result in a breach of, any material Law applicable to County.
- (d) **No Consents.** Subject to (i) the satisfaction of the conditions precedent set forth in Section 9.3 and Section 9.8, and (ii) the Parties satisfying their respective obligations to obtain or process (as applicable) the Required Consents, no consent or approval of, filing with or notice to any Entity is required to be obtained or made by County in connection with County's execution, delivery and performance of this Agreement, or the consummation of the transactions contemplated hereby, which, if not obtained or made, would prevent County from performing its obligations hereunder or thereunder.
- (e) **No Brokers.** All negotiations relating to this Agreement and the transactions contemplated hereby have been carried on by County without the intervention of any other Entity and in such a manner as not to give rise to any valid claim against Purchaser for a brokerage commission, finder's fee or other like payment to any Entity.
- (f) **Compliance with Laws.** To the County's Knowledge, and except as contained in, or ascertainable from, the Due Diligence Materials or otherwise disclosed to Purchaser prior to the EffectiveExecution Date, including as provided on Schedule 4.3, the County has received no written notice from any Governmental Authority that the County's use and operation of the Facilities violate in any material respect any applicable Laws in existence as of execution of this Agreement, which violations (i) have not been cured, are in the process of being cured or are otherwise routinely received and cured; and (ii) would, if not cured, have a material adverse effect on the ability of Purchaser to operate the Facilities in substantially the same manner as operated by the County as of the EffectiveExecution Date.
- (g) **Permits, Licenses, Etc.** Schedule 2.1(e) lists all material permits, variances, certificates, licenses, consents, approvals and authorizations which directly and specifically relate to the current use and operation of the Facilities by the County and which have been obtained by the County from Governmental Authorities. To the County's Knowledge, and except as set forth in, or ascertainable from, the Due Diligence Materials or otherwise disclosed to Purchaser prior to the EffectiveExecution Date, including as provided on Schedule 4.3, the County has received no written notice from any Governmental Authority that the County's use and operation of the Facilities is in material noncompliance with any of the material permits listed on Schedule 2.1(e), which material noncompliance (i) has not been cured, is in the process of being cured or is otherwise routinely received

and cured; and (ii) would, if not cured, render any such permit subject to revocation or modification (which modification would materially adversely affect Purchaser's operation of the Facilities after Closing in substantially the same manner as the County's operation of the Facilities as of the [Effective Execution Date](#)).

- (h) **Litigation.** Except as related to the CIWMB Settlement and the Leachate Pipeline Claims and except as contained in, or ascertainable from, the Due Diligence Materials or otherwise disclosed to Purchaser prior to the [Effective Execution Date](#), including as provided on [Schedule 4.3](#), there is no pending action or claim with respect to which the County has been served which has resulted in (i) the institution of legal proceedings to prohibit or restrain the performance of this Agreement, or the consummation of the transactions contemplated hereby or thereby, or (ii) a claim for damages as a result of this Agreement, or the consummation of the transactions contemplated hereby or thereby. Except as contained in, or ascertainable from, the Due Diligence Materials or otherwise disclosed to Purchaser prior to the [Effective Execution Date](#), (1) there is no pending litigation or claim with respect to which the County has been served which directly relates to the Facilities; and (2) the County has no Knowledge of any pending investigation or proceeding which directly relates to the Facilities.
- (i) **Option or Sale Contracts.** Except for any agreement that may arise from the satisfaction of the County's obligations under Section 54222 of the California Government Code, the Land is not subject to any option contract or other sales contract entered into by or on behalf of the County pursuant to which any Entity (other than Purchaser) has a right to purchase any Facility.
- (j) **Employees.** There are no employment contracts relating to the Facilities to which the County is a party which will survive the Closing and with respect to which Purchaser would have any responsibility. All salaries or other sums payable to the County's employees have been paid or will be paid at Closing on a current basis.
- (k) **Rezoning, Condemnation.** To the County's Knowledge, and except as set forth in, or ascertainable from, the Due Diligence Materials or otherwise disclosed to Purchaser prior to the [Effective Execution Date](#), including as provided on [Schedule 4.3](#), the County has received no written notice of any pending rezoning or condemnation proceedings affecting the Land or any portion thereof. Except as may be necessary to consummate the transactions contemplated under this Agreement, the County has not commenced any rezoning or condemnation action with respect to any portion of the Land subject to its jurisdiction, nor does the County currently have current plans to commence such actions.
- (l) **Due Diligence Materials.** The County has not fraudulently, intentionally and knowingly withheld any material written documentation relating to the Facilities, nor has it fraudulently, intentionally and knowingly altered or modified any of the

Due Diligence Materials. The County undertook a reasonable investigation and inquiry in compiling the Due Diligence Materials and in making the representations and warranties set forth in this Section 4.3.

- (m) **Knowledge.** As used in (1) Section 4.3(f), “Knowledge” shall mean the actual current knowledge as of the EffectiveExecution Date of Susan Klassen, James Arcady, John Morelli and Keith Foszcz, (2) Section 4.3(g), “Knowledge” shall mean the actual current knowledge as of the EffectiveExecution Date of Susan Klassen, James Arcady, John Morelli and Keith Foszcz; (3) Section 4.3(h), “Knowledge” shall mean the actual current knowledge as of the EffectiveExecution Date of Susan Klassen and Marcia Chadbourne; and (4) Section 4.3(k), “Knowledge” shall mean the actual current knowledge as of the EffectiveExecution Date of Susan Klassen and Pete Parkinson, in each case, after reasonable investigation and inquiry.

County’s representations and warranties set forth in this Section 4.3 shall be deemed made as of the EffectiveExecution Date only, and shall survive the Closing for a period of twelve (12) months. The County shall meet the terms and conditions of Section 5.1(d) with respect to the representations and warranties set forth in this Section 4.3.

ARTICLE 5.
**CERTAIN AGREEMENTS RELATING TO PRE-CLOSING
PERIOD AND CLOSING PROCESS**

5.1 **Due Diligence Inspections and Reviews; Updated PTR; Survey.**

- (a) **Due Diligence Inspections and Reviews.** Purchaser acknowledges and agrees that it has, prior to ~~its execution of this Agreement~~the Execution Date, fully reviewed and approved the Property and has completed and approved the results of all of its Due Diligence Inspections and Reviews of the Property. Purchaser shall bear all of its own costs, expenses and charges incurred in connection with its Due Diligence Inspections and Reviews.
- (b) **Updated PTR.**
- (1) At any time prior to Closing, Purchaser may, in its discretion and at its sole cost and expense, request the Title Company to update the PTR. If (i) the updated PTR identifies a new title exception recorded against the Property after the date of the PTR and not set forth in the PTR and such exception does not fall into one of the categories described in clauses (a)-(fe) and (g)-(j) of the definition of “Permitted Encumbrances”, (ii) Purchaser has not previously consented to such new title exception; (iii) the subject of such new title exception was not disclosed in, or ascertainable from, the Due Diligence Materials or this Agreement or otherwise disclosed to Purchaser prior to the EffectiveExecution Date; (iv) Purchaser did not have actual knowledge of such new title exception prior to the EffectiveExecution Date;

and (v) such new title exception constitutes a “**material adverse title exception**”, Purchaser shall have the right, in its sole discretion, to approve such new title exception prior to Closing but in no event later than 10 days after receipt of the updated PTR, which approval shall not be unreasonably withheld. Purchaser’s failure to notify County in writing of its disapproval of the new title exception within such 10 day period shall be deemed to be Purchaser’s approval of the same. If Purchaser disapproves such new title exception, it’s sole right and remedy shall be to deliver a written notice to County of its intention to terminate this Agreement as to all Facilities (the “**Purchaser New Title Exception Termination Notice**”). In connection with the Purchaser New Title Exception Termination Notice, Purchaser shall set forth its reasonable estimate of the cost of curing the material adverse title exception, if such material adverse title exception is susceptible of cure or, if such material adverse title exception is not susceptible of cure, its reasonable estimate of the cost impact of such material adverse title exception on the value of the Facilities. If the County does not believe that Purchaser’s estimate is reasonable, such dispute shall be resolved pursuant to the dispute resolution provisions set forth in Section 11.18.

- (2) If Purchaser reasonably disapproves such new title exception and delivers a Purchaser New Title Exception Termination Notice, County may elect, in its sole discretion, to (x) cure the same (including by obtaining a title endorsement insuring over such title exception); (y) provide indemnification to Purchaser with respect to such title exception up to the maximum amount set forth in the Purchaser New Title Exception Termination Notice; or (z) notify Purchaser that County is unwilling to cure or cause the Title Company to insure over, such title exception or provide indemnification therefor. If County notifies Purchaser that County elects to cure such title exception, the completion of the cure shall be a condition to the Closing (and the Outside Closing Date shall be extended by the estimated time period for completion of such cure plus 30 days). County shall effect such cure at its sole cost and expense. If County notifies Purchaser that County elects to provide indemnification to Purchaser with respect to such material adverse title exception, then such obligation shall survive Closing and shall cover all Purchaser Losses incurred by Purchaser as a direct result of such material adverse title exception up to the maximum amount set forth in the Purchaser New Title Exception Termination Notice.
- (3) If County notifies Purchaser that County elects not to cure such title exception or provide indemnification to Purchaser with respect to such title exception, County may (i) require Purchaser to proceed with Closing, in which case, Closing shall proceed as contemplated under this Agreement and Purchaser shall be entitled to a reduction in the Initial Purchase Price in an amount equal to Purchaser’s reasonable estimate of the cost of curing the material adverse title exception, if such material adverse title exception is susceptible of a cure or, if such material adverse title exception is not

susceptible of cure, Purchaser's reasonable estimate of the impact of such material adverse title exception on the value of the Facilities; or (ii) confirm Purchaser's termination of this Agreement, in which case this Agreement shall be terminated and County shall, subject to Section 10.3, return the Deposit Letter of Credit to Purchaser and the provisions of Section 10.2 shall apply. County's failure to make an election under clauses (i)-(ii), inclusive, within 45 days after receipt of the Purchaser New Title Exception Termination Notice shall be deemed an election to proceed under clause (i) above. If and to the extent that the reduction in the Initial Purchase Price allowed pursuant to clause (i) above is greater than the amount of the Initial Purchase Price, Purchaser shall remain obligated to proceed with Closing as contemplated under this Agreement, but shall be entitled to recover the remaining amount through an offset against future Royalty Payments payable to the County under this Agreement.

- (4) As used in this Section 5.1(b), “**material adverse title exception**” shall be determined by taking into account the aggregate of the Facilities and the transactions contemplated under this Agreement and not on the basis of an individual Facility; provided, however, in no event shall a new title exception constitute a “**material adverse title exception**” unless (1) the amount necessary to cure such matter, or the impact thereof on the value of the Facilities, as applicable, when added to the cure or impact amounts (as applicable) of all prior new material adverse title exceptions, exceeds, in the aggregate, \$500,000; (2) the existence of the new title exception would prevent Purchaser from operating the Facilities in materially the same manner as they are operated as of the EffectiveExecution Date; and (3) the Title Company will not insure or endorse over such new title exception.
- (5) Notwithstanding the other provisions of this Section 5.1(b), to the extent the material adverse title exception is caused by the affirmative discretionary actions of the County (and such actions are not required by applicable Law, Governmental Authority or any Permit), the amount attributable to the County's actions up to the \$500,000 thresholds in clause (4) above shall not apply.
- (6) In no event shall Purchaser be entitled to aggregate the amounts of any items under this Section 5.1(b) with the amounts of any claims under Section 5.1(c) or Section 5.1(d).

(c) **Surveys.**

- (1) Purchaser has approved all Surveys.
- (2) On or before the date that is 60 days after the EffectiveExecution Date (the “**Survey Date**”), Purchaser shall, at its sole cost and expense, have the right to obtain a current ALTA survey of the Landfill (the “**Landfill**”

Survey”). If (i) the Landfill Survey discloses a **“material adverse survey exception”** (as defined below); (ii) such material adverse survey exception would not otherwise be a Permitted Encumbrance; (iii) Purchaser has not previously consented to such material adverse survey exception; (iv) the subject of such material adverse survey exception was not disclosed in, or ascertainable from, the Due Diligence Materials or this Agreement or otherwise disclosed to Purchaser prior to the **Effective Execution** Date; and (v) Purchaser did not have actual knowledge of such material adverse survey exception prior to the **Effective Execution** Date, Purchaser shall, subject to the terms of this **Section 5.1(c)** have the right, exercisable in its sole discretion on or before the Survey Date, to deliver a written notice to County of its intention to terminate this Agreement as to all Facilities (the **“Purchaser Survey Exception Termination Notice”**) (and Purchaser’s failure to notify County of its intent to terminate this Agreement on or before the Survey Date shall be deemed Purchaser’s election to waive such material adverse survey exception and proceed with Closing). In connection with the Purchaser Survey Exception Termination Notice, Purchaser shall set forth its reasonable estimate of the cost of curing the material adverse survey exception, if such material adverse survey exception is susceptible of cure or, if such material adverse survey exception is not susceptible of cure, its reasonable estimate of the cost impact of such material adverse survey exception on the value of the Facilities. If the County does not believe that Purchaser’s estimate is reasonable, such dispute shall be resolved pursuant to the dispute resolution provisions set forth in **Section 11.18**.

- (3) If Purchaser delivers a Purchaser Survey Exception Termination Notice and Purchaser’s cost or impact estimate, as applicable, County shall elect, in its sole discretion, to (x) cure the matter disclosed by County, at County’s sole cost and expense, in which case the completion of the cure shall be a condition to the Closing (and the Outside Closing Date shall be extended by the time period for completion of such cure plus 30 days); (y) indemnify Purchaser from and against any Purchaser Losses, to the extent directly arising out of the material adverse survey exception up to the maximum amount set forth in the Purchaser Survey Exception Termination Notice, in which case Closing shall proceed as contemplated under this Agreement; or (z) notify Purchaser that County is unwilling to cure or cause the Title Company to insure over, such survey exception or provide indemnification therefor.
- (4) If County notifies Purchaser that County elects not to cure such survey exception or provide indemnification to Purchaser with respect to such survey exception, County may (i) require Purchaser to proceed with Closing, in which case, Closing shall proceed as contemplated under this Agreement and Purchaser shall be entitled to a reduction in the Initial Purchase Price in an amount equal to Purchaser’s reasonable estimate of the

cost of curing the material adverse survey exception, if such material adverse survey exception is susceptible of cure or, if the such material adverse survey exception is not susceptible of cure, Purchaser's reasonable estimate of the impact of such material adverse survey exception on the value of the Facilities; or (ii) confirm Purchaser's termination of this Agreement, in which case County shall, subject to Section 10.3, return the Deposit Letter of Credit to Purchaser and the provisions of Section 10.2 shall apply. County's failure to make an election under clauses (i)-(ii), inclusive, within 30 days after receipt of the Purchaser Survey Exception Termination Notice, shall be deemed an election to proceed under clause (i) above. If and to the extent that the reduction in the Initial Purchase Price allowed pursuant to clause (i) above is greater than the amount of the Initial Purchase Price, Purchaser shall remain obligated to proceed with Closing as contemplated under this Agreement, but shall be entitled to recover the remaining amount through an offset against future Royalty Payments payable to the County under this Agreement.

- (5) As used in this Section 5.1(c), **“material adverse survey exception”** shall be determined by taking into account the aggregate of the Facilities and the transactions contemplated under this Agreement and not on the basis of an individual Facility; provided, however, in no event shall a survey exception constitute a **“material adverse survey exception”** unless (1) the amount necessary to cure such matter, or the impact thereof on the value of the Facilities, as applicable, when added to the cure or impact amounts (as applicable) of all prior adverse survey exceptions, exceed, in the aggregate, \$500,000; (2) the survey matter indicates that a material portion of the applicable Facility encroaches on real property not owned or leased by County or with respect to which County does not have easement or other license or occupancy rights; (3) the existence of the survey exception would prevent Purchaser from operating the Facilities in materially the same manner as they are operated as of the ~~Effective~~Execution Date; and (4) the Title Company will not insure or endorse over such survey exception.
- (6) Notwithstanding the other provisions of this Section 5.1(c), to the extent that the material adverse survey exception is caused by the affirmative discretionary actions of the County (and such actions are not required by applicable Law, Governmental Authority or any Permit), the amount attributable to the County's actions up to the \$500,000 thresholds in clause (5) above shall not apply.
- (7) In no event shall Purchaser be entitled to aggregate the amounts of any items under this Section 5.1(c) with the amounts of any claims under Section 5.1(b) or Section 5.1(d).

(d) Post-Execution Material Adverse Change.

- (1) ~~Prior to~~ From and after the Execution Date through Closing, the County will promptly, upon obtaining actual knowledge thereof, notify Purchaser in writing of any matter which would render the representations set forth in Section 4.3 materially untrue.
- (2) If, following the ~~Effective~~ Execution Date and prior to Closing, (i) the County makes a “**material adverse disclosure**” (as defined below) relating to the Facilities; (ii) such material adverse disclosure causes the County’s representations and warranties to be materially untrue; (iii) the subject of such material adverse disclosure was not disclosed in, or ascertainable from, the Due Diligence Materials or this Agreement or otherwise disclosed to Purchaser prior to the ~~Effective~~ Execution Date; and (iv) Purchaser had not obtained actual knowledge of such disclosed item prior to the ~~Effective~~ Execution Date, Purchaser shall, subject to the terms of this Section 5.1(d), have the right, exercisable in its sole discretion within 10 days after its receipt of the County’s written notification of such material adverse disclosure, to deliver a written notice to the County of its intention to terminate this Agreement as to all Facilities (the “**Purchaser New Disclosure Termination Notice**”). Purchaser’s failure to notify Seller of its intent to terminate this Agreement within such 10 day period shall be deemed Purchaser’s election to waive such material adverse disclosure and proceed with Closing. In connection with the Purchaser New Disclosure Termination Notice, Purchaser shall set forth its reasonable estimate of the cost of curing the matters disclosed in the material adverse disclosure, if such material adverse disclosure relates to a matter which is susceptible of cure or, if such matter is not susceptible of cure, its reasonable estimate of the impact of such material adverse disclosure on the value of the Facilities. If the County does not believe that Purchaser’s estimate is reasonable, such dispute shall be resolved pursuant to the dispute resolution provisions set forth in Section 11.18.
- (3) If Purchaser disapproves such material adverse disclosure in its sole discretion and delivers a Purchaser New Disclosure Termination Notice, the County may elect, in its sole discretion, to (x) cure the same; (y) provide indemnification to Purchaser with respect to such material adverse disclosure up to the maximum amount set forth in the Purchaser New Disclosure Termination Notice; or (z) notify Purchaser that County is unwilling to cure or provide indemnification therefor. If the County notifies Purchaser that the County elects to cure such material adverse disclosure, the completion of the cure shall be a condition to the Closing (and the Outside Closing Date shall be extended by the estimated time period for completion of such cure plus thirty (30) days). The County shall effect such cure at its sole cost and expense. If the County notifies Purchaser that the County elects to provide indemnification to Purchaser with respect to such material adverse disclosure, then such obligation shall survive Closing and shall cover all

Purchaser Losses incurred by Purchaser as a direct result of such material adverse disclosure up to the maximum amount set forth in the Purchaser New Disclosure Termination Notice.

- (4) If the County notifies Purchaser that the County elects not to cure such material adverse disclosure or provide indemnification to Purchaser with respect to such material adverse disclosure, the County may (i) require Purchaser to proceed with Closing, in which case, Closing shall proceed as contemplated under this Agreement and Purchaser shall be entitled to a reduction in the Initial Purchase Price in an amount equal to Purchaser's reasonable estimate of the cost of curing the material adverse disclosure, if such material adverse disclosure is susceptible of a cure or, if such material adverse disclosure is not susceptible of cure, Purchaser's reasonable estimate of the impact of such material adverse title exception on the value of the Facilities; or (ii) confirm Purchaser's termination of this Agreement, in which case this Agreement shall be terminated and the County shall, subject to Section 10.3, return the Deposit Letter of Credit to Purchaser and the provisions of Section 10.2 shall apply. The County's failure to make an election under clauses (i)-(ii), inclusive, within 45 days after receipt of the Purchaser New Disclosure Termination Notice shall be deemed an election to proceed under clause (i) above. If and to the extent that the reduction in the Initial Purchase Price allowed pursuant to clause (i) above is greater than the amount of the Initial Purchase Price, Purchaser shall remain obligated to proceed with Closing as contemplated under this Agreement, but shall be entitled to recover the remaining amount through an offset against future Royalty Payments payable to the County under this Agreement.
- (5) As used in this Section 5.1(d), "**material adverse disclosure**" shall be determined by taking into account the aggregate of the Facilities and the transactions contemplated under this Agreement and not on the basis of an individual Facility; provided, however, in no event shall a matter constitute a material adverse disclosure (i) unless the amount necessary to cure such matter, or the impact thereof on the value of the Facilities, as applicable, when added to the cure or impact amounts (as applicable) of all prior post-EffectiveExecution Date adverse disclosures made by the County, exceeds, in the aggregate, \$500,000; (ii) if the new adverse disclosure relates to any litigation, proceedings or order (except to the extent that such litigation, proceedings or order results in a final, non-appealable court injunction or order which restrains or prohibits (1) the sale and transfer of the Facilities, or (2) the continued operation of any of the Facilities after Closing in substantially the same manner as the County's operation of the Facilities as of the EffectiveExecution Date (it being expressly acknowledged that the Landfill is currently not accepting Waste for disposal), in which case, such litigation, proceedings or order may constitute a material adverse disclosure); (iii) if the new adverse disclosure relates to Environmental Conditions or Remediation that existed as of the EffectiveExecution Date, regardless of

whether such Environmental Conditions or Remediation are materially different than those in existence as of the ~~Effective~~Execution Date; (iv) if such new adverse disclosure is an Event of Loss governed by Section 5.8; (v) if such new adverse disclosure is or arises from an action taken by or an approval of a Governmental Authority with respect to a Permit, including the transfer, reissuance or modification thereof, that does not arise from the negligence or misconduct of the County; (vi) if such new adverse disclosure relates to a notice of violation from a Governmental Authority concerning the County's alleged failure to submit final closure and post-closure maintenance and monitoring plans for the Landfill; (vii) if such new adverse disclosure relates to closure activities at the Landfill required by the CIWMB or the RWQCB; or (viii) relates to a Pre-Approved Capital Expenditure or a Necessary Capital Expenditure.

- (6) Notwithstanding the other provisions of this Section 5.1(d), to the extent the material adverse disclosure is caused by the affirmative discretionary actions of the County (and such actions are not required by applicable Law or any Permit), the amount attributable to the County's actions up to the \$500,000 thresholds in clause (5) above shall not apply.
- (7) In no event shall Purchaser be entitled to aggregate the amounts of any items under this Section 5.1(d) with the amounts of any claims under Section 5.1(b) or Section 5.1(c).

5.2 Required Consents.

- (a) **Purchaser Responsibilities.** Unless otherwise designated on Schedule 2.1(e), from and after the Execution Date, Purchaser is, at its sole cost, responsible for obtaining all authorizations, consents, licenses, permits, variances, certificates and approvals of Governmental Authorities and other Entities required by applicable Law or this Agreement in connection with the sale and transfer of the Property and Purchaser's operation of the Facilities after Closing in substantially the same manner as County's operation of the Facilities as of the ~~Effective~~Execution Date (it being expressly acknowledged that the Landfill is currently not accepting Waste for disposal), including the transfer, assignment or reissuance of the Permits described on Schedule 2.1(e) (collectively, the "**Required Consent(s)**"). As set forth in Section 8.2 and Section 9.2, the Required Consents are a condition to Closing. In connection with obtaining any such Required Consents from Governmental Authorities and other Entities, as of the Execution Date, Purchaser shall promptly commence and use Commercially Reasonable Efforts to obtain all Required Consents and Purchaser shall cooperate with County in connection with County's efforts to obtain a release of County from any and all future liabilities and obligations under or relating to the Property being conveyed, assigned or transferred. Promptly following any request by County, Purchaser shall provide a reasonably detailed summary report as to status of each Required Consent and Purchaser's efforts to obtain the same. Unless otherwise required by Law that

notification be ~~done~~given before Closing, after the Closing, Purchaser shall notify promptly all relevant Governmental Authorities and all other Entities of the change in ownership of the Property resulting from the transactions contemplated herein, to the extent required by applicable Law, Permit or the specific underlying agreements, and shall promptly provide to County a copy of all such notifications. Notwithstanding the foregoing, County shall notify all relevant Governmental Authorities (including the CIWMB and the RWQCB) and all other Entities of the change of ownership of the Facilities following Closing.

- (b) **County Cooperation.** From and after the Execution Date, County shall use Commercially Reasonable Efforts to assist Purchaser's efforts to obtain the Required Consents and shall cooperate with Purchaser in executing such applications and other documents as are reasonably required; provided, however, that nothing contained herein shall obligate County, as a permitting authority, to issue any Required Consent.
- (c) **No Transfer if Consent or Approval Not Obtained.** County is not obligated to assign or transfer any interest in a Facility if an assignment or transfer or an attempt to make such an assignment or transfer without the consent of an Entity would breach a contractual or legal obligation owed to an Entity, or violate any Law. Nothing in this Section 5.2(c) shall relieve County from its obligations under Section 5.2(b).
- (d) **Future Operational or Use Changes.** The Parties acknowledge that the Required Consents do not apply to any potential modification, change or alteration of the Property, the Facilities or the use, operation and maintenance thereof. To the extent that Purchaser wishes to modify, change or alter the Property, the Facilities or the use, operation and maintenance of any of the foregoing, Purchaser, at its sole cost, expense and risk, shall be required to pursue and obtain such permits, authorizations, approvals and consents as are required by applicable Law, the Permits and any Governmental Authority. Securing such new, additional or modified permits, authorizations, approvals and consents relating to a potential modification, change or alteration of the Property, the Facilities or the use, operation and maintenance thereof is not a condition to Closing or the performance of the parties' obligations under this Agreement.

5.3 **Interaction with Regulatory Agencies.**

~~The~~From and after the Execution Date through and until the Closing, the County shall use reasonable efforts to consult with Purchaser in connection with any discussions or actions with a Governmental Authority concerning the County's closure and post-closure maintenance and monitoring plans for the Landfill. To the extent that the County institutes any legal proceeding, claim or action against a Governmental Authority concerning the Facilities, Purchaser may, at its sole cost and expense, participate in such legal proceeding, claim or action to protect its interests as the purchaser of the Facilities. Nothing contained herein is intended to provide Purchaser with

any consent or approval rights relating to the County's actions and interactions with any Governmental Authority, except to the extent expressly provided elsewhere in this Agreement.

5.4 **Purchaser Contact with Vendors and Employees.**

From and after the ~~Effective~~Execution Date through and until the Closing, Purchaser may, upon reasonable advance written notice to County (at the address set forth in Section 11.9), contact County's tenants, vendors and suppliers relating to the Property or the transactions contemplated hereby; provided, however, that (i) County shall be entitled to participate in any meeting or conversation between Purchaser and such Entities; and (ii) in no event shall Purchaser contact County's employees, without County's prior written consent.

5.5 **Taxes, Prorations and Closing Costs.**

- (a) **Taxes.** Purchaser shall pay all taxes, including sales, use, stamp, revenue, transfer, excise and documentary transfer taxes, arising in connection with the sale and transfer of the Property. General real estate, personal property and ad valorem taxes and assessments, and any improvement or other bonds encumbering the Property, if any, for the Property shall be prorated as described below.
- (b) **Proration Method.** For purposes of calculating prorations, Purchaser shall be deemed to own the Property, and, therefore, entitled to the income therefrom and responsible for the expenses thereof, including with respect to the Assigned Contracts, for the entire day upon which the Closing occurs and thereafter. All prorations shall be made on the basis of the actual number of days of the month which shall have elapsed as of the day of the Closing and based upon a 365 day year. The amount of such prorations shall be initially performed by County and Purchaser at Closing but shall be subject to adjustment in cash after the Closing as and when complete and accurate information becomes available, if such information is not available at the Closing. County and Purchaser shall cooperate and use their best efforts to make such adjustments no later than 60 days after the Closing (except with respect to property taxes, which shall be adjusted within 60 days after the tax bills for the applicable period are received).
- (c) **Purchaser To Pay All Closing Costs.** Purchaser shall pay: (1) the costs of any title insurance policy that Purchaser elects to obtain, (2) the costs of Purchaser's Due Diligence Inspections and Reviews, (3) the costs of obtaining and renewing the Deposit Letter of Credit and the Post-Closing Letter of Credit, (4) the costs of obtaining the Landfill Survey, and (5) all other closing costs unless otherwise expressly required to be allocated or prorated between the Parties. Purchaser shall also pay all of its own legal and consultant fees arising out of this transaction. County's sole costs under this Agreement shall be to pay its own legal counsel and other representatives retained by County in connection with the negotiation hereof.

- (d) **Capital Expenditures.** Pre-Approved Capital Expenditures and Necessary Capital Expenditures that have been actually incurred shall be prorated as set forth in Sections 5.10 and 5.11.

5.6 **Acknowledgement by Purchaser.**

Prior to ~~its execution of this Agreement~~the Execution Date, Purchaser has conducted to its satisfaction an independent investigation and verification of the Property. Except for the express representations and warranties of the County set forth in Section 4.3 or in the documents set forth in Schedule 8.4 to be executed and delivered by the County at Closing, in making its decision to execute this Agreement and to purchase the Property, Purchaser has relied and shall rely upon the results of its own independent investigation and verification. Except as expressly set forth in Section 4.3 or in the documents set forth in Schedule 8.4 to be executed and delivered by the County at Closing or as otherwise explicitly set forth herein, there are no representations, warranties, covenants, understandings or agreements among the Parties regarding the Property or its transfer and Purchaser disclaims reliance on any representations, warranties or guarantees, either express or implied by County.

5.7 **No Recourse.**

To the extent the transfer, conveyance, assignment and delivery of Property to Purchaser as provided in this Agreement is accomplished by deeds, assignments, sublicenses, subleases, subcontracts or other instruments of transfer and conveyance, whether executed at the Closing or thereafter, these instruments are made without representation or warranty by County, except to the extent expressly set forth therein. Without limiting the generality of the foregoing, the obligations of County under this Agreement shall be without recourse to the assets, properties or funds of County and neither County nor any other member of the County Group shall have any personal liability to Purchaser.

5.8 **Casualty Loss.**

- (a) If, at any time prior to Closing, a Facility suffers a loss due to fire, storm, accident, or any other casualty or cause (“**Event of Loss**”), County shall promptly inform Purchaser of the Event of Loss. As soon as practicable following the Event of Loss, County and Purchaser shall appoint a mutually acceptable insurance adjuster or other appropriate professional to provide its good faith, detailed written estimate (the “**Estimate**”) setting forth the amount required to repair or replace the damaged Facility and the estimated time period for completion of such repair or replacement. Such professional shall provide the Estimate to each Party upon completion thereof. If the Estimate is equal to or greater than \$1,000,000 for that Facility or if the Estimate indicates that the time period for completion of repair or replacement is equal to or greater than 12 months (the “**Casualty Thresholds**”), then Purchaser shall have the right, exercisable in its sole discretion and within 15 days after receipt of the Estimate (the “**Casualty Notice Date**”), to deliver a written notice to the County of its intention to terminate the Agreement with respect to the Facility affected by the

Event of Loss (the “**Purchaser Casualty Termination Notice**”) (and Purchaser’s failure to notify County of its intent to terminate this Agreement with respect to such Facility on before the Casualty Notice Date shall be deemed Purchaser’s election to waive such Event of Loss and proceed with Closing). Delivery of the Purchaser Casualty Termination Notice by Purchaser as to a Facility shall only relate to the specific Facility that suffered the Casualty Loss; provided, however, that the County shall have the right, in its sole discretion, to terminate this Agreement as to all Facilities.

- (b) If the Event of Loss is below the Casualty Thresholds, or if Purchaser elects or is deemed to have elected to proceed with Closing, then within 15 days after its receipt of the Estimate relating to an Event of Loss, County shall notify Purchaser whether it shall repair or replace the damaged Facility or assign to Purchaser all of its rights to any insurance claims and proceeds relating to such Event of Loss; provided, however, the County shall not be entitled to elect to assign to Purchaser all of its rights to any insurance claims or proceeds if County is not insured for the Event of Loss. If County elects to repair or replace the damaged Facility, the completion of the work relating to an Event of Loss, shall be a condition to the Closing (and the Outside Closing Date shall be extended by the time period for completion of such repair or replacement plus 30 days) and the costs thereof (less any insurance proceeds received by County in connection with such loss) shall be deemed a Necessary Capital Expenditure. If County elects to assign to Purchaser all of County’s rights to any insurance claims and proceeds relating to such Event of Loss, (i) the Initial Purchase Price shall be reduced by the amount, if any, with respect to which County is under-insured (excluding deductibles, if any, which shall be Purchaser’s responsibility), (ii) County shall have no obligation to repair or replace the damaged Facility as a result of such Event of Loss, and (iii) the Closing as to that Facility shall proceed as contemplated under this Agreement. If County elects not to repair or replace the damaged Facility or to assign to Purchaser its interest in any insurance claims and proceeds relating to such Event of Loss (or fails to make its election within such 15 day period), (x) the Initial Purchase Price shall be reduced by an amount equal to the Estimate, (y) County shall have no obligation to repair or replace the damaged Facility as a result of such Event of Loss, and (z) the Closing as to that Facility shall proceed as contemplated under this Agreement. If and to the extent that a reduction in the Initial Purchase Price is allowed pursuant to this clause (b) and the amount of such reduction is greater than the amount of the Initial Purchase Price, Purchaser shall remain obligated to proceed with Closing as contemplated under this Agreement, but shall be entitled to recover the remaining amount through an offset against future Royalty Payments payable to the County under this Agreement.
- (c) Notwithstanding the foregoing, if an Event of Loss relates only to Personal Property, Purchaser shall have no right to terminate the Agreement with respect to the Facility that includes the affected Personal Property. County shall, in its sole discretion, elect to either repair or replace the affected Personal Property or

to deduct the fair market value immediately prior to the Event of Loss (as determined in County's reasonable discretion) of the affected Personal Property from the Initial Purchase Price.

5.9 **State of Title.**

- (a) Prior to the **Effective Execution** Date, Purchaser has received and approved the PTR and the Surveys for the Transfer Stations (other than the Central Transfer Station) and has approved the boundaries and legal description of the Transfer Stations (other than the Central Transfer Station), which boundaries and legal description shall separate each Transfer Station (other than the Central Transfer Station) from its respective adjacent Closed Landfill.
- (b) From the **Effective Execution** Date through and until the Closing and excluding items that would otherwise fall within the definition of "Permitted Encumbrances", County will not encumber the Land with (i) any additional monetary encumbrance (other than the lien of taxes and assessments, not yet due and payable) which will survive Closing and with respect to which Purchaser would be liable after the Closing or (ii) any other ~~material~~ encumbrance within the County's control that would affect the Land after Closing, unless Purchaser consents to such encumbrance, which consent shall not be unreasonably withheld or delayed.

5.10 **Maintenance of Facilities Pending Closing.**

From the **Effective Execution** Date through the Closing and, except as expressly contemplated by this Agreement or to the extent Purchaser otherwise consents in writing, which consent shall not be unreasonably withheld and shall be deemed given upon any failure to disapprove in writing within 10 days after written request for approval by County, the following shall apply:

- (a) **Capital Expenditures.** Except as allowed pursuant to Section 5.11, County shall not make any Capital Expenditure with respect to the Facilities, or enter into any contract or commitment therefor that shall survive the Closing.
- (b) **Transfers.** County shall not sell, lease (as lessor), transfer, encumber or pledge any of the Facilities, other than elements of the Facilities (including Personal Property) sold, leased, used, consumed or replaced in the ordinary course of business or pursuant to Prudent Solid Waste Practices.
- (c) **Modification, Amendment and Termination.** County shall not materially modify or amend or voluntarily terminate any of the Assigned Contracts or any of the Permits listed on Schedule 2.1(e), other than (i) pending amendments or modifications to the Permits listed on Schedule 2.1(e), (ii) in order to extend the expiration date, or cause the reissuance, of such items; (iii) as may be required by Governmental Authorities, applicable Law or a Permit; (iv) as may be required in connection with the assignment or transferring County's rights or obligations

thereunder to Purchaser in connection with the transactions contemplated by this Agreement or with Purchaser and/or County obtaining the Required Consents; (v) to cause the repermitting or resumption of operation of the Landfill, or any portion thereof, or as otherwise required by the CIWMB Settlement; (vi) amendments or modifications that do not survive Closing or with respect to which Purchaser shall not be liable after Closing; (vii) as may be required for health, safety and welfare reasons or to protect the value of the Facilities; ~~or~~ (viii) as may be reasonably necessary to continue operations of the Facilities; or (ix) with respect to the Landfill, the resumption of active waste and landfill operations thereon in the event County obtains approval from all applicable Governmental Authorities to do so.

- (d) **New Contracts.** County shall not enter into any new and material agreements affecting the Facilities, other than (i) the pending contracts and agreements described on Schedule 2.1(d), (ii) contracts and agreements with a no penalty termination provision that can be exercised on no more than 30 days' prior notice; (iii) as may be required by Governmental Authorities, applicable Law or a Permit, including as a result of the CIWMB Settlement; (iv) as may be required in connection with transferring County's rights or obligations in the Facilities to Purchaser in connection with the transactions contemplated by this Agreement or with Purchaser and/or County obtaining the Required Consents (except that, for purposes of this clause (iv), Purchaser's consent will be required if Purchaser would have liability with respect to such new contract or agreement after Closing); (v) contracts and agreements that do not survive Closing or with respect to which Purchaser shall not be liable after Closing; (vi) as may be required for health, safety and welfare reasons or to protect the value of the Facilities; (vii) as may be reasonably necessary to continue operations of the Facilities; or (viii) with respect to the Landfill, the resumption of active waste and landfill operations thereon in the event County obtains approval from all applicable Governmental Authorities to do so.
- (e) **Operation and Maintenance.** Subject to Section 5.11, County shall, at its expense, maintain, repair, manage and operate the Facilities in substantially the same manner as is in effect as of the Effective Execution Date (it being expressly acknowledged that the Landfill is currently not accepting Waste for disposal); provided, however, the foregoing shall not apply (i) in connection with the resumption of active waste processing operations at the Landfill in the event County obtains approval from all applicable Governmental Authorities to do so (in which case County shall be entitled to proceed with such resumption); (ii) in the case of an Event of Loss which shall be governed by Section 5.8; (iii) as may be required for health, safety and welfare reasons or to protect the value of the Facilities; (iv) to closure activities at the Landfill required by the CIWMB or the RWQCB; and (v) as provided elsewhere in this Agreement.

5.11 **Pre-Approved Capital Expenditures and Necessary Capital Expenditures.**

- (a) Notwithstanding anything to the contrary contained herein, from the ~~Effective~~Execution Date through the Closing, County may (without Purchaser's consent) make and undertake (and complete) the work contemplated by: (i) Pre-Approved Capital Expenditures, (ii) Necessary Capital Expenditures, and (iii) activities, work and expenditures relating to Remediation, which, for the purposes of this Section 5.11, includes activities, work and costs related to compliance with the CIWMB Settlement. In connection with any Necessary Capital Expenditures or Remediation, County shall reasonably consult with Purchaser prior to undertaking such work, except in cases of emergency or unless such work has been required by Governmental Authorities, applicable Law or Permit. Purchaser shall be entitled to participate with County in connection with any discussions with Governmental Authorities related to Remediation. Notwithstanding the foregoing, the County is not obligated to undertake any work contemplated by any Necessary Capital Expenditures with respect to which Purchaser does not agree to reimburse the County.
- (b) Purchaser shall pay to County at Closing the amount expended by County on account of all (1) Pre-Approved Capital Expenditures (based on actual costs up to a maximum amount equal to the estimates set forth on Schedule 5.11), and (2) Necessary Capital Expenditures (based on actual costs up to a maximum amount of \$50,000 per month made from and after the ~~Effective~~Execution Date through and until the Closing (with rollover of the unused portions available for subsequent months), unless Purchaser consents in writing to such additional amounts, which consent shall not be unreasonably withheld or delayed). Subject to the monetary limitations set forth herein applying to Necessary Capital Expenditures, Purchaser shall also be solely responsible for any costs incurred by County, but not yet invoiced to, or paid by, County, on account of all Pre-Approved Capital Expenditures and all Necessary Capital Expenditures undertaken from and after the ~~Effective~~Execution Date through and until the Closing. In addition to the foregoing, if the Outside Closing Date is extended under this Agreement, Purchaser's responsibility for the payment of Pre-Approved Capital Expenditures shall be increased by an amount not to exceed the amounts set forth on Schedule 5.11 for each six (6) month period (or portion thereof) with respect to which the Outside Closing Date is extended.
- (c) To the extent that a Pre-Approved Capital Expenditure or Necessary Capital Expenditure is not completed as of the Closing Date, Purchaser shall reasonably cooperate with the County in connection with the County's activities to complete the Pre-Approved Capital Expenditure or Necessary Capital Expenditure, as applicable, including executing such documents and Permits as are necessary for the County to undertake such work and providing access, ingress, egress and information; provided, however, that, at Purchaser's written request, and subject to the ability of the County to assign the relevant consultant and construction contracts, the County shall assign such contracts to Purchaser in order to allow Purchaser to complete the Pre-Approved Capital Expenditure or Necessary

Capital Expenditure, as applicable (in which case, the County shall have no further responsibility or liability therefor and Purchaser shall indemnify, defend and hold the County Group harmless from and against any Losses that accrue or occur after the date of such assignment and arise or relate to such contracts). The County shall use Commercially Reasonable Efforts to minimize any impact of its work to complete a Pre-Approved Capital Expenditure or Necessary Capital Expenditure, as applicable, on Purchaser's operations.

- (d) In no event shall the undertaking or completion of any Pre-Approved Capital Expenditure, Necessary Capital Expenditure or Remediation described in this Section 5.11 modify, diminish or affect the disclaimers and provisions of this Agreement, including Article 3 and Section 4.2. Purchaser shall have no recourse against the County with respect to such Pre-Approved Capital Expenditure, Necessary Capital Expenditure or Remediation; provided, however, that in the event of any defective or negligent work relating to a Pre-Approved Capital Expenditure or Necessary Capital Expenditure, at Closing, the County shall assign any warranties or claims it may have against any third party consultant or contractor that undertook such work.
- (e) This Section 5.11 shall survive the Closing.

5.12 Access to Facilities Prior to Closing Date.

Between the ~~Effective~~Execution Date and Closing, Purchaser, at its sole cost and expense, shall have the right to visit and inspect operations at the Property upon reasonable advance written notice to County. County shall reasonably cooperate with Purchaser's monitor in order to address Purchaser's reasonable concerns regarding operations, but such monitor shall have no right or authority to make any operating decisions or to direct County or its operators to take (or not take) any action with regard to the Facilities or the operation thereof. County shall have no liability with respect to such monitor, including any personal injury suffered by such monitor. Purchaser agrees that such monitor is an employee of Purchaser and not that of County or any County operator. Purchaser's monitoring rights under this Section 5.12 shall not include any invasive or destructive physical testing of the Property.

5.13 Closure and Post-Closure Funds; Approved Financial Assurances.

Purchaser shall, on or before Closing and consistent with 27 California Code Regulations § 21630, provide the Approved Financial Assurances necessary to effect the transfer of the Permits to Purchaser and cause the release of the County's Approved Financial Assurances; provided, however, that Purchaser acknowledges that (i) the amounts required to be provided by Purchaser may be in excess of the amounts identified on Schedule 5.13, which are the current requirements for Approved Financial Assurances as of the ~~Effective~~Execution Date; and (ii) the amounts identified in Schedule 5.13 may change if (A) prior to or after Closing, the County's closure and post-closure maintenance and monitoring plans for the Landfill are approved, or (B) after Closing, the Landfill is re-opened or expanded or if Purchaser otherwise modifies or changes the use or operation thereof. If, as of the Closing Date, County has not obtained the

release of all of the County's Approved Financial Assurances, including funds and monies deposited or otherwise set aside, reserved or restricted to meet its closure construction and post closure maintenance and monitoring obligations, Purchaser shall cooperate with County and use Commercially Reasonable Efforts to assist County in obtaining the release of all such funds after the Closing. In the event that Purchaser's Approved Financial Assurances or revenues from the Facilities or any other source are not sufficient to fund the Closure and Post-Closure Obligations, in no event shall the County be responsible for paying any deficiencies therein. This Section 5.13 shall survive Closing.

5.14 **Closing Deliveries.**

Provided that all of County's conditions precedent to Closing have been satisfied or waived as set forth in Article 9, County shall deliver, or cause to be delivered, to Purchaser at Closing all items set forth on Schedule 8. Provided that all of Purchaser's conditions precedent to Closing have been satisfied or waived as set forth in Article 8, Purchaser shall deliver, or cause to be delivered, to County on or before the Closing all items set forth on Schedule 9.

ARTICLE 6.
POST-CLOSING OBLIGATIONS

6.1 **Post Closing — Information and Records.**

- (a) **Information and Administrative Support.** Each Party agrees that, from and after the Closing Date, it shall, promptly following the request of the other Party, provide such information as shall be reasonably requested by the requesting Party to enable such Party to comply with its obligations to Governmental Authorities relating to the Property and the sale and transfer thereof to Purchaser.
- (b) **Purchaser's Books and Records.** For a period of 5 years after the Closing, Purchaser shall not dispose of any material books, records, documents or information relating to any of the Property without first giving notice to County and permitting County to retain or copy such books and records as it may select. During such period, Purchaser shall permit County to examine and make copies, at County's expense, of such books, records, documents and information for any reasonable purpose, including any litigation now pending or hereafter commenced against County.
- (c) **County's Books and Records.** For a period of 5 years after the Closing, County shall not dispose of any material books, records, documents or information relating to the operations of County at the Property without first giving notice to Purchaser and permitting Purchaser to retain or copy such books and records as it may select. During such period, the County shall permit Purchaser to examine and make copies, at Purchaser's expense, of such books, records, documents and information for any reasonable purpose, including any litigation now pending or hereafter commenced against Purchaser.

6.2 Future Compliance with Laws by Purchaser.

Following Closing, Purchaser shall operate and maintain the Property in compliance with all applicable Laws, the Permits, Prudent Solid Waste Practices and all terms and conditions of the CC&Rs. With respect to any landfill or other facility (other than the Facilities) owned or operated by Purchaser or an Affiliate that Purchaser utilizes to handle, process, convert or dispose of County-Controlled Waste, Purchaser shall operate and maintain such landfill or other facility in compliance with all applicable Laws, permits and other government authorizations and Prudent Solid Waste Practices.

6.3 Matters Concerning Post-Closing Operations and the Solid Waste Permit.

Purchaser shall not, without the prior written approval of County, in its sole discretion, change the classification of the Landfill from a Class III non-hazardous waste landfill or otherwise operate the Landfill as anything other than a Class III non-hazardous landfill. Any extension or modification to the Solid Waste Permit or any other Permit shall remain subject to the terms of this Agreement.

6.4 Closure and Post-Closure Obligations.

Purchaser shall, at all times, fully and promptly undertake, implement and discharge the Closure and Post-Closure Obligations (it being expressly acknowledged and agreed by Purchaser that Purchaser's obligations hereunder include responsibility and liability for Closure and Post-Closure Obligation that arise out of, result from or relate to events, incidents, operations and items that occurred, in whole or in part, prior to and after Closing).

6.5 County Access and Monitoring of Closed Landfills

- (a) As further described in the Deed, Purchaser shall not disturb, damage or disrupt any existing or future monitoring, maintenance or remediation facilities located at the Transfer Stations or otherwise relating to the Closed Landfills. County shall consult and reasonably cooperate with Purchaser in connection with County's monitoring, maintenance, investigation and remediation activities at the Transfer Stations relating to the Closed Landfills. The County shall retain ownership, access to and, except as set forth in this Agreement, liability for all existing and future monitoring wells, remediation facilities, maintenance equipment, piezometers, methane detection probes and similar or related equipment located on, adjacent to or nearby that portion of the Land constituting the Transfer Stations (other than the Central Transfer Station).
- (b) As further described in the Deed, the County and its representatives and consultants shall be granted an easement for and have access to the monitoring, maintenance or remediation facilities described in Section 6.5(a) and for purposes of the County's monitoring, maintenance, investigation and remediation activities at the Transfer Stations at all times during regular hours upon no less than one day's advance notice and, as necessary, in an emergency or in the event of

imminent threat to public health, safety or the environment. The County's rights to access include the rights of ingress and egress across and through the Land, and the County shall be entitled to repair, replace, test, inspect, investigate, use, operate and assess all of the monitoring, maintenance or remediation facilities specified in the Deed or in Section 6.5(a). In the exercise of its rights under this Section, the County shall utilize Commercially Reasonable Efforts to avoid material impact or interference on Purchaser's operations at the affected Transfer Station(s). In the event of any alleged material impact or interference, Purchaser reserves the right to initiate a claim and action for inverse condemnation against the County. The County's easement rights under this Agreement and the Deed shall be assignable to another public agency.

- (c) Purchaser shall cooperate with all Governmental Authority orders, directives, requests or mandates requiring access to any portion of the Facility, whether included within Section 6.5 or otherwise.

6.6 Post-Closing Letter of Credit.

- (a) On or before the Closing Date, Purchaser shall deliver to County an irrevocable, direct draw letter of credit in the form of Exhibit D-2 attached hereto (the "Post-Closing Letter of Credit"), which Post-Closing Letter of Credit shall secure Purchaser's obligations under this Agreement that arise after Closing, including those obligations set forth in Article 6 and Article 7. The Post-Closing Letter of Credit (i) shall be issued by _____ [*insert Proposer's L/C Bank*] or such other financial institution organized under the Laws of the United States that County reasonably approves in advance; (ii) shall name County as the beneficiary; (iii) shall be in the amount of \$2,000,000; (iv) shall have an initial term of 12 months; (v) shall be automatically renewed by the issuer for additional 12 month periods unless written notice is delivered to County at least 60 days prior to the then current expiration of the Post-Closing Letter of Credit; (vi) shall provide that County may draw upon presentation of a sight draft in accordance with the provisions of this Section 6.6; and (vii) shall otherwise be acceptable to County, in its sole discretion. County may accept the continuation of the Letter of Credit as the Post-Closing Letter of Credit at its sole option. The Post-Closing Letter of Credit shall be renewed and remain in effect until the 7th anniversary of the Closing Date. The Post-Closing Letter of Credit shall be immediately drawable in part or in full by County upon County's presentation of a sight draft to the issuer stating that (1) the issuer has notified County that it will not renew the then-current Post-Closing Letter of Credit and Purchaser has not replaced the Post-Closing Letter of Credit with another letter of credit acceptable to County, in its sole discretion, at least 30 days prior to the expiry date of the then-current Letter of Credit or (2) a breach or default by Purchaser under this Agreement has occurred and any applicable cure period has elapsed, as determined in the County's sole discretion. In the event of a draw resulting from a breach or default by Purchaser, the amount of the draw shall be limited to the amount of Losses arising out of, relating to or caused by such breach or default.

- (b) In the event Purchaser defaults in its obligations under this Agreement, County may, in its sole discretion, elect any of the remedies specified in Section 2.7(b) of this Agreement, including drawing on the Post-Closing Letter of Credit. Drawing upon the Post-Closing Letter of Credit shall not be an exclusive remedy or act as a limitation on Purchaser's damages or recovery of Losses.

6.7 Further Assurances.

At any time or from time to time after the Closing, each Party shall, upon the reasonable request of the other Party, execute and deliver any further instruments or documents, including instruments granting to County rights of ingress and egress to the Property as contemplated in this Agreement and the Deed, and take all such further actions as may reasonably be required to fulfill and implement the terms of this Agreement or realize the benefits intended to be afforded hereby. Such further assurances shall include incorporation of any or all of the post-Closing obligations of Purchaser, including those specified in this Article 6, in the CC&Rs to be recorded against and run with the Land.

6.8 Power Generation.

- (a) Pursuant to the Assigned Contracts, as of Closing, Purchaser shall assume the obligations and responsibilities of generating, producing, selling and transmitting energy produced or generated by the Landfill to ~~(i) the Power and Water Resources Pooling Authority ("PWRPA") pursuant to the terms of the Renewable Energy Purchase Agreement dated as of November 8, 2005 by and between the County and PWRPA, as amended by that certain Renewable Energy Purchase Agreement dated as of _____, 2008, by and between the County and PWRPA (as amended, the "PWRPA Agreement"); and (ii) 3Phases Energy Services pursuant to the terms of the Energy Contract dated as of _____, 20____, by and between the County and Three Phases, as amended by that certain Amendment dated as of _____, 2008, by and between the County and 3Phases Energy Services (as amended, the "Three Phases Contract").~~ As set forth in the PWRPA Agreement ~~and the Three Phases Contract~~, Purchaser shall be entitled to utilize the energy produced or generated by the Landfill for its own on-site uses at the Landfill as of the Effective Execution Date (which ~~is estimated to be approximately _____ amount shall not exceed 0.4 megawatts/hour~~ ~~megawatt amount to be inserted by addendum~~) (the "Priority Use") prior to fulfilling the obligations under the PWRPA Agreement ~~and the Three Phases Contract. As between the sale of power under the PWRPA Agreement and under the Three Phases Contract, the PWRPA Agreement shall have priority.~~
- (b) To the extent that the Landfill and the existing or any future Landfill Gas energy system or other energy system (including methane cells and wind farms) at the Landfill produces energy in excess of the Priority Use and the amount that Purchaser is obligated to sell to PWRPA under the PWRPA Agreement, Purchaser shall be entitle to utilize such excess energy produced or generated by

the Landfill for any additional on-site uses by Purchaser at the Landfill, including future uses.

- (c) To the extent that the Landfill and the existing or any future Landfill Gas energy system or other energy system (including methane cells and wind farms) at the Landfill produces energy in excess of Purchaser's on-site use (whether such use is the Priority Use or future uses), and the amount that Purchaser is obligated to sell to PWRPA under the PWRPA Agreement ~~and to 3 Phases Energy Services under the Three Phases Contract~~, the County shall have a right of first refusal to purchase and use such excess energy.
- (d) In connection with the County's right of first refusal, Purchaser shall deliver to the County its proposed terms and conditions for the sale of energy, which proposal shall include the amount of energy to be sold, the per unit and aggregate price for such energy, the term of the purchase obligation and the form of contract. The County shall have a period of 60 days after receipt of such proposal within which to accept or reject such proposal. If the County accepts such proposal, County and Purchaser shall execute a contract setting forth the terms and otherwise utilizing the form of contract. If the County rejects such proposal, Purchaser may proceed to sell such power to an Affiliate or Third Party on the same terms and conditions as set forth in Purchaser's proposal to the County.
- (e) If Purchaser negotiates terms or a form of contract for a sale of power that differs from that which were proposed to the County or if more than one year has elapsed since the County's rejection of Purchaser's proposal under Section 6.8(c), before Purchaser is entitled to sell such power to an Affiliate or such Third Party on such terms, Purchaser shall be obligated to submit the negotiated terms and form of contract to the County. The County shall have 60 days from receipt of such negotiated terms to accept or reject such terms and form of contract. If the County accepts such negotiated terms, the County and Purchaser shall execute a contract setting forth such terms and otherwise utilizing the negotiated form of contract. If the County rejects such negotiated terms, Purchaser may proceed with the sale to an Affiliate or the Third Party.
- (f) Should the County purchase any power from Purchaser that is generated from or produced by the Landfill, to the extent allowed by applicable Law, the County shall be entitled to the renewable energy credits relating to such power.
- (g) The County may assign its rights to acquire and/or receive power under this Agreement to another public agency, and Purchaser shall cooperate with County to the full extent reasonably necessary, and shall take actions as may be reasonably necessary, to effectuate the transfer and documentation of any renewable energy credits to the County.

6.9 Household Hazardous Waste Program

Purchaser acknowledges that (i) a household hazardous waste drop-off and disposal operation and program, which is currently run by the SCWMA and Clean Harbors Environmental Services, Inc., exists, as of the ~~Effective~~Execution Date, at the Landfill (the “**HHW Program**”); (ii) the County’s responsibilities with respect to the HHW Program are set forth in that certain Lease dated as of ~~_____~~August, 2008 [*date to be inserted when completed*], by and between the County and the SCWMA (the “**HHW Lease**”), and (iii) the HHW Lease is an Assigned Contract. As of Closing, Purchaser shall assume and be responsible for the performance of the County’s obligations under the HHW Lease, including providing to the SCWMA and its contractors and operators ingress, egress and access to and from the Landfill and the right to use the existing site at the Landfill for the HHW Program in accordance with and subject to the terms and conditions of the HHW Lease, including any extensions thereof.

6.10 **Compost Facility**

Purchaser acknowledges that (i) a compost operation, which is currently run by Sonoma Compost Company, exists, as of the ~~Effective~~Execution Date, at the Landfill (the “**Compost Facility**”); (ii) the County’s responsibilities with respect to the Compost Facility are set forth in that certain Organic Material Processing, Composting and Marketing Services Agreement dated as of September 28, 1999, by and among the SCWMA, the County and Sonoma Compost Company (as amended, the “**Compost Agreement**”), and (iii) the Compost Agreement is an Assigned Contract. As of Closing, Purchaser shall assume and be responsible for the performance of the County’s obligations under the Compost Agreement, including providing to Sonoma Compost Company ingress, egress and access to and from the Landfill and the right to use its existing site at the Landfill for the Compost Facility in accordance with and subject to the terms and conditions of the Compost Agreement. Payment for the processing and handling of green waste and wood waste at the Compost Facility is addressed in the Agency Agreement.

6.11 **Minimum Continued Operations.**

- (a) From and after the Closing Date, and until the fifth (5th) anniversary of the Closing Date, Purchaser shall operate the Facilities in accordance with the minimum operating requirements and terms of Schedule 6.11, employing such staff and equipment as is necessary to meet the requirements specified therein; provided, however, that if the Landfill is allowed to accept Waste and is accepting Waste, Purchaser may suspend Waste operations at the Central Transfer Station so long as (i) Purchaser implements an alternative means for haulers and Entities bringing Self-Haul Waste to access the Landfill and deliver their respective Waste (and to access the Compost Facility and deliver green waste and wood waste); (ii) such alternative means comply with applicable Law, all Permits and Prudent Solid Waste Practices; and (iii) such alternative means provide haulers and Entities bringing Self-Haul Waste to the Landfill with a method to deliver Waste to the Landfill and green waste and wood waste to the Compost Facility that is comparable and no less efficient than the operations at the Central Transfer Station.

- (b) Except for such items as are prohibited by Law or the Permits after Closing, Purchaser shall accept, handle and dispose of (or recycle) all items brought to the Facilities as were accepted by the County as of the ~~Effective Date~~Execution Date.
- (c) In addition to the other provisions of this Section 6.11, at all times from and after the Closing Date, Purchaser shall operate and maintain at least one permitted disposal or transfer station facility within the County of Sonoma that has the capacity, capability and operations necessary to accept, process and handle all County-Controlled Waste and Waste from all Committed Cities.

6.12 **Collection of Program Fees.**

(a) **County Program Fee.**

- (1) The County reserves the right, exercisable in its sole discretion at any time and upon 30 days' advance written notice to Purchaser, to require that Purchaser charge a Solid Waste System Fee on the County-Controlled Waste. Following receipt of such written notice from the County, Purchaser shall initiate the charge and collection of the Solid Waste System Fee on all County-Controlled Waste. The County may alter, increase, decrease and suspend the Solid Waste System Fee applying to County-Controlled Waste from time to time, in its sole discretion, upon no less than 30 days' advance written notice.
- (2) The County also reserves the right, exercisable in its sole discretion at any time and upon 30 days' advance written notice to Purchaser, to require that Purchaser charge a Solid Waste System Fee in an amount not to exceed \$6.10 per Ton of Waste on Self-Haul Waste. Following receipt of such written notice from the County, Purchaser shall initiate the charge and collection of the Solid Waste System Fee on all Self-Haul Waste. The County may alter, increase, decrease and suspend the Solid Waste System Fee applying to Self-Haul Waste from time to time, in its sole discretion; provided, however, that in no event shall any increase exceed 3% per annum. To the extent that the County does not elect to increase the Solid Waste System Fee by 3% in any given year, the unused portion of the potential 3% increase shall be retained by the County for later use and can be utilized in any succeeding year(s).
- (3) To the extent that any City agrees to the charge of a Solid Waste System Fee on its Waste, as evidenced by written notification thereof to Purchaser, Purchaser shall initiate the charge and collection thereof. A City, with respect to its Waste, may alter, increase, decrease and suspend the Solid Waste System Fee applying to its Waste from time to time, in its sole discretion, upon no less than 30 days' advance written notice.

- (4) To the extent charged pursuant to this Section, the Solid Waste System Fee shall be in addition to the tip fees set forth on Schedule 6.17 and is not intended to be included within such tip fees. The Solid Waste System Fee applicable to County-Controlled Waste, Self-Haul Waste and the Waste of any City may differ.
- (5) Purchaser shall remit the Solid Waste System Fee, whether assessed, charged or payable on County-Controlled Waste, Waste from any City or Self-Haul Waste, directly to the County without deduction, offset or other adjustment.

(b) **SCWMA Fee.**

- (1) During the period from the Closing Date through and until February 10, 2017, the County reserves the right, exercisable in its sole discretion at any time and upon 30 days' advance written notice to Purchaser, to require that Purchaser charge a SCWMA Fee on the County-Controlled Waste. Following receipt of such written notice from the County, Purchaser shall initiate the charge and collection of the SCWMA Fee on all County-Controlled Waste. The County may alter, increase, decrease and suspend the SCWMA Fee collected on County-Controlled Waste from time to time, in its sole discretion, upon no less than 30 days' advance written notice.
- (2) During the period from the Closing Date through and until February 10, 2017, Purchaser shall charge a SCWMA Fee in an amount not to exceed \$5.40 per Ton of Waste on Self-Haul Waste. The SCWMA's rights to alter, increase, decrease and suspend the SCWMA Fee collected on Self-Haul Waste, and any terms, conditions and limitations related thereto, shall be as set forth in the Agency Agreement.
- (3) During the period from the Closing Date through and until February 10, 2017, to the extent that any City agrees to the charge of a SCWMA Fee on its Waste, as evidenced by written notification thereof to Purchaser, Purchaser shall initiate the charge and collection thereof. A City, with respect to its Waste, may alter, increase, decrease and suspend the SCWMA Fee collected on its Waste from time to time, in its sole discretion, upon no less than 30 days' advance written notice.
- (4) Purchaser shall remit the SCWMA Fee, whether assessed, charged or payable on County-Controlled Waste, Waste from any City or Self-Haul Waste, directly to the SCWMA in the manner set forth in the Agency Agreement, without deduction, offset or other adjustment.
- (5) During the period in which the Compost Facility is at the Landfill, all fees associated with the green waste and wood waste program shall be charged and remitted as set forth in the Agency Agreement.

- (6) To the extent charged pursuant to this Section, the SCWMA Fee shall be charged in addition to the tip fees set forth on Schedule 6.17 and is not intended to be included within such tip fees. The SCWMA Fee collected on County-Controlled Waste, Self-Haul Waste and the Waste of any City may differ.
- (c) **Definition of Waste.** As used in this Section 6.12, “Waste” includes (i) all Waste that is delivered to or enters into any Facility; and (ii) all Waste from any source within the County of Sonoma that is delivered to or enters into any other facility located within the County of Sonoma that is owned or operated by Purchaser or any Affiliate; provided, however, that (1) as used in this Section 6.12, Waste excludes Source Separated green waste, Source Separated wood waste and other Source Separated recyclables (e.g., 100% recyclable, except for minor residual amounts); and (2) if the Program Fees are charged and applied on Waste delivered to a Transfer Station or other facility, Purchaser need not also apply and charge the Program Fees again on the same Waste at the Landfill.
- (d) **Payment of Program Fees.** The Program Fees shall be collected by Purchaser on behalf of and as the agent of the County (as to the Solid Waste System Fee) and the SCWMA (as to the SCWMA Fee). Purchaser shall have no rights, ownership, interest, title or other possessory right with respect to the Program Fees. Such agency is limited to assessment and collection of the Program Fees and does not create an agency relationship under any other aspect of this Agreement. Purchaser shall pay the applicable Program Fees monthly in arrears to the County and the SCWMA, as applicable, on or before the 10th day of each month for the immediately preceding month. Payments to the County and the SCWMA of the applicable Program Fees shall be priority payments (on a pari passu basis with the Royalty Payments) and shall be paid by Purchaser prior to the payment of Operating Expenses and Distributions. If Purchaser makes any Distribution or makes any payment to an Affiliate in violation of this provision, the same shall be deemed to be held in trust by the recipient for the benefit of the County and the SCWMA and shall be payable to the County and the SCWMA on demand. In addition to the County’s other rights and remedies in the event of a failure of Purchaser to make the Program Fees payments, outstanding amounts of Program Fees not paid when due shall bear interest at a floating rate equal to the LIBOR in effect from time to time plus 200 basis points until paid from the date due until fully paid, which interest shall accrue and compound on the outstanding balance of the Program Fees on a monthly basis. The foregoing fees and payments shall accrue and be payable based upon the delivery of Waste or other named materials, not on receipt or collection of such fees or charges from any hauler, customer or any Third Party.
- (e) **Intent.** Purchaser acknowledges that it is the intent of the Parties that the Program Fees be charged, applied and collected with respect to the Waste described in this Section and that the application and collection of the Program

Fees as set forth in this Section are a material and fundamental component of this transaction and the consideration provided hereunder to the County. Purchaser shall not undertake, cause or take any action that seeks to bypass the use of the Facilities or any other facility located within the County of Sonoma in order to avoid the payment or application of the Program Fees.

(f) **SCWMA as Third Party Beneficiary.** The SCWMA shall be an express third party beneficiary under this Section 6.12 as to the SCWMA Fee and shall be entitled to enforce the obligations of, and its rights and remedies against, Purchaser.

(g) County Indemnity. To the extent permitted by applicable Law, County shall indemnify, defend and hold the Purchaser Group harmless from and against all Losses which directly arise out of, result from or relate to a Third Party suit, claim or action that challenges the validity of (i) the Solid Waste System Fee, as the same applies to County-Controlled Waste and Self-Haul Waste; and (ii) the SCWMA Fee, as the same applies to the County-Controlled Waste. This Section 6.13(g) shall not (x) apply to any Loss to the extent arising out of or relating to any act, omission, negligence, recklessness, willful misconduct, fault, breach of contract, breach of the requirements of the Contract Documents, violation of Law or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit by Purchaser or any other member of the Purchaser Group; (y) apply to any of the Assumed Liabilities; or (z) limit or modify any of the provisions of Sections 7.1-7.4.

6.13 **Royalty Payments.**

(a) **System Royalty.** From and after the Closing Date, Purchaser shall pay to the County an amount equal to \$_____ (*to be inserted based on Purchaser's Proposal*) per Ton of Waste during the time period commencing on the [Closing Date][_____ anniversary of the Closing Date] (*to be inserted based on Purchaser's Proposal*) and continuing through and until 20 years after the commencement of the payment of the System Royalty, escalated each year on the Adjustment Date on a compound basis by 3% per annum (the "**System Royalty**"). As used in this Section 6.13(a), "Waste" includes (i) all Waste that is delivered to or enters into any Facility; and (ii) all Waste from any source within the County of Sonoma that is delivered to or enters into any other facility located within the County of Sonoma that is owned or operated by Purchaser or any Affiliate; provided, however, that (x) as used in this Section 6.13, Waste excludes Source Separated green waste, Source Separated wood waste and other Source Separated recyclables (e.g., 100% recyclable, except for minor residual amounts); and (y) if the System Royalty is charged and applied at a Transfer Station or other facility, it need not also be charged at the Landfill.

(b) **Landfill Royalty.**

- (1) Subject to clause (2) below, from and after the date that Purchaser begins accepting Waste for disposal in, on or at the Landfill, Purchaser shall pay the County an amount equal to \$2.00 per Ton of Waste disposed of in, on or at the Landfill (the “**Landfill Royalty**”). The Landfill Royalty shall be escalated each year on the Adjustment Date, commencing on the first anniversary of the Closing Date (even if the payment of the Landfill Royalty has not yet commenced hereunder), on a compound basis by 3% per annum. Purchaser’s payment of the Landfill Royalty shall continue through and until the period in which the Landfill has permanently ceased accepting waste and has commenced closure activities on the entire Landfill. As used in this Section 6.13(b), “Waste excludes Source Separated green waste, Source Separated wood waste and other Source Separated recyclables (e.g., 100% recyclable, except for minor residual amounts).
- (2) Notwithstanding clause (1) above, should Purchaser commence Waste disposal at the Landfill in the manner allowed under the CIWMB Settlement in order to avoid the commencement of closure activities at the Landfill, the Landfill Royalty shall not apply to the first 390 Tons of Waste per day disposed of in Phase 1 and Phase 2 of “Landfill 2”, as currently defined in the Solid Waste Permit for the Landfill, as such Solid Waste Permit exists as of the ~~Effective~~Execution Date.
- (c) **Royalty Payments.** The payments referenced in Sections 6.13(a) and 6.13(b) shall be collectively referred to herein as the “**Royalty Payments**”. The Royalty Payments shall not be charged in addition to the tip fees set forth on Schedule 6.17 and are included within such tip fees. In no event shall the County or any Committed City be charged any amount in addition to the tip fees set forth on Schedule 6.17 on account of the Royalty Payments.
- (d) **Payment of Royalty Payments.** The foregoing fees and payments shall be accrue and become payable based upon the delivery of Waste during the preceding month, not on receipt or collection of such fees or charges from any hauler, customer or any Third Party. Purchaser acknowledges that the actual Royalty Payments shall be based on actual Waste flows and may be higher or lower than its projections, proposal assumptions or historical averages. The Royalty Payments will be made monthly in arrears to the County on or before the 10th day of each month for the immediately preceding month. Payments to the County of the Royalty Payments shall be priority payments (on a pari passu basis with Program Fees) and shall be paid by Purchaser to the County prior to the payment of Operating Expenses and Distributions. If Purchaser makes any Distribution or makes any payment to an Affiliate in violation of this provision, the same shall be deemed to be held in trust by the recipient for the benefit of the County and shall be payable to the County on demand. In addition to the County’s other rights and remedies in the event of a failure of Purchaser to make the Royalty Payments, outstanding amounts of Royalty Payments not paid when due shall bear interest at

a floating rate equal to the LIBOR in effect from time to time plus 200 basis points until paid from the date due until fully paid, which interest shall accrue and compound on the outstanding balance of the Royalty Payments on a monthly basis.

- (e) **Intent.** Purchaser acknowledges that it is the intent of the Parties that the Royalty Payments be charged, applied and collected with respect to the Waste described in this Section and that the Royalty Payments are a material and fundamental component of this transaction and the consideration provided hereunder to the County. Purchaser shall not undertake, cause or take any action that seeks to bypass the use of the Facilities or any other facility located within the County of Sonoma in order to avoid the payment or application of the Royalty Payments.

6.14 Scales; Reporting and Audit Rights Related to Program Fees and Royalty Payments; Reconciliation.

- (a) Purchaser shall maintain, in accordance with applicable law, at least one State certified motor vehicle scale at each of the Facilities. Purchaser shall operate such scales during each Facility's receiving hours, provided that Purchaser shall provide County with access to weighing information at all times and copies thereof on the next business day on which the scale house is open. To the extent that the scale is inoperable, being tested, or otherwise unavailable, Purchaser shall substitute portable scales until the permanent scale is replaced or repaired. Purchaser shall arrange for any inoperable scale to be repaired as soon as possible. Purchaser shall test and calibrate all scales in accordance with applicable Law, but at least every 12 months. Purchaser shall provide County with copies of test results. Purchaser shall further test and calibrate any or all scales upon written request by County, within 5 days of such request, if the County reasonably believes that the scales are not calibrated in accordance with applicable Law. If such test results indicate that the scale or scales did not comply with applicable Law, Purchaser shall bear the costs thereof and Purchaser shall, at its own cost, adjust and correct, consistent with the results of such test, all weight measurements recorded and tip fees, Program Fees and Royalty Payments calculated, charged and paid, as the case may be, from the date of such request.
- (b) Purchaser shall keep accurate and detailed books of account and records in accordance with generally acceptable accounting principles consistently applied (the "**Transaction Records**") regarding any and all transactions conducted involving Waste, Program Fees, Royalty Payments and any other related matters. The Transaction Records shall include all records, receipts, journals, ledgers and documents reasonably necessary to enable the County or its auditors or accountants to perform a complete and accurate audit of Program Fees and the Royalty Payments in accordance with generally accepted accounting principles. Purchaser shall retain the Transaction Records for a period of not less than 5 years after the end of the calendar year covering such Transaction Records. Copies of all Transaction Records shall be kept at a location selected by Purchaser that is not

more than 100 miles from the County's administrative offices at 2300 County Center Drive or such other location as is approved by the County in its reasonable discretion. The County shall be entitled at all times during regular business hours to access, review and copy the Transaction Records.

- (c) Concurrently with the monthly payment of the Program Fees under Section 6.12 and the Royalty Payments under Section 6.13, Purchaser shall deliver to the County a report setting forth:
- (1) Each Royalty Payment separately and Purchaser's calculation thereof;
 - (2) Each Program Fee separately and Purchaser's calculation thereof;
 - (3) Tons of Waste delivered to the Landfill for disposal during the preceding calendar month, which must be accompanied by the weight records and disposal tickets for such month as well as any voided disposal tickets during such month;
 - (4) Tons of Waste delivered to each of the Transfer Stations during the preceding calendar month, the customer, the Ton of Waste delivered by such customer, and the rates paid by such customer on a per ton basis for delivering such Waste;
 - (5) The amounts of regulatory fees, on a per Ton and aggregate basis, incurred and paid during the preceding calendar month as a result of the Waste disposed of in, on or at the Landfill, such information and calculations to be separately set forth by regulatory agency and applicable charge.
 - (6) Tons of Waste from any source within the County of Sonoma that are delivered by Purchaser to any facility other than the Facilities during the preceding month, whether such facility is located within or outside of the County of Sonoma, such information to be accompanied by weight records and disposal tickets on a per vehicle basis.
 - (7) The tip fees applying to Waste from any City that is not a Committed City and from any public agency in the County of Sonoma (other than the County and the Committed Cities) that is delivered to the Landfill, each of the Transfer Stations and any other facility owned or operated by Purchaser or any Affiliate and located within the County of Sonoma, including any discounts, rebates, free disposal and similar concessions provided to such City or other public agency.
- (d) Concurrently with the delivery of the final Royalty Payment and Program Fee payment made in any calendar year (due and payable on or before each January 5th after the Closing Date), Purchaser shall provide the County with an annual report,

summarizing and aggregating each of the items specified in subsection (b) above, in addition to the following:

- (1) an analysis of the changes to the airspace of the Landfill since the previous report, if any;
 - (2) an analysis of the remaining capacity of the Landfill;
 - (3) a projection of the remaining life of the Landfill; and
 - (4) any and all filings made with any Governmental Authority regarding the Facilities and any and all notices of violation from any Governmental Authority relating to the Facilities.
- (e) On or before 10 days after Purchaser submits the quarterly and annual disposal reporting system reports to the CIWMB, Purchaser shall send a full copy thereof to the County.
- (f) The County, upon not less than 5 business days' prior notice to Purchaser, may cause an audit to be made of the Program Fees and/or Royalty Payments and all of the Transaction Records necessary (in the County's sole judgment) to audit the Program Fees and Royalty Payments. Purchaser will make all such books and records available to the County and its consultants for such audit at the office located at the Landfill or such other location as is approved by the County in its reasonable discretion. Purchaser shall cooperate with the County in connection with such audit and shall make available to the County and its consultants performing the audit personnel who are knowledgeable about the operations at the Facilities and the Transaction Records. If the audit discloses an underpayment of the Royalty Payments or Program Fees, Purchaser shall immediately pay to the County the amount of the underpayment, with interest on the underpaid amount at a floating rate equal to the LIBOR in effect from time to time plus 200 basis points from the date such underpayment was originally due until such amount, including accrued interest, is fully paid, which interest shall accrue and compound on the outstanding balance of the Program Fees and Royalty Payments, as applicable, on a monthly basis. If the audit discloses an underreporting of Program Fees or Royalty Payments in excess of 2% over the time period covering such audit, then Purchaser shall also immediately pay to the County all actual internal and external costs and expenses associated with the audit and with collecting the underpayment. If the audit discloses an overpayment of Program Fees or Royalty Payments, Purchaser shall be entitled to a credit against the next payment of Program Fees or Royalty Payment(s), as applicable, due to the County or the SCWMA, as applicable.
- (g) Audits under Section 6.14(f) may be conducted once each calendar year, in the sole discretion of the County, or at such other time as the County, acting

reasonably, believes that there has been an underpayment of Program Fees or Royalty Payments.

6.15 **Green Waste/Wood Waste After Closing**

From and after the Closing Date, Purchaser shall handle, process, transport and dispose of all green waste and wood waste that is Source Separated and ~~delivering~~~~deliver~~ such green waste and wood waste to an appropriate green waste and wood waste handling and processing facility; provided, however, that Source Separated loads of green waste and wood waste that ~~come is~~ delivered to the Central Landfill or Central Transfer Station shall be delivered to the Compost Facility during the period that such Compost Facility is located at the Landfill in accordance with the terms of the Agency Agreement, including provisions relating to the setting of green waste and wood waste tip fees by, and remittance by Purchaser of such tip fees to, the SCWMA. Purchaser may, in its discretion, set the tip fees for Source Separated green waste and wood waste that is delivered to a Transfer Station other than Central Transfer Station and shall be entitled to retain all of such revenues. In no event shall Purchaser use green waste or wood waste for daily cover at the Landfill or deposit green waste or wood waste delivered to the Landfill or Transfer Stations as waste in or at any landfill, including the Landfill.

6.16 **Existing Out-Haul Agreements; Commitment of County Waste Flow; Hauling**

- (a) From and after the Closing Date until August 31, 2010, Purchaser shall (i) haul not less than an amount of Waste that is delivered to the Facilities equal to the Tons per day set forth in that certain Agreement for the Transport and Disposal of Solid Waste dated as of August 16, 2005, by and between the County and among the County, Redwood Landfill, Inc. and USA Waste of California, Inc., as amended, with respect to the Redwood Landfill located in Marin County, California and pay for the disposal therein at the rates set forth in such existing agreement with Redwood Landfill, Inc. and USA Waste of California, Inc.; and (ii) haul not less than an amount of Waste that is delivered to the Facilities equal to the minimum Tons per day set forth in that certain Agreement for the Disposal of Solid Waste dated as of August 16, 2005, by and between the County and Keller Canyon Landfill, Inc., as amended, with respect to the Keller Landfill located in Contra Costa County, California and pay for disposal therein at the rates set forth in such existing agreement with Keller Canyon Landfill Company, Inc. As used in this Section 6.16(a), "Waste" includes all Waste that is delivered to or enters into any Facility, including Waste from any City and Self-Haul Waste; provided, however, that, as used in this Section 6.12, Waste excludes Source Separated green waste, Source Separated wood waste and other Source Separated recyclables (e.g., 100% recyclable, except for minor residual amounts). To the extent that the County's obligations under the agreements described in clauses (i) and (ii) of this Section 6.16(a) may be satisfied through delivery of waste from sources other than from Waste delivered or entering any Facility, Purchaser may, in its discretion, do so, but the County shall have no liability or responsibility therefor and Purchaser shall remain liable to the County for any failure to do so.

To the extent that the Waste delivered to or entering into the Facilities is insufficient to satisfy the County's obligations under the agreement described in clauses (i) and (ii) of this Section 6.16(a), Purchaser shall first satisfy the obligations under the agreement described in clause (i) (with respect to the Redwood Landfill) before satisfying the County's obligations under the agreement described in clause (ii) of this Section 6.16(a) (with respect to the Keller Landfill).

- (b) Purchaser acknowledges that the Waste disposed of pursuant to the agreements described in clauses (i) and (ii) of Section 6.16(a) is intended to satisfy the County's "put or pay" obligations under the disposal contracts referenced in such clauses. In connection with the Waste disposed of pursuant to such clauses, Purchaser shall not be responsible for the direct payment of the tip fees amounts to the landfill owners under the agreements described in clauses (i) and (ii) of Section 6.16(a), but shall remit to the County the amount ~~of the tip fees charged by Purchaser for such Waste~~ that is necessary for the County to make the payments per Ton of Waste under the agreements described in clauses (i) and (ii) of Section 6.16(a). If Purchaser charges tip fees that are less than such amount required to make the payments per Ton of Waste under the agreements described in clauses (i) and (ii) of Section 6.16(a), Purchaser shall nonetheless be responsible for remitting to the County the amount per Ton of Waste necessary for the County to make the payments under the agreements described in clauses (i) and (ii) of Section 6.16(a). The payments described in this clause (b) shall be due and payable by Purchaser to the County on the 10th of each calendar month relating to the preceding calendar month during the period commencing as of the 1st month after the Closing Date (with respect to the period starting on the Closing Date) and continuing through and until September 10, 2010 (with respect to the month ending August 31, 2010).
- (c) Subject to Purchaser's compliance with the terms of this Agreement, including Section 6.17, the County will direct its licensed or franchised haulers to deliver the County-Controlled Waste to the Facilities for a period commencing on the Closing Date and continuing through and until August 31, 2030. Purchaser shall receive, accept and safely and lawfully dispose of such Waste, at which time ownership and possession of such material shall transfer to Purchaser. Purchaser shall guarantee its ability to accept and dispose of County-Controlled Waste delivered to the Facilities. Purchaser shall be solely responsible for estimating and securing, at the Landfill or elsewhere, the quantity of capacity that shall be required to handle such Waste.
- (d) The County's commitment of County-Controlled Waste as set forth in Section 6.16(c) is not a guaranty of any amount of Waste flow or represent a "put or pay" relationship. Purchaser acknowledges that the actual Waste flow may be higher or lower than its projections, proposal assumptions or historical averages.
- (e) County expressly disclaims any warranties, either expressed or implied, or representations, as to the composition of Waste to be delivered to the Facilities.

6.17 Tip Fees; In County Disposal; Handling of Waste

- (a) From and after the Closing Date through and until August 31, 2030, Purchaser will charge the County's franchised or licensed haulers, on a per Ton basis, for County-Controlled Waste ~~delivered to any Facility~~ a maximum amount of tip fees as set forth on Schedule 6.17, as the same may be adjusted pursuant to the methodology set forth in Schedule 6.17. As set forth on Schedule 6.17, the amount of the tip fees and charges shall vary depending on whether the Landfill is allowed to accept Waste for disposal. As used in this Section 6.17 and in Schedule 6.17, ~~Waste~~ "Waste" includes all Waste delivered to any Facility or any other facility located in the County of Sonoma that is owned or operated by Purchaser or its Affiliates, but excludes Source Separated green waste, Source Separated wood waste and other Source Separated recyclables (e.g., 100% recyclable, except for minor residual amounts). The tip fees set forth in Schedule 6.17 and the Program Fees set forth in Section 6.12 shall be the sole amounts chargeable to the County's franchised and licensed haulers for County-Controlled Waste. The tip fees shall be assessed on the Tons of Waste measured on vehicles entering into the Facilities or such other facilities owned or operated by Purchaser or its Affiliates (in-bound vehicles).
- (b) Purchaser and the County acknowledge that it is the intent of each party that both parties shall benefit to the extent that the Cities located within the County of Sonoma commit their Waste flow to Purchaser and/or to the Facilities. Subject to Section 6.17(c), to the extent that, on or before the Closing Date, any City becomes a Committed City, the tip fees applying to such Committed City's Waste shall be the same as the tip fees and charges applying to County-Controlled Waste, as set forth on Schedule 6.17, after taking into account the ~~increased-commitment~~ aggregate commitments of Waste from the County and Committed Cities as contemplated by Schedule 6.17.
- (c) In the event that one or more Cities become Committed Cities, the tip fees applicable to both the County-Controlled Waste and the Waste committed by such Committed Cities shall be as set forth on the "tiered" tip fee charges and schedule set forth in Schedule 6.17. If a City becomes a Committed City, the Waste flow for such City set forth in the table in Schedule 6.17 shall be credited towards the increments set forth in the rate table set forth in Schedule 6.17 for purposes of determining the applicable tip fee as of the Closing Date for the County-Controlled Waste and the applicable City's Waste. The tip fees set forth in Schedule 6.17 and the Program Fees set forth in Section 6.12 shall be the sole amounts chargeable to the franchised and licensed haulers of the Committed Cities for the Waste committed by such Cities. The tip fees shall be assessed on the Tons of Waste measured on vehicles entering into the Facilities or such other facilities owned or operated by Purchaser or its Affiliates (in-bound vehicles). With respect to any Committed City, Purchaser shall receive, accept and safely and lawfully dispose of such Waste, at which time ownership and possession of such material shall transfer to Purchaser. Purchaser shall guarantee its ability to

accept and dispose of such Committed City's Waste ~~delivered to the Facilities~~. Purchaser shall be solely responsible for estimating and securing, at the Landfill or elsewhere, the quantity of capacity that shall be required to handle all Waste from the Committed Cities.

- (d) Notwithstanding the foregoing, during the period through and until August 31, 2030, the County and the Committed Cities shall be entitled to the lowest tip fees charged by Purchaser to other public agencies located in the County of Sonoma for Waste ~~delivered to the Facilities or any other facility owned by Purchaser or any Affiliate that is located within the County of Sonoma~~. If and to the extent, during such period, Purchaser charges tip fees to any City or other public agency located in the County of Sonoma at a rate lower than those charged to the County's franchised and licensed haulers for County-Controlled Waste (as set forth in Schedule 6.17), the tip fees and charges applying to County-Controlled Waste and the Waste of Committed Cities shall be decreased to the level charged by Purchaser to such City or other public agency. In determining whether a tip fee and other charge is lower than that charged to the County's franchised and licensed haulers, the Program Fees shall not be taken into account, but any discounts, rebates, free disposal and similar concessions provided to a City or other public agency shall be taken into account. In the event of a dispute between the County and Purchaser as to whether Purchaser is in compliance with this Section 6.17(d), such dispute shall be resolved pursuant to the dispute resolution provisions set forth in Section 11.18.
- (e) If Purchaser is unable to accept County-Controlled Waste or the Waste from any Committed City at the Facilities or any other facility owned or operated by Purchaser or an Affiliate that is located within the County of Sonoma because (i) of the acts, omissions, negligence, recklessness, willful misconduct, fault, breach of contract, breach of the requirements of the Contract Documents, violation of Law; or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit of or by Purchaser or any other member of the Purchaser Group; (ii) Purchaser did not use Commercially Reasonable Efforts in resisting changes, alterations and amendments to the Permits, or (iii) due to lack of capacity at landfills owned or operated by Purchaser or any Affiliate, then Purchaser shall (1) accept and dispose of such Waste at another landfill owned or controlled by Purchaser or its Affiliate at rates equivalent to the tip fees set forth on Schedule 6.17 that apply for the period in which the Landfill is allowed to accept Waste), and Purchaser shall pay any additional transportation costs incurred by the County, the Committed Cities and their respective licensed or franchised haulers delivering such Waste to the other landfill, or (2) arrange for all such Waste to be disposed of at another landfill not owned by Purchaser or its Affiliates, in which case Purchaser shall pay any difference between: (x) the landfill disposal fees charged at such landfill plus any additional transportation costs incurred in delivering such Waste to the other

landfill; and (y) the tip fees set forth on Schedule 6.17 that apply for the period in which the Landfill is allowed to accept Waste).

- (f) Upon the occurrence and during the continuance of a Force Majeure Event during the period in which the Landfill is allowed to accept Waste for disposal and Purchaser is disposing of the County-Controlled Waste and that of the Committed Cities, Purchaser shall, to the extent it is legally able to do so, accept and dispose of County-Controlled Waste and the Waste from Committed Cities at another landfill owned by Purchaser or an Affiliate at the tip fees set forth on Schedule 6.17 that apply for the period in which the Landfill is not allowed to accept Waste for disposal.
- (g) In the event that a Force Majeure Event continues for a period in excess of 60 consecutive days, the County and the Committed Cities shall each independently have the right to terminate their respective Waste flow commitments set forth in this Agreement. The termination rights by the County and each Committed City are wholly independent of each other and one or more may exercise their respective termination right(s) notwithstanding any election by the others to not exercise its termination rights. A termination of the Waste flow commitment shall not result in termination of this Agreement or limit, modify, waive or discharge Purchaser from any of its other obligations under this Agreement, including with respect to the Assumed Liabilities or the indemnification and release provisions set forth in Article 7, all of which shall continue in full force and effect. A termination of a Waste flow commitment by the County or any Committed City shall not modify or increase the then-applicable tip fee rates for those parties that do not terminate their Waste flow commitments.
- (h) During a period in which Purchaser is disposing of County-Controlled Waste and the Waste of any Committed City at a facility other than the Landfill, if such facility becomes unavailable for the disposal of such Waste for any reason, Purchaser shall (1) accept and dispose of such Waste at another landfill owned or controlled by Purchaser or its Affiliate for the tip fees set forth on Schedule 6.17 for the period in which ~~the Landfill~~ such landfill is not ~~allowed to accept~~ available for disposal of Waste), and Purchaser shall pay any additional transportation costs incurred by the County, the Committed Cities and their respective licensed or franchised haulers delivering such Waste to the other landfill, or (2) arrange for all such Waste to be disposed of at another landfill not owned by Purchaser or its Affiliates, in which case Purchaser shall pay any difference between: (x) the landfill disposal fees charged at such landfill plus any additional transportation costs incurred in delivering such Waste to the other landfill; and (y) the tip fees set forth on Schedule 6.17 that apply for the period in which the Landfill is not allowed to accept Waste).
- (i) The County and the Committed Cities shall each independently have three successive options to continue to commit their respective Waste flow to Purchaser for 10 additional years per option. Each option must be exercised no later than

four years prior to the expiration of the then prior period under which Waste has been committed (e.g., the initial option must be exercised by August 31, 2026). The exercise of the options shall be within the sole respective discretion of the County and such Cities and the exercise of one option does not guaranty or mean that the succeeding option or options will be exercised; provided, however, that the second and third options may not be exercised unless the immediately preceding option has been exercised. The options of the County and each Committed City are wholly independent of each other and one or more may exercise their respective option(s) notwithstanding any election by the others to not exercise its option(s). The tip fees and charges payable in connection with such option period shall be determined on the basis of the market rates. In connection with the potential exercise of such options, on or before five years prior to the expiration of the then prior period under which Waste has been committed (e.g., with respect to the initial option, August 31, 2025), Purchaser shall deliver to the County and the Committed Cities a schedule of market rate tip fees and charges that it proposes to charge during the option period. The form of the schedule must be consistent with Schedule 6.17, as the same may have been modified by the parties as of the applicable date.

- (j) Purchaser and the County acknowledge and agree that it is the intent of each party that Waste generated within the County of Sonoma, including County-Controlled Waste, is disposed of within the County of Sonoma during periods when the Landfill is ~~in operation and~~ allowed to receive Waste for disposal. To the extent that the Landfill is allowed to receive Waste for disposal or is otherwise in operation, Purchaser shall dispose of County-Controlled Waste, Waste from any Committed City, Waste from any City and Self Haul Waste that is delivered to any Facility or any other facility located in the County of Sonoma that is owned or operated by Purchaser or an Affiliate at the Landfill. Notwithstanding the foregoing, should Purchaser commence Waste disposal at the Landfill in the manner allowed under the CIWMB Settlement in order to avoid the commencement of closure activities at the Landfill, Purchaser may limit the disposal of County-Controlled Waste, Waste from any Committed City, Waste from any City and Self Haul Waste at the Landfill to the minimum amount necessary to avoid the commencement of closure activities, up to a maximum Tonnage equal to the first 390 Tons of Waste per day disposed of in Phase 1 and Phase 2 of “Landfill 2”, as currently defined in the Solid Waste Permit for the Landfill, as such Solid Waste Permit exists as of the ~~Effective~~Execution Date; provided, however, that during such period, if the Waste committed by the County and the Committed Cities exceeds the Tonnage disposed of at the Landfill, Purchaser shall charge the tip fees for disposal at the Landfill on a proportionate basis for County-Controlled Waste and Waste committed by the Committed Cities, on the basis of the percentage of their respective commitments in relation to the total Waste committed.
- (k) The commitment by a Committed City of its Waste is not a guaranty of any amount of Waste flow or represent a “put or pay” relationship. Purchaser

acknowledges that the actual Waste flow may be higher or lower than its projections, proposal assumptions or historical averages.

- (l) Notwithstanding the commitment of Waste by the County and any Committed City as described herein, such commitment is not a guaranty of payment. Purchaser shall be solely responsible for invoicing the haulers and other entities delivering Waste ~~to the Facilities or other facilities that Purchaser or an Affiliate owns or operates~~ and shall be solely responsible for obtaining such payments from such hauler or other entity. Neither the County nor such Committed Cities shall have any responsibility or liability for unpaid amounts. Nothing contained herein shall (i) obligate Purchaser to accept Waste for disposal from haulers who, based on Purchaser's customary billing processes for municipal waste, are not current on any outstanding invoices; or (ii) limit Purchaser's rights and remedies under Law to pursue and obtain such payments from such haulers.
- (m) A breach or default by a Committed City as to its commitment of Waste under this Section 6.17 shall not be considered a breach or default by, or modify the tip fee rates or Waste commitments of, the County or any other Committed City and the County and such other Committed Cities shall remain entitled to the same tip fees as then in effect absent the breach or default. A breach or default by the County as to its commitment of County-Controlled Waste under this Section 6.17 shall not be considered a breach or default by, or modify the tip fee rates or Waste commitments of, any Committed City and such Committed Cities shall remain entitled to the same tip fees as then in effect absent the breach or default. In no event shall the County have any obligation for any Committed City or any Committed City have any obligation for the County or any other Committed City and no joint or several liability shall apply under any circumstance.
- (n) Except as expressly set forth on Schedule 6.17, Purchaser may not increase the tip fees applicable to County-Controlled Waste or the Waste of any Committed City. In the event that any adjustments to the tip fees pursuant to Schedule 6.17 increase the total tip fees on a per Ton basis by more than 10% in any year, as measured by each Adjustment Date, the County, as to the County-Controlled Waste, and each Committed City, as to its own Waste, may terminate their respective Waste flow commitments set forth in this Agreement. Purchaser shall not be entitled to any termination rights under the circumstances described in this Section 6.17(n). The termination rights by the County and each Committed City are wholly independent of each other, and one or more may exercise their respective termination right(s) notwithstanding any election by the others to not exercise its termination rights. A termination of the Waste flow commitment shall not result in termination of this Agreement or limit, modify, waive or discharge Purchaser from any of its other obligations under this Agreement, including with respect to the Assumed Liabilities or the indemnification and release provisions set forth in Article 7, all of which shall continue in full force and effect. A termination of a Waste flow commitment by the County or any Committed City shall not modify

or increase the then-applicable tip fee rates for those parties that do not terminate their Waste flow commitments.

- (o) Purchaser, at all times, shall handle, process, transport and dispose of all Waste-~~that is delivered to any Facility~~, whether it be County-Controlled Waste, Waste from a City or Self-Haul Waste, in accordance with applicable Law, Permits and Prudent Solid Waste Practices.
- (p) The Committed Cities shall be express third party beneficiaries under this Section 6.17 and shall be entitled to enforce the obligations of, and its rights and remedies against, Purchaser.

6.18 Permitting; Resuming Operations at the Landfill

- (a) Purchaser shall, at its sole cost and expense, obtain and maintain all permits (including the Permits) and revisions, renewals and modifications thereof necessary for the use, operation, development, maintenance and expansion of the Facilities, including the permits to allow the Landfill to resume Waste disposal operations therein.
- (b) Purchaser shall use good faith efforts to obtain all necessary permits and shall act diligently to pursue such permits, including the permits to allow the Landfill to resume Waste disposal operations therein.

6.19 AB 32 Obligations; Climate Protection.

- (a) Purchaser shall participate with the County in, and assist in the funding of, a feasibility study to evaluate climate protection and renewable energy opportunities at the Landfill and Transfer Stations. Purchaser's funding obligation shall be on a reimbursement basis and shall be half of the cost of the feasibility study, but not to exceed \$75,000. The study shall be undertaken by a consultant selected by the County and acceptable to Purchaser, in its reasonable discretion. The County will manage and direct the consultant's work but will work with a project advisory committee comprised of both the County and Purchaser. The final report will, if acceptable to Purchaser and the County, in their reasonable discretion, be published under the name of both Parties. If there is not consensus regarding the recommendations of the report, each Party will be able to utilize data generated by the study and publish under their name only. Purchaser will not be required by the County, as a result of this study, to implement any programs or actions it deems, in its good faith discretion, inappropriate; provided, however, that Purchaser shall remain fully obligated to comply with applicable Law. The study will be initiated within 6 months after the Closing Date and will proceed under a schedule developed by the consultant and agreed to by the project advisory committee.
- (b) The feasibility study will evaluate the feasibility of implementing potential projects, programs, and operational practices at the Facilities using evaluation

criteria established by the project advisory committee. The study will develop the scope and timeframe for recommended projects, programs or actions, as well as assess the costs of such projects, programs, or actions. The projects and actions evaluated in the study will include the best practices developed by the Institute for Local Government (Draft California Climate Action Network Best Practices Framework). As appropriate, the study will evaluate the potential for public-private partnerships for projects or programs. The study will identify how any projects, programs, or actions integrate into and become a part of the County's climate protection programs and initiatives

6.20 **AB 939 Obligations; Waste Diversion.**

The Parties acknowledge the importance of diversion to the County and its constituents and that the importance is evidenced by diversion rates for calendar year 2007 of approximately 64% of the entire waste stream (of which approximately 61.7% occurred outside of the County's direct control through SCWMA programs and diversion activities undertaken by commercial refuse collection companies and individual private industries), including diversion that occurs at the curbside and through Source Separated loads. Purchaser shall use good faith efforts to continue to achieve such diversion rates, as they may be modified by applicable Law, to maintain similar diversion programs in effect at the Facilities as those that are in effect as of the ~~Effective~~[Execution](#) Date and to increase diversion at the Facilities in such manner and using such methods as are deemed appropriate by Purchaser.

6.21 **Quitclaim of County Right of Reentry Regarding Transfer Stations**

At any time that Purchaser satisfies all requirement of the then-current zoning code and ordinances relating to a Transfer Station, the County, upon request from Purchaser, shall execute and deliver to Purchaser a quitclaim deed with respect to the County's right of reentry set forth in the grant deed for such Transfer Station.

6.22 **Leachate Pipeline.**

- (a) On or before 24 months after the Closing Date, the County will repair, fix or replace the approximately 5 mile leachate pipeline from the Landfill to the interconnect with the Rohnert Park sewer line located at the intersection of Rohnert Park Expressway and Stony Point Road, for ultimate transmission of untreated Leachate from the Landfill to the Subregional Wastewater Treatment and Reclamation System Laguna Plant so that is operable. As used herein, "operable" means a pipeline capable of containing and transmitting Leachate to the Subregional Wastewater Treatment and Reclamation System Laguna Plant with the characteristics described on Exhibit O. Purchaser shall reasonably cooperate with the County in connection with the County's activities to make the leachate pipeline operable, including executing such documents and Permits as are necessary for the County to undertake such work and providing access, ingress, egress, information and, upon request, Leachate in which to test or assess the leachate pipeline. In the event that the County needs to utilize additional real

property at the Landfill to provide an operable leachate pipeline to Purchaser, Purchaser shall provide such real property for such use, including granting the County and its contractors access rights thereto; provided, however, the County shall use Commercially Reasonable Efforts to minimize the need for such real property and any impact thereof on the Landfill and its operations.

- (b) From and after the Closing Date through and until the earlier of (i) the date on which County provides an operable leachate pipeline as described in Section 6.22(a) or (ii) 24 months after the Closing Date, the County will reimburse Purchaser the incremental actual out-of-pocket transportation costs that Purchaser incurs to transport Leachate by truck from the Landfill to the Subregional Wastewater Treatment and Reclamation System Laguna Plant, up to a maximum amount equal to \$1,000,000. Reimbursement of Purchaser for such amounts shall be (1) done on an Open Book Basis; (2) on the basis of bona-fide, arms length costs that do not include mark-up, profit or overhead of Purchaser or any Affiliate; and (3) pursuant to invoices submitted by Purchaser to County at the end of 12 months after the Closing Date (with respect to the initial 12 months after the Closing Date) and at the end of 24 months after the Closing Date (with respect to the second 12 months after the Closing Date).
- (c) If the County does not satisfy its obligations under Section 6.22(a) on or before 24 months after the Closing Date, the County shall also be obligated to reimburse Purchaser, on an Open Book Basis, for (i) any additional Leachate transportation and Leachate disposal costs incurred by Purchaser as a result of the inoperability of the leachate pipeline; and (ii) the costs of fixing, repairing or replacing the leachate pipeline in order to make it operable. The County's reimbursement obligations under this Section 6.22(c) shall in no event exceed a maximum amount equal to \$5,000,000 and is conditioned on Purchaser undertaking the work necessary to install a leachate pipeline that has the capability to transport the annual average of Leachate generated as of the ~~Effective~~Execution Date to the Subregional Wastewater Treatment and Reclamation System Laguna Plant. Reimbursement of Purchaser for such amounts shall be (1) done on an Open Book Basis; (2) on the basis of bona-fide, arms length costs that do not include mark-up, profit or overhead of Purchaser or any Affiliate; and (3) pursuant to invoices submitted by Purchaser to County no more frequently than every 6 months. If, following the County's failure to satisfy its obligations under Section 6.22(a) on or before 24 months after the Closing Date, Purchaser undertakes the work to fix, repair or replace the leachate pipeline, such work shall be performed pursuant to applicable Law and Permits. Purchaser shall be obligated to mitigate and minimize the cost of such work and shall only be reimbursed for the cost of work necessary to make the leachate pipeline operable. The cost of work that is not related or necessary to make the leachate pipeline operable or which is a "betterment" to the leachate pipeline (such as additional capacity, peak flow capacity, warranties or other uses) shall not be reimbursed by the County (both as

to the cost of the work as well as the additional time and Leachate transportation and disposal costs incurred in order to undertake such “betterment”).

- (d) The County’s obligations under this Section 6.22, shall represent the County’s sole responsibility to Purchaser with respect to (i) the leachate pipeline, (ii) the Leachate Pipeline Claims, (iii) the potential impact of the leachate pipeline (and its delayed operability) on the costs (including transportation, disposal and operational costs) and the ability to pipe Leachate from the Landfill to the intersection of Rohnert Park Expressway and Stony Point Road, for ultimate transmission of untreated Leachate from the Landfill to the Subregional Wastewater Treatment and Reclamation System Laguna Plant; (iv) the potential impact of the leachate pipeline (and its delayed operability) on the operation, use and future development of the Landfill; and (v) any other impact of the leachate pipeline on the Landfill. Purchaser shall have no additional claims, rights, remedies or actions arising out of or relating to the matters described in clauses (i)-(v) above or otherwise. In no event shall any failure by the County to provide an operable leachate pipeline be considered a breach or default by the County and Purchaser’s sole rights and remedies shall be reimbursement as set forth in this Section 6.22.
- (e) In the event of a dispute between the County and Purchaser as to whether the leachate pipeline provided by the County is “operable” or whether Purchaser has properly sought reimbursement for its actual out-of-pocket costs under Section 6.22(b) or Section 6.22(c), such dispute shall be resolved pursuant to the dispute resolution provisions set forth in Section 11.18.

6.23 Force Majeure Generally.

Purchaser shall not be in default of a specific obligation under this Agreement in the event of a Force Majeure Event and during the continuance thereof if such event would make it impossible or extremely impracticable to perform such obligation; provided, however, that Purchaser shall remain obligated to perform all other obligations and responsibilities not directly affected by such Force Majeure Event, as well as those additional obligations set forth in this Agreement that apply during the period in which the Force Majeure Event is in effect (and shall only be entitled to use the occurrence of the Force Majeure Event as an excuse to performance if Purchaser is performing such obligations).

6.24 **Survival.**

The provisions of Article 6 and the obligations of the Parties to comply with the provisions hereof shall survive the Closing ~~and the termination or expiration of the County's commitment of County-Controlled Waste under Section 6.16.~~

ARTICLE 7.
INDEMNIFICATION AND RELEASE

7.1 **Indemnification by Purchaser.**

Purchaser shall indemnify, defend and hold each member of the County Group and the Committed Cities, and each of them, harmless from and against all Losses which arise out of, result from ~~of~~ or relate to any of the following (“**Indemnified Claims**”):

- (a) any material breach or material default under this Agreement by Purchaser;
- (b) any material breach of any of the representations or warranties made in Section 4.1 as to which a Notice of Claim is received by Purchaser;
- (c) the ownership and operation of the Property, including all actions, omissions, negligence, recklessness, willful misconduct, breach of contract, violation of Law or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit related thereto and/or resulting therefrom (it being expressly acknowledged and agreed by Purchaser that Purchaser's obligations hereunder include responsibility and liability for all actions, omissions, negligence, recklessness, willful misconduct, breach of contract, violation of Law or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit by any Entity that occurred, in whole or in part prior to the Closing and after the Closing);
- (d) Any and all Environmental Conditions and/or Remediation (it being expressly acknowledged and agreed by Purchaser that Purchaser's obligations hereunder include responsibility and liability for Environmental Conditions and Remediation that arise out of, result from or relate to the period prior to the Closing and after the Closing, whether known or unknown to the County or to Purchaser, and also include the Environmental Conditions and Remediation that arise out of, relate to or result from the continued and future acceptance, management, handling, processing, sorting and/or disposal of Waste);
- (e) Any and all Closure and Post-Closure Obligations, including all Approved Financial Assurances (it being expressly acknowledged and agreed by

Purchaser that Purchaser's obligations hereunder include responsibility and liability for such conditions and items that arise out of, result from or relate to events, incidents, operations and items that occurred, in whole or in part, prior to the Closing and after the Closing, including the Closure and Post-Closure Obligations that arise out of, relate to or result from the continued and future acceptance, management, handling, processing, sorting and/or disposal of Waste);

- (f) Any and all Assumed Liabilities (it being expressly acknowledged and agreed by Purchaser that Purchaser's obligations hereunder include responsibility and liability for such conditions and items that arise out of, result from or relate to events, incidents, operations and items that occurred, in whole or in part, prior to the Closing and after the Closing);
- (g) The use, exploration, production, recovery, sale, transfer and/or distribution of Landfill Gas from the Landfill (and any byproducts or end products thereof, including electricity) after Closing;
- (h) Purchaser's Due Diligence Inspections and Reviews or the exercise of any additional due diligence that Purchaser undertakes between the ~~Effective~~ Execution Date and the Closing Date (which due diligence, including the approval thereof, shall not be a condition to Closing);
- (i) Any and all Permits, including the breach, violation, reissuance, transfer or modification thereof (it being expressly acknowledged and agreed by Purchaser that Purchaser's obligations hereunder include responsibility and liability for the period prior to the Closing and after the Closing);
- (j) Purchaser's efforts to cause the reissuance and transfer of the Permits, as described in Section 5.2(a);
- (k) Any claim, action or suit, including any action, claim, suit, demand, investigation, proceeding and any counterclaim or cross-claim arising therefrom, arising out of the sale of the Property by County to Purchaser or the consummation of the transactions contemplated hereby;
- (l) The past, present and future screening, acceptance, disposal, treatment, processing or sorting of Waste and other materials in or at any Facility; ~~and~~
- (m) The past, present and future screening, acceptance, disposal, treatment, processing or sorting by Purchaser or any Affiliate of any Waste and other materials at or in any facility other than the Facilities (including facilities located outside of the County of Sonoma); and
- (n) Any Third Party claim, action, suit, counterclaim, proceeding or right of contribution arising out of, related to or resulting from the Property (other

than those expressly covered by the County's indemnity under Section 7.5), including any claim, counterclaim, right of contribution, action, suit or proceeding against any member of the County Group or a Committed City as a result of, arising from or related to Purchaser's actions to pursue a third party for any Indemnified Claim or from the County's initiation of a suit, claim, counterclaim, action, proceeding or right of contribution relating to, arising from or resulting from the County's reserved rights described in Section 2.2(b).

It is the intent of Purchaser and County that this Section 7.1 be interpreted and construed as broadly and as expansively as possible and that the County Group and the Committed Cities retain no liability and be fully indemnified against any and all Losses related to, arising from or associated with the items included in this Section 7.1. Notwithstanding the foregoing, (x) Purchaser shall retain and have the right and ability (but not the obligation) to pursue any or all third parties other than the County Group or the Committed Cities for any Indemnified Claims; provided, however, that such rights shall not exist through or be derived from the County Group or the Committed Cities and Purchaser shall not be subrogated to any rights that the County Group or the Committed Cities may have against such third parties or with respect to any applicable insurance coverage; and (y) this Section 7.1 shall not apply to the items covered under the County's indemnity set forth in Section 7.5.

7.2 Purchaser's Release Of County Group And ~~Certain~~ Committed Cities.

PURCHASER, FOR ITSELF AND ON BEHALF OF EACH OF ITS MEMBERS, SHAREHOLDERS, SUBSIDIARIES, AFFILIATES, AND EACH OF THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, DOES HEREBY RELEASE, HOLD HARMLESS AND FOREVER DISCHARGE THE COUNTY, EACH MEMBER OF THE COUNTY GROUP AND THE COMMITTED CITIES FROM ANY AND ALL LOSSES, IN EACH CASE, OF ANY KIND OR CHARACTER, WHETHER KNOWN OR UNKNOWN, HIDDEN OR CONCEALED, TO THE PERSON OR PROPERTY OF PURCHASER, ITS SUCCESSORS AND ASSIGNS, RESULTING FROM OR ARISING OUT OF (1) ANY LOSSES COVERED BY PURCHASER'S INDEMNITY SET FORTH IN SECTION 7.1; (2) THE PAST, PRESENT, CONTINUED AND FUTURE SCREENING, ACCEPTANCE, DISPOSAL, TREATMENT, SORTING, HANDLING AND PROCESSING OF WASTE OR OTHER MATERIAL (INCLUDING COUNTY-CONTROLLED WASTE, WASTE COMING FROM ANY OF THE CITIES AND SELF-HAUL WASTE) AT OR IN THE LANDFILL OR ANY OTHER OF THE FACILITIES; (3) THE DISPOSAL OF WASTE COMING FROM THE COUNTY OF SONOMA AT FACILITIES OTHER THAN THE FACILITIES (INCLUDING FACILITIES LOCATED OUTSIDE OF THE COUNTY OF SONOMA); (4) ANY CLOSURE AND POST-CLOSURE OBLIGATIONS; (5) ANY MATTER OR ITEM INCLUDED WITHIN THE ASSUMED LIABILITIES; OR (6) ANY ENVIRONMENTAL CONDITION OR REMEDIATION. PURCHASER HEREBY WAIVES ANY AND ALL RIGHTS AND BENEFITS THAT IT NOW HAS, OR IN THE FUTURE MAY HAVE CONFERRED UPON IT BY VIRTUE OF THE PROVISIONS OF SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA (OR ANY OTHER STATUTE OR COMMON LAW PRINCIPLES OF SIMILAR EFFECT), WHICH PROVIDES AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

IN THIS CONNECTION, PURCHASER HEREBY AGREES, REPRESENTS, AND WARRANTS THAT IT REALIZES AND ACKNOWLEDGES THAT FACTUAL MATTERS NOW UNKNOWN TO IT MAY HAVE GIVEN OR MAY HEREAFTER GIVE RISE TO CLAIMS THAT ARE PRESENTLY UNKNOWN, UNANTICIPATED AND UNSUSPECTED, AND IT FURTHER AGREES, REPRESENTS, AND WARRANTS THAT THIS RELEASE HAS BEEN NEGOTIATED AND AGREED UPON IN LIGHT OF THAT REALIZATION AND IT NEVERTHELESS HEREBY INTENDS TO RELEASE THE COUNTY, THE OTHER MEMBERS OF THE COUNTY GROUP AND THE COMMITTED CITIES FROM THE LOSSES, DESCRIBED IN THIS SECTION 7.2. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION 7.2, THIS RELEASE SHALL NOT RELEASE THE COUNTY FROM ANY OBLIGATIONS IT MAY HAVE UNDER THIS AGREEMENT OR ANY OTHER CONTRACT DOCUMENT, INCLUDING THE COUNTY'S INDEMNITY OBLIGATIONS UNDER SECTION 7.5. THIS RELEASE OF THE COUNTY, THE OTHER MEMBERS OF THE COUNTY GROUP AND THE COMMITTED CITIES BY PURCHASER WILL BE DEEMED TO BE REMADE BY PURCHASER AS OF THE CLOSING AND SHALL SURVIVE THE CLOSING.

Purchaser's Initials _____

Notwithstanding the foregoing, the release set forth herein shall not preclude Purchaser from, and Purchaser hereby expressly reserves its right to, pursue all Third Parties (which expressly exclude any Entity released hereby) for any matter covered by the release set forth in this Section 7.2; provided, however, that such rights shall not exist through or be derived from the County, the other members of the County Group or the Committed Cities and Purchaser shall not be subrogated to any rights that such entities may have against such Third Parties or with respect to any applicable insurance coverage.

7.3 Acknowledgments; Covenant Not to Sue

- (a) Purchaser acknowledges that, pursuant to this Agreement and the transactions contemplated hereunder, Waste, including County-Controlled Waste, Waste coming from the Cities and Self-Haul Waste) may continue to be screened, accepted, handled, treated, sorted and processed at the Facilities and, in certain instances, disposed of at the Landfill. Purchaser acknowledges that the foregoing screening, acceptance, sorting handling, processing and disposal of Waste may increase Purchaser's obligations and liabilities for Closure and Post-Closure Obligations, Environmental Conditions and Remediation beyond what such obligations and liabilities are as of the ~~Effective~~Execution Date and the Closing Date. Purchaser further acknowledges and agrees that the disposal by Purchaser

of such Waste at facilities other than the Landfill may also increase Purchaser's obligations and liabilities relating to such facilities. Purchaser acknowledges and agrees that a fundamental element of this Agreement and the County's willingness to sell and convey the Property, enter into this Agreement and undertake the other obligations of the County hereunder is that, except as otherwise provided in this Agreement, Purchaser will assume all responsibility and liability for the Closure and Post-Closure Obligations, Environmental Conditions and Remediation, including those that relate to or arise out of the periods prior to and after Closing and those that relate to or arise out of the future screening, acceptance, handling, treatment, sorting, processing and disposal of Waste at the Facilities. It is expressly intended that neither Purchaser, nor any Entity claiming through Purchaser, shall have any rights, claims, remedies or actions against the County, any other member of the County Group and the Committed Cities for any of these items or for any other matter with respect to which Purchaser has provided indemnification under Section 7.1 or a release under Section 7.2.

Notwithstanding the foregoing, Purchaser is not assuming any liabilities or obligations for any matter covered by the County's indemnity under Section 7.5.

- (b) Purchaser, for itself and on behalf of each other member of the Purchaser Group, does hereby covenant forever and unconditionally not to sue, make any claim or take any action against the County, any other member of the County Group and any of the Committed Cities for any Loss arising out of, relating to (i) Closure and Post-Closure Obligations or any Environmental Condition or Remediation, whether existing as of the Closing Date or arising, accruing or relating to the period from and after the Closing Date, including those that relate to or arise out of the future screening, acceptance, handling, sorting, processing and disposal of Waste at the Facilities; (ii) any other matter with respect to which Purchaser has provided indemnification under Section 7.1 or a release under Section 7.2; and (iii) facilities other than the Facilities at which Purchaser disposes of Waste from the County of Sonoma. The foregoing covenant not to sue shall not apply to any matter covered by the County's indemnity under Section 7.5.

7.4 Cities Covered Under Indemnity and Release.

The Committed Cities shall be forever included and covered by the provisions of Section 7.1, Section 7.2 and Section 7.3 in the same manner as is the County and the County Group and as if specifically listed therein. The Committed Cities shall be express third party beneficiaries under Article 7 and shall be entitled to enforce the obligations of, and its rights and remedies against, Purchaser.

7.5 County Indemnity Regarding Closed Landfills.

To the extent permitted by applicable Law and directly resulting from or arising out of the Closed Landfills, the County shall indemnify, defend and hold the Purchaser Group harmless from and against all Losses which directly arise out of, result from or relate to (i) Remediation arising out of the presence or existence of Hazardous Substances, Leachate and/or Landfill Gas

introduced into, on, over or about the Transfer Stations (other than Central Transfer Station) or the soil, surface water, water runoff, stormwater runoff and/or groundwater at the Transfer Stations (other than Central Transfer Station), including any migration thereof through soil, surface water, water runoff, stormwater runoff and/or groundwater to or from the Transfer Stations (other than the Central Transfer Stations); and (ii) closure and post-closure obligations for the Closed Landfills, including the funding and amounts related thereto. This Section 7.5 shall not (v) apply to any increase in development, operations or maintenance costs of the Transfer Stations, including the costs of any portion of the Transfer Stations on which Waste was deposited; (w) apply to Losses that arise out of or relate to a use of, or an operation at, a Transfer Station by Purchaser other than that which was in effect as of the Execution Date; (x) apply to any Loss to the extent arising out of or relating to any act, omission, negligence, recklessness, willful misconduct, fault, breach of contract, breach of the requirements of the Contract Documents, violation of Law or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit by Purchaser or any other member of the Purchaser Group, that exacerbate or worsen the matters covered by clauses (i)-(ii) of this Section 7.5; (y) apply to any of the Assumed Liabilities; or (z) limit or modify any of the provisions of Sections 7.1-7.4.

7.6 Payments.

All amounts which Purchaser is required to pay to the County or the Cities described in Section 7.4 under this Article 7 on account of any Indemnified Claims shall be remitted to the County or such Cities, as applicable, within 30 days after Purchaser's receipt of reasonable documentation of the incurrence by the County or such Cities, as applicable, of such Losses. All amounts which the County is required to pay to Purchaser under Section 7.5 on account of any Losses described therein shall be remitted to Purchaser within 30 days after the County's receipt of reasonable documentation of the incurrence by Purchaser of such Losses. In the case of all payments described in this Section, such amount shall bear interest and compound at LIBOR effect from time to time plus 200 basis points until paid from the date due until fully paid.

7.7 County Notice of Claim.

Subject to the terms of this Agreement and upon obtaining actual knowledge of a claim for which it is entitled to indemnity under this Article 7, the County (for Indemnified Claims affecting the County) and the applicable Cities (for Indemnified Claims affecting such Cities) shall promptly notify Purchaser in writing of any Indemnified Claim which the County or the Cities, as applicable, have determined has given or could give rise to a claim under Section 7.1 (the written notice is referred to as a "**Notice of Claim**"). A Notice of Claim shall specify, in reasonable detail, the facts known to the County or such Cities, as applicable, regarding the Indemnified Claim. Notwithstanding the foregoing, the failure to provide (or timely provide) a Notice of Claim shall not affect the rights to indemnification of the County or such Cities. Further, Purchaser shall begin defending the County Group and the Committed Cities immediately upon receipt of the relevant Notice of Claim, at Purchaser's sole cost and expense and with counsel reasonably acceptable to the members of the County Group and Cities potentially subject to such Notice of Claim. Purchaser's obligations hereunder shall in no way be impaired, reduced or released by reason of (i) an omission or delay by any applicable member of

the County Group or any of the Cities, as applicable, in exercising any right described herein; or (ii) any act or omission of any of such parties in connection with any notice, demand, warning or claim regarding violations of Laws governing the Facilities.

7.8 Purchaser Notice of Claim.

Subject to the terms of this Agreement and upon obtaining actual knowledge of a claim for which it is entitled to indemnity under this Article 7, Purchaser shall promptly notify the County in writing of any indemnified claim which Purchaser has determined has given or could give rise to a claim under Section 7.5 (the written notice is referred to as a “**Purchaser Notice of Claim**”). A Purchaser Notice of Claim shall specify, in reasonable detail, the facts known to Purchaser regarding the indemnified claim. Notwithstanding the foregoing, the failure to provide (or timely provide) a Purchaser Notice of Claim shall not affect the rights to indemnification of Purchaser. Further, the County shall begin defending Purchaser immediately upon receipt of the relevant Notice of Claim, at the County’s sole cost and expense and with counsel reasonably acceptable to Purchaser. The County’s obligations hereunder shall in no way be impaired, reduced or released by reason of an omission or delay by Purchaser in exercising any right described herein.

7.9 County’s Reserved Rights.

Nothing contained in this Article 7 or elsewhere in this Agreement shall limit, modify, diminish or reduce the rights, claims, actions and remedies that the County has or may have against any City in connection with the Facilities, any Closed Landfill or otherwise, all of which rights, claims, actions and remedies are hereby expressly reserved.

7.10 Survival.

This Article 7 shall survive the Closing ~~and the termination or expiration of the County’s commitment of County-Controlled Waste under Section 6.16.~~

**ARTICLE 8.
CONDITIONS PRECEDENT TO OBLIGATIONS OF
PURCHASER AT THE CLOSING**

The obligations of Purchaser under this Agreement to complete the purchase of the Property and assume the Assumed Liabilities are subject to the satisfaction or waiver, on or prior to the Closing, of each of the following conditions precedent (which conditions precedent are for the benefit of Purchaser and can only be waived by Purchaser, in its sole discretion; provided, however, that such conditions precedent shall be deemed waived by Purchaser if such conditions are not met due to any act, omission, negligence, recklessness, willful misconduct, fault, breach of contract, breach of the requirements of the Contract Documents, violation of Law; or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit by Purchaser or any other member of the Purchaser Group):

8.1 Referendum Period.

The resolutions and ordinances necessary to authorize the execution and performance of this Agreement and the consummation of the transactions contemplated hereby shall no longer be subject to referendum and, if a referendum is commenced, such referendum shall have failed.

8.2 Receipt of Required Consents.

All Required Consents shall have been received and shall be in full force and effect as of the Closing with no additional and material burdens or obligations imposed on Purchaser with respect to the subject Permits other than those in effect with respect to County prior to Closing or those imposed by agencies other than County. Required Consents or changes in Permits that (i) approve the County's plans for closure and post-closure maintenance and monitoring obligations relating to the Landfill (ii) affect the amount of Approved Financial Assurances; or (iii) acknowledge, reflect or relate to the transfer of any Facility to Purchaser or from a public agency to a private entity shall not be considered additional and material burdens or obligations imposed on Purchaser.

8.3 No Adverse Litigation.

Except for matters that may be related to and arising out of the CIWMB Settlement and the Leachate Pipeline Claims, no court of competent jurisdiction shall have issued an order or injunction which prohibits the (i) sale and transfer of the Facilities or (ii) the continued operation of any of the Facilities after Closing in substantially the same manner as County's operation of the Facilities as of the ~~Effective~~Execution Date.

8.4 County Deliveries.

County has delivered, or caused to be delivered, to Purchaser at the Closing the documents and payments referenced in Schedule 8.4.

8.5 Title Insurance.

The Title Company is irrevocably committed to issue to Purchaser California Land Title Association (CLTA) policies of title insurance naming Purchaser as insured, showing fee title to the Land described in Exhibit A vested in Purchaser as of the Closing, subject only to the Permitted Encumbrances; provided, however, that Purchaser may elect to obtain American Land Title Association (ALTA) coverage for any portion of the Land for which a Survey has been completed or for the Landfill, if it has completed the Landfill Survey, such election to be made within 30 days after the ~~Effective~~Execution Date. The amount of coverage under the title insurance policies shall be determined by Purchaser and the Title Company and shall be subject to such coinsurance or reinsurance as Purchaser may reasonably request, but in no event shall such amount exceed the amounts allocated to the subject Facilities at Closing pursuant to Section 2.5(b).

8.6 **No Termination.**

Neither Party has rightfully exercised any termination right such Party is entitled to exercise pursuant to Section 10.1.

ARTICLE 9.
**CONDITIONS PRECEDENT TO OBLIGATIONS OF
COUNTY AT THE CLOSING**

The obligations of County under this Agreement to complete the sale of the Property and transfer the Property and Assumed Liabilities to Purchaser are subject to the satisfaction or waiver, on or prior to the Closing, of each of the following conditions precedent (which conditions precedent are for the benefit of County and can only be waived by County, in its sole discretion):

9.1 **Purchaser Compliance.**

Purchaser has performed or complied in all material respects with all covenants, agreements and conditions contained in this Agreement on its part required to be performed or complied with at or prior to the Closing.

9.2 **Receipt of Required Consents.**

All Required Consents shall have been received, such Required Consents do not materially increase County's liabilities or obligations after Closing and such Required Consents are in full force and effect on the Closing.

9.3 **Referendum Period.**

The resolutions and ordinances necessary to authorize the execution and performance of this Agreement and the consummation of the transactions contemplated hereby shall no longer be subject to referendum and, if a referendum has been commenced, such referendum shall have failed.

9.4 **No Adverse Litigation.**

Except for matters that may be related to and arising out of the CIWMB Settlement or the Leachate Pipeline Claims, no court of competent jurisdiction shall have issued an order or injunction which prohibits (i) the sale and transfer of the Property or (ii) the continued operation of any of the Facilities after Closing in substantially the same manner as County's operation of the Facilities as of the ~~Effective~~Execution Date.

9.5 **No Material Adverse Change in Financial Condition.**

No material adverse change in Purchaser's financial condition, as determined by County in its sole discretion, has occurred since the ~~Effective~~Execution Date.

9.6 **Deliveries.**

Purchaser has delivered, or caused to be delivered, to County at the Closing, the documents and payments referenced in Schedule 9.6.

9.7 **Purchaser Substitution of County's Closure and Post-Closure Funds; Approved Financial Assurances.**

Purchaser shall have met all requirements necessary to satisfy the current closure and post-closure requirements, as prescribed by Law and/or Governmental Authorities; provided, however, that (i) the amounts required to be deposited by Purchaser may be in excess, and in no event shall be less, than the amounts identified on Schedule 5.13; and (ii) Purchaser may satisfy such closure construction and post-closure funding and obligations through Approved Financial Assurances.

9.8 **Planning Approvals.**

County has prepared any documentation required under California Government Code section 65402, as determined by County in its reasonable discretion.

9.9 **CEQA Compliance.**

The County has completed and certified any documentation required in order to comply with CEQA, as determined by the County in its reasonable discretion.

9.10 **No Termination.**

Neither Party has rightfully exercised any termination right such Party is entitled to exercise pursuant to Section 10.1.

ARTICLE 10.
TERMINATION

10.1 **Rights To Terminate.**

This Agreement may, by written notice given on or prior to the Closing Date in the manner provided in Section 11.9, be terminated at any time prior to the Closing Date:

- (a) by County, if there has been a material misrepresentation, material default or material breach by Purchaser prior to Closing, and such material misrepresentation, material default or material breach is not cured by the earlier of the Closing Date or the date thirty (30) days after receipt by Purchaser of written notice specifying particularly such material misrepresentation, material default or material breach;
- (b) by Purchaser, if there has been a material misrepresentation, material default or material breach by County prior to Closing, and such material misrepresentation,

material default or material breach is not cured by the earlier of the Closing Date or the date 30 days after receipt by County of written notice specifying particularly such material misrepresentation, material default or material breach; provided, however, that the foregoing is not intended to limit, alter or modify the application of Section 5.1(d);

- (c) in accordance with, and subject to, Section 5.1(b);
- (d) in accordance with, and subject to, Section 5.1(c);
- (e) in accordance with, and subject to, Section 5.1(d);
- (f) in accordance with, and subject to, Section 5.8;
- (g) by mutual written agreement of County and Purchaser;
- (h) by County if the Closing has not occurred on or before the Outside Closing Date because of the failure of a condition precedent to Closing set forth in Article 9; ~~or~~
- (i) by Purchaser if the Closing has not occurred on or before the Outside Closing Date because of the failure of a condition precedent to Closing set forth in Article 8.8 or
- (j) in accordance with, and subject to, Section 1.3(e).

10.2 Effect of Termination.

Subject to Section 10.3, if this Agreement is terminated pursuant to Section 10.1, all further obligations and liabilities of the Parties hereunder shall terminate, except (i) as otherwise contemplated by the Agreement, and (ii) for the obligations set forth in Sections 2.7, 2.8, 4.1(e), and 4.3(e), 5.3, and Articles 3, 7 and 10.

10.3 Termination Charge.

If Purchaser terminates this Agreement pursuant to Section 5.1(b), Section 5.1(c), Section 5.1(d) or Section 5.8, Purchaser shall pay to County a non-refundable termination charge equal to \$500,000 (the “**Termination Charge**”) and, until County’s receipt of the Termination Charge, County shall retain the Deposit Letter of Credit as security therefor. If Purchaser has not delivered the Termination Charge to County on or before the earlier of (i) five days prior to the expiry date of the Deposit Letter of Credit or (ii) the fifteenth (15) day following the receipt of County’s notice electing to terminate this Agreement under Section 5.1(b), Section 5.1(c), Section 5.1(d) or Section 5.8, as applicable (or the date on which County is deemed to have elected to proceed to terminate this Agreement under Section 5.1(b), Section 5.1(c) or Section 5.1(d), as applicable), County shall be entitled to draw upon the Deposit Letter of Credit in an amount equal to the Termination Charge.

ARTICLE 11.
MISCELLANEOUS AGREEMENTS AND ACKNOWLEDGEMENTS

11.1 Expenses.

Except as otherwise provided herein, each Party is responsible for its own costs and expenses (including attorneys' and consultants' fees, costs and expenses) incurred in connection with this Agreement and the consummation of the transactions contemplated by this Agreement.

11.2 Entire Document.

This Agreement (including the Exhibits and Schedules to this Agreement) contains the entire agreement between the Parties with respect to the transactions contemplated thereby, and supersedes all written or oral negotiations, representations, warranties, commitments, offers, contracts and writings prior to the execution date of this Agreement. No waiver and no modification or amendment of any provision of this Agreement is effective unless made in writing and duly signed by the Parties referring specifically to the purpose, extent and interest so provided.

11.3 Exhibits and Schedules.

The Exhibits and Schedules delivered pursuant to the terms of this Agreement are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

11.4 Counterparts.

This Agreement and all exhibits hereto may be executed in one or more counterparts, each of which is an original, but all of which together constitute one and the same instrument.

11.5 Severability.

If any provision hereof is held invalid or unenforceable for any reason, this holding or action shall be strictly construed and shall not affect the validity or effect of any other provision hereof. To the extent permitted by Law, the Parties waive, to the maximum extent permissible, any provision of Law that renders any provision hereof prohibited or unenforceable in any respect. Additionally, to the extent that this Agreement may be uncertain or ambiguous such that it requires interpretation or construction, then it shall be interpreted and construed in such a way that meets the public policy goals referenced in Recital C of this Agreement. It is the intention of the parties that any interpretation or construction shall promote the goals of this Agreement. In particular, it is the intent of Purchaser and County that the Agreement be interpreted and construed as broadly and as expansively as possible and that the County retains no liability and be fully indemnified against and released from any and all Losses related to, arising from or associated with the Assumed Liabilities.

11.6 ~~Assignability.~~ Assignment.

- (a) Subject to Section 11.6(b) and 11.6(c), this Agreement is binding upon and inures to the benefit of the successors and assigns of the Parties but is not assignable by any Party without the prior written consent of the other Party, which consent may be granted or withheld in such Party's sole discretion.
- (b) ~~This Agreement is binding upon and inures to the benefit of the successors and assigns of the Parties but is not assignable by any Party without the prior written consent of the other Party, which consent may be granted or withheld in such Party's sole discretion; provided, however, that~~Prior to Closing, Purchaser may assign this Agreement to one or more legal entities each of which is directly or indirectly wholly owned by Purchaser provided that (i) each such entity has, in County's sole discretion, the financial wherewithal to consummate the transactions contemplated by this Agreement; (ii) any such assignment shall in no way limit, relieve or release Purchaser from the liabilities and obligations under this Agreement or any other document to be delivered in connection with Closing; (iii) any assignee shall expressly assume in writing the obligations of Purchaser hereunder pursuant to the form of assignment attached hereto as Exhibit E (the "**Assignment of Purchase Agreement**") (except that if Purchaser intends to assign its interest in this Agreement to more than one entity in accordance with this Section, the form of Assignment of Purchase Agreement shall be modified in a manner acceptable to County to reflect the multiple assignees); (iv) Purchaser shall deliver an original of the fully executed Assignment of Purchase Agreement within 3 days after the execution thereof (but in no event less than 14 days prior to Closing); and (v) at Closing, Purchaser shall execute the form of guaranty attached hereto as Exhibit F (the "**Guaranty**") (and if Purchaser does not execute the Guaranty, as guarantor, at Closing, the assignment of this Agreement shall be null and void); provided, further, that if Purchaser intends to assign its interest in this Agreement to more than one entity in accordance with this Section, the form of Guaranty shall be modified in a manner acceptable to County to reflect the multiple assignees). ~~This Section 11.6 shall survive the Closing Date.~~
- (c) After Closing, Purchaser may assign this Agreement provided that (i) during the first two (2) years after the Closing Date, County has approved such assignment, in its sole discretion, based upon the financial capability and operational, maintenance, environmental and permitting experience, history and capability of the assignee; (ii) any such assignment shall in no way limit, relieve or release Purchaser from the liabilities and obligations under this Agreement or any other document to be delivered in connection with Closing; (iii) any assignee shall expressly assume in writing the obligations of Purchaser hereunder pursuant to a form of assignment acceptable to the County, in its reasonable discretion; (iv) Purchaser shall deliver an original of the fully executed assignment agreement within 3 days after the execution thereof; (v) the guarantor(s) under the Guaranty or any other guaranty in favor of the County consents to such assignment and agrees to be bound to the terms of its guaranty and that the terms of such guaranty remain in full force and effect notwithstanding such assignment; and (vi) such

assignment occurs only in the context of a sale, transfer or conveyance of the Facilities; provided, however, that with respect to this clause (vi), Purchaser shall be free to enter into operations, vendor, design, construction and other agreements under which Purchaser contracts for the performance of some or all of its obligations under this Agreement and such agreements shall not be considered an assignment hereunder (it being further acknowledged that, in such instances, Purchaser shall remain directly liable to the County for the performance of all obligations under this Agreement).

(d) This Section 11.6 shall survive the Closing Date.

11.7 Captions.

The captions of the various Articles, Sections, Exhibits and Schedules of this Agreement have been inserted only for convenience of reference and do not modify, explain, enlarge or restrict any of the provisions of this Agreement.

11.8 Governing Law.

The validity, interpretation and effect of this Agreement are governed by and shall be construed in accordance with the Laws of the State applicable to contracts made and performed in such State and without regard to conflicts of Law doctrines except to the extent that certain matters are preempted by federal Law or are governed by the Law of the jurisdiction of organization of the respective parties.

11.9 Notices.

Any communication, notice or demand of any kind whatsoever which either Party may be required or may desire to give to or serve upon the other shall be in writing and delivered by personal service (including express or courier service), by electronic communication, whether by telex, telegram or telecopying (if confirmed in writing sent by registered or certified mail, postage prepaid, return receipt requested), or by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to County: County of Sonoma
Department of Transportation and Public Works
2300 County Center Drive, Suite B100
Santa Rosa, California 95403
Attn: Director
Phone: (707) 565-2231
Fax: (707) 565-2620

With copies to: County of Sonoma
Office of the County Counsel
575 Administration Drive, Room 105A
Santa Rosa, California 95403
Attn: County Counsel

Phone: (707) 565-2421
Fax: (707) 565-2624

(only prior to the Closing Date)

Nossaman, ~~Guthner, Knox & Elliott~~ LLP
445 S. Figueroa Street, 31st Floor
Los Angeles, California 90071
Attention: Corey A. Boock, Esq.
Phone: (213) 612-7800
Fax: (213) 612-7801

If to Purchaser:

Attention: _____
Phone: _____
Fax: _____

With copies to:

Attention: _____
Phone: _____
Fax: _____

Any Party may from time to time change its address for the purpose of notices to that Party by a similar notice specifying a new address, but no such change is effective until it is actually received by the Party sought to be charged with its contents.

11.10 Time is of the Essence.

Time is of the essence of each term of this Agreement. Without limiting the generality of the foregoing, all times provided for in this Agreement for the performance of any act shall be strictly construed.

11.11 No Third Party Beneficiaries.

Except as may be specifically set forth in this Agreement, nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any Entities other than the Parties and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any Entities to any Party, nor give any Entities any right of subrogation or action against any Party.

11.12 No Joint Venture.

Nothing contained in this Agreement creates or is intended to create an association, trust, partnership, or joint venture or impose a trust or partnership duty, obligation, or liability on or with regard to any Party.

11.13 Construction Of Agreement.

Ambiguities or uncertainties in the wording of this Agreement shall not be construed for or against any Party, but shall be construed in the manner that most accurately reflects the Parties' intent as of the date they executed this Agreement. Additionally, to the extent that this Agreement may be uncertain or ambiguous such that it requires interpretation or construction, then it shall be interpreted and construed in such a way that meets the public policy goals referenced in Recital C of this Agreement. It is the intention of the parties that any interpretation or construction shall promote the goals of this Agreement. In particular, it is the intent of Purchaser and County that the Agreement be interpreted and construed as broadly and as expansively as possible and that the County retains no liability and be fully indemnified against and released from any and all Losses related to, arising from or associated with the Assumed Liabilities.

11.14 Real Estate Reporting Person.

Purchaser is designated the "real estate reporting person" for purposes of section 6045 of title 26 of the United States Code and Treasury Regulation 1.6045-4. Upon the consummation of the transaction contemplated by this Agreement, Purchaser shall file Form 1099 information return and send the statement to County as required under the aforementioned statute and regulation.

11.15 Effect of Closing Over Known Unsatisfied Conditions or Breached Representations and Warranties.

If County or Purchaser elects to proceed with the Closing knowing of any failure to satisfy any condition precedent to Closing in its favor or the breach of any representation, warranty or covenant by the other Party, the condition that is unsatisfied or the representation, warranty or covenant which is breached as of the Closing Date shall be deemed waived by such Party, and such Party shall be deemed to fully release and forever discharge the other Party on account of any and all claims, demands, damages or charges, known or unknown, with respect to the same.

11.16 Consent to Jurisdiction.

COUNTY AND PURCHASER AGREE THAT ANY ACTION OR PROCEEDING TO RESOLVE A DISPUTE BETWEEN COUNTY AND PURCHASER CONCERNING THE INTERPRETATION, APPLICATION OR ENFORCEMENT OF THE TERMS OF THIS AGREEMENT MAY ONLY BE BROUGHT IN SUPERIOR COURT FOR THE COUNTY OF SONOMA OR U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA. EACH OF COUNTY AND PURCHASER ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE

JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON COVENANTS. IF NOT A RESIDENT OF THE STATE, PURCHASER MUST APPOINT AND MAINTAIN AN AGENT FOR SERVICE OF PROCESS IN THE STATE. NOTHING CONTAINED HEREIN SHALL MODIFY OR LIMIT THE APPLICATION OF SECTION 11.18.

11.17 No Waiver of Governmental Powers.

Purchaser understands and acknowledges that the Local Enforcement Agency (“LEA”) and certain of the other regulatory or permitting bodies involved with issuing the Required Consents and/or permitting or regulating the Property are departments or divisions within the County of Sonoma. Notwithstanding anything to the contrary contained in this Agreement, Purchaser acknowledges and agrees that nothing in this Agreement mandates or requires the LEA or such other regulatory or permitting bodies within the County of Sonoma to issue any Required Consent or future permit or to undertake any action that would waive or limit such entities’ present or future regulatory or permitting powers or authority and that, except as explicitly indicated, for all purposes under this Agreement, “County”, “Grantor”, “The County” and “Assignor,” as applicable, shall not include the LEA or such other regulatory or permitting bodies. Purchaser acknowledges and agrees that the Property shall remain subject to the periodic or annual review, as applicable, of the LEA and such other regulatory or permitting bodies. This Section 11.17 shall survive the Closing and shall control over any provision in this Agreement to the contrary.

11.18 Dispute Resolution Provisions.

This Section is referred to herein as the “Dispute Resolution Provision.” This Dispute Resolution Provision is a material inducement for the parties entering into this ~~agreement~~Agreement.

- (a) This Dispute Resolution Provision concerns the resolution of only those specific disputes, controversies or claims set forth in this Agreement that specifically reference this Section 11.18 (the “Dispute Claims”). All other claims, disputes or controversies between the Parties shall be considered outside of the Dispute Resolution Provisions and not governed hereby. The Dispute Claims can be found in the following sections of this Agreement: Section 5.1(b), Section 5.1(c) and Section 5.1(d), Section 6.17(d), Section 6.22 and Section ~~III(G)~~VII of Schedule 6.17.
- (b) At the request of any Party, any Dispute Claim shall be resolved by binding arbitration in accordance with California Code of Civil Procedure Section 1280 et. seq. (the “Act”). A Party’s request shall be pursuant to written notice.
- (c) Arbitration proceedings will be determined in accordance with the Act, the then-current JAMS Streamlined Arbitration Rules of the American Arbitration Association or any successor thereof (“AAA”), and the terms of this Dispute Resolution Provision. In the event of any inconsistency, the terms of this Dispute

Resolution Provision shall control. If AAA is unwilling or unable to (i) serve as the provider of arbitration or (ii) enforce any provision of this arbitration clause, the County may designate another arbitration organization with similar procedures to serve as the provider of arbitration.

- (d) The arbitration shall be administered by JAMS and conducted in Sonoma County, California. All Dispute Claims shall be determined by one arbitrator. The arbitrator shall have at least 5 years' direct experience with solid waste facilities and shall be independent of, and unaffiliated with, each Party (and shall not ever have been an employee of either Party, under contract with either Party in the past 5 years or acted as an arbitrator for such Party within the past 5 years). If the Parties are unable to select an arbitrator within 20 days after delivery by a Party of the written notice requesting arbitration, JAMS shall select a qualified arbitrator from its panel.
- (e) The arbitration hearings shall commence within 60 days of the demand for arbitration and close within 45 days of commencement and the decision of the arbitrator(s) shall be issued within 45 days of the close of the hearing. The Parties shall have the right to such discovery as permitted by Cal. Code of Civil Procedure §~~1283.05~~1283.05. The arbitrator(s) shall provide a concise written statement of reasons for the decision. The arbitration decision may be submitted to any court having jurisdiction to be confirmed and have judgment entered and enforced. During the pendency of any Dispute Claim under this Section 11.18, all applicable time periods directly related to the Dispute Claims shall be tolled until resolution of the Dispute Claim hereunder; provided, however, that no tolling shall apply to any matters other than those directly related to the Dispute Claim and such tolling shall not entitle a Party to breach, default or fail to perform its obligations under this Agreement.
- (f) With respect to Dispute Claims relating to valuation items under Section 5.1(b), Section 5.1(c), Section 5.1(d), Section 6.17(d), Section 6.22 or Section VII of Schedule 6.17, within 20 days after initiation of the arbitration, if not previously done so under the terms of this Agreement, the County and Purchaser shall each submit to each other and the arbitrator their respective relevant value for the item subject to the Disputed Claim, with such supporting information as is reasonably necessary to support such suggested value. If the two valuations so submitted differ by less than or equal to five percent (5%) of the higher of the two, the average of the two shall become the agreed upon amount for purposes of this Agreement and the arbitration shall not be continued. If the two valuations differ by more than five percent (5%) of the higher of the two, then the arbitrator shall make a determination of the relevant value and submit such determination to both the County and Purchaser. This third valuation will then be averaged with the closer of the two previous valuations and the result shall be the relevant value. In no event shall the resolution of a Dispute Claim result in a valuation higher than that which was set forth by Purchaser (e.g., a higher impact of a "material adverse

disclosure”, a higher tip fee adjustment or a higher reimbursement for the leachate pipeline).

- (g) With respect to a Dispute Claim relating to whether the leachate pipeline is operable pursuant to Section 6.22 or a Tip Fee Adjustment Event has occurred pursuant to Schedule 6.17, within 20 days after initiation of the arbitration, the County and Purchaser shall each submit to each other and the arbitrator its detailed analysis of the subject of the Dispute Claim, with such supporting information as is reasonably necessary to support its position.
- (h) Pursuant to the terms of each City Disposal Agreement, a Committed City may initiate or join in a Dispute Claim pursuant to Section 6.17 or Schedule 6.17; provided, however, that all Dispute Claims related to the same issue and dispute and involving the County and/or one or more Committed Cities shall be determined pursuant a single arbitration proceeding under this Section 11.18.
- (i) By agreeing to binding arbitration, the parties irrevocably and voluntarily waive any right they may have to a trial by jury as permitted by Law in respect of any Dispute Claim. **WHETHER OR NOT THE CLAIM IS DECIDED BY ARBITRATION, THE PARTIES AGREE AND UNDERSTAND THAT THE EFFECT OF THIS AGREEMENT IS THAT THEY ARE GIVING UP THE RIGHT TO TRIAL BY JURY TO THE EXTENT PERMITTED BY LAW.**
- (j) The Parties shall evenly split the cost of any arbitration under this Section 11.18.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

COUNTY: **THE COUNTY OF SONOMA,**
a political subdivision of the State of California

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Chief Deputy County Counsel

ATTEST:

By: _____
Name: _____
Title: _____

PURCHASER: _____,
a _____

By: _____
Name: _____
Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT A-1

LEGAL DESCRIPTION OF LAND: CENTRAL

The land referred to herein is situated in the State of California, County of Sonoma, Unincorporated Area, and is described as follows:

TRACT ONE:

PARCEL ONE:

BEING A PORTION OF THE-LANDS OF LUI STEFENONI, ET UX, AS RECORDED IN BOOK 570, OFFICIAL RECORDS, PAGE 28, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT CERTAIN PROPERTY SHOWN AS PARCEL 1 ON THE RECORD OF SURVEY OF THE LANDS OF LUI STEFENONI, ET UX, AS RECORDED IN BOOK 146, MAPS, PAGE 10.

EXCEPTING THEREFROM THAT PORTION LYING EASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT IN THE NORTHERLY LINE OF PARCEL I AS SHOWN ON THE RECORD OF SURVEY OF THE LANDS OF LUI STEFENONI, ET. UX., AS RECORDED IN BOOK 146 OF MAPS, PAGE 10 FROM WHICH ENGINEER'S STATION 68+51.58 P.O.C. AS SHOWN ON A MAP ENTITLED "MECHAM ROAD" DATED JUNE 1971 AND ON A MAP ENTITLED "LANDS TO BE DEEDED TO L. AND E. STEFENONI AT CENTRAL AREA DISPOSAL SITE" DATED FEBRUARY 1972 ON FILE IN THE OFFICE OF THE SONOMA COUNTY DEPARTMENT OF PUBLIC WORKS BEARS SOUTH 82°26'42" EAST, 41.38 FEET, ALSO FROM SAID POINT OF BEGINNING A ½ INCH IRON PIPE MONUMENT FOUND AND TAGGED L.S. 2798 IN SAID NORTHERLY LINE BEARS SOUTH 82°26'42" EAST, 30.49 FEET, THENCE FROM SAID POINT OF BEGINNING AND ALONG THE EASTERLY LINE OF THE LANDS OF STEVEFNONI AS DESCRIBED IN AN ORDER CONFIRMING SALE AND EXCHANGE OF ESTATE REAL PROPERTY RECORDED IN BOOK 2617 OF OFFICIAL RECORDS AT PAGE 392, SONOMA COUNTY RECORDS, THENCE ALONG SAID EASTERLY LINE SOUTHERLY ALONG A CURVE TO THE RIGHT OF RADIUS 962.00 FEET, WHOSE TANGENT BEARS SOUTH 31° 21' 59" WEST, THROUGH A CENTRAL ANGLE OF 0° 34' 12", FOR A DISTANCE OF 9.57 FEET; THENCE ALONG THE SOUTHERLY LINE OF SAID ORDER SOUTH 83° 17' 53" WEST, 12.85 FEET, TO A POINT THAT BEARS 48 FEET LEFT OF ENGINEERS CENTERLINE STATION 68+16.50, AS SAID CENTERLINE SHOWS ON A MAP TITLED MECHAM ROAD, DATED JUNE 1971, ON FILE IN THE SONOMA COUNTY DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS AS MICROFILM #2649; THENCE SOUTHERLY ALONG A CURVE TO THE RIGHT OF RADIUS 952.00 FEET, WHOSE TANGENT BEARS SOUTH 32° 25' 09" WEST, THROUGH A CENTRAL ANGLE OF 4° 56' 09", FOR A DISTANCE OF 82.01 FEET TO A POINT THAT BEARS 48 FEET LEFT OF ENGINEERS CENTERLINE STATION 67+30.35; THENCE SOUTH 37° 21' 18" WEST, 492.36 FEET, TO A POINT THAT BEARS

48.00 FEET LEFT OF ENGINEERS CENTERLINE STATION 62+00 AS SAID CENTERLINE SHOWS ON A MAP TITLED MECHAM ROAD, DATED SEPTEMBER 1976; THENCE SOUTH 36° 05' 36" WEST, 476.53 FEET TO A POINT WHICH BEARS 60 FEET LEFT OF ENGINEERS STATION 57+34.41; THENCE SOUTH 25° 31' 51" WEST, 116.03 FEET, TO A POINT THAT BEARS 60.00 FEET LEFT OF ENGINEERS STATION 56+18.38; THENCE SOUTH 31° 36' 56" WEST, 269.42 FEET TO A POINT THAT BEARS 50.00 FEET LEFT OF ENGINEERS CENTERLINE STATION 53+32.50; THENCE SOUTH 40° 49' 46" WEST, 529.85 FEET TO A POINT THAT BEARS 40.00 FEET LEFT OF ENGINEERS CENTERLINE STATION 48+02.74 AND THE BEGINNING OF A CURVE TO THE LEFT WITH A RADIUS OF 1040.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 24° 17' 00", FOR A DISTANCE OF 150.00 FEET TO THE SOUTHERLY LINE OF SAID PARCEL I.

EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED BY THE COUNTY OF SONOMA, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA, TO LOUIS STEFENONI, ET AL, BY DEED RECORDED MAY 8, 1972 IN BOOK 2625 OF OFFICIAL RECORDS, PAGE 674, UNDER RECORDER'S SERIAL NO. M 68961, SONOMA COUNTY RECORDS.

PARCEL TWO:

A STRIP OF LAND THIRTY-SIX (36) FEET IN WIDTH MEASURED AT RIGHT ANGLES, AND PARALLEL AND ADJACENT TO, THE EASTERLY LINE OF PARCEL 2 AS SHOWN ON THE RECORD OF SURVEY OF THE LANDS OF LUI STEFENONI, ET UX, AS RECORDED IN BOOK 146, MAPS, PAGE. 10, AND RUNNING FROM THE NORTHERLY BOUNDARY OF SAID PARCEL 2 TO THE SOUTHERLY BOUNDARY OF SAID PARCEL 2.

ACQUIRED FOR ROAD AND WATER-LINE PURPOSES

PARCEL THREE:

BEING A PORTION OF THE LANDS OF LUI STEFENONI, ET UX, AS DESCRIBED IN BOOK 592, OFFICIAL RECORDS, PAGE 394, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A STRIP OF LAND SIXTEEN (16) FEET IN WIDTH, MEASURED AT RIGHT ANGLES, AND PARALLEL AND ADJACENT TO THE MOST EASTERLY LINE OF THE SAID LANDS OF LUI STEFENONI, ET UX, SAID EASTERLY LINE ALSO BEING THE MOST WESTERLY LINE OF MEACHAM ROAD AS DESCRIBED IN BOOK 184, DEEDS, PAGE 33; AND RUNNING FROM THE NORTHERLY BOUNDARY OF THE LANDS OF STEFENONI, SAID BOUNDARY BEING THE SOUTHERLY BOUNDARY OF THE RIGHT OF WAY OF THE PETALUMA AND SANTA ROSA RAILROAD, TO THE SOUTHERLY BOUNDARY OF, STEFENONI, SAID BOUNDARY BEING THE NORTHEASTERLY BOUNDARY OF THE LANDS OF LUI STEFENONI, ET UX, AS DESCRIBED IN BOOK 570, OFFICIAL RECORDS, PAGE 28.

ACQUIRED FOR ROAD AND WATER LINE PURPOSES.

PARCEL FOUR:

COMMENCING AT A 3/4 INCH IRON PIPE MARKING THE SOUTHEASTERLY CORNER OF THE LANDS OF LUI STEFENONI AS DESCRIBED IN BOOK 592, OFFICIAL RECORDS, PAGE 394; THENCE S. 74° 41' 35" E., 11.95 FEET; THENCE N. 12° 42' 35" E., 1386.71 FEET; THENCE N. 20° 48' 45" E., 1138.39 FEET; THENCE N. 21° 02' 55" E., 536.24 FEET; THENCE N. 56° 23' 05" W., 20.36 FEET TO A POINT ON THE EASTERLY LINE OF THE LANDS OF STEFENONI, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUING N. 56° 23' 05" W. PARALLEL TO AND 15.00 FEET MEASURED AT RIGHT ANGLES FROM THE SOUTHWESTERLY-RIGHT-OF-WAY LINE OF THE PETALUMA AND SANTA ROSA RAILROAD, 168.76 FEET; THENCE N. 67°29' 25" W. PARALLEL AND 15.00 FEET MEASURED AT RIGHT

ANGLES FROM SAID SOUTHWESTERLY LINE OF SAID RAILROAD 147.23 FEET; THENCE S. 14° 56' 35" W., 35.00 FEET; THENCE N. 64° 08' 25" W., 50.00 FEET; THENCE N. 14° 56' 35" E., 50.00 FEET TO THE SOUTHWESTERLY LINE OF THE PETALUMA AND SANTA ROSA RAILROAD, THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY LINE TO A POINT FROM WHICH THE POINT OF BEGINNING BEARS S. 21° 10' W., 15.47 FEET; THENCE S. 21° 10' W., 15.47 FEET TO THE POINT OF BEGINNING

ACQUIRED FOR WELL SITE, ACCESS, AND UTILITY PURPOSES. BASIS OF BEARINGS: HAPPY ACRES RECORD OF SURVEY.

APN: 024-080-019

TRACT TWO:

COMMENCING AT THE MOST NORTHERLY POINT OF THE PROPERTY OF THE HENRY HAMMELL COMPANY, A CORPORATION, AT PETALUMA, SONOMA COUNTY, CALIFORNIA, SAID POINT BEING IN THE MIDDLE OF A ROAD LEADING EASTERLY TO THE STONY POINT-BLOOMFIELD COUNTY ROAD; THENCE FOLLOWING ALONG THE MIDDLE OF SAID ROAD AS FOLLOWS, TO WIT; SOUTH 37 DEGREES 30 MINUTES EAST, 475.2 FEET; SOUTH 55 DEGREES EAST, 66 FEET; SOUTH 65 DEGREES 15 MINUTES EAST, 66 FEET; SOUTH 79 DEGREES EAST, 66 FEET; SOUTH 85 DEGREES 15 MINUTES EAST, 66 FEET; NORTH 87 DEGREES 30 MINUTES EAST, 66 FEET; NORTH 84 DEGREES 45 MINUTES EAST, 66 FEET AND NORTH 80 DEGREES 30 MINUTES EAST, 258.2 FEET; THENCE LEAVING SAID ROAD SOUTH 7 DEGREES 45 MINUTES EAST, 933.3 FEET; THENCE NORTH 89 DEGREES 30 MINUTES WEST, 1467 FEET TO AN IRON PIPE; THENCE NORTH 9 DEGREES 30 MINUTES WEST 1062 FEET TO AN IRON PIPE; THENCE NORTH 67 DEGREES 15 MINUTES EAST, 660 FEET TO THE POINT OF COMMENCEMENT. BEARINGS TRUE.

BEING A PORTION OF THE "RANCHO ROBLAR DE LA MISERIA".

A.P. NO. 022-020-003

TRACT THREE:

LYING WITHIN THE RANCHO ROBLAR DE LA MISERIA AND BEING A PORTION OF THE LANDS OF EUGENE CAMOZZI AND LYDIA CAMOZZI, HUSBAND AND WIFE AS COMMUNITY PROPERTY, AS TO AN UNDIVIDED 1 /2 INTEREST; AND ROBERT CAMOZZI AND GLORIA CAMOZZI, HUSBAND AND WIFE AS JOINT TENANTS, AS TO AN UNDIVIDED 1 /2 INTEREST AS DESCRIBED IN DEEDS RECORDED AS DOCUMENT NUMBER 1991 0038893 AND DOCUMENT NUMBER 1994 0102345 OF OFFICIAL RECORDS, SONOMA COUNTY RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

PARCEL A:

COMMENCING AT A POINT IN THE NORTHERLY LINE OF PARCEL 1 AS SHOWN ON THE RECORD OF SURVEY OF LANDS OF LUT STEFENONI, ET UX, AS RECORDED IN BOOK 146, OF MAPS, PAGE 10 FROM WHICH ENGINEER'S STATION 68 + 51.58 P.O.C. AS SHOWN ON A MAP ENTITLED "MECHAM ROAD" DATED JUNE 1971 AND ON A MAP ENTITLED "LANDS TO BE DEEDED TO L. AND E. STEFENONI AT CENTRAL AREA DISPOSAL SITE DATED FEBRUARY 1972 OF FILE IN THE OFFICE OF THE SONOMA COUNTY DEPARTMENT OF PUBLIC WORKS BEARS 82° 26' 42" EAST, 41.38 FEET; ALSO FROM SAID POINT OF COMMENCEMENT AT A 1 /2 INCH IRON PIPE MONUMENT FOUND AND TAGGED L.S. 2798 IN SAID NORTHERLY LINE BEARS SOUTH 82° 26' 42" EAST, 30.49 FEET; THENCE FROM SAID POINT OF COMMENCEMENT AND ALONG SAID NORTHERLY LINE NORTH 82° 26' 42" WEST, 1056.75 FEET TO ANOTHER 1/2 INCH IRON PIPE MONUMENT FOUND AND TAGGED L.S. 2798 MARKING AN ANGLE POINT IN SAID NORTHERLY LINE; SAID 1/2 INCH IRON PIPE MONUMENT FOUND BEING DESIGNATED AS POINT "A"; THENCE NORTH 44° 47' 18" WEST, 15.21 FEET, TO A #5 REBAR MONUMENT WITH A 2 INCH CAP STAMPED SONOMA COUNTY DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS AND THE POINT OF BEGINNING; THENCE NORTH 44° 47' 18" WEST, 1107.23 FEET, TO A #5 REBAR MONUMENT WITH A 2 INCH CAO STAMPED SONOMA COUNTY DEPARTMENT OF TRANSPORTATION OF PUBLIC WORKS; THENCE NORTH 04° 52' 58" WEST 588.72 FEET TO THE POINT OF BEGINNING.

PARCEL B:

COMMENCING AT POINT "A" AS DESIGNATED IN PARCEL "A"; THENCE FROM SAID POINT OF COMMENCEMENT AND ALONG ABOVE SAID NORTHERLY LINE NORTH 44° 47' 18" WEST, 494.47 FEET TO A 3/4 INCH IRON PIPE MONUMENT SET AND MARKED "CSSC"; SAID 3/4 INCH IRON PIPE SET BEING THE TRUE POINT OF

BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL; THENCE FROM SAID POINT OF BEGINNING AND CONTINUING ALONG SAID NORTHERLY LINE NORTH 44° 47' 18" WEST, 406.40 FEET TO ANOTHER 3/4 INCH IRON PIPE MONUMENT SET AND MARKED "CSSC"; THENCE LEAVING SAID NORTHERLY LINE SOUTH 7° 19' 55: WEST, 219.24 FEET TO ANOTHER 3/4 INCH IRON PIPE MONUMENT SET AND MARKED "CSSC"; THENCE SOUTH 77° 16' 24" EAST, 322.20 FEET TO THE POINT OF BEGINNING.

A.P. NO.: 024-080-030

EXHIBIT A-2

LEGAL DESCRIPTION OF LAND: ANNAPOLIS

**[NOTE: THIS LEGAL DESCRIPTION WILL BE MODIFIED PRIOR TO PROPOSALS
BEING DUE TO REFLECT THE SEPARATION OF THE TRANSFER STATION
FROM THE ADJACENT CLOSED LANDFILL --**

The land referred to herein is situated in the State of California, County of Sonoma,
Unincorporated Area, and is described as follows:

BEING A PORTION OF THE LANDS OF JESSIE A. EVANS AS RECORDED IN BOOK 2086
OF OFFICIAL RECORDS, PAGE 336, AND BEING MORE PARTICULARLY DESCRIBED
AS FOLLOWS:

THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 10
NORTH, RANGE 13 WEST, M.D.B. & M., AS SHOWN ON THE RECORD OF SURVEY
FILED IN THE OFFICE OF THE COUNTY RECORDER ON NOVEMBER 12, 1969, IN
BOOK 137 OF MAPS, AT PAGE(S) 31, SONOMA COUNTY RECORDS.

APN: 123-030-004

EXHIBIT A-3

LEGAL DESCRIPTION OF LAND: GUERNEVILLE

[NOTE: THIS LEGAL DESCRIPTION WILL BE MODIFIED PRIOR TO PROPOSALS BEING DUE TO REFLECT THE SEPARATION OF THE TRANSFER STATION FROM THE ADJACENT CLOSED LANDFILL]

The land referred to herein is situated in the State of California, County of Sonoma, Unincorporated Area, and is described as follows:

BEING A PARCEL OF LAND IN THE SOUTH 1/2 OF SECTION 34, TOWNSHIP & NORTH RANGE 10 WEST, MDB&M, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 72A OF SUBDIVISION NO. 1 NOEL HEIGHTS AS RECORDED IN BOOK 48 OF MAPS, PAGE 22 AND 23, SONOMA COUNTY RECORDS; THENCE ALONG THE BOUNDARY OF SAID SUBDIVISION THE FOLLOWING COURSES AND DISTANCES, NORTH 27° 45' WEST, 322.07 FEET, NORTH 61° 33' WEST, 54.25 FEET, NORTH 85° 18' WEST, 294.10 FEET, SOUTH 12° 47' EAST, 33.00 FEET, SOUTH 77° 13' WEST, 20.00 FEET; THENCE CURVING TO THE RIGHT FROM A TANGENT WHICH BEARS SOUTH 12° 47' EAST, ON A RADIUS OF 15 FEET THROUGH AN ANGLE OF 100° 53' FOR A DISTANCE OF 26.41 FEET, SOUTH 88° 06' WEST, 93.64 FEET, NORTH 49° 56' EAST, 18.82 FEET; THENCE CURVING TO THE LEFT ON A RADIUS OF 27.87 FEET THROUGH AN ANGLE OF 150° 07' FOR A DISTANCE OF 73.02 FEET; THENCE LEAVING SAID SUBDIVISION BOUNDARY NORTH 10° 00' EAST, ALONG THE WESTERLY BOUNDARY OF EUGENE DAGNELLO AS RECORDED IN BOOK 628 OFFICIAL RECORDS, PAGE 263, SONOMA COUNTY RECORDS, 455.50 FEET TO THE NORTHERLY LINE OF SAID EUGENE DAGNELLO; THENCE ALONG SAID NORTHERLY LINE THE FOLLOWING COURSES AND DISTANCES, NORTH 70° 43' EAST, 126.20 FEET, NORTH 83° 15' EAST, 172.70 FEET, NORTH 43° 53' EAST, 20.20 FEET, NORTH 87° 30' EAST, 103.30 FEET, NORTH 79° 50' EAST, 167.90 FEET, NORTH 71° 40' EAST, 106.04 FEET MORE OR LESS TO A POINT ON THE WEST LINE OF THE S.E. 1/4 OF SECTION 34, TOWNSHIP 8 NORTH RANGE 10 WEST, AND THE SOUTHEAST CORNER OF THE LANDS OF R. N. N. M. TURSTALL AS RECORDED IN BOOK 860, OFFICIAL RECORDS, PAGE 328, AND FROM WHICH A 3/4" IRON PIPE MARKING THE ACCEPTED CENTER OF SAID SECTION 34 BEARS NORTH 1° 56' 40" WEST, 274.32 FEET; THENCE SOUTH 1° 56' 40" EAST, 3.70 FEET TO THE SOUTHWEST CORNER OF THE LANDS OF J. A. GRAHAM ET AL AS RECORDED IN BOOK 889, OFFICIAL RECORDS, PAGE 462; THENCE ALONG THE LINE COMMON TO THE LANDS OF EUGENE DAGNELLO ET AL AS RECORDED IN BOOK 445 OFFICIAL RECORDS, PAGE 277 AND SAID J. A. GRAHAM ET AL THE FOLLOWING COURSES AND DISTANCES: NORTH 77° 08' EAST, 212.20 FEET, NORTH 65° 38' EAST, 144.30 FEET, SOUTH 80° 37' EAST, 99.70 FEET, SOUTH 55° 07' EAST, 134.60 FEET; NORTH 68° 28' EAST, 312.30 FEET; THENCE LEAVING SAID COMMON LINE SOUTH 19° 55' EAST, 424.61 FEET; THENCE SOUTH 58° 42' EAST, 129.68 FEET; THENCE SOUTH 0° 04' EAST, 303.77 FEET; THENCE SOUTH 14° 51' 30" EAST, 383.86 FEET; THENCE SOUTH 88° 59' WEST, 1156.89 FEET; THENCE NORTH 57° 39' 20" WEST, 199.95 FEET TO THE POINT OF BEGINNING.

APN: 085-090-002 and 003

EXHIBIT A-4

LEGAL DESCRIPTION OF LAND: HEALDSBURG

[NOTE: THIS LEGAL DESCRIPTION WILL BE MODIFIED PRIOR TO PROPOSALS BEING DUE TO REFLECT THE SEPARATION OF THE TRANSFER STATION FROM THE ADJACENT CLOSED LANDFILL]

The land referred to herein is situated in the State of California, County of Sonoma, Unincorporated Area, and is described as follows:

PARCEL ONE:

BEING A PORTION OF SOTOYOME RANCHO, A PORTION OF SECTION 4, TOWNSHIP 9 NORTH, RANGE 9 WEST, M.D.B. & M., A PORTION OF THE LANDS OF EMIL E. PASSALACQUA AS RECORDED IN BOOK 1740 OF OFFICIAL RECORDS, PAGE 63, AND A PORTION OF THE LANDS OF EMIL E. PASSALACQUA AS SHOWN ON A RECORD OF SURVEY FILED IN THE OFFICE OF THE COUNTY RECORDER IN BOOK 123 OF MAPS, AT PAGE(S) 50, SONOMA COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1 INCH IRON PIPE MONUMENT WITH A BRASS CAP, MARKING THE SOUTHWEST CORNER OF THE ABOVE SAID LANDS OF PASSALACQUA AS SHOWN ON SAID RECORD OF SURVEY; THENCE NORTH 89° 32' WEST, 3331.28 FEET TO A 1 INCH IRON PIPE MONUMENT WITH A BRASS CAP; THENCE NORTH 41° 12' WEST, 50.16 FEET TO A 1 INCH IRON PIPE MONUMENT WITH A BRASS CAP; THENCE NORTH 23° 18' EAST, 315.90 FEET; THENCE SOUTH 89° 32' EAST, 3242.71 FEET TO A POINT IN THE EASTERLY LINE OF THE SAID LANDS OF PASSALACQUA AS SHOWN ON SAID RECORD OF SURVEY; THENCE SOUTH 0° 34' 58" WEST ALONG SAID EASTERLY LINE, 328.62 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

BEING A PORTION OF SOTOYOME RANCHO, A PORTION OF SECTION 4, TOWNSHIP 9 NORTH, RANGE 9 WEST, M.D.B. & M., A PORTION OF THE LANDS OF EMIL E. PASSALACQUA AS RECORDED IN BOOK 1740 OF OFFICIAL RECORDS, PAGE 63, AND A PORTION OF THE LANDS OF EMIL E. PASSALACQUA AS SHOWN ON A RECORD OF SURVEY FILED IN THE OFFICE OF THE COUNTY RECORDER IN BOOK 123 OF MAPS, AT PAGE(S) 50, SONOMA COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY LINE OF THE ABOVE SAID LANDS OF PASSALACQUA AS SHOWN ON SAID RECORD OF SURVEY FROM WHICH A 1 INCH IRON PIPE MONUMENT WITH A BRASS CAP MARKING THE SOUTHEAST CORNER OF THE ABOVE SAID LANDS OF PASSALACQUA AS SHOWN ON SAID RECORD OF SURVEY BEARS SOUTH 0° 34' 58" WEST, 328.62 FEET; THENCE FROM SAID POINT OF BEGINNING NORTH 89° 32' WEST, 3242.71 FEET; THENCE NORTH 23° 18' EAST, 317.92

FEET TO A 1 INCH IRON PIPE MONUMENT WITH A BRASS CAP; THENCE SOUTH 59° 26' 30" EAST, 460.05 FEET TO A 1 INCH IRON PIPE MONUMENT WITH A BRASS CAP; THENCE NORTH 36° 18' EAST, 392.19 FEET; THENCE SOUTH 89° 32' EAST, 2492.46 FEET TO A POINT IN THE EASTERLY LINE OF SAID LANDS OF PASSALACQUA AS SHOWN ON SAID RECORD OF SURVEY; THENCE SOUTH 0° 34' 58" WEST ALONG SAID EASTERLY LINE, 380.31 FEET TO THE POINT OF BEGINNING.

APN: 091-070-022 and 02

EXHIBIT A-5

LEGAL DESCRIPTION OF LAND: SONOMA

[NOTE: THIS LEGAL DESCRIPTION WILL BE MODIFIED PRIOR TO PROPOSALS BEING DUE TO REFLECT THE SEPARATION OF THE TRANSFER STATION FROM THE ADJACENT CLOSED LANDFILL]

The land referred to herein is situated in the State of California, County of Sonoma, Unincorporated Area, and is described as follows:

LYING WITHIN THE PETALUMA RANCHO AND BEING A PORTION OF THE LANDS OF ROSE P. CABRAL AS RECORDED IN BOOK 2460, OFFICIAL RECORDS, PAGE 47, SONOMA COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 3/4" IRON PIPE MARKING THE SOUTHWESTERLY CORNER OF PARCEL B AS DESCRIBED IN DEED RECORDED IN BOOK 3650, OFFICIAL RECORDS, PAGE 780, SONOMA COUNTY RECORDS, AND AS DELINEATED ON THE RECORD OF SURVEY AS RECORDED IN BOOK 275, OF MAPS, PAGE 40, SONOMA COUNTY RECORDS; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL B, N 48°41'54" W., 543.41 FEET TO THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL; THENCE CONTINUING ALONG SAID WESTERLY LINE N 48°41'54" W., 312.66 FEET TO A FOUND 1/2" IRON PIPE TAGGED L.S. 3227; THENCE N 64°19'59" W., 525.85 FEET TO A FOUND 1/2" IRON PIPE TAGGED L.S. 3227; THENCE S 22°28'20" W., 270.34 FEET; THENCE S 20°14'19" E., 286.00 FEET; THENCE S 87°55'23" E., 144.85 FEET; THENCE N 69°45'41" E., 309.87 FEET; THENCE S 86°18'13" E., 278.32 FEET TO THE POINT OF BEGINNING.

APN: 142-051-020

EXHIBIT B

FORM OF DEED

**RECORDING REQUESTED BY,
WHEN RECORDED MAIL TO, AND
MAIL TAX STATEMENTS TO:**

GRANT DEED
(insert name of Facility)

The undersigned Grantor declares that Documentary Transfer Tax is not part of the public records.

THIS GRANT DEED (this “**Deed**”) is made this ___ day of _____, 20___, by **THE COUNTY OF SONOMA**, a political subdivision of the State of California, (“**Grantor**”), in favor of _____, a _____ (“**Grantee**”).

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor hereby **GRANTS** unto Grantee, that certain improved real property located in the County of Sonoma, State of California and more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the “**Property**”) **SUBJECT TO** the Permitted Encumbrances (as defined in that certain Purchase and Sale Agreement dated as of _____, 2008 (the “**Purchase Agreement**”), by and between Grantor and Grantee, as the same may have been amended) and the reservations described below.

During the period from and after the date hereof through and until two years after the date hereof, Grantee may only sell, convey and transfer the Property provided that Grantor has approved such assignment, in its sole discretion, based upon the financial capability and operational, maintenance, environmental and permitting experience, history and capability of the transferee and the sale, conveyance and transfer otherwise satisfies the terms of Section 11.6 of the Purchase Agreement. After the expiration of such two year period, upon request from Grantee, Grantor shall execute a quitclaim deed acceptable to Grantor that quitclaims and releases unto Grantee all of Grantor’s right to approve such transfers and transferees (but shall otherwise not modify the provisions of the Purchase Agreement regarding assignment or otherwise).

[TRANSFER STATIONS ONLY:] If the Property is no longer used by Grantee or any of its successors and assigns for solid waste purposes (including any incidental use related thereto, such as a quarrying operation, compost facility, household hazardous program facility, greenhouse, recycling facility, materials recovery facility, renewable energy facility, waste conversion facility, waste collection business, water and wastewater treatment facility relating to the primary use and vehicle and equipment maintenance facility (for vehicles and equipment

relating to the solid waste purpose)), then the Property shall revert to the Grantor and the Grantor shall have a right of reentry and power of termination to require Grantee to forfeit and surrender the estate granted to it hereunder. Notwithstanding the foregoing, the foregoing right of reentry shall not become effective if the Grantee or any of its successors and assigns has obtained all necessary approvals from the County of Sonoma and other governmental authorities with jurisdiction that are required to bring the Property into full compliance with all subdivision and zoning standards then in existence prior to the change in use. As used herein, temporary closures of the Property not exceeding 180 consecutive days, closures resulting from the need to perform maintenance, capital improvements, reconstruction or rehabilitation (provided that such work is being undertaken) or other closures resulting from incidents beyond the reasonable control of Grantee shall not be considered a use or change in use permitting a right of reentry. If, at any time after the date hereof, Grantee obtains all necessary approvals from the County of Sonoma and other governmental authorities with jurisdiction that are required to bring the Property into full compliance with all subdivision and zoning standards then in existence, upon request from Grantee and so long as Grantor has not exercised the foregoing right of reentry and power of termination, Grantor shall execute a quitclaim deed acceptable to Grantor that quitclaims and releases unto Grantee all of Grantor's right, title and interest in and to the foregoing right of reentry and power of termination.

[TRANSFER STATIONS ONLY:] Grantor hereby reserves the easements described on Exhibit A attached hereto and as depicted on Exhibit B attached hereto. Grantor shall retain ownership, access to and, except as set forth in the Purchase Agreement, liability for all existing monitoring wells, remediation facilities, maintenance equipment, piezometers, methane detection probes and similar or related equipment located on the Property. The easements include the right of Grantor to access the portions of the Property reserved in connection and to undertake monitoring, maintenance, investigation and remediation activities at the Property relating to the adjacent closed landfills. Such rights are exercisable at all times during regular hours upon no less than one day's advance notice and, as necessary, in an emergency or in the event of imminent threat to public health, safety or the environment. Grantor's rights to access include the rights of ingress and egress across and through the Property, and Grantor shall be entitled to repair, replace, test, inspect, investigate, use, operate and assess all of the current monitoring, maintenance and remediation facilities owned or operated by Grantor at the Property. In the exercise of its rights under this Section, Grantor shall utilize Commercially Reasonable Efforts (as defined in the Purchase Agreement) to avoid material impact or interference on Grantee's solid waste operations at the Property. In the event of any alleged material impact or interference, Grantee reserves the right to initiate a claim and action for inverse condemnation against Grantor. Grantor's easement rights under this Deed shall be assignable to another public agency.

[signature on next page]

IN WITNESS WHEREOF, Grantor has caused its duly authorized representative to execute this Deed as of the date first above written.

GRANTOR: **THE COUNTY OF SONOMA,**
a political subdivision of the State of California

By: _____
Name: _____
Title: _____

ATTEST: By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Chief Deputy County Counsel

State of California)
)
County of Sonoma)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT A

Legal Description of Property

[Legal description from Purchase Agreement for each Facility to be attached]

EXHIBIT B [for Transfer Station Deeds only]

Depiction of Reserved Easements

[TO COME]

**STATEMENT OF TAX DUE AND REQUEST
THAT TAX DECLARATION NOT BE MADE A PART
OF THE PERMANENT RECORD
IN THE OFFICE OF THE
COUNTY RECORDER**

(Pursuant to Cal. Rev. and Tax Code Section 11932)

To: Recorder
County of Sonoma

Request is hereby made in accordance with the provision of the Documentary Transfer Tax Act that the amount of tax due not be shown on the original document which names:

THE COUNTY OF SONOMA, a political subdivision of the State of California,
as Grantor,

and

_____, a _____, as Grantee.

The property described in the accompanying document is located in Sonoma County, California.

The amount of tax due to the County of Sonoma on the accompanying document is
_____ and No/100 Dollars (\$_____.00), computed on full value of property
conveyed.

GRANTOR:

THE COUNTY OF SONOMA,
a political subdivision of the State of California

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

EXHIBIT C

FORM OF CC&Rs

RECORDING REQUESTED BY:

County of Sonoma

AND WHEN RECORDED MAIL TO:

County of Sonoma
Department of Transportation and Public
Works
2300 County Center Drive, Room B-100
Santa Rosa, California 95403
Attention: Director

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
[INSERT FACILITY NAME]

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
(this "Declaration") is dated as of _____, 20__, and is made by
_____, a _____ ("**Declarant**"), as owner of the property
located in the County of Sonoma, State of California, and more particularly described in Exhibit
A attached hereto and by this reference made a part hereof (the "**Property**");

RECITALS

A. Declarant has purchased the Property from The County of Sonoma, a political subdivision of the State of California (the "**County**") pursuant to that certain Purchase and Sale Agreement dated as of _____ (as amended from time to time, the "**Purchase Agreement**"), by and between the County and _____, a _____ (which has assigned to Declarant its right, title and interest in and to the Purchase Agreement as it relates to the _____ *[insert facility name]* (as defined in the Purchase Agreement) and the assets related to the _____ *[insert facility name]*).

B. The Property has been used for more than 20 years exclusively for non-residential uses, primarily for solid waste landfill, recycling, transfer station and industrial uses.

C. Such uses, and the character and nature of the land uses in the vicinity of the Property, make the Property unsuitable for certain future uses more particularly described herein.

D. Declarant and the County desire to prohibit the present and future use of the Property for such uses in accordance with the terms and provisions of this Declaration.

E. As a material condition to the County's execution of the Purchase Agreement and conveyance of the Property to Declarant, Declarant agreed to execute this Declaration.

ARTICLE 1. DEFINITIONS

1.1 Definitions. Unless the context requires otherwise, the terms defined in this Article I shall, for all purposes of this Declaration, have the meaning herein specified.

“Claim of Lien” is defined in Section 5.3 below.

“County” shall mean the County of Sonoma, California.

“Declarant” shall mean _____, its Successors and assigns.

“Declaration” shall mean this Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

“~~Effective~~Execution Date” shall mean the date of recordation of this Declaration.

“EIR” shall mean that certain environmental impact report that has been prepared pursuant to the California Environmental Quality Act, as amended or recodified from time to time, and all supplements, appendices, and conditions thereto that have been filed with the County in connection with the use of the Property as a [transfer station/landfill] and all amendments and modifications thereto in connection with its final certification by the County.

“Environmental Laws” shall mean any federal, state or local law, ordinance or regulation relating to the environmental conditions on, under or about the Property, including, without limitation, Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Oil Pollution Act (33 U.S.C. § 2701 et seq.) and the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 et seq.), the Porter-Cologne Water Quality Control Act (Cal. Wat. Code § 13020, et seq.), the Safe Drinking Water and Toxic Enforcement Act of 1986 (Cal. Health & Safety Code § 25249.5, et seq.), the Hazardous Substance Account Act (Cal. Health & Safety Code § 25300, et seq.), California Integrated Waste Management Act of 1989 (Cal. Public Resources Code § 40000 et seq.), Cal. Health & Safety Code § 39000 et seq., 14 Cal. Code of Regulations § 18010 et seq., 23 Cal. Code of Regulations § 2510 et seq. and the Hazardous Waste Control Act (Cal. Health & Safety Code § 25100, et seq.); and any regulations promulgated under any of the foregoing.

“Event of Default” is defined in Section 5.1 below.

“Indebtedness” is defined in Section 5.2 below.

“Ongoing Obligations” is defined in Section 3.3 below.

“Permits” shall mean, collectively:

(i) any and all applicable federal, state and local laws, statutes, regulations, rules and ordinances, as in effect from time to time, including, without limitation, Environmental Laws and laws, statutes, regulations, rules and ordinances relating to air emissions, storage and use of hazardous or toxic substances, generation, treatment, storage, and disposal of solid and/or hazardous wastes, wastewater discharges and similar environmental matters;

(ii) this Declaration;

(iii) the EIR;

(iv) Solid Waste Facility Permit Number [_____]*[to be inserted for each Facility]*, as amended, issued by the California Integrated Waste Management Board;

(v) any and all governmental permits, licenses, consents, certificates, authorizations, waivers, approvals and variances necessary for the ownership, operation and management of the Property; and

(vi) In the case of each of the items set forth in clauses (i)-(v), inclusive, all amendments, modifications, reissuances, successors, enactments, substitutions and replacements thereof.

“Permitted Use” is defined in Section 4.1 below.

“Property” is defined above.

“Purchase Agreement” is defined in Recital A above.

“Regulations” shall mean all present and future applicable laws, statutes, codes, ordinances, rules, regulations, limitations, restrictions, orders, judgments, and other requirements of any governmental or quasi-governmental authority having jurisdiction over the Property, Improvements, Declarant, including, without limitation, Environmental Laws.

“Successor” shall mean any person or entity that (i) acquires Declarant; (ii) acquires substantially all of the assets of Declarant; (iii) merges, reorganizes or consolidates with or into Declarant; (iv) completes a de factor merger with Declarant; or (v) acquires control of Declarant or the general partner of Declarant. For the purposes of this definition, “control”, when used with respect to any specified person or entity, means the power to direct the management or policies of the specified person or entity, directly or indirectly, whether through the ownership of voting securities, partnership or limited liability company interests, by contract or otherwise.

ARTICLE 2. PROPERTY SUBJECT TO THIS DECLARATION

2.1 General Declaration. Declarant hereby declares that the Property is and shall be, conveyed, hypothecated, encumbered, leased, occupied, operated, built upon or otherwise used, improved, or transferred in whole or in part subject to this Declaration, provided further that the exercise of the rights granted herein shall not substantially impair the Permitted Use of the Property consistent with this Declaration. All of the covenants and restrictions contained in this Declaration are declared and agreed to be in furtherance of the use, operation, preservation and

maintenance of the Property and to ensure that the Property is used, operated, preserved and maintained in accordance with the Regulations and the Permits. Declarant hereby reserves the right of Declarant and its agents, at reasonable times, to enter upon the Property to inspect the operations during customary business hours to insure the Property and Owner are in compliance with this Declaration.

All of the covenants and conditions contained in this Declaration shall run with the Property for all purposes and shall be binding upon Declarant and its Successors and assigns and shall inure to the benefit of Declarant, the County and their respective successors and assigns.

ARTICLE 3. MANAGEMENT AND MAINTENANCE; POST-CLOSING OBLIGATIONS

3.1 General. Declarant shall at all times operate, use, maintain, manage and preserve, or cause the maintenance, management and preservation of the Property for the Permitted Use in compliance with the Regulations and Permits, including but not limited to Environmental Laws.

3.2 Gases. [LANDFILL ONLY]: Declarant shall be responsible for and shall control any and all migration of all methane, carbon dioxide and other gases produced by decomposition of refuse and other material within the Property and shall further comply with all Regulations and Permits with respect thereto. All monitoring wells for water and migrating gases will be monitored as required by the Permits and Regulations (but no less frequently than quarterly), at Declarant's expense, and Declarant shall promptly provide the County (at no expense to the County) with copies of all said testing reports, results and other communications with respect to the same. Declarant shall have the right during (so long as Declarant is not in default of this Declaration) to develop and produce methane gas and to grant licenses to others for the same.

3.3 Post-Closing Obligations of Declarant. Pursuant to the Purchase Agreement, Declarant has agreed to substantial obligations that affect the use, operation, management, maintenance and condition of the Property after the date upon which Declarant acquires title to the Property. Such obligations are set forth, in part, in Exhibit C attached hereto (the "**Ongoing Obligations**") and Declarant, its Successors and assigns and subsequent owners of the Property, shall be deemed to be the "Purchaser" thereunder. It is the intent of Declarant and the County that that the Ongoing Obligations be deemed covenants running with the land and be binding upon Declarant and all successors, transferees, assigns and subsequent owners of the Property for so long as such Ongoing Obligations remain outstanding. Any interest in the Property held or acquired by such successors, transferees, assigns and subsequent owners of the Property shall be expressly subject to the Ongoing Obligations and each of such successors, transferees, assigns and subsequent owners of the Property shall be bound to comply with the Ongoing Obligations in the same manner as Declarant.

ARTICLE 4. PERMITTED AND PROHIBITED USES

4.1 Permitted Use. Subject to applicable law and obtaining any required Permits, the Property shall be used solely for the purpose of operating a [**FOR LANDFILL**: non-hazardous Class III solid waste landfill, cogeneration plant, recycling area, household hazardous waste facility and compost facility][**FOR TRANSFER STATIONS**: transfer station] in compliance and accordance with the Permits, Regulations, and such future laws and governmental permits as may

impose more stringent or restrictive conditions on the use of the Property. Subject to applicable law and obtaining any required Permits, Declarant may also use the Property for such uses as are incidental and related to the primary use of the Property as a [**FOR LANDFILL:** non-hazardous Class III solid waste landfill, cogeneration plant, recycling area, household hazardous waste facility and compost facility][**FOR TRANSFER STATIONS:** transfer station], such as a quarrying operation, compost facility, household hazardous program facility, greenhouse, recycling facility, materials recovery facility, renewable energy facility, waste conversion facility, waste collection business, water and wastewater treatment facility relating to the primary use and vehicle and equipment maintenance facility (for vehicles and equipment relating to such primary use). All such operations, activities, use and limitations on the use of the Property are hereinafter referred to as the “Permitted Use”. Nothing contained herein shall limit or modify applicable law or the permitting or regulatory authority of any governmental authority, including the County. Declarant acknowledges and agrees that nothing in this Agreement mandates or requires any such governmental authority to issue any Permit or to undertake any action that would waive or limit such governmental authorities’ present or future regulatory or permitting powers or authority.

4.2 Changes in Permitted Use. The County shall also have the right to review and approve all proposed changes to the “class” of the landfill, which approval may be withheld in the County’s sole discretion.

4.3 Prohibited Uses. Declarant shall not use or permit the use of the Property for any purposes other than the Permitted Use under this Declaration without obtaining the prior written consent of the County, which may be withheld in the County’s sole discretion. Notwithstanding anything to the contrary contained in this Declaration, in no event shall Declarant use all or any portion or any interest in the Property for any of the prohibited uses set forth on Exhibit B.

ARTICLE 5.

EVENTS OF DEFAULT AND REMEDIES

5.1 Events of Default. It shall be an event of default (“**Event of Default**”) under this Declaration if Declarant fails to observe and perform any provision of this Declaration to be observed or performed by Declarant if such failure continues for thirty (30) days after written notice thereof by the County; provided, however, that if the nature of such default is such that: (i) the same is (x) a violation of the obligation to prevent litter or debris from the operation of the Property from depositing offsite, or on or along nearby rights of way; (y) an emergency or (z) an environmental issue, including, but not limited to, an existing or threatened violation of Environmental Law, that must be cured immediately to prevent damage to the Property or any adjacent property, then Declarant must cure the Event of Default within 48 hours after notice or obtaining knowledge thereof, whichever is sooner; or (ii) the same cannot reasonably be cured within such thirty (30) day period, then Declarant shall not be deemed to be in default if Declarant shall commence such cure within such period and thereafter diligently prosecute the same to completion.

5.2 The County’s Right to Cure Default. If an Event of Default by Declarant has occurred under this Declaration pursuant to Section 5.1 above, then the County shall have the right and power, but not the obligation, to pay all amounts and to perform or cause to be performed all acts necessary to remedy the Event of Default by Declarant. If the County elects to remedy any such Event of Default, Declarant, as applicable, shall be liable to any such remedying party for an amount equal to the sum of the following: (i) any amounts reasonably expended by

any such party to so cure the Event of Default; (ii) an administrative fee for any such party's services with respect to such remedial work equal to 15% of the cost of such work; (iii) reasonable attorneys' fees and disbursements; (iv) all costs of collection of the assessment or enforcement of the Claim of Lien created pursuant to Section 5.3 hereof, including without limitation, court costs, recording fees and title fees; (v) such other amounts as may be due and payable under this Declaration whether incurred or accruing before or after recordation of the Claim of Lien pursuant to Section 5.3 hereof; and (vi) interest on the aggregate of the amounts listed as clauses (i)-(v), inclusive, above at the rate of ten percent (10%) per annum, compounded monthly, but in no event greater than the maximum rate allowed by law from the date each such cost was incurred by any such party until paid in full (the foregoing are collectively referred to herein as the "**Indebtedness**"). If Declarant, as applicable, fails to pay the Indebtedness to any such party within 30 days after delivery of a written demand from the County setting forth the amount of the Indebtedness, which demand shall include a breakdown of amounts constituting the Indebtedness, then at any time thereafter any such party may pursue any of the remedies set forth in Section 5.3 below.

5.3 Remedies. Upon the occurrence of an Event of Default, the County shall have the rights and remedies set forth in this Section 5.3. All remedies of the County are cumulative.

A. Enforcement by Suit. If an Event of Default by Declarant under this Declaration has occurred, the County may commence and maintain a suit or action against Declarant for damages, declaratory or injunctive relief, specific performance or abatement of nuisance or waste or any other legal or equitable relief permitted under applicable law.

B. Enforcement by Lien. In addition to the other rights and remedies under this Section 4.3 and provided that (i) the County has not received reimbursement in immediately available funds of the costs incurred by or on behalf of the County to cure an Event of Default as set forth in Section 5.2 or (ii) Declarant has not delivered to the County a corporate surety bond, in form and substance acceptable to the County, issued by a corporate surety with an investment grade rating, in an amount equal to 125% of the County's reasonable estimate of the cost of curing such Event of Default, there shall be created a claim of lien, with power of sale, on the Property to secure payment to the County of any and all Indebtedness. Thereafter, the County may elect to record a claim of lien ("**Claim of Lien**") against the Property in the Office of the County Recorder of Sonoma County, State of California. The Claim of Lien shall be executed by the County and acknowledged by a notary public, and shall contain substantially the following information, in addition to any information required by California law:

- (i) The name of the record owner of the Property;
- (ii) The legal description of the Property;
- (iii) The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection and arbitration costs and estimated attorneys' fees;
- (iv) That the claim of lien is made by the County pursuant to this Declaration;
and

- (v) That a lien is claimed against the Property in the amount stated, together with all other amounts becoming due from time to time in accordance with this Declaration.

Upon such recordation of a duly executed and acknowledged original of the Claim of Lien, the lien claimed therein shall immediately attach and become effective in favor of the County as a lien upon and against the Property. Any such lien may be foreclosed by the County or an assignee of the County by appropriate action in court or in the manner now or hereafter provided by California Civil Code Sections 2924 et seq., as amended or recodified from time to time, for the foreclosure of a deed of trust with power of sale or in any other manner permitted by law. The County and such assignee are hereby authorized to appoint any person or entity as trustee for the purpose of conducting such foreclosure by power of sale. The County and such assignee shall have the right to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey the Property. Upon the timely and complete curing of any Event of Default for which a Claim of Lien has been filed by the County prior to the expiration of the statutory reinstatement period, the County shall record an appropriate release of such Claim of Lien in the Office of the County Recorder of Sonoma County, State of California.

5.4 Mortgagee Protection. No breach or violation of these restrictions shall defeat or render invalid the lien of any mortgage, deed of trust or similar instrument securing a loan made in good faith and for value by a mortgagee and secured by any portion of the Property; provided that all of these restrictions shall be binding upon and effective against any subsequent owner of the Property or any portion thereof whose title is acquired by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise pursuant to such lien rights, but such subsequent owner shall take title free and clear of any violations of these restrictions or assessment liens occurring prior to such transfer of title.

5.5 Survival of Rights of The County. Notwithstanding the transfer of all or any portion of the Property by Declarant, no amendment, alteration or modification of this Declaration shall be effective unless executed by the County. The County is, and at all times shall be, an express beneficiary of the terms and provisions of this Declaration and the County shall have the right to enforce the rights of the County hereunder regardless of any transfer of the Property by the Declarant or any successor of the Declarant.

5.6 No Waiver. If the County fails to exercise any right or fails to enforce any obligation of this Declaration, such failure shall not be deemed to be a waiver of any other right which the County may hold, including subsequent exercise of the same right or subsequent enforcement of the same obligation.

ARTICLE 6. **MISCELLANEOUS**

6.1 Interpretation. This Declaration shall be construed in accordance with and governed by the laws of the State of California. If any provision of this Declaration or application thereof to any person or circumstances shall to any extent be invalid, the remainder of this Declaration shall not be affected and each provision of this Declaration shall be valid and enforced to the fullest extent permitted by law. Exhibits "A," "B" and "C" as attached hereto are incorporated by reference herein. This Declaration can only be modified by a writing executed

by Declarant and the County. No waiver of any Event of Default or any covenant, condition or restriction imposed by this Declaration shall be implied from any omission by the County to take action on account of such Event of Default if such Event of Default persists or is repeated.

6.2 Attorneys' Fees. If an action is commenced to enforce any obligation under this Declaration, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees and costs from the other, whether or not such action is pursued to judgment.

6.3 Notices. All notices required or permitted to be given hereunder shall be in writing delivered in person or by United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

Declarant: _____

Attention: _____

County: County of Sonoma
Department of Transportation and Public Works
2300 County Center Drive, Room B-100
Santa Rosa, California 95403
Attention: Director

Either party may change its address for notices by written notice given to the other in the manner provided in this Section 6.3. Any such communication, notice or demand shall be deemed to have been duly given or served on the date personally served, if by personal service, or on the date shown on the return receipt or other evidence of delivery, if mailed.

6.4 Constructive Notice and Acceptance. Every person or other entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property subject to this Declaration is and shall be conclusively deemed to have consented and agreed to every covenant, condition, and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person or entity acquired an interest in the Property.

6.5 Severability. If any provision hereof is held invalid or unenforceable by any court of competent jurisdiction or as a result of future legislative action, this holding or action shall be strictly construed and shall not affect the validity or effect of any other provision hereof. To the extent permitted by law, Declarant and the County waive, to the maximum extent permissible, any provision of law that renders any provision hereof prohibited or unenforceable in any respect.

6.6 No Third Party Beneficiaries. This Declaration shall be binding upon and inure to the benefit of Declarant and its transferees, successors and assigns and to the County. Except for such foregoing entities, this Declaration is not intended and shall not be deemed or construed to create any rights in any third parties.

6.7 Governing Law. The validity, interpretation and effect of this Declaration are governed by and shall be construed in accordance with the laws of the State of California applicable to contracts made and performed in such State and without regard to conflicts of law doctrines except to the extent that certain matters are preempted by Federal law or are governed by the law of the jurisdiction of organization of the respective parties.

6.8 Counterparts. This Declaration and all exhibits hereto may be executed in one or more counterparts, each of which is an original, but all of which together constitute one and the same instrument.

6.9 Benefits and Purpose. This Declaration: (i) is for the benefit of the County; (ii) is imposed upon the Property in its entirety; (iii) runs with the land and passes with the Property and any portion thereof pursuant to Section 1471 of the California Civil Code; (iv) is binding upon Declarant and each successive owner, during his, her or its ownership of the Property or any portion thereof, and upon each other person or entity having any interest in the Property or any portion thereof derived through any owner of the Property; and (v) relates to the use of the Property and is reasonably necessary to protect present or future human health or safety and the environment.

IN WITNESS WHEREOF, Declarant has caused its duly authorized representatives to execute this Declaration as of the date first above written.

DECLARANT:

_____,
a _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

State of California)
)
County of Sonoma)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

State of California)
)
County of _____)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "A"

(Legal Description Property)

[LEGAL DESCRIPTION FOR RELEVANT FACILITY TO BE INSERTED]

EXHIBIT "B"

(Prohibited Uses)

Except as permitted under the definition of "Permitted Uses", the following shall constitute Prohibited Uses for use of the Property:

- (a) All residential and permanent or temporary lodging usages (including hotels, motels and the like);
- (b) Hospitals and other health care facilities;
- (c) Public or private schools and day care facilities;
- (d) Churches, temples or other places used exclusively for religious worship; and
- (e) Any uses prohibited by the Regulations or Permits.

EXHIBIT "C"

(Ongoing Obligations)

***[TO BE INSERTED FROM ARTICLE 6 OF THE PURCHASE AGREEMENT BY
ADDENDUM; LIST OF COMMITTED CITIES TO BE INCLUDED]***

EXHIBIT D-1

FORM OF DEPOSIT LETTER OF CREDIT**

[SEE ATTACHED]

IRREVOCABLE STANDBY LETTER OF CREDIT

ISSUER:

PLACE FOR PRESENTATION OF DRAFT: (Name and Address of Bank/Branch)

APPLICANT: _____

BENEFICIARY: County of Sonoma
Department of Transportation and Public Works
2300 County Center Drive, Ste. B100
Santa Rosa, California 95403

LETTER OF CREDIT NUMBER:

PLACE AND DATE OF ISSUE:

AMOUNT: Ten Million Dollars (\$10,000,000.00)

STATED EXPIRATION DATE: _____, 2009.

The Issuer hereby issues this Irrevocable Standby Letter of Credit in favor of Beneficiary for the amount of Ten Million United States Dollars (\$10,000,000.00), available by draft at sight drawn on the Issuer. Any draft under this Irrevocable Standby Letter of Credit shall be in the amount of not less than One Million United States Dollars (\$1,000,000.00) and shall:

1. Identify this Irrevocable Standby Letter of Credit by the name of the Issuer, and the Letter of Credit number, amount, and place and date of issue; and
2. Be accompanied by the Beneficiary's signed and dated statement stating one of the following:

(a) "The County of Sonoma (the "County") hereby states that (1) the County has received notice that _____ [*Insert Bank*] Letter of Credit number _____ will not be renewed beyond its current expiration date, and (2) the County has not received a replacement letter of credit acceptable to the County, in its sole discretion, at least thirty (30) calendar days prior to such current expiration date."

or

(b) "The County of Sonoma (the "County") hereby states that (1) _____ [*INSERT APPLICANT NAME*] ("Purchaser") has defaulted under that certain Purchase and Sale Agreement dated as of _____, 2008 by and between the County and Purchaser (the "Purchase and Sale Agreement"), (2) the County has provided the notice, if

any, required under the Purchase and Sale Agreement, and (3) any applicable cure period has elapsed since the delivery by the County of such notice without such default being cured."

or

(c) "The County of Sonoma (the "County") hereby states that _____ **[INSERT APPLICANT NAME]** ("Purchaser") has not delivered the Termination Charge (as defined in Section 10.3 of the Purchase and Sale Agreement dated as of _____, 2008, by and between the County and Purchaser (the "Purchase and Sale Agreement") to County on or before the earlier of (i) five days prior to earlier of (i) the expiry date of this Letter of Credit or (ii) the fifteenth (15) day following delivery of Purchaser's termination election notice under Section 5.1(b), Section 5.1(c), Section 5.1(d) or Section 5.8, as applicable (or the date on which County is deemed to have elected to accept such termination notice under such applicable section)."

All drafts will be honored if presented to _____ (Bank/Branch - Name & Address) on or before the Stated Expiration Date described above. The Stated Expiration Date described above shall be automatically extended for additional 12 month periods unless written notice is delivered to Beneficiary at least 60 day prior to the then current expiration of the Irrevocable Standby Letter of Credit.

Partial draws under this Letter of Credit are permitted. A draft accompanied by your signed and dated statement containing the words in item (c) above may not exceed the amount of \$500,000.

If a Demand for Payment is made by you hereunder at or prior to 10:00 a.m., California Time, on any weekday (i.e., Monday through Friday, excluding California state holidays and U.S. federal holidays) (a "Business Day"), and provided that such Demand for Payment conforms to the terms and conditions hereof, payment shall be made by us to you in immediately available funds free and clear of and without deduction for any taxes, duties, fees, liens, set-offs or other deductions of any kind and regardless of any objection by any third party (subject to any court order or judgment), to the account designated below or such other account at a national bank in the United States of America that you may designate in the Demand for Payment on the next Business Day after demand is made. If a Demand for Payment is made by you hereunder after 10:00 a.m., California Time, on a Business Day, and provided that such Demand for Payment conforms to the terms and conditions hereof, such payment shall be made no later than the close of business, California Time to the account designated below or such other account at a national bank in the United States of America that you may designate in the Demand for Payment, on the second Business Day after demand is made. Payment under this Letter of Credit shall be made in same day funds, by wire transfer to your account described below or such other account as you may designate in writing.

Financial Institution: Bank of America
Government Services Sacto/1436
555 Capitol Mall, Suite 1555
Sacramento, CA 95814-4582
Routing Number: 0260-0959-3
Account Name: Sonoma County Treasurer
Account Number to Credit: 00432-80100
Reference: Department of Transportation and Public Works, Solid Waste Divestiture
Attention: Karen Richards, 1-888-841-8159, Option 3, ext. 61683

All bank charges and commissions incurred in connection with the issuance, administration, advisement, confirmation, negotiation or any other fees associated with this Letter of Credit (including any drawings hereunder) shall be for the account of the applicant.

Except so far as otherwise expressly stated, this Letter of Credit is subject to the International Standby Practices ("ISP98"), International Chamber of Commerce Publication No. 590 (the "Uniform Customs"), which shall in all respects be deemed a part hereof as fully as if incorporated herein except as modified hereby.

This Letter of Credit is issued under the laws of the State of California and applicable U.S. federal law, and shall, as to matters not governed by Uniform Customs, be governed by and construed in accordance with the laws of the State of California, without regard to principles of conflicts of law.

Any failure by you to draw upon this Letter of Credit as permitted hereunder shall not cause this Letter of Credit to be unavailable for any future drawing, provided that this Letter of Credit has not expired prior to such future drawing and that all requirements of this Letter of Credit are independently satisfied with respect to any such future drawing.

If legal proceedings are initiated by any party with respect to payment of the Letter of Credit, we agree that such proceeding shall be subject to California courts and law.

Communications with respect to this Letter of Credit shall be in writing and shall be addressed to us at _____, Attention: _____, specifically referring to the number of this Letter of Credit.

Issuer:

By: (Authorized signature of Issuer)

**Note: The exact form of this Letter of Credit may be modified in a nonsubstantive manner in order to conform to a specific issuing bank/financial institution format

EXHIBIT D-2

FORM OF POST-CLOSING LETTER OF CREDIT**

[SEE ATTACHED]

IRREVOCABLE STANDBY LETTER OF CREDIT

ISSUER:

PLACE FOR PRESENTATION OF DRAFT: (Name and Address of Bank/Branch)

APPLICANT:

BENEFICIARY: County of Sonoma
Department of Transportation and Public Works
2300 County Center Drive, Ste. B100
Santa Rosa, California 95403

LETTER OF CREDIT NUMBER:

PLACE AND DATE OF ISSUE:

AMOUNT: Five Million Dollars (\$5,000,000)

STATED EXPIRATION DATE: _____, 20__.

The Issuer hereby issues this Irrevocable Standby Letter of Credit in favor of Beneficiary for the amount of Five Million United States Dollars (\$5,000,000), available by draft at sight drawn on the Issuer. Any draft under this Irrevocable Standby Letter of Credit shall be in the amount of not less than One Million United States Dollars (\$1,000,000) and shall:

1. Identify this Irrevocable Standby Letter of Credit by the name of the Issuer, and the Letter of Credit number, amount, and place and date of issue; and
2. Be accompanied by the Beneficiary's signed and dated statement stating one of the following:

(a) "The County of Sonoma (the "County") hereby states that (1) the County has received notice that _____ [*Insert Bank*] Letter of Credit number _____ will not be renewed beyond its current expiration date, and (2) the County has not received a replacement letter of credit acceptable to the County, in its sole discretion, at least thirty (30) calendar days prior to such current expiration date."

or

(b) "The County of Sonoma (the "County") hereby states that (1) _____ [*INSERT APPLICANT NAME*] ("Purchaser") has defaulted on an obligation arising after Closing (as defined in that certain Purchase and Sale Agreement dated as of _____, 2008, by and between the County and Purchaser (the "Purchase and Sale Agreement"), including, without limitation, an obligation set forth in Article 6 or Article

7 of the Purchase and Sale Agreement, (2) the County has provided the notice, if any, to Purchaser required under the Purchase and Sale Agreement, and (3) any applicable cure period has elapsed since the delivery by the County of such notice without such default being cured."

All drafts will be honored if presented to _____ (Bank/Branch - Name & Address) _____ on or before the Stated Expiration Date described above. The Stated Expiration Date described above shall be automatically extended for additional 12 month periods unless written notice is delivered to Beneficiary at least 60 day prior to the then current expiration of the Irrevocable Standby Letter of Credit.

Partial draws under this Letter of Credit are permitted.

If a Demand for Payment is made by you hereunder at or prior to 10:00 a.m., California Time, on any weekday (i.e., Monday through Friday, excluding California state holidays and U.S. federal holidays) (a "Business Day"), and provided that such Demand for Payment conforms to the terms and conditions hereof, payment shall be made by us to you in immediately available funds free and clear of and without deduction for any taxes, duties, fees, liens, set-offs or other deductions of any kind and regardless of any objection by any third party (subject to any court order or judgment), to the account designated below or such other account at a national bank in the United States of America that you may designate in the Demand for Payment on the next Business Day after demand is made. If a Demand for Payment is made by you hereunder after 10:00 a.m., California Time, on a Business Day, and provided that such Demand for Payment conforms to the terms and conditions hereof, such payment shall be made no later than the close of business, California Time to the account designated below or such other account at a national bank in the United States of America that you may designate in the Demand for Payment, on the second Business Day after demand is made. Payment under this Letter of Credit shall be made in same day funds, by wire transfer to your account described below or such other account as you may designate in writing.

Financial Institution: Bank of America
Government Services Sacto/1436
555 Capitol Mall, Suite 1555
Sacramento, CA 95814-4582
Routing Number: 0260-0959-3
Account Name: Sonoma County Treasurer
Account Number to Credit: 00432-80100
Reference: Department of Transportation and Public Works, Solid Waste Divestiture
Attention: Karen Richards, 1-888-841-8159, Option 3, ext. 61683

All bank charges and commissions incurred in connection with the issuance, administration, advisement, confirmation, negotiation or any other fees associated with this Letter of Credit (including any drawings hereunder) shall be for the account of the applicant.

Partial or multiple drawings are permitted under this Letter of Credit.

Except so far as otherwise expressly stated, this Letter of Credit is subject to the International Standby Practices (“ISP98”), International Chamber of Commerce Publication No. 590 (the “Uniform Customs”), which shall in all respects be deemed a part hereof as fully as if incorporated herein except as modified hereby.

This Letter of Credit is issued under the laws of the State of California and applicable U.S. federal law, and shall, as to matters not governed by Uniform Customs, be governed by and construed in accordance with the laws of the State of California, without regard to principles of conflicts of law.

Any failure by you to draw upon this Letter of Credit as permitted hereunder shall not cause this Letter of Credit to be unavailable for any future drawing, provided that this Letter of Credit has not expired prior to such future drawing and that all requirements of this Letter of Credit are independently satisfied with respect to any such future drawing.

If legal proceedings are initiated by any party with respect to payment of the Letter of Credit, we agree that such proceeding shall be subject to California courts and law.

Communications with respect to this Letter of Credit shall be in writing and shall be addressed to us at _____, Attention: _____, specifically referring to the number of this Letter of Credit.

Issuer:

By: _____ (Authorized signature of Issuer)

**Note: The exact form of this Letter of Credit may be modified in a nonsubstantive manner in order to conform to a specific issuing bank/financial institution format.

EXHIBIT E

FORM OF ASSIGNMENT OF PURCHASE AGREEMENT

ASSIGNMENT AND ASSUMPTION OF PURCHASE AND SALE AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF PURCHASE AND SALE AGREEMENT (this “**Assignment**”) is made as of _____, 20____, by _____, a _____ (**Assignor**”), in favor of _____, a _____ (**Assignee**”), with reference to the following Recitals:

RECITALS

A. Assignor entered into that certain Purchase and Sale Agreement dated as of _____, 2008 (the “**Purchase Agreement**”), by and between The County of Sonoma, a political subdivision of the State of California, as seller (“**County**”), and Assignor, as purchaser, with respect to certain solid waste facilities located in the County of Sonoma, State of California, all as is more particularly described in the Purchase Agreement.

B. Assignor desires to transfer, convey and assign to Assignee all of its right, title and interest in, to and under the Purchase Agreement and the Property (as defined in the Purchase Agreement), and Assignee desires to accept such assignment, all on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignor hereby grants, conveys, transfers and assigns to Assignee all of Assignor’s right, title and interest in, to and under the Purchase Agreement.
2. Assignee hereby accepts the foregoing assignment and agrees to assume, pay, perform and discharge, as and when due, all of the agreements and obligations of Assignor under the Purchase Agreement and agrees to be bound by all of the terms and conditions of the Purchase Agreement, including, without limitation, all post-Closing obligations set forth therein (including, without limitation, the provisions of Article 6 and Article 7 of the Purchase Agreement). In connection therewith, Assignee hereby ratifies, for the benefit of County, all of Assignor’s representations and warranties and acknowledgments set forth in the Purchase Agreement and remakes them on their own behalf as of the date hereof.
3. Assignor acknowledges and agrees that this Assignment shall not relieve or release Assignor from any of its obligations or liabilities under the Purchase Agreement and Assignor shall remain fully liable therefor on a joint and several basis with the Assignee.

4. The provisions of this Assignment shall be binding upon the successors and assigns of Assignor and Assignee and shall inure to the benefit of the successors and assigns of Assignor and Assignee, respectively.

5. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Assignment attached thereto.

IN WITNESS WHEREOF, Assignor and Assignee have caused their duly authorized representatives to execute this Assignment as of the date first above written.

ASSIGNOR: _____,
a _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

ASSIGNEE: _____,
a _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT F

FORM OF GUARANTY

THIS GUARANTY, INDEMNIFICATION AND RELEASE AGREEMENT (this “Guaranty”) is made as of _____, 20____, by _____, a _____ (“Guarantor”), in favor of **THE COUNTY OF SONOMA**, a political subdivision of the State of California (“**BeneficiaryCounty**”).

RECITALS

A. _____, a _____, as purchaser (“**Purchaser**”), and **BeneficiaryCounty** are parties to that certain Purchase and Sale Agreement dated as of _____, 2008 (the “**Agreement**”) pursuant to which Purchaser has agreed to purchase the Landfill. Initially capitalized terms used herein without definition will have the meaning given such term in the Agreement and the rules of interpretation set forth in Section 1.1 of the Agreement are hereby incorporated herein.

B. To induce **BeneficiaryCounty** to enter into the Agreement and consummate the transactions contemplated thereby, Guarantor has agreed to enter into this Guaranty.

C. [Guarantor is an Affiliate of Purchaser.] *[REVISE AS APPROPRIATE TO DESCRIBE RELATIONSHIP BETWEEN GUARANTOR AND PURCHASER]*

D. Without this Guaranty, **BeneficiaryCounty** would not have entered into the Agreement. Therefore, in consideration of **BeneficiaryCounty**'s execution of the Agreement, Guarantor has agreed to execute this Guaranty.

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows:

1. **Guaranty.** Guarantor guarantees to **BeneficiaryCounty** and its successors and assigns, the full and prompt payment and performance when due of all of the obligations of Purchaser arising out of, in connection with, under or related to (a) the Agreement (and the documents executed or to be executed in connection therewith, including all documents associated with or relating to the Closing), and (b) each and every other document and agreement executed by Purchaser in connection with the consummation of the transactions contemplated by the Agreement, including all City Disposal Agreements (the documents described in clauses (a)-(b), inclusive, shall collectively be referred to herein as the “**Project Documents**”). The obligations guaranteed pursuant to this Guaranty are collectively referred to herein as the “**Guaranteed Obligations.**”

2. **Unconditional Obligations.** This Guaranty is a guaranty of payment and performance and not of collection and is an absolute, unconditional and irrevocable guarantee of the full and prompt payment and performance when due of all of the Guaranteed Obligations, whether or not from time to time reduced or extinguished or hereafter increased or incurred,

whether or not recovery may be, or hereafter may become, barred by any statute of limitations or otherwise, and whether or not enforceable against Purchaser. If any payment made by Purchaser or any other Person and applied to the Guaranteed Obligations is at any time annulled, set aside, rescinded, invalidated, declared to be fraudulent or preferential or otherwise required to be repaid or refunded, then, to the extent of such payment or repayment, the liability of Guarantor will be and remain in full force and effect as fully as if such payment had never been made. Guarantor covenants that this Guaranty will not be fulfilled or discharged, except by the complete payment and performance of the Guaranteed Obligations, whether by the primary obligor or Guarantor under this Guaranty. Without limiting the generality of the foregoing, Guarantor's obligations hereunder will not be released, discharged or otherwise affected by (a) any change in the Project Documents or the obligations thereunder, or any insolvency, bankruptcy or similar proceeding affecting Purchaser, Guarantor or their respective assets, and (b) the existence of any claim or set-off which Purchaser has or Guarantor may have against [BeneficiaryCounty](#), whether in connection with this Guaranty or any unrelated transaction, provided that nothing in this Guaranty will be deemed a waiver by Guarantor of any claim or prevent the assertion of any claim by separate suit. This Guaranty will in all respects be a continuing, absolute, and unconditional guaranty irrespective of the genuineness, validity, regularity or enforceability of the Guaranteed Obligations or any part thereof or any instrument or agreement evidencing any of the Guaranteed Obligations or relating thereto, or the existence, validity, enforceability, perfection, or extent of any collateral therefor or any other circumstances relating to the Guaranteed Obligations which might otherwise constitute a defense to the Guaranteed Obligations or this Guaranty.

3. **Independent Obligations.** Guarantor agrees that the Guaranteed Obligations are independent of the obligations of Purchaser and if any default occurs hereunder, a separate action or actions may be brought and prosecuted against Guarantor whether or not Purchaser is joined therein. [BeneficiaryCounty](#) may maintain successive actions for other defaults of Guarantor. [BeneficiaryCounty](#)'s rights hereunder will not be exhausted by the exercise of any of its rights or remedies or by any such action or by any number of successive actions until and unless all Guaranteed Obligations have been paid and fully performed.

a. Guarantor agrees that [BeneficiaryCounty](#) may enforce this Guaranty, at any time and from time to time, without the necessity of resorting to or exhausting any security or collateral and without the necessity of proceeding against Purchaser. Guarantor hereby waives the right to require [BeneficiaryCounty](#) to proceed against Purchaser, to exercise any right or remedy under any of the Project Documents or to pursue any other remedy or to enforce any other right.

b. Guarantor will continue to be subject to this Guaranty notwithstanding: (i) any modification, agreement or stipulation between Purchaser or [BeneficiaryCounty](#) or their respective successors and assigns, with respect to any of the Project Documents or the Guaranteed Obligations; (ii) any waiver of or failure to enforce any of the terms, covenants or conditions contained in any of the Project Documents or any modification thereof; (iii) any release of Purchaser from any liability with respect to any of the Project Documents; or (iv) any

release or subordination of any collateral then held by [BeneficiaryCounty](#) as security for the performance by Purchaser of the Guaranteed Obligations.

c. The Guaranteed Obligations are not conditional or contingent upon the genuineness, validity, regularity or enforceability of any of the Project Documents or the pursuit by [BeneficiaryCounty](#) of any remedies which [BeneficiaryCounty](#) either now has or may hereafter have with respect thereto under any of the Project Documents.

4. **Liability of Guarantor.**

a. [BeneficiaryCounty](#) may enforce this Guaranty upon the occurrence of a breach by Purchaser of any of the Guaranteed Obligations (following the expiration of any notice and cure period set forth in the Agreement and applicable to such breach), notwithstanding the existence of any dispute between [BeneficiaryCounty](#) and Purchaser with respect to the existence of such a breach.

b. Guarantor's performance of some, but not all, of the Guaranteed Obligations will in no way limit, affect, modify or abridge Guarantor's liability for those Guaranteed Obligations that have not been performed.

c. [BeneficiaryCounty](#), upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability of this Guaranty or giving rise to any reduction, limitation, impairment, discharge or termination of Guarantor's liability hereunder, from time to time may (i) with respect to Purchaser's financial obligations, renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of financial obligations that are Guaranteed Obligations, and/or subordinate the payment of the same to the payment of any other obligations, (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto, (iii) request and accept other guarantees of the Guaranteed Obligations and take and hold security for the payment of this Guaranty or the Guaranteed Obligations, (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for performance of the Guaranteed Obligations, any other guarantees of the Guaranteed Obligations, or any other obligation of any Person with respect to the Guaranteed Obligations, (v) enforce and apply any security hereafter held by or for the benefit of [BeneficiaryCounty](#) in respect of this Guaranty or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that [BeneficiaryCounty](#) may have against any such security, as [BeneficiaryCounty](#) in its discretion may determine, and (vi) exercise any other rights available to it under the Project Documents.

d. This Guaranty and the obligations of Guarantor hereunder will be valid and enforceable and will not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than indefeasible performance in full of the Guaranteed Obligations), including without limitation the occurrence of any of the following, whether or not Guarantor will have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of

court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Project Documents, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement or instrument relating thereto; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including without limitation provisions relating to events of default) of the Project Documents or any agreement or instrument executed pursuant thereto; (iii) **BeneficiaryCounty**'s consent to the change, reorganization or termination of the corporate structure or existence of Purchaser; (iv) any defenses, set-offs or counterclaims Purchaser may allege or assert against **BeneficiaryCounty** in respect of the Guaranteed Obligations, including but not limited to failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury; and (v) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of Guarantor as an obligor in respect of the Guaranteed Obligations.

e. The parties hereto specifically agree that, in addition to any and all remedies at law available to the County, the County shall be entitled to the remedy of specific performance of any and all Guaranteed Obligations, and Guarantor specifically agrees that the County shall be entitled to any other remedies incidental to enforcing such specific performance, including, without limitation, the granting of appropriate injunctive relief.

5. **Waivers.** To the fullest extent permitted by law, Guarantor hereby waives and agrees not to assert or take advantage of: (a) any right to require **BeneficiaryCounty** to proceed against Purchaser or any other Person or to proceed against or exhaust any security held by **BeneficiaryCounty** at any time or to pursue any right or remedy under any of the Project Documents or any other remedy in **BeneficiaryCounty**'s power before proceeding against Guarantor; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of, or revocation hereby by Guarantor, Purchaser or any other Person or the failure of **BeneficiaryCounty** to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of any such Person; (c) any defense that may arise by reason of any presentment, demand for payment or performance or otherwise, protest or notice of any other kind or lack thereof; (d) any right or defense arising out of an election of remedies by **BeneficiaryCounty** even though the election of remedies, such as nonjudicial foreclosure with respect to any security for the Guaranteed Obligations, has destroyed the Guarantor's rights of subrogation and reimbursement against Purchaser by the operation of Section 580d of the Code of Civil Procedure or otherwise; (e) all notices to Guarantor, to Purchaser or to any other Person, including, but not limited to, notices of the acceptance of this Guaranty or the creation, renewal, extension, modification, accrual of any of Purchaser's obligations under any of the Project Documents, or of default in the payment or performance of any such obligations, enforcement of any right or remedy with respect thereto or notice of any other matters relating thereto; (f) any requirements of diligence or promptness on the part of **BeneficiaryCounty**; (g) any defense arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of Purchaser or any other Person from any cause other than indefeasible performance in full of the Guaranteed Obligations; (h) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome

than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation, including, without limitation, all rights and benefits under Section 2809 of the California Civil Code purporting to reduce a guarantor's obligation in proportion to the obligation of the principal; (i) any defense based upon any act or omission of [BeneficiaryCounty](#) which directly or indirectly results in or aids the discharge or release of Purchaser, Guarantor or any security given or held by [BeneficiaryCounty](#) in connection with the Guaranteed Obligations; (j) any and all suretyship defenses under applicable law including, but not limited to, any defense under Sections 2787 through 2855, inclusive, of the California Civil Code; and (k) any statute of limitations affecting Guarantor's liability hereunder or the enforcement thereof.

6. **Waiver of Subrogation and Rights of Reimbursement.** Until the Guaranteed Obligations have been indefeasibly paid in full, Guarantor waives any claim, right or remedy which it may now have or may hereafter acquire against Purchaser that arises from the performance of Guarantor hereunder, including, without limitation, any claim, right or remedy of subrogation, reimbursement, exoneration, contribution, or indemnification, or participation in any claim, right or remedy of [BeneficiaryCounty](#) against Purchaser, or any other security or collateral that [BeneficiaryCounty](#) now has or hereafter acquires, whether or not such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise.

7. **Waivers by Guarantor if Real Property Security.** If the Guaranteed Obligations are or become secured by real property or an estate for years, Guarantor waives all rights and defenses that Guarantor may have because the Guaranteed Obligations are secured by real property. This means, among other things:

a. [BeneficiaryCounty](#) may collect from Guarantor without first foreclosing on any real or personal property collateral pledged by Purchaser.

b. If [BeneficiaryCounty](#) forecloses on any real property collateral pledged by Purchaser:

(1) The amount of the Guaranteed Obligation may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.

(2) [BeneficiaryCounty](#) may collect from Guarantor even if [BeneficiaryCounty](#), by foreclosing on the real property collateral, has destroyed any right Guarantor may have to collect from Purchaser.

This is an unconditional and irrevocable waiver of any rights and defenses Guarantor may have because the Guaranteed Obligations secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the Code of Civil Procedure.

8. **Default; Cumulative Rights.** The County may declare Guarantor in default under this Guaranty for any failure to fully perform and discharge its obligations and liabilities under this Guaranty. Guarantor and the County specifically agree that, in addition to any and all

remedies at law or in equity that the County may have, the County shall be entitled to the remedy of specific performance of any of the provisions and obligations to be performed by Guarantor under this Guaranty and that the County shall be entitled to any other provisional remedies incidental to enforcing such specific performance, including, without limitation, the granting of appropriate injunctive relief. All rights, powers and remedies of **BeneficiaryCounty** hereunder will be in addition to and not in lieu of all other rights, powers and remedies given to **BeneficiaryCounty**, whether at law, in equity or otherwise.

9. **Indemnification.** In addition to the Guaranteed Obligations, Guarantor shall indemnify, defend and hold the County Group and the Committed Cities harmless from and against all Losses which arise out, result from or relate to any of the following (“**Indemnified Claims**”):

a. the ownership and operation of the Property, including all actions, omissions, negligence, recklessness, willful misconduct, breach of contract, violation of Law or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit related thereto and/or resulting therefrom (it being expressly acknowledged and agreed by Guarantor that Guarantor’s obligations hereunder include responsibility and liability for all actions, omissions, negligence, recklessness, willful misconduct, breach of contract, violation of Law or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit by any Person that occurred, in whole or in part prior to the Closing, after the Closing and/or prior to Purchaser’s operation of the Property);

b. Any and all Environmental Conditions and/or Remediation (it being expressly acknowledged and agreed by Guarantor that Guarantor’s obligations hereunder include responsibility and liability for Environmental Conditions and Remediation that arise out of, result from or relate to the period prior to the Closing and after the Closing, whether known or unknown to the County or to the Guarantor, and also include the Environmental Conditions and Remediation that arise out of, relate to or result from the continued and future acceptance, management, handling, processing, sorting and/or disposal of Waste);

c. Any and all Closure and Post-Closure Obligations, including all Approved Financial Assurances (it being expressly acknowledged and agreed by Guarantor that Guarantor’s obligations hereunder include responsibility and liability for such conditions and items that arise out of, result from or relate to events, incidents, operations and items that occurred, in whole or in part, prior to the Closing and after the Closing, including the Closure and Post-Closure Obligations that arise out of, relate to or result from the continued and future acceptance, management, handling, processing, sorting and/or disposal of Waste);

d. Any and all Assumed Liabilities (it being expressly acknowledged and agreed by Guarantor that Guarantor’s obligations hereunder include responsibility and liability for such conditions and items that arise out of, result from or relate to events, incidents, operations and items that occurred, in whole or in part, prior to the Closing and after the Closing;

e. The use, exploration, production, recovery, sale, transfer and/or distribution of Landfill Gas from the Landfill (and any byproducts or end products thereof, including, without limitation, electricity);

f. Purchaser's Due Diligence Inspections and Reviews or the exercise of any additional due diligence that Purchaser undertakes between the ~~Effective~~Execution Date and the Closing Date; and/or

g. Any and all Permits, including the breach, violation, reissuance, transfer or modification thereof (it being expressly acknowledged and agreed by Guarantor that Guarantor's obligations hereunder include responsibility and liability for the period prior to the Closing and after the Closing).

(h) Purchaser's efforts to cause the reissuance and transfer of the Permits, as described in Section 5.2(a) of the Agreement;

(i) Any claim, action or suit, including any Third Party Claim and any counterclaim or cross-claim arising therefrom, arising out of the sale of the Property by County to Purchaser or the consummation of the transactions contemplated hereby that is brought by, on behalf of or through Guarantor or any member of the Purchaser Group;

(j) The future screening, acceptance, disposal, treatment, processing or sorting of Waste and other materials in or at any Facility; and

(k) The future screening, acceptance, disposal, treatment, processing or sorting by Purchaser or any Affiliate of any County-Controlled Waste and other materials at or in any facility other than the Facilities (including facilities located outside of the County of Sonoma).

It is the intent of Guarantor that this Section 9 be interpreted and construed as broadly and as expansively as possible and that the County retain no liability and be fully indemnified against any and all Losses related to, arising from or associated with the items included in this Section 9. Notwithstanding the foregoing, (x) Guarantor shall retain and have the right and ability (but not the obligation) to pursue any or all third parties other than the County Group or the Committed Cities for any Indemnified Claims; provided, however, that such rights shall not exist through or be derived from the County Group or the Committed Cities and Guarantor shall not be subrogated to any rights that the County Group or the Committed Cities may have against such third parties or with respect to any applicable insurance coverage; and (y) this Section 9 shall not apply to the items covered under the County's indemnity set forth in Section 7.5 of the Agreement.

10. GUARANTOR'S RELEASE OF THE COUNTY GROUP AND COMMITTED CITIES. GUARANTOR, FOR ITSELF AND ON BEHALF OF EACH OF ITS SHAREHOLDERS, SUBSIDIARIES, AFFILIATES, AND EACH OF THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, DOES HEREBY RELEASE, HOLD HARMLESS AND FOREVER DISCHARGE THE COUNTY, EACH MEMBER OF THE

COUNTY GROUP AND THE COMMITTED CITIES FROM ANY AND ALL LOSSES, IN EACH CASE, OF ANY KIND OR CHARACTER, WHETHER KNOWN OR UNKNOWN, HIDDEN OR CONCEALED, TO THE PERSON OR PROPERTY OF GUARANTOR, ITS SUCCESSORS AND ASSIGNS, RESULTING FROM OR ARISING OUT OF (1) ANY LOSSES COVERED BY GUARANTOR'S INDEMNITY SET FORTH IN SECTION 9 OF THIS GUARANTY; (2) THE PAST, PRESENT, CONTINUED AND FUTURE SCREENING, ACCEPTANCE, DISPOSAL, TREATMENT, SORTING, HANDLING AND PROCESSING OF WASTE OR OTHER MATERIAL (INCLUDING COUNTY-CONTROLLED WASTE, WASTE COMING FROM ANY OF THE CITIES AND SELF-HAUL WASTE) AT OR IN THE LANDFILL OR ANY OTHER OF THE FACILITIES; (3) THE DISPOSAL OF WASTE COMING FROM THE COUNTY OF SONOMA AT FACILITIES OTHER THAN THE FACILITIES (INCLUDING FACILITIES LOCATED OUTSIDE OF THE COUNTY OF SONOMA); (4) ANY CLOSURE AND POST-CLOSURE OBLIGATIONS; (5) ANY MATTER OR ITEM INCLUDED WITHIN THE ASSUMED LIABILITIES; OR (6) ANY ENVIRONMENTAL CONDITION OR REMEDIATION. GUARANTOR HEREBY WAIVES ANY AND ALL RIGHTS AND BENEFITS THAT IT NOW HAS, OR IN THE FUTURE MAY HAVE CONFERRED UPON IT BY VIRTUE OF THE PROVISIONS OF SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA (OR ANY OTHER STATUTE OR COMMON LAW PRINCIPLES OF SIMILAR EFFECT), WHICH PROVIDES AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

IN THIS CONNECTION, GUARANTOR HEREBY AGREES, REPRESENTS, AND WARRANTS THAT IT REALIZES AND ACKNOWLEDGES THAT FACTUAL MATTERS NOW UNKNOWN TO IT MAY HAVE GIVEN OR MAY HEREAFTER GIVE RISE TO CLAIMS THAT ARE PRESENTLY UNKNOWN, UNANTICIPATED AND UNSUSPECTED, AND IT FURTHER AGREES, REPRESENTS, AND WARRANTS THAT THIS RELEASE HAS BEEN NEGOTIATED AND AGREED UPON IN LIGHT OF THAT REALIZATION AND IT NEVERTHELESS HEREBY INTENDS TO RELEASE THE COUNTY, THE COUNTY GROUP AND THE COMMITTED CITIES FROM THE LOSSES DESCRIBED IN THIS SECTION 10. THIS RELEASE OF THE COUNTY, THE COUNTY GROUP AND THE COMMITTED CITIES BY GUARANTOR WILL BE DEEMED TO BE REMADE BY GUARANTOR AS OF THE CLOSING AND SHALL SURVIVE THE CLOSING.

Guarantor's Initials_____

Notwithstanding the foregoing, the release set forth herein shall not preclude Guarantor from, and Guarantor hereby expressly reserves its right to, pursue all third parties (which

expressly exclude any Entity released hereby) for any matter covered by the release set forth in this Section 10; provided, however, that such rights shall not exist through or be derived from the County, the County Group and the Committed Cities and Guarantor shall not be subrogated to any rights that such entities may have against such third parties or with respect to any applicable insurance coverage.

11. Acknowledgments; Covenant Not to Sue

(a) Guarantor acknowledges that, pursuant to the Agreement and the transactions contemplated thereunder, Waste, including County-Controlled Waste, Waste coming from the Cities and Self-Haul Waste) may continue to be screened, accepted, handled, treated, sorted and processed at the Facilities and, in certain instances, disposed of at the Landfill. Guarantor acknowledges that the foregoing screening, acceptance, sorting handling, processing and disposal of Waste may increase Guarantor's obligations and liabilities for Closure and Post-Closure Obligations, Environmental Conditions and Remediation beyond what such obligations and liabilities are as of the Effective Execution Date and the Closing Date. Guarantor further acknowledges and agrees that the disposal by Purchaser of such Waste at facilities other than the Landfill may also increase Guarantor's obligations and liabilities relating to such facilities. Guarantor acknowledges and agrees that a fundamental element of the Agreement and the County's willingness to sell and convey the Property, enter into the Agreement and undertake the other obligations of the County thereunder is that, except as otherwise provided in the Agreement, the Guarantor will assume all responsibility and liability for the Closure and Post-Closure Obligations, Environmental Conditions and Remediation, including those that relate to or arise out of the periods prior to and after Closing and those that relate to or arise out of the future screening, acceptance, handling, treatment, sorting, processing and disposal of Waste at the Facilities. It is expressly intended that neither Guarantor, nor any Entity claiming through Guarantor, shall have any rights, claims, remedies or actions against the County, any other member of the County Group and the Committed Cities for any of these items or for any other matter with respect to which the Guarantor has provided indemnification under Section 9 or a release under Section 10. Notwithstanding the foregoing, Guarantor is not assuming any liabilities or obligations for any matter covered by the County's indemnity under Section 7.5 of the Agreement.

(b) Guarantor for itself and on behalf of each of its members, shareholders, subsidiaries, affiliates, and each of their respective successors and assigns, does hereby covenant forever and unconditionally not to sue, make any claim or take any action against the County, any other member of the County Group and any of the Committed Cities for any Loss arising out of, relating to (i) Closure and Post-Closure Obligations or any Environmental Condition or Remediation, whether existing as of the Closing Date or arising, accruing or relating to the period from and after the Closing Date, including those that relate to or arise out of the future screening, acceptance, handling, sorting, processing and disposal of Waste at the Facilities; (ii) any other matter with respect to which Guarantor has provided indemnification under Section 9 or a release under Section 10; and (iii) facilities other than the Facilities at which Purchaser disposes of Waste from the County of Sonoma.

12. Representations and Warranties. Guarantor represents and warrants that:

a. it is a _____ duly organized, validly existing, and in good standing under the laws of _____ and qualified to do business and is in good standing under the laws of the State of California;

b. it has all requisite corporate power and authority to execute, deliver and perform this Guaranty;

c. the execution, delivery, and performance by Guarantor of this Guaranty have been duly authorized by all necessary corporate action on the part of Guarantor;

d. this Guaranty has been duly executed and delivered and constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms;

e. neither the execution nor delivery of this Guaranty nor compliance with or fulfillment of the terms, conditions, and provisions hereof, will conflict with, result in a material breach or violation of the terms, conditions, or provisions of, or constitute a material default, an event of default, or an event creating rights of acceleration, termination, or cancellation, or a loss of rights under (1) the certificate of incorporation or by-laws of Guarantor, (2) any judgment, decree, order, contract, agreement, indenture, instrument, note, mortgage, lease, governmental permit, or other authorization, right restriction, or obligation to which Guarantor is a party or any of its property is subject or by which Guarantor is bound, or (3) any federal, state, or local law, statute, ordinance, rule or regulation applicable to Guarantor;

f. it now has and will continue to have full and complete access to any and all information concerning the transactions contemplated by the Project Documents or referred to therein, and Purchaser's financial status and ability to perform the Guaranteed Obligations;

g. it has reviewed and approved copies of the Project Documents and is fully informed of the remedies **BeneficiaryCounty** may pursue, with or without notice to Purchaser or any other Person, in the event of default of any of the Guaranteed Obligations;

h. it has made and so long as the Guaranteed Obligations (or any portion thereof) remain unsatisfied, it will make its own credit analysis of Purchaser and will keep itself fully informed as to all aspects of the financial condition of Purchaser, the performance of the Guaranteed Obligations of all circumstances bearing upon the risk of nonpayment or nonperformance of the Guaranteed Obligations. Guarantor hereby waives and relinquishes any duty on the part of **BeneficiaryCounty** to disclose any matter, fact or thing relating to the business, operations or conditions of Purchaser now known or hereafter known by **BeneficiaryCounty**;

i. no consent, authorization, approval, order, license, certificate, or permit or act of or from, or declaration or filing with, any governmental authority or any party to any contract, agreement, instrument, lease, or license to which Guarantor is a party or by which

Guarantor is bound, is required for the execution, delivery, or compliance with the terms hereof by Guarantor, except as have been obtained prior to the date hereof; and

j. there is no pending or, to the best of its knowledge, threatened action, suit, proceeding, arbitration, litigation, or investigation of or before any Governmental Authority which challenges the validity or enforceability of this Guaranty.

13. **Governing Law.** The validity, interpretation and effect of this Guaranty are governed by and will be construed in accordance with the laws of the State of California applicable to contracts made and performed in such State and without regard to conflicts of law doctrines.

14. **Entire Document.** This Guaranty contains the entire agreement of Guarantor with respect to the transactions contemplated hereby, and supersede all negotiations, representations, warranties, commitments, offers, contracts and writings prior to the date hereof, written or oral, with respect to the subject matter hereof. No waiver, modification or amendment of any provision of this Guaranty is effective unless made in writing and duly signed by **BeneficiaryCounty** referring specifically to this Guaranty, and then only to the specific purpose, extent and interest so provided.

15. **Severability.** If any provision of this Guaranty is determined to be unenforceable for any reason by a court of competent jurisdiction, it will be adjusted rather than voided, to achieve the intent of the parties and all of the provisions not deemed unenforceable will be deemed valid and enforceable to the greatest extent possible.

16. **Notices.** Any communication, notice or demand of any kind whatsoever under this Guaranty shall be in writing and delivered by personal service (including express or courier service), by electronic communication, whether by telex, telegram or telecopying (if confirmed in writing sent by registered or certified mail, postage prepaid, return receipt requested), or by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

County of Sonoma
Department of Transportation and Public Works
2300 County Center Drive, Suite B100
Santa Rosa, California 95403
Attn: Director
Phone: (707) 565-2231
Fax: (707) 565-2620

With copies to: County of Sonoma
Office of the County Counsel
575 Administration Drive, Room 105A
Santa Rosa, California 95403
Attn: County Counsel
Phone: (707) 565-2421
Fax: (707) 565-2624

If to Guarantor:

Attention: _____
Phone: _____
Fax: _____

With copies to:

Attention: _____
Phone: _____
Fax: _____

Either Guarantor or **BeneficiaryCounty** may from time to time change its address for the purpose of notices by a similar notice specifying a new address, but no such change is effective until it is actually received by the party sought to be charged with its contents.

All notices and other communications required or permitted under this Guaranty which are addressed as provided in this Section 15 are effective upon delivery, if delivered personally or by overnight mail, and, are effective five (5) days following deposit in the United States mail, postage prepaid if delivered by mail.

17. **Captions.** The captions of the various Sections of this Guaranty have been inserted only for convenience of reference and do not modify, explain, enlarge or restrict any of the provisions of this Guaranty.

18. **Assignability.** This Guaranty is binding upon and inures to the benefit of the successors and assigns of Guarantor and **BeneficiaryCounty**, but is not assignable by Guarantor without the prior written consent of **BeneficiaryCounty**, which consent may be granted or withheld in **BeneficiaryCounty**'s sole discretion. **BeneficiaryCounty** has the right to assign this Guaranty to an Affiliate of **BeneficiaryCounty** without obtaining any further consent from Guarantor. Any assignment by Guarantor effected in accordance with this Section 15 will not relieve Guarantor of its obligations and liabilities under this Guaranty. Any entity acquiring substantially all of the assets of Guarantor shall be deemed to assume the obligations of Guarantor under this Guaranty (without releasing Guarantor from its obligations).

19. **Construction of Agreement.** Ambiguities or uncertainties in the wording of this Guaranty will not be construed for or against any party, but will be construed in the manner that most accurately reflects the parties' intent as of the date hereof.

20. **No Waiver.** Any forbearance or failure to exercise, and any delay by **BeneficiaryCounty** in exercising, any right, power or remedy hereunder will not impair any such right, power or remedy or be construed to be a waiver thereof, nor will it preclude the further exercise of any such right, power or remedy.

21. **Bankruptcy; Post-Petition Interest; Reinstatement of Guaranty.**

(a) The obligations of Guarantor under this Guaranty will not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of Purchaser or by any defense which Purchaser may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding. **BeneficiaryCounty** is not obligated to file any claim relating to the Guaranteed Obligations if Purchaser becomes subject to a bankruptcy, reorganization, or similar proceeding, and the failure of **BeneficiaryCounty** so to file will not affect Guarantor's obligations under this Guaranty.

(b) Guarantor acknowledges and agrees that any interest on any portion of the Guaranteed Obligations which accrues after the commencement of any proceeding referred to in clause (a) above (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of said proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if said proceedings had not been commenced) will be included in the Guaranteed Obligations because it is the intention of Guarantor and **BeneficiaryCounty** that the Guaranteed Obligations should be determined without regard to any rule of law or order which may relieve Purchaser any portion of such Guaranteed Obligations. Guarantor will permit any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or any similar person to pay **BeneficiaryCounty**, or allow the claim of **BeneficiaryCounty** in respect of, any such interest accruing after the date on which such proceeding is commenced.

22. **Attorneys' Fees.** If any action, proceeding or arbitration is brought to interpret or enforce the terms of this Guaranty, the prevailing party shall be entitled to recover from the other party, in addition to all other damages, all actual costs and expenses of such action, proceeding or arbitration, including but not limited to actual attorneys' fees and costs, witness fees and costs and court costs. The phrase "prevailing party" as used in this Section shall include a party who receives substantially the relief desired whether by dismissal, summary judgment or otherwise.

23. **CONSENT TO JURISDICTION.** GUARANTOR AND THE COUNTY AGREE THAT ANY ACTION OR PROCEEDING TO RESOLVE A DISPUTE BETWEEN GUARANTOR AND **BENEFICIARYCOUNTY** CONCERNING THE INTERPRETATION, APPLICATION OR ENFORCEMENT OF THE TERMS OF THIS GUARANTY MAY ONLY BE BROUGHT IN SUPERIOR COURT FOR THE COUNTY OF SONOMA. EACH OF GUARANTOR AND **BENEFICIARYCOUNTY** ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS. IF NOT A RESIDENT OF THE STATE OF CALIFORNIA,

GUARANTOR MUST APPOINT AND MAINTAIN AN AGENT FOR SERVICE OF PROCESS IN THE STATE OF CALIFORNIA.

24. **Committed Cities.** Each Committed City shall be an express third party beneficiary under this Guaranty as to the Guaranteed Obligations relating to their respective City Disposal Agreements and shall be individually entitled to enforce the terms hereof against Guarantor.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first written above.

GUARANTOR: _____,
a _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT G

FORM OF CERTIFICATE OF NONFOREIGN STATUS

THE COUNTY OF SONOMA, a political subdivision of the State of California (“**County**”), is the transferor of that certain real property located in the County of Sonoma, State of California and more particularly described on Exhibit A attached hereto (the “**Property**”).

Section 1445 of the Internal Revenue Code of 1986 (the “**Code**”) provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax will not be required in connection with the disposition of the Property pursuant to that certain Purchase and Sale Agreement dated as of _____, 2008, by and between County and _____, a _____, the undersigned certifies the following on behalf of County:

1. County is not a foreign corporation, foreign partnership, foreign trust or foreign estate, as those terms are defined in the Code and the regulations promulgated thereunder;
2. County’s U.S. employer identification number is 94-6000539; and
3. County’s address is Department of Transportation and Public Works, 2300 County Center Drive, Suite B100, Santa Rosa, California 95403.

It is understood that this certificate may be disclosed to the Internal Revenue Service and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined the foregoing certification and, to the best of my knowledge and belief, it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of County.

Date: _____, 20____ Signature: _____
Authorized Signatory

EXHIBIT A

Legal Description of Property

[Legal description from Purchase Agreement to be attached]

EXHIBIT H

FORM OF LEGAL OPINION

[LETTERHEAD OF INDEPENDENT LAW FIRM OR IN-HOUSE COUNSEL – SEE SECTION 5.2(B) OF THE ITP FOR LEGAL COUNSEL REQUIREMENTS]

County of Sonoma
Department of Transportation and Public Works
2300 County Center Drive, Ste. B100
Santa Rosa, California 95403

Re: Purchase and Sale Agreement (“Contract”) for Solid Waste Facilities dated as of _____, 2008, by and between the County of Sonoma, and _____ (the “Purchaser”)

Gentlemen:

[Describe relationship to Purchaser and its joint venture members, general partners, members, as applicable, and any other entities whose approval is required in order to authorize delivery of the proposal and execution of the Contract.] This letter is provided to you pursuant to Section 5.2(b) of the Instructions to Proposers of that certain Request for Proposals issued by the County of Sonoma (“the County”) on _____, 2008, as amended.

In giving this opinion, we have examined _____. We have also considered such questions of law and we have examined such documents and instruments and certificates of public officials and individuals who participated in the procurement process as we have deemed necessary or advisable. [if certificate used/obtained from Purchaser or Guarantor, such certificate should also run in favor of the County and should be attached to opinion]

In giving this opinion, we have assumed that all items submitted to us or reviewed by us are genuine, accurate and complete, and if not originals, are true and correct copies of originals, and that all signatures on such items are genuine.

Subject to the foregoing, we are of the opinion that:

1. [opinion regarding organization/formation and existence of Purchaser and that Purchaser has corporate power to own its properties and assets, carry on its business, make the Proposal, enter into the Contract and to perform its obligations under the Contract] [if Purchaser is a partnership/joint venture, these opinions are also required for each of its joint venture members and general partners]

2. [opinion regarding good standing and qualification to do business in State of California for Purchaser] [if Purchaser is a partnership/joint venture, these opinions are also required for each of its joint venture members and general partners]

3. [opinion regarding organization/formation and existence of Guarantor and that Guarantor has corporate power to own its properties and assets, to carry on its business, to enter into the Guaranty and to perform its obligations under the Guaranty] [if Guarantor is a partnership/joint venture, these opinions are also required for each of its joint venture members and general partners] [if there is no Guaranty, this opinion may be omitted]

4. [opinion that Proposal and Contract have been duly authorized by all necessary corporate action on the part of Purchaser and the Proposal and Contract have been duly executed and delivered by Purchaser] [if Purchaser is a partnership/joint venture, add: and its joint venture members/general partners after the first and second "Purchaser"]

5. [opinion that Guaranty has been duly authorized by all necessary corporate action on the part of Guarantor and the Guaranty has been duly executed and delivered by Guarantor] [if Guarantor is a partnership/joint venture, add: and its joint venture members/general partners after the first and second "Guarantor"] [if there is no Guaranty, this opinion may be omitted]

6. [opinion that the Contract constitutes a legal, valid and binding obligation of Purchaser enforceable against Purchaser in accordance with its terms] [if Purchaser is a partnership/joint venture, add: and its joint venture members/general partners after the second "Purchaser"]

7. [opinion that the Guaranty constitutes a legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms; [if Guarantor is a partnership/joint venture, add: and its joint venture members/general partners after the second "Guarantor"] [if there is no Guaranty, this opinion may be omitted]

8. [opinion that all required approvals have been obtained with respect to execution, delivery and performance of the Proposal and the Contract; and that neither the Proposal nor the Contract conflict with any agreements to which Purchaser is a party [if Purchaser is a partnership/joint venture, add: and its joint venture members/general partners are a party] or with any orders, judgments or decrees by which Purchaser is bound [if Purchaser is a partnership/joint venture, add: and its joint venture members/general partners are bound]]

9. [opinion that all required approvals have been obtained with respect to execution, delivery and performance of the Guaranty; and that the Guaranty does not conflict with any agreements to which Guarantor is a party [if Guarantor is a partnership/joint venture, add: and its joint venture members/general partners are a party] or with any orders, judgments or decrees by which Guarantor is bound] [if Guarantor is a partnership/joint venture, add: and its joint venture members/general partners are bound] [if there is no Guaranty, this opinion may be omitted]

10. [opinion that execution, delivery and performance of all obligations by Purchaser under the Proposal and the Contract do not conflict with, and are authorized by, the articles of incorporation and bylaws of Purchaser [if Purchaser is a partnership, replace articles of incorporation and bylaws with partnership agreement and (if applicable) certificate of limited partnership); if Purchaser is a joint venture, replace articles of incorporation and bylaws with

joint venture agreement; if Purchaser is a limited liability company, replace articles of incorporation and bylaws with operating agreement and certificate of formation]

11. [opinion that execution, delivery and performance of all obligations by Guarantor under the Guaranty does not conflict with, and is authorized by, the articles of incorporation and bylaws of Guarantor] [if Guarantor is a partnership, replace articles of incorporation and bylaws with partnership agreement and (if applicable) certificate of limited partnership); if Guarantor is a joint venture, replace articles of incorporation and bylaws with joint venture agreement; if Guarantor is a limited liability company, replace articles of incorporation and bylaws with operating agreement and certificate of formation] [if there is no Guaranty, this opinion may be omitted]

12. [opinion that execution and delivery by Purchaser of the Proposal and the Contract do not, and Purchaser's performance of its obligations under the Proposal and the Contract will not, violate any current statute, rule or regulation applicable to Purchaser or to transactions of the type contemplated by the Proposal or the Contract]

13. [opinion that execution and delivery by the Guarantor of the Guaranty do not, and the Guarantor's performance of its obligations under the Guaranty will not, violate any current statute, rule or regulation applicable to the Guarantor or to transactions of the type contemplated by the Guaranty] [if there is no Guaranty, this opinion may be omitted]

EXHIBIT I

FORM OF QUITCLAIM BILL OF SALE
(Facility Name)

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the undersigned, **THE COUNTY OF SONOMA**, a political subdivision of the State of California ("**County**"), does hereby give, grant, bargain, sell, transfer, assign, convey and deliver to _____, a _____ ("**Buyer**"), all personal property (if any) owned by County described in Exhibit A and located on or in that certain real property located in the County of Sonoma, State of California and more particularly described in Exhibit B attached hereto and incorporated herein by this reference.

SAID PERSONAL PROPERTY IS BEING TRANSFERRED ON AN "AS IS" BASIS, WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, OF ANY KIND WHATSOEVER BY COUNTY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUYER ACKNOWLEDGES THAT COUNTY EXPRESSLY DISCLAIMS AND NEGATES, AS TO ALL PERSONAL PROPERTY TRANSFERRED HEREBY: (A) ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY; (B) ANY IMPLIED OR EXPRESS WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; AND (C) ANY IMPLIED OR EXPRESS WARRANTY OF CONFORMITY TO MODELS OR MATERIALS.

Without limiting the generality of the foregoing, the obligations of County under this Quitclaim Bill of Sale shall be without recourse to the assets, properties or funds of any affiliate, employee, successor or assign of County or any of their respective affiliates, and no such affiliate, employee, successor or assign shall have any personal liability to Buyer.

All references to “**County**” and “**Buyer**” herein shall be deemed to include their respective nominees, successors and/or assigns, where the context permits.

Dated as of _____, 20__.

COUNTY:

THE COUNTY OF SONOMA,
a political subdivision of the State of California

By: _____
Name: _____
Title: _____

~~APPROVED AS TO FORM:~~

~~By: _____
Chief Deputy County Counsel~~

ATTEST:

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Chief Deputy County Counsel

EXHIBIT A

List of Personal Property

[Schedule 2.1(c) to be attached as it relates to each Facility]

EXHIBIT B

Legal Description of Property

[legal description from Purchase Agreement to be attached as it relates to each Facility]

EXHIBIT J
DEPICTION OF WEST CANYON

[See attached]

EXHIBIT K

FORM OF AGENCY AGREEMENT

**[NOTE TO PROPOSERS – THE FORM OF THIS AGREEMENT IS UNDER
DEVELOPMENT AND WILL BE INCLUDED VIA AN ADDENDUM]**

EXHIBIT L

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION (*Facility Name*)

THIS ASSIGNMENT AND ASSUMPTION (*Facility Name*) (this “Assignment”) is made as of _____, 20__, by **THE COUNTY OF SONOMA**, a political subdivision of the State of California (“Assignor”), in favor of _____, a _____ (“Assignee”).

For a valuable consideration, the receipt of which is hereby acknowledged, Assignor hereby grants, conveys, transfers and assigns to Assignee, to the extent transferable, all of Assignor’s right, title and interest in, to and under: (i) the leases, licenses, other occupancy agreements, service and vendor contracts and agreements (collectively, “Contracts”) which are more particularly described on Exhibit A attached hereto and incorporated herein by this reference, (ii) the governmental permits, variances, orders, certificates, consents, authorizations, licenses and approvals more particularly described on Exhibit B, and all amendments, modifications and supplements thereof (collectively, the “Permits”); and (iii) any warranties relating to any Pre-Approved Capital Expenditures (as defined in the Purchase Agreement (as defined below)) or Necessary Capital Expenditures (as defined in the Purchase Agreement) and any claims or rights that the Assignor may have against any third party consultant or contractor arising out of defective or negligent work in connection with any Pre-Approved Capital Expenditures or Necessary Capital Expenditures.

Subject to the terms and conditions of the Purchase Agreement, including Section 2.3 thereof, Assignee hereby accepts the foregoing assignment and agrees to pay, perform and discharge, as and when due, all of the agreements and obligations of Assignor under the Contracts and the Permits and agrees to be bound by all of the terms and conditions of the Contracts and the Permits. Section 2.3 of the Purchase Agreement concerning the Assumed Liabilities relating to the Contracts and Permits is expressly incorporated herein.

The provisions of this Assignment are binding upon, and shall inure to the benefit of, the successors and assigns of Assignor and Assignee, respectively.

Except as set forth in that certain Purchase and Sale Agreement dated as of _____, 2008 (as amended from time to time, the “Purchase Agreement”), by and between Assignor and _____, this Assignment is made without any representation or warranty (express or implied) or recourse against Assignor. Assignee is responsible for obtaining any required consents to the assignment of Assignor’s right, title and interest in, to and under the Landlord Leases, the Contracts and the Permits; provided, however, that Assignor shall cooperate with Assignee in connection with obtaining such consents.

This Assignment may be executed in any number of counterparts, each of which is an original, but all of which when taken together constitute one and the same instrument.

IN WITNESS WHEREOF, Assignor and Assignee have caused their duly authorized representatives to execute this Assignment as of the date first above written.

ASSIGNOR: COUNTY OF SONOMA,
a political subdivision of the State of California

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

~~By: _____
Chief Deputy County Counsel~~

ATTEST:

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Chief Deputy County Counsel

ASSIGNEE: _____,
a _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT A

Schedule of Contracts

Amendments and modifications to the agreements set forth below have not been specifically listed herein, but are included by reference for purposes of this exhibit.

[Contracts applicable to each Facility, as set forth in Schedule 2.1(d) shall be inserted below]

EXHIBIT B

Schedule of Permits

Amendments and modifications to the Permits set forth below that carry the same identification number as the original Permit have not been specifically listed herein, but are included by reference for purposes of this exhibit.

[Permits applicable to each Facility, as set forth in Schedule 2.1(e) shall be inserted below]

Issuing Agency

**Permit Number
or Date of Issuance**

Subject of License

EXHIBIT M

FORM OF EASEMENT AGREEMENT

Recording Requested By and: When Recorded Mail To:	
_____	No Documentary Transfer Tax Due
_____	By: _____
_____	Name/Title: _____

APN: _____

GRANT OF NON-EXCLUSIVE EASEMENT

THIS GRANT OF NON-EXCLUSIVE EASEMENT (“Easement”) is made this _____ day of _____, 20__, by **THE COUNTY OF SONOMA**, a political subdivision of the State of California, (**“Grantor”**), in favor of _____, a _____ (**“Grantee”**) (referred to herein collectively as “the Parties,” or each individually as a “Party.”)

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor hereby **GRANTS** unto Grantee, its successors and assigns, a non-exclusive easement to permit GRANTEE to lay down, construct, reconstruct, remove, replace, repair, maintain, operate and use a leachate pipeline and the appurtenances thereto, for the transmission and distribution of leachate (the “Facilities”) in, through, under and along that certain real property situated in the County of Sonoma, State of California, described in Exhibit A, attached hereto and incorporated herein (the “Easement Area”).

GRANTORS further grant to GRANTEE the right of ingress to and egress from said Easement Area for maintenance purposes over and across said land by means of roads and lanes thereon, if such there be, otherwise by such routes as shall occasion the least damage and inconvenience to GRANTOR.

GRANTEE hereby covenants and agrees:

- (a) GRANTEE shall not fence said Easement Area.

(b) GRANTEE shall promptly backfill any trench made by it on said Easement Area and repair any damage it shall do to the roads, lanes or other property of GRANTOR or any other party.

(c) GRANTEE's access to, and work in, the Easement Area shall be subject to customary restrictions, terms and conditions related to access to GRANTOR's public right-of-way and roads, including, without limitation, obtaining encroachment permits from applicable governmental authorities prior to access, obtaining and providing evidence of required insurance, obtaining approval for and implementing required traffic control, undertaking and completing pavement repair and satisfying all other conditions and mitigation requirements and obtaining all other customary approvals associated with such access and work.

(d) GRANTEE shall indemnify, defend and hold GRANTOR, its supervisors, officers, directors, employees, representatives, consultants, successors, assigns and agents, harmless from and against any loss, suit, claim, action, judgment, penalty, fine, investigation and damages which shall be caused by the exercise of said ingress and egress or by any act, omission, negligence, recklessness, willful misconduct, fault, breach of contract, or violation of applicable law or any permit or governmental authorization or by GRANTEE or of its agents, employees, representatives, consultants or contractors in the course of their employment.

(e) If at any time GRANTEE abandons the leachate pipeline, reconstructs it in a different location or otherwise permanently ceases to use the leachate pipeline, GRANTEE shall, upon demand, execute a quitclaim of its rights under this Easement and as to the Easement Area in favor of GRANTOR.

GRANTOR reserves the right to use said Easement Area for purposes which will not interfere with GRANTEE's full enjoyment of the rights hereby granted. GRANTEE acknowledges that this Easement is a non-exclusive easement and that GRANTOR, other utilities and other parties may have access to the Easement Area.

This Easement is expressly **SUBJECT TO** the Permitted Encumbrances (as defined in that certain Purchase and Sale Agreement dated as of _____, 2008 (the "**Purchase Agreement**") and the other terms and conditions of the Purchase Agreement.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

IN WITNESS WHEREOF, GRANTOR have executed these presents this ____ day of _____, 200_.

GRANTOR: THE COUNTY OF SONOMA,
a political subdivision of the State of California

By: _____
Name: _____
Title: _____

ATTEST: By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Chief Deputy County Counsel

State of California)
)
County of Sonoma)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT A

Description of Easement Area

[to be inserted via Addendum]

EXHIBIT N

FORM OF CITY DISPOSAL AGREEMENT

CITY DISPOSAL AGREEMENT

THIS CITY DISPOSAL AGREEMENT (this “**Agreement**”) is made as of _____, 2008, by and between _____, a _____ (“**City**”), and _____, a _____ (“**Purchaser**”).

BACKGROUND

- A.** The County of Sonoma (the “**County**”) owns certain real and personal property assets that are part of the County of Sonoma solid waste system, including locations commonly known as the Central Landfill and transfer stations located at Annapolis, Guerneville, Healdsburg, Sonoma and the Central Landfill.
- B.** Pursuant to that certain Purchase and Sale Agreement dated as of _____, 2008 (as amended, the “**Purchase Agreement**”), the County has agreed to sell to Purchaser and Purchaser has agreed to acquire from the County, the Property (as defined therein). A copy of the Purchase Agreement is attached hereto as Exhibit A. Initially capitalized terms not otherwise defined herein shall have the meanings set forth in the Purchase Agreement and the rules of interpretation set forth in Section 1.1 of the Purchase Agreement are hereby incorporated herein.
- C.** Pursuant to the Purchase Agreement, Purchaser has agreed to enter into a long-term tip fee and disposal relationship with any Committed City, whereby such City’s Waste will be disposed of by Purchaser at the Central Landfill or another facility owned or operated by Purchaser or an Affiliate at reasonable, fixed tip fees as set forth in the Purchase Agreement.
- D.** In addition to the long-term tip fee and disposal relationship, Purchaser will provide certain indemnities and releases in favor of the any Committed City with respect to the past, present and future use, operation and condition of the Facilities pursuant to the terms and conditions set forth herein.
- E.** The City wishes to become a Committed City and enter into this direct agreement with Purchaser to evidence their respective duties, obligations and responsibilities.

NOW, THEREFORE, in consideration of the respective representations, warranties, covenants and agreements contained in this Agreement, the receipt and sufficiency of which is hereby acknowledged by the Parties, each of City and Purchaser agrees as follows:

~~[NOTE TO PROPOSERS—THE FORM OF THIS AGREEMENT IS UNDER DEVELOPMENT AND WILL BE INCLUDED VIA AN ADDENDUM. IT SHALL LARGELY INCORPORATE THE PROVISIONS OF SECTION 6.16, SECTION 6.17, ARTICLE 7, SECTION 11.18 AND SCHEDULE 6.17 APPLICABLE TO THE CITIES THAT COMMIT THEIR WASTE]~~

1. Purchaser Representations and Warranties.

Purchaser represents and warrants to City as follows, which representations and warranties shall survive the Closing:

- (a) Organization and Existence.** Purchaser is a _____ duly [organized, formed or incorporated], validly existing and in good standing under the laws of _____ and is qualified to do business in the State.
- (b) Execution, Delivery and Enforceability.** Purchaser has full power to enter into, and to carry out its obligations under, this Agreement. The execution and delivery of this Agreement, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all necessary action required on the part of Purchaser. Assuming City's due authorization, execution and delivery of this Agreement, this Agreement constitutes the valid and legally binding obligations of Purchaser, enforceable against Purchaser in accordance with its and their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Laws of general application relating to or affecting the enforcement of creditors' rights and the rights of contracting parties and by general equitable principles.
- (c) No Violation.** Neither the execution and delivery of this Agreement, nor the compliance by Purchaser with any provision hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby by Purchaser shall violate or conflict with, or result in a breach of, any provisions of the organizational documents of Purchaser or any material Law applicable to Purchaser.
- (d) No Consents.** No consent or approval of, filing with or notice to any Entity is required to be obtained or made by Purchaser in connection with Purchaser's execution, delivery and performance of this Agreement, or the consummation of the transactions contemplated hereby, which, if not obtained or made, would prevent Purchaser from performing its obligations hereunder or thereunder.

2. City Representations and Warranties.

- (a) **Organization and Existence.** City is a political subdivision of the State.
- (b) **Execution, Delivery and Enforceability.** City has full power to enter into, and to carry out its obligations under, this Agreement. The execution and delivery of this Agreement, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all necessary action required on the part of City. Assuming Purchaser's due authorization, execution and delivery of this Agreement, this Agreement constitutes the valid and legally binding obligations of City, enforceable against City in accordance with its and their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Laws of general application relating to or affecting the enforcement of creditors' rights and the rights of contracting parties and by general equitable principles.
- (c) **No Violation.** Neither the execution and delivery of this Agreement, nor the compliance by City with any provision hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby by City shall violate or conflict with, or result in a breach of, any material Law applicable to City.
- (d) **No Consents.** No consent or approval of, filing with or notice to any Entity is required to be obtained or made by City in connection with City's execution, delivery and performance of this Agreement, or the consummation of the transactions contemplated hereby, which, if not obtained or made, would prevent City from performing its obligations hereunder or thereunder.
- (e) **Obligations Under License or Franchise.** The execution, delivery and performance of its obligations under this Agreement shall not violate or conflict with, or result in a breach of, the terms of any franchise agreement, license agreement or other agreement that the City has with a hauler or any other party. The City has the right, power and authority to direct its licensed or franchised hauler to deliver Waste to the Facilities.

3. City Flow Commitment; Tip Fees; Handling of Waste

- (a) From and after the Closing Date through and until August 31, 2030, Purchaser will charge the City's franchised or licensed haulers, on a per Ton basis, for Waste from the City a maximum amount of tip fees as set forth on Exhibit B, as the same may be adjusted pursuant to the

methodology set forth in Exhibit B. As set forth on Exhibit B, the amount of the tip fees and charges shall vary depending on whether the Landfill is allowed to accept Waste for disposal. As used in this Section 3 and in Exhibit B, "Waste" includes all Waste delivered to any Facility or any other facility located in the County of Sonoma that is owned or operated by Purchaser or its Affiliates, but excludes Source Separated green waste, Source Separated wood waste and other Source Separated recyclables (e.g., 100% recyclable, except for minor residual amounts). The tip fees set forth in Exhibit B and the Program Fees set forth in Section 6.12 of the Purchase Agreement shall be the sole amounts chargeable to the City's franchised and licensed haulers for Waste from the City. The tip fees shall be assessed on the Tons of Waste measured on vehicles entering into the Facilities or such other facility owned or operated by Purchaser or its Affiliates (in-bound vehicles).

- (b) The tip fees charged for Waste from the City shall take into account the aggregate commitments of Waste by Cities and the County as contemplated by Exhibit B.
- (c) The tip fees applicable to the Waste committed by the City shall be as set forth on the "tiered" tip fee charges and schedule set forth in Exhibit B. If a City becomes a Committed City, the Waste flow for such City set forth in the table in Exhibit B shall be credited towards the increments set forth in the rate table set forth in Exhibit B for purposes of determining the applicable tip fee as of the Closing Date for the County-Controlled Waste and the City's Waste. The tip fees set forth in Exhibit B and the Program Fees set forth in Section 6.12 of the Purchase Agreement shall be the sole amounts chargeable to the franchised and licensed haulers of the City for the Waste committed by the City. The tip fees shall be assessed on the Tons of Waste measured on vehicles entering into the Facilities or such other facility owned or operated by Purchaser or its Affiliates (in-bound vehicles). With respect to the City, Purchaser shall receive, accept and safely and lawfully dispose of such Waste, at which time ownership and possession of such material shall transfer to Purchaser. Purchaser shall guarantee its ability to accept and dispose of the City's Waste. Purchaser shall be solely responsible for estimating and securing, at the Landfill or elsewhere, the quantity of capacity that shall be required to handle all Waste from the City.
- (d) Notwithstanding the foregoing, during the period through and until August 31, 2030, the City shall be entitled to the lowest tip fees charged by Purchaser to other public agencies located in the County of Sonoma for Waste. If and to the extent, during such period, Purchaser charges tip fees

to the County or any other city or other public agency located in the County of Sonoma at a rate lower than those charged to the City's franchised and licensed haulers for Waste from the City (as set forth in Exhibit B), the tip fees and charges applying to the Waste from the City shall be decreased to the level charged by Purchaser to such other city or other public agency. In determining whether a tip fee and other charge is lower than that charged to the City's franchised and licensed haulers, the Program Fees shall not be taken into account, but any discounts, rebates, free disposal and similar concessions provided to such other city or other public agency shall be taken into account. In the event of a dispute between the City and Purchaser as to whether Purchaser is in compliance with this Section 3(d), such dispute shall be resolved pursuant to the dispute resolution provisions set forth in Section 11.

- (e) If Purchaser is unable to accept the City's Waste at the Facilities or any other facility owned or operated by Purchaser or an Affiliate that is located within the County of Sonoma because (i) of the acts, omissions, negligence, recklessness, willful misconduct, fault, breach of contract, breach of the requirements of the Contract Documents, violation of Law; or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit of or by Purchaser or any other member of the Purchaser Group; (ii) Purchaser did not use Commercially Reasonable Efforts in resisting changes, alterations and amendments to the Permits, or (iii) due to lack of capacity at landfills owned or operated by Purchaser or any Affiliate, then Purchaser shall (1) accept and dispose of such Waste at another landfill owned or controlled by Purchaser or its Affiliate at rates equivalent to the tip fees set forth on Exhibit B that apply for the period in which the Landfill is allowed to accept Waste), and Purchaser shall pay any additional transportation costs incurred by the City and its licensed or franchised haulers delivering such Waste to the other landfill, or (2) arrange for all such Waste to be disposed of at another landfill not owned by Purchaser or its Affiliates, in which case Purchaser shall pay any difference between: (x) the landfill disposal fees charged at such landfill plus any additional transportation costs incurred in delivering such Waste to the other landfill; and (y) the tip fees set forth on Exhibit B that apply for the period in which the Landfill is allowed to accept Waste).
- (f) Upon the occurrence and during the continuance of a Force Majeure Event during the period in which the Landfill is allowed to accept Waste for disposal and Purchaser is disposing of the City's Waste, Purchaser shall, to the extent it is legally able to do so, accept and dispose of the City's Waste at another landfill owned by Purchaser or an Affiliate at the tip fees set

forth on Exhibit B that apply for the period in which the Landfill is not allowed to accept Waste for disposal.

- (g) In the event that a Force Majeure Event continues for a period in excess of 60 consecutive days, the County and the Committed Cities, including the City, shall each independently have the right to terminate their respective Waste flow commitments set forth in this Agreement. The termination rights by the County and each Committed City are wholly independent of each other and one or more may exercise their respective termination right(s) notwithstanding any election by the others to not exercise its termination rights. A termination of the Waste flow commitment shall not limit, modify, waive or discharge Purchaser from any of its other obligations under Sections 4-8, all of which shall continue in full force and effect. A termination of a Waste flow commitment by the County or any Committed City shall not modify or increase the then-applicable tip fee rates for those parties that do not terminate their Waste flow commitments.
- (h) During a period in which Purchaser is disposing of the City's Waste at a facility other than the Landfill, if such facility becomes unavailable for the disposal of such Waste for any reason, Purchaser shall (1) accept and dispose of such Waste at another landfill owned or controlled by Purchaser or its Affiliate for the tip fees set forth on Exhibit B for the period in which such landfill is not available for disposal of Waste), and Purchaser shall pay any additional transportation costs incurred by the City and its licensed or franchised haulers delivering such Waste to the other landfill, or (2) arrange for all such Waste to be disposed of at another landfill not owned by Purchaser or its Affiliates, in which case Purchaser shall pay any difference between: (x) the landfill disposal fees charged at such landfill plus any additional transportation costs incurred in delivering such Waste to the other landfill; and (y) the tip fees set forth on Exhibit B that apply for the period in which the Landfill is not allowed to accept Waste).
- (i) The County and the Committed Cities, including the City, shall each independently have three successive options to continue to commit their respective Waste flow to Purchaser for 10 additional years per option. Each option must be exercised no later than four years prior to the expiration of the then prior period under which Waste has been committed (e.g., the initial option must be exercised by August 31, 2026). The exercise of the options shall be within the sole respective discretion of the County and such Cities and the exercise of one option does not guaranty or mean that the succeeding option or options will be exercised; provided, however, that the second and third options may not be exercised unless the immediately preceding option has been exercised. The options of the

County and each Committed City are wholly independent of each other and one or more may exercise their respective option(s) notwithstanding any election by the others to not exercise its option(s). The tip fees and charges payable in connection with such option period shall be determined on the basis of the market rates. In connection with the potential exercise of such options, on or before five years prior to the expiration of the then prior period under which Waste has been committed (e.g., with respect to the initial option, August 31, 2025), Purchaser shall deliver to the County and the Committed Cities a schedule of market rate tip fees and charges that it proposes to charge during the option period. The form of the schedule must be consistent with Exhibit B, as the same may have been modified by the parties as of the applicable date.

- (j) Purchaser and the City acknowledge and agree that it is the intent of each party that Waste generated within the County of Sonoma, including the City's Waste, is disposed of within the County of Sonoma during periods when the Landfill is allowed to receive Waste for disposal. To the extent that the Landfill is allowed to receive Waste for disposal or is otherwise in operation, Purchaser shall dispose of County-Controlled Waste, Waste from any Committed City, Waste from any other city located in the County of Sonoma and Self Haul Waste that is delivered to any Facility or any other facility located in the County of Sonoma that is owned or operated by Purchaser or an Affiliate at the Landfill. Notwithstanding the foregoing, should Purchaser commence Waste disposal at the Landfill in the manner allowed under the CIWMB Settlement in order to avoid the commencement of closure activities at the Landfill, Purchaser may limit the disposal of County-Controlled Waste, Waste from any Committed City, Waste from any City and Self Haul Waste at the Landfill to the minimum amount necessary to avoid the commencement of closure activities, up to a maximum Tonnage equal to the first 390 Tons of Waste per day disposed of in Phase 1 and Phase 2 of "Landfill 2", as currently defined in the Solid Waste Permit for the Landfill, as such Solid Waste Permit exists as of the Execution Date; provided, however, that during such period, if the Waste committed by the County and the Committed Cities exceeds the Tonnage disposed of at the Landfill, Purchaser shall charge the tip fees for disposal at the Landfill on a proportionate basis for County-Controlled Waste and Waste committed by the Committed Cities, on the basis of the percentage of their respective commitments in relation to the total Waste committed.
- (k) The commitment by City of its Waste is not a guaranty of any amount of Waste flow or represent a "put or pay" relationship. Purchaser

acknowledges that the actual Waste flow may be higher or lower than its projections, proposal assumptions or historical averages.

- (l) Notwithstanding the commitment of Waste by the City as described herein, such commitment is not a guaranty of payment. Purchaser shall be solely responsible for invoicing the haulers and other entities delivering Waste and shall be solely responsible for obtaining such payments from such hauler or other entity. The City shall not have any responsibility or liability for unpaid amounts. Nothing contained herein shall (i) obligate Purchaser to accept Waste for disposal from haulers who, based on Purchaser's customary billing processes for municipal waste, are not current on any outstanding invoices; or (ii) limit Purchaser's rights and remedies under Law to pursue and obtain such payments from such haulers.
- (m) A breach or default by a Committed City (other than the City) as to its commitment of Waste under this Section 6.17 shall not be considered a breach or default by, or modify the tip fee rates or Waste commitments of, the County or any other Committed City (including the City) and the County and such other Committed Cities shall remain entitled to the same tip fees as then in effect absent the breach or default. A breach or default by the County as to its commitment of County-Controlled Waste under this Section 3 shall not be considered a breach or default by, or modify the tip fee rates or Waste commitments of, any Committed City and such Committed Cities shall remain entitled to the same tip fees as then in effect absent the breach or default. In no event shall the County have any obligation for any Committed City or any Committed City have any obligation for the County or any other Committed City and no joint or several liability shall apply under any circumstance.
- (n) Except as expressly set forth on Exhibit B, Purchaser may not increase the tip fees applicable to the City's Waste. In the event that any adjustments to the tip fees pursuant to Exhibit B increase the total tip fees on a per Ton basis by more than 10% in any year, as measured by each Adjustment Date, the City may terminate its Waste flow commitments set forth in this Agreement. Purchaser shall not be entitled to any termination rights under the circumstances described in this Section 3(n). The termination rights by the County and each Committed City, including the City, are wholly independent of each other, and one or more may exercise their respective termination right(s) notwithstanding any election by the others to not exercise its termination rights. A termination of the Waste flow commitment shall not limit, modify, waive or discharge Purchaser from any of its obligations under the indemnification and release provisions set

forth in Sections 4-8, all of which shall continue in full force and effect. A termination of a Waste flow commitment by the County or any Committed City shall not modify or increase the then-applicable tip fee rates for those parties that do not terminate their Waste flow commitments.

- (o) Purchaser, at all times, shall handle, process, transport and dispose of all City Waste in accordance with applicable Law, Permits and Prudent Solid Waste Practices.

4. Purchaser Indemnity of City Group.

Purchaser shall indemnify, defend and hold the City and its councilmembers, officers, directors, employees, representatives, consultants, successors, assigns and agents (collectively, the “City Group”), and each of them, harmless from and against all Losses which arise out of, result from of or relate to any of the following (“Indemnified Claims”):

- (a) any material breach or material default under this Agreement by Purchaser;
- (b) any material breach of any of the representations or warranties made in Section 1 as to which a Notice of Claim is received by Purchaser;
- (c) the ownership and operation of the Property, including all actions, omissions, negligence, recklessness, willful misconduct, breach of contract, violation of Law or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit related thereto and/or resulting therefrom (it being expressly acknowledged and agreed by Purchaser that Purchaser’s obligations hereunder include responsibility and liability for all actions, omissions, negligence, recklessness, willful misconduct, breach of contract, violation of Law or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit by any Entity that occurred, in whole or in part prior to the Closing and after the Closing);
- (d) Any and all Environmental Conditions and/or Remediation (it being expressly acknowledged and agreed by Purchaser that Purchaser’s obligations hereunder include responsibility and liability for Environmental Conditions and Remediation that arise out of, result from or relate to the period prior to the Closing and after the Closing, whether known or unknown to the County, the City or to Purchaser, and also include the Environmental Conditions and Remediation that arise out of,

relate to or result from the continued and future acceptance, management, handling, processing, sorting and/or disposal of Waste);

- (e) Any and all Closure and Post-Closure Obligations, including all Approved Financial Assurances (it being expressly acknowledged and agreed by Purchaser that Purchaser's obligations hereunder include responsibility and liability for such conditions and items that arise out of, result from or relate to events, incidents, operations and items that occurred, in whole or in part, prior to the Closing and after the Closing, including the Closure and Post-Closure Obligations that arise out of, relate to or result from the continued and future acceptance, management, handling, processing, sorting and/or disposal of Waste);
- (f) Any and all Assumed Liabilities (it being expressly acknowledged and agreed by Purchaser that Purchaser's obligations hereunder include responsibility and liability for such conditions and items that arise out of, result from or relate to events, incidents, operations and items that occurred, in whole or in part, prior to the Closing and after the Closing);
- (g) The use, exploration, production, recovery, sale, transfer and/or distribution of Landfill Gas from the Landfill (and any byproducts or end products thereof, including electricity) after Closing;
- (h) Purchaser's Due Diligence Inspections and Reviews or the exercise of any additional due diligence that Purchaser undertakes between the Execution Date and the Closing Date (which due diligence, including the approval thereof, shall not be a condition to Closing);
- (i) Any and all Permits, including the breach, violation, reissuance, transfer or modification thereof (it being expressly acknowledged and agreed by Purchaser that Purchaser's obligations hereunder include responsibility and liability for the period prior to the Closing and after the Closing);
- (j) Purchaser's efforts to cause the reissuance and transfer of the Permits, as described in Section 5.2(a) of the Purchase Agreement;
- (k) Any claim, action or suit, including any action, claim, suit, demand, investigation, proceeding and any counterclaim or cross-claim arising therefrom, arising out of the sale of the Property by County to Purchaser or the consummation of the transactions contemplated under the Purchase Agreement or hereby;

- (l) The past, present and future screening, acceptance, disposal, treatment, processing or sorting of Waste and other materials in or at any Facility;
- (m) The past, present and future screening, acceptance, disposal, treatment, processing or sorting by Purchaser or any Affiliate of any Waste and other materials at or in any facility other than the Facilities (including facilities located outside of the County of Sonoma); and
- (n) Any Third Party claim, action, suit, counterclaim, proceeding or right of contribution arising out of, related to or resulting from the Property (other than those expressly covered by the City's indemnity under Section 9), including any claim, counterclaim, right of contribution, action, suit or proceeding against any member of the City Group as a result of, arising from or related to Purchaser's actions to pursue a third party for any Indemnified Claim or from the County's initiation of a suit, claim, counterclaim, action, proceeding or right of contribution relating to, arising from or resulting from the County's reserved rights described in Section 2.2(b).

It is the intent of Purchaser and City that this Section 4 be interpreted and construed as broadly and as expansively as possible and that the City Group retain no liability and be fully indemnified against any and all Losses related to, arising from or associated with the items included in this Section 4. Notwithstanding the foregoing, Purchaser shall retain and have the right and ability (but not the obligation) to pursue any or all third parties other than the City Group for any Indemnified Claims; provided, however, that such rights shall not exist through or be derived from the City Group and Purchaser shall not be subrogated to any rights that the City Group may have against such third parties or with respect to any applicable insurance coverage.

5. Purchaser Release of City Group.

PURCHASER, FOR ITSELF AND ON BEHALF OF EACH OF ITS MEMBERS, SHAREHOLDERS, SUBSIDIARIES, AFFILIATES, AND EACH OF THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, DOES HEREBY RELEASE, HOLD HARMLESS AND FOREVER DISCHARGE THE EACH MEMBER OF THE CITY GROUP FROM ANY AND ALL LOSSES, IN EACH CASE, OF ANY KIND OR CHARACTER, WHETHER KNOWN OR UNKNOWN, HIDDEN OR CONCEALED, TO THE PERSON OR PROPERTY OF PURCHASER, ITS SUCCESSORS AND ASSIGNS, RESULTING FROM OR ARISING OUT OF (1) ANY LOSSES COVERED BY PURCHASER'S INDEMNITY SET FORTH IN SECTION 4; (2) THE PAST, PRESENT, CONTINUED AND FUTURE SCREENING, ACCEPTANCE, DISPOSAL, TREATMENT, SORTING, HANDLING AND PROCESSING OF WASTE OR OTHER MATERIAL (INCLUDING COUNTY-CONTROLLED WASTE, WASTE COMING FROM ANY OF THE CITIES AND SELF-HAUL WASTE) AT OR IN THE LANDFILL OR ANY OTHER OF THE FACILITIES; (3) THE DISPOSAL OF WASTE

COMING FROM THE COUNTY OF SONOMA AT FACILITIES OTHER THAN THE FACILITIES (INCLUDING FACILITIES LOCATED OUTSIDE OF THE COUNTY OF SONOMA); (4) ANY CLOSURE AND POST-CLOSURE OBLIGATIONS; (5) ANY MATTER OR ITEM INCLUDED WITHIN THE ASSUMED LIABILITIES; OR (6) ANY ENVIRONMENTAL CONDITION OR REMEDIATION. PURCHASER HEREBY WAIVES ANY AND ALL RIGHTS AND BENEFITS THAT IT NOW HAS, OR IN THE FUTURE MAY HAVE CONFERRED UPON IT BY VIRTUE OF THE PROVISIONS OF SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA (OR ANY OTHER STATUTE OR COMMON LAW PRINCIPLES OF SIMILAR EFFECT), WHICH PROVIDES AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

IN THIS CONNECTION, PURCHASER HEREBY AGREES, REPRESENTS, AND WARRANTS THAT IT REALIZES AND ACKNOWLEDGES THAT FACTUAL MATTERS NOW UNKNOWN TO IT MAY HAVE GIVEN OR MAY HEREAFTER GIVE RISE TO CLAIMS THAT ARE PRESENTLY UNKNOWN, UNANTICIPATED AND UNSUSPECTED, AND IT FURTHER AGREES, REPRESENTS, AND WARRANTS THAT THIS RELEASE HAS BEEN NEGOTIATED AND AGREED UPON IN LIGHT OF THAT REALIZATION AND IT NEVERTHELESS HEREBY INTENDS TO RELEASE THE CITY AND THE OTHER MEMBERS OF THE CITY GROUP FROM THE LOSSES, DESCRIBED IN THIS SECTION 5. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION 5, THIS RELEASE SHALL NOT RELEASE THE CITY FROM ANY OBLIGATIONS IT MAY HAVE UNDER THIS AGREEMENT. THIS RELEASE OF THE CITY AND THE OTHER MEMBERS OF THE CITY GROUP BY PURCHASER WILL BE DEEMED TO BE REMADE BY PURCHASER AS OF THE CLOSING AND SHALL SURVIVE THE CLOSING.

Purchaser's Initials _____

Notwithstanding the foregoing, the release set forth herein shall not preclude Purchaser from, and Purchaser hereby expressly reserves its right to, pursue all Third Parties (which expressly exclude any Entity released hereby) for any matter covered by the release set forth in this Section 5; provided, however, that such rights shall not exist through or be derived from the City or the other members of the City Group and Purchaser shall not be subrogated to any rights that such entities may have against such Third Parties or with respect to any applicable insurance coverage.

6. Acknowledgments; Covenant Not to Sue

- (a) Purchaser acknowledges that, pursuant to this Agreement and the transactions contemplated hereunder, Waste, including County-Controlled Waste, Waste coming from the Cities and Self-Haul Waste) may continue to be screened, accepted, handled, treated, sorted and processed at the Facilities and, in certain instances, disposed of at the Landfill. Purchaser acknowledges that the foregoing screening, acceptance, sorting handling, processing and disposal of Waste may increase Purchaser's obligations and liabilities for Closure and Post-Closure Obligations, Environmental Conditions and Remediation beyond what such obligations and liabilities are as of the Execution Date and the Closing Date. Purchaser further acknowledges and agrees that the disposal by Purchaser of such Waste at facilities other than the Landfill may also increase Purchaser's obligations and liabilities relating to such facilities. Purchaser acknowledges and agrees that a fundamental element of this Agreement and the City's willingness to enter into this Agreement and undertake the other obligations of the City hereunder is that, except as otherwise provided in the Purchase Agreement, Purchaser will assume all responsibility and liability for the Closure and Post-Closure Obligations, Environmental Conditions and Remediation, including those that relate to or arise out of the periods prior to and after Closing and those that relate to or arise out of the future screening, acceptance, handling, treatment, sorting, processing and disposal of Waste at the Facilities. It is expressly intended that neither Purchaser, nor any Entity claiming through Purchaser, shall have any rights, claims, remedies or actions against the City or any other member of the City Group for any of these items or for any other matter with respect to which Purchaser has provided indemnification under Section 4 or a release under Section 5.
- (b) Purchaser, for itself and on behalf of each other member of the Purchaser Group, does hereby covenant forever and unconditionally not to sue, make any claim or take any action against the City and any other member of the City Group for any Loss arising out of, relating to (i) Closure and Post-Closure Obligations or any Environmental Condition or Remediation, whether existing as of the Closing Date or arising, accruing or relating to the period from and after the Closing Date, including those that relate to or arise out of the future screening, acceptance, handling, sorting, processing and disposal of Waste at the Facilities; (ii) any other matter with respect to which Purchaser has provided indemnification under Section 4 or a release under Section 5; and (iii) facilities other than the Facilities at which Purchaser disposes of Waste from the County of Sonoma.

7. Payments.

All amounts which Purchaser is required to pay to the City under Section 5 on account of any Indemnified Claims shall be remitted to the City, as applicable, within 30 days after Purchaser's receipt of reasonable documentation of the incurrence by the City of such Losses. In the case of all payments described in this Section, such amount shall bear interest and compound at LIBOR effect from time to time plus 200 basis points until paid from the date due until fully paid.

8. City Notice of Claim.

Subject to the terms of this Agreement and upon obtaining actual knowledge of a claim for which it is entitled to indemnity under Section 5, the City shall promptly notify Purchaser in writing of any Indemnified Claim which the City has determined has given or could give rise to a claim under Section 4 (the written notice is referred to as a "Notice of Claim"). A Notice of Claim shall specify, in reasonable detail, the facts known to the City regarding the Indemnified Claim. Notwithstanding the foregoing, the failure to provide (or timely provide) a Notice of Claim shall not affect the rights to indemnification of the City. Further, Purchaser shall begin defending the City Group immediately upon receipt of the relevant Notice of Claim, at Purchaser's sole cost and expense and with counsel reasonably acceptable to the members of the City Group potentially subject to such Notice of Claim. Purchaser's obligations hereunder shall in no way be impaired, reduced or released by reason of (i) an omission or delay by any applicable member of the City Group in exercising any right described herein; or (ii) any act or omission of any of such parties in connection with any notice, demand, warning or claim regarding violations of Laws governing the Facilities.

9. City Indemnity.

To the extent permitted by applicable Law, City shall indemnify, defend and hold the Purchaser Group harmless from and against all Losses which directly arise out of, result from or relate to a Third Party suit, claim or action that challenges the validity of (i) the Solid Waste System Fee, as the same applies to Waste from the City; and (ii) the SCWMA Fee, as the same applies to Waste from the City. This Section 9 shall not (x) apply to any Loss to the extent arising out of or relating to any act, omission, negligence, recklessness, willful misconduct, fault, breach of contract, breach of the requirements of the Contract Documents, violation of Law or non-compliance with any Governmental Authority permits, consents, approvals, directives, authorizations, orders or agreements or a Permit by Purchaser or any other member of the Purchaser Group; (y) apply to any of the Assumed Liabilities; or (z) limit or modify any of the provisions of Sections 4-8.

10. Survival.

Sections 4-9 shall survive the Closing and the expiration of the Waste flow commitment under this Agreement.

11. Dispute Resolution Provisions.

This Section is referred to herein as the “Dispute Resolution Provision.” This Dispute Resolution Provision is a material inducement for the parties entering into this Agreement.

- (a)** This Dispute Resolution Provision concerns the resolution of only those specific disputes, controversies or claims set forth in this Agreement that specifically reference this Section 11 (the “Dispute Claims”). All other claims, disputes or controversies between the Parties shall be considered outside of the Dispute Resolution Provisions and not governed hereby. The Dispute Claims can be found in the following sections of this Agreement: Section 3(d) and Section VII of Exhibit B.
- (b)** At the request of any Party, any Dispute Claim shall be resolved by binding arbitration in accordance with California Code of Civil Procedure Section 1280 et. seq. (the “Act”). A Party’s request shall be pursuant to written notice.
- (c)** Arbitration proceedings will be determined in accordance with the Act, the then-current JAMS Streamlined Arbitration Rules of the American Arbitration Association or any successor thereof (“AAA”), and the terms of this Dispute Resolution Provision. In the event of any inconsistency, the terms of this Dispute Resolution Provision shall control. If AAA is unwilling or unable to (i) serve as the provider of arbitration or (ii) enforce any provision of this arbitration clause, the City may designate another arbitration organization with similar procedures to serve as the provider of arbitration.
- (d)** The arbitration shall be administered by JAMS and conducted in Sonoma County, California. All Dispute Claims shall be determined by one arbitrator. The arbitrator shall have at least 5 years’ direct experience with solid waste facilities and shall be independent of, and unaffiliated with, each Party (and shall not ever have been an employee of either Party, under contract with either Party in the past 5 years or acted as an arbitrator for such Party within the past 5 years). If the Parties are unable to select an arbitrator within 20 days after delivery by a Party of the written notice requesting arbitration, JAMS shall select a qualified arbitrator from its panel.

- (e) The arbitration hearings shall commence within 60 days of the demand for arbitration and close within 45 days of commencement and the decision of the arbitrator(s) shall be issued within 45 days of the close of the hearing. The Parties shall have the right to such discovery as permitted by Cal. Code of Civil Procedure §1283.05. The arbitrator(s) shall provide a concise written statement of reasons for the decision. The arbitration decision may be submitted to any court having jurisdiction to be confirmed and have judgment entered and enforced. During the pendency of any Dispute Claim under this Section 11, all applicable time periods directly related to the Dispute Claims shall be tolled until resolution of the Dispute Claim hereunder; provided, however, that no tolling shall apply to any matters other than those directly related to the Dispute Claim and such tolling shall not entitle a Party to breach, default or fail to perform its obligations under this Agreement.
- (f) With respect to Dispute Claims relating to valuation items under Section 3(d) or Section VII of Exhibit B, within 20 days after initiation of the arbitration, if not previously done so under the terms of this Agreement, the City and Purchaser shall each submit to each other and the arbitrator their respective relevant value for the item subject to the Disputed Claim, with such supporting information as is reasonably necessary to support such suggested value. If the two valuations so submitted differ by less than or equal to five percent (5%) of the higher of the two, the average of the two shall become the agreed upon amount for purposes of this Agreement and the arbitration shall not be continued. If the two valuations differ by more than five percent (5%) of the higher of the two, then the arbitrator shall make a determination of the relevant value and submit such determination to both the City and Purchaser. This third valuation will then be averaged with the closer of the two previous valuations and the result shall be the relevant value. In no event shall the resolution of a Dispute Claim result in a valuation higher than that which was set forth by Purchaser (e.g., a higher tip fee adjustment).
- (g) With respect to a Dispute Claim relating to whether a Tip Fee Adjustment Event has occurred pursuant to Exhibit B, within 20 days after initiation of the arbitration, the City and Purchaser shall each submit to each other and the arbitrator its detailed analysis of the subject of the Dispute Claim, with such supporting information as is reasonably necessary to support its position.
- (h) All Dispute Claims related to the same issue and dispute and involving the County and/or one or more Committed Cities shall be determined pursuant

a single arbitration proceeding under Section 11.18 of the Purchase Agreement.

- (i) By agreeing to binding arbitration, the parties irrevocably and voluntarily waive any right they may have to a trial by jury as permitted by Law in respect of any Dispute Claim. **WHETHER OR NOT THE CLAIM IS DECIDED BY ARBITRATION, THE PARTIES AGREE AND UNDERSTAND THAT THE EFFECT OF THIS AGREEMENT IS THAT THEY ARE GIVING UP THE RIGHT TO TRIAL BY JURY TO THE EXTENT PERMITTED BY LAW.**
- (j) The Parties shall evenly split the cost of any arbitration under this Section 11.

12. Expenses.

Except as otherwise provided herein, each party is responsible for its own costs and expenses (including attorneys' and consultants' fees, costs and expenses) incurred in connection with this Agreement and the consummation of the transactions contemplated by this Agreement.

13. Entire Document.

This Agreement (including the Exhibits and Schedules to this Agreement) contains the entire agreement between the parties with respect to the transactions contemplated thereby, and supersede all written or oral negotiations, representations, warranties, commitments, offers, contracts and writings prior to the execution date of this Agreement. No waiver and no modification or amendment of any provision of this Agreement is effective unless made in writing and duly signed by the parties referring specifically to the purpose, extent and interest so provided.

14. Exhibits and Schedules.

The Exhibits and Schedules delivered pursuant to the terms of this Agreement are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

15. Counterparts.

This Agreement and all exhibits hereto may be executed in one or more counterparts, each of which is an original, but all of which together constitute one and the same instrument.

16. Severability.

If any provision hereof is held invalid or unenforceable for any reason, this holding or action shall be strictly construed and shall not affect the validity or effect of any other provision

hereof. To the extent permitted by Law, the parties waive, to the maximum extent permissible, any provision of Law that renders any provision hereof prohibited or unenforceable in any respect. Additionally, to the extent that this Agreement may be uncertain or ambiguous such that it requires interpretation or construction, then it shall be interpreted and construed in such a way that meets the public policy goals referenced in Recital C of the Purchase Agreement. It is the intention of the parties that any interpretation or construction shall promote the goals of this Agreement. In particular, it is the intent of Purchaser and City that the Agreement be interpreted and construed as broadly and as expansively as possible and that the City retains no liability and be fully indemnified against and released from any and all Losses related to, arising from or associated with the Assumed Liabilities.

17. Assignability.

This Agreement is binding upon and inures to the benefit of the successors and assigns of the parties but is not assignable by any party without the prior written consent of the other party, which consent may be granted or withheld in such Party's sole discretion.

18. Captions.

The captions of the various Articles, Sections, Exhibits and Schedules of this Agreement have been inserted only for convenience of reference and do not modify, explain, enlarge or restrict any of the provisions of this Agreement.

19. Governing Law.

The validity, interpretation and effect of this Agreement are governed by and shall be construed in accordance with the Laws of the State applicable to contracts made and performed in such State and without regard to conflicts of Law doctrines except to the extent that certain matters are preempted by federal Law or are governed by the Law of the jurisdiction of organization of the respective parties.

20. Notices.

Any communication, notice or demand of any kind whatsoever which either Party may be required or may desire to give to or serve upon the other shall be in writing and delivered by personal service (including express or courier service), by electronic communication, whether by telex, telegram or telecopying (if confirmed in writing sent by registered or certified mail, postage prepaid, return receipt requested), or by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to City:

Attention:

Phone:

Fax:

With copies to:

County of Sonoma
Department of Transportation and Public Works
2300 County Center Drive, Suite B100
Santa Rosa, California 95403
Attn: Director
Phone: (707) 565-2231
Fax: (707) 565-2620

County of Sonoma
Office of the County Counsel
575 Administration Drive, Room 105A
Santa Rosa, California 95403
Attn: County Counsel
Phone: (707) 565-2421
Fax: (707) 565-2624

If to Purchaser:

Attention:

Phone:

Fax:

With copies to:

Attention:

Phone:

Fax:

Any party may from time to time change its address for the purpose of notices to that party by a similar notice specifying a new address, but no such change is effective until it is actually received by the party sought to be charged with its contents.

21. Time is of the Essence.

Time is of the essence of each term of this Agreement. Without limiting the generality of the foregoing, all times provided for in this Agreement for the performance of any act shall be strictly construed.

22. County and Other Committed Cities as Third Party Beneficiaries; No Other Third Party Beneficiaries.

The County and the other Committed Cities shall each be express third party beneficiaries under this Agreement and shall be entitled to enforce the provisions hereof. Except for the County, such other Committed Cities and as may be specifically set forth in this Agreement, nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any Entities other than the parties and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any Entities to any party, nor give any Entities any right of subrogation or action against any party.

23. No Joint Venture.

Nothing contained in this Agreement creates or is intended to create an association, trust, partnership, or joint venture or impose a trust or partnership duty, obligation, or liability on or with regard to any party.

24. Construction Of Agreement.

Ambiguities or uncertainties in the wording of this Agreement shall not be construed for or against any Party, but shall be construed in the manner that most accurately reflects the Parties' intent as of the date they executed this Agreement. Additionally, to the extent that this Agreement may be uncertain or ambiguous such that it requires interpretation or construction, then it shall be interpreted and construed in such a way that meets the public policy goals referenced in Recital C of this Agreement. It is the intention of the parties that any interpretation or construction shall promote the goals of this Agreement. In particular, it is the intent of Purchaser and City that the Agreement be interpreted and construed as broadly and as expansively as possible and that the City retains no liability and be fully indemnified against and released from any and all Losses related to, arising from or associated with the Assumed Liabilities.

25. Consent to Jurisdiction.

CITY AND PURCHASER AGREE THAT ANY ACTION OR PROCEEDING TO RESOLVE A DISPUTE BETWEEN CITY AND PURCHASER CONCERNING THE INTERPRETATION, APPLICATION OR ENFORCEMENT OF THE TERMS OF THIS

AGREEMENT MAY ONLY BE BROUGHT IN SUPERIOR COURT FOR THE COUNTY OF SONOMA OR U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA. EACH OF CITY AND PURCHASER ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON COVENANTS. IF NOT A RESIDENT OF THE STATE, PURCHASER MUST APPOINT AND MAINTAIN AN AGENT FOR SERVICE OF PROCESS IN THE STATE. NOTHING CONTAINED HEREIN SHALL MODIFY OR LIMIT THE APPLICATION OF SECTION 11.

IN WITNESS WHEREOF, the ~~Parties~~parties have executed this Agreement as of the date first above written.

CITY: _____,
a _____

By: _____
Name: _____
Title: _____

~~APPROVED AS TO FORM:~~

~~By: _____
Name: _____
Title: _____~~

ATTEST:

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

PURCHASER: _____,
a _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT "A"

(Form of Purchase Agreement)

[See attached]

EXHIBIT "B"

(Tip Fee Schedules)

[See attached]

TIP FEE SCHEDULE
(WHEN LANDFILL IS NOT ALLOWED TO ACCEPT WASTE FOR DISPOSAL)

The tip fees and charges set forth in the table below shall apply to City Waste

[table set forth in Form G of RFP to be inserted based on Purchaser's Proposal]

TIP FEE SCHEDULE
(WHEN LANDFILL IS NOT ALLOWED TO ACCEPT WASTE FOR DISPOSAL)

[List of Government Fees to be inserted from Purchaser's Proposal]

TIP FEE SCHEDULE
(WHEN LANDFILL IS ALLOWED TO ACCEPT WASTE FOR DISPOSAL)

The tip fees and charges set forth in the table below shall apply to City Waste

[table set forth in Form G of RFP to be inserted based on Purchaser's Proposal]

TIP FEE SCHEDULE
(WHEN LANDFILL IS ALLOWED TO ACCEPT WASTE FOR DISPOSAL)

[List of Government Fees to be inserted from Purchaser's Proposal]

ADJUSTMENTS TO TIP FEES AND CHARGES

The tip fees and charges set forth on this Exhibit B shall be adjusted and modified under certain circumstances as described herein. Except as expressly set forth below, such tip fees and charges may not be increased for any reason without the prior written consent of the City, in its sole discretion. Where an increase is permitted hereunder, Purchaser is not obligated to implement such increase.

I. Annual Adjustment

Each year, on the Adjustment Date, Purchaser shall be entitled, but not obligated, to adjust the portion of the tip fees delineated as the "Disposal Component" as set forth on this Exhibit based on the increase, if any, in the CPI Factor, up to a maximum amount equal to 3.2% per annum. In the event that the CPI Factor exceeds 3.2% in any year, Purchaser shall be limited to a 3.2% increase and the excess increase in the CPI Factor shall not be retained or useable in any future year. The CPI Factor and the annual adjustment described herein shall not apply to the portions of the tip fees delineated as the "Fuels Component", the "Government Fee Component" or the "Other Public Agency Host Fee Component". Adjustments under this Section I shall be effective as of the Adjustment Date.

II. Fuels Adjustment.

A. This Section II shall only apply to the portion of the tip fees delineated as the "Fuels Component" as set forth on this Exhibit.

B. Each year, on the Adjustment Date, Purchaser shall be entitled, but not obligated, to adjust the portion of the tip fees delineated as the "Fuels Component" as set forth on this Exhibit based on the increase, if any, in the Fuel Cost Factor; provided, however, that if there has been a decrease in the Fuel Cost Factor, Purchaser shall adjust the portion of the tip fees delineated as the "Fuels Component" as set forth on this Exhibit in the amount of such decrease.

C. The initial Fuel Cost Factor shall be determined on each Adjustment Date by taking the percentage change in the "Fuel Cost Index" during the period commencing one month preceding the Closing Date until one month preceding the initial Adjustment Date, based on the "Average of Series ID: WPU057303" during such period (so, if the Adjustment Date is March 1, 2010, the relevant period for assessing the percentage change is February 2009 through February 2010) and multiplying that percentage by the portion of the tip fees delineated as the "Fuels Component" as set forth on this Exhibit. Purchaser shall be entitled, but not obligated, to increase the tip fees by the increase, if any, in the Fuel Cost Factor. Purchaser shall decrease the tip fees by the decrease, if any, in the Fuel Cost Factor. The Fuel Cost Index for successive Adjustment Dates shall be revised to reflect the Fuel Cost Index for the period commencing one month preceding the immediately prior Adjustment Date and the "Fuel Component" shall be the then-current "Fuel

Component”. The formula described above shall apply to each annual calculation of the Fuel Cost Factor.

D. Adjustments under this Section II shall be effective as of the Adjustment Date.

III. Government Fee Adjustment.

A. This Section III shall apply to adjustments of the portion of the tip fees delineated as the “Government Fee Component” as set forth on this Exhibit and only for those federal and state regulatory fees set forth in this Exhibit. Each year, on the Adjustment Date, Purchaser shall deliver to the City a current list of all federal or state regulatory fees applicable to the Facilities and any other facility outside of the County of Sonoma at which Purchaser is disposing of Waste.

B. If, during the period from and after the Closing Date through and until August 31, 2030, a federal or state regulatory fee that is charged on Waste that is delivered to the Facilities is initiated or an existing federal or state regulatory fee set forth in this Exhibit is adjusted, Purchaser and the City, as the case may be, shall be entitled to an adjustment of the tip fees set forth in this Exhibit. If the federal or state regulatory fee was in effect as of the Execution Date and not included on this Exhibit, any adjustment therein shall not entitle Purchaser to any increase in the tip fees.

C. With respect to a new federal or state regulatory fee described in Section III(B), the increase in the tip fees applicable to Waste from the City shall be limited to the amount of such new federal or state regulatory fee on a per Ton of Waste basis, without profit, mark-up, overhead or any additional charges thereon. With respect to an increase in an existing federal or state regulatory fee described in Section III(B), the increase in the tip fees applicable to the Waste from the City shall be limited to the amount of such increase on a per Ton of Waste basis, without profit, mark-up, overhead or any additional charges thereon. With respect to a decrease, suspension or elimination of an existing federal or state regulatory fee described in Section III(B), the decrease in the tip fees applicable to the Waste from the City shall be the amount of such decrease, eliminated federal or state regulatory fee or suspended federal or state regulatory fee, as applicable, on a per Ton of Waste basis.

D. Adjustments under this Section III shall be effective as of the date on which the applicable federal or state regulatory fee is increased, decreased, commenced or suspended, as the case may be.

IV. Other Public Agency Host Fee Adjustment.

A. This Section IV shall apply to adjustments of the portion of the tip fees delineated as the “Other Public Agency Host Fee Component” as set forth on this Exhibit. Each year, on the Adjustment Date, Purchaser shall deliver to the City a current list of all host fees assessed by a

county, city, joint powers authority or other regional agency, with jurisdiction over a facility outside of the County of Sonoma at which Purchaser is disposing of Waste.

B. If, during the period from and after the Closing Date through and until August 31, 2030, a county, city, joint powers authority or other regional agency, with jurisdiction over a facility outside of the County of Sonoma at which Purchaser is disposing of Waste, initiates a new host fee or adjusts an existing host fee, Purchaser and the City, as the case may be, will be entitled to an adjustment of the tip fees set forth in this Exhibit; provided, however, that the adjustment set forth in this Section IV shall apply only during such periods in which the Landfill is not allowed to accept Waste for disposal.

C. With respect to a new host fee described in Section IV(B), the increase in the tip fees applicable to the Waste from the City shall be limited to the amount of such new host fee on a per Ton of Waste basis, without profit, mark-up, overhead or any additional charges thereon. With respect to an increase in an existing host fee described in Section IV(B), the increase in the tip fees applicable to the Waste from the City shall be limited to the amount of such increase on a per Ton of Waste basis, without profit, mark-up, overhead or any additional charges thereon. With respect to a decrease, suspension or elimination of an existing host fee described in Section IV(B), the decrease in the tip fees applicable to the Waste from the City shall be the amount of such decrease, eliminated host fee or suspended host fee, as applicable, on a per Ton of Waste basis.

E. The Program Fees shall not be considered a host fee under this Section IV and this Section IV shall not apply thereto.

F. Adjustments under this Section IV shall be effective as of the date on which the applicable host fee is increased, decreased, commenced or suspended, as the case may be.

V. Tip Fee Adjustment Events

A. Except as otherwise provided in this Agreement, if, at any time, Purchaser determines that a Tip Fee Adjustment Event has occurred, Purchaser shall submit a written notice (a "Tip Fee Adjustment Event Notice") to the City. The Tip Fee Adjustment Event Notice shall (1) identify the Tip Fee Adjustment Event and its date of occurrence in reasonable detail, (2) describe Purchaser's current estimate of the anticipated adverse and beneficial effects of the Tip Fee Adjustment Event and the basis for such estimate, (3) include written analysis and calculation of Purchaser's current estimate of the estimated increase or decrease in costs to the extent applicable to the Tip Fee Adjustment Event, (4) the actions Purchaser has taken prior to the Tip Fee Adjustment Event Notice and will take thereafter to mitigate any cost impacts of the Tip Fee Adjustment Event; (5) as to a Discriminatory Change in Law, an analysis of how the Change in Law meets the definition of a Discriminatory Change in Law; (6) as to a Discriminatory Change in Law, a description of the changes in operations at the Facilities that are required to comply with the Law, when compliance is required, and whether Purchaser is eligible

for any exemptions or variances; and (7) the estimated adjustment to the tip fees on the Waste from the City) to address the impact of the Tip Fee Adjustment Event. Only the identifiable direct cost impacts of the Tip Fee Adjustment Event may be included and only the portion of the tip fees delineated as the “Disposal Fee Component” as set forth on this Exhibit may be adjusted.

B. Time is of the essence in Purchaser’s delivery of its written Tip Fee Adjustment Event Notice. Accordingly, if for any reason Purchaser fails to deliver such written Tip Fee Adjustment Event Notice:

(1) Within 60 days following the date (herein the “starting date”) on which Purchaser first became aware (or should have been aware, using all reasonable due diligence) of the occurrence of such Tip Fee Adjustment Event, Purchaser shall be deemed to have irrevocably and forever waived and released the portion of any tip fee adjustment attributable to such Tip Fee Adjustment Event accruing after such 60-day deadline and until the date Purchaser submits the written Tip Fee Adjustment Event Notice; and

(2) Within 90 days following the starting date, Purchaser shall be deemed to have irrevocably and forever waived and released any and all tip fee adjustment attributable to such Tip Fee Adjustment Event.

C. City shall promptly acknowledge receipt of each Tip Fee Adjustment Event Notice. If the City agrees that a Tip Fee Adjustment Event has occurred, City and Purchaser shall commence good faith negotiations to determine the tip fee adjustment, if any, to which Purchaser is entitled in order to place Purchaser in the same economic circumstance as if the Tip Fee Adjustment Event had not occurred. The City shall deliver its notification of agreement or disagreement with Purchaser’s notification that a Tip Fee Adjustment Event has occurred within 30 days after receipt of the Tip Fee Adjustment Event Notice, including the complete documentation required thereunder. Failure of the City to respond during such 30 day period shall constitute the City’s disagreement thereof. If the City and Purchaser are unable to agree upon whether a Tip Fee Adjustment Event has occurred, such dispute shall be resolved pursuant to the dispute resolution provisions set forth in Section 11. All Dispute Claims related to the same issue and dispute and involving the County and/or one or more Cities shall be determined pursuant a single arbitration proceeding under Section 11.18 of the Purchase Agreement. If the Dispute Claim of the County or a City is resolved in a manner that determines a Tip Fee Adjustment Event has not occurred, the County and the Committed Cities shall each be entitled to the benefit of such resolution of the Dispute Claim.

D. If Purchaser complies with the notice and information requirements above and the City agrees with Purchaser’s assertion of a Tip Fee Adjustment Event or the City delivers a written notice as described in Section VI, then within 30 days, the City and Purchaser shall commence good faith negotiations to determine the tip fee adjustment, if any, to which Purchaser is entitled or obligated to apply to the Waste from the City. Once agreed upon or otherwise determined, Purchaser may implement the tip fee adjustment, if an increase, no earlier than 30 days after

City's delivery of written notice of agreement and, if a decrease, no later than 30 days after City's delivery of written notice of agreement. If the Tip Fee Adjustment Event results in an increase in costs, Purchaser may increase the tip fees in the amount of the increased costs, subject to the provisions of this Section V. If the Tip Fee Adjustment Event results in a decrease in costs, Purchaser shall decrease the tip fees in the amount of the decreased costs.

E. The tip fee adjustment shall be determined by applying the following provisions.

(1) Cost impacts attributable to a Tip Fee Adjustment Event shall:

(a) Exclude (i) third-party entertainment costs, lobbying and political activity costs, costs of alcoholic beverages, costs for first class travel in excess of prevailing economy travel costs, and costs of club memberships, in each case to the extent that such costs would not be reimbursed to an employee of County in the regular course of business, and (ii) unallowable costs under the following provisions of the federal Contract Cost Principles, 48 CFR 31.205: 31.205-8 (contributions or donations), 31.205-13 (employee morale, health, welfare, food service, and dormitory costs and credits), 31.205-14 (entertainment costs), 31.205-15 (fines, penalties, and mischarging costs), 31.205-27 (organization costs), 31.205-34 (recruitment costs), 31.205-35 (relocation costs), 31.205-43 (trade, business, technical and professional activity costs), 31.205-44 (training and education costs), and 31.205-47 (costs related to legal and other proceedings);

(b) Exclude amounts paid or to be paid to Affiliates in excess of the pricing Purchaser could reasonably obtain in a bona fide, arms' length, competitive transaction with an unaffiliated Entity;

(c) Exclude those costs incurred in investigating, analyzing, asserting, pursuing or enforcing any claim or dispute, including legal, accounting, financial advisory and technical advisory fees and expenses;

(d) Take into account any savings in costs resulting from the Tip Fee Adjustment Event, including as a result of reduced Tons of Waste;

(e) Be subject to Purchaser's obligation to mitigate cost increases and augment cost decreases in accordance with Section III(I) below;

(f) Exclude any impact on revenues of Purchaser or derived or generated by or resulting from operations at or of the Facilities;

(g) Exclude any costs or liabilities associated with the Assumed Liabilities, it being the express intent of the Parties that a Tip Fee Adjustment Event shall not limit, modify or alter Purchaser's obligations for the Assumed Liabilities and all other Purchaser obligations under the Contract Documents or entitle Purchaser to recover the cost or revenue impact associated with any of the Assumed Liabilities (including those

relating to (1) Closure and Post-Closure Obligations; (2) Remediation; (3) any Environmental Conditions; (4) the ownership or possession of any equipment, structures, fixtures, surface impoundments or any other facility used for the treatment, storage, handling or disposal of Hazardous Substances, Leachate and/or Landfill Gas; (5) liabilities pursuant to applicable Law or Governmental Authority and (6) taxes (including property, business and income taxes)) or other Purchaser obligations under the Contract Documents, even if a Tip Fee Adjustment Event has occurred;

(h) Exclude any impact on costs associated with green waste or wood waste, recyclables, unpermitted Waste or any other materials or items other than the handling and disposal of permitted Waste, as such term is used specifically under this Agreement

(i) As to a Force Majeure Event, exclude any cost impact during the initial 90 days after its occurrence;

(j) Exclude mark-up, profit and overhead, additional charges on such costs and cost impact; and.

(j) Be net of all insurance available to Purchaser, and net of all deductibles and self-insured retentions under such insurance.

(2) The tip fee adjustment must be proportionately allocated by Purchaser to all Tons of Waste delivered to or disposed of at the Facilities or other facilities owned or operated by Purchaser or an Affiliate within the County of Sonoma. In no event shall County-Controlled Waste or the Waste from a Committed City bear a disproportionate share of the cost impact of any Tip Fee Adjustment Event or subsidize the tip fees of any other Entity, including Cities that do not commit their Waste or Entities delivering Self-Haul Waste. Allocation shall be on the basis of total Tons of Waste delivered to or disposed of at the Facilities or other facilities owned or operated by Purchaser or an Affiliate within the County of Sonoma during the prior reporting period.

E. Once the City and Purchaser agree to a tip fee adjustment, the tip fee adjustment shall be final and binding as to the resolution of the Tip Fee Adjustment Event as between such parties. In no event shall Purchaser be entitled to any further adjustments in tip fees or other compensation that in any manner arises from, relates to or is derived from the Tip Fee Adjustment Event, including in the event that the actual Tons of Waste does not compensate Purchaser for the impact of the Tip Fee Adjustment Event. As a condition precedent to the adjustment of the tip fees, Purchaser shall execute a full, unconditional, irrevocable release, in form reasonably acceptable to City, of any other claims, Losses or rights to compensation or monetary or other relief associated with such Tip Fee Adjustment Event.

G. Purchaser shall conduct all discussions and negotiations to determine any tip fee adjustment, and shall share with the City all data, documents and information pertaining thereto, on an Open Book Basis.

H. Purchaser shall take all steps reasonably necessary to mitigate the consequences of any Tip Fee Adjustment Event, including all steps that would generally be taken in accordance with Prudent Solid Waste Practices.

VI. County or Committed City Initiation of Adjustment

The County or any Committed City, including the City, may also deliver a written notice to Purchaser if it believes that a Tip Fee Adjustment Event or other circumstance warranting an adjustment to the tip fees under this Exhibit B has occurred and the result is a decrease in Purchaser's costs.

VII. Disputes Concerning Tip Fee Adjustments

If the City and Purchaser are unable to agree on the amount of a tip fee adjustment pursuant to this Exhibit, such dispute shall be resolved pursuant to the dispute resolution provisions set forth in Section 11. All Dispute Claims related to the same issue and dispute and involving the County and/or one or more Committed Cities, including the City, shall be determined pursuant a single arbitration proceeding under Section 11.18 of the Purchase Agreement. If the Dispute Claim of the County or a Committed City is resolved in a manner that reduces or eliminates the tip fee adjustment for the party to such Dispute Claim, each of the County and the Committed Cities, including the City, shall be entitled to the benefit of the resolution of the Dispute Claim.

VIII. No Duplication.

In no event shall Purchaser be entitled to duplicative adjustments for the same item. If a Tip Fee Adjustment Event or other allowable adjustment under this Exhibit B impacts more than one component of the tip fees, Purchaser shall not be entitled to any adjustment that provides compensation in excess of the cost impact of the item. If an item has a cost impact affecting more than one component and one of those components has a limit on the amount of an adjustment, that limitation shall apply to the total adjustment available for the item.

EXHIBIT O

DEFINITION OF OPERABLE LEACHATE PIPELINE

The leachate pipeline shall consist of two fully operational pump stations, with each leachate pond having its own pump station. Each pump station will consist of two 20-30 horsepower electric pumps; one duty pump and one standby pump. A dual signal alarm system for the pump stations will be installed to detect high or low pressures in the line. The leachate pipeline will include manual shut-off valves on each side of the two creek crossings where the pipe is suspended from the bridge (Gossage Creek and the Laguna de Santa Rosa), and one shut-off valve on each side of the intersection of Stony Point Road, Highway 116, and at several other locations.

The leachate pipeline shall convey Leachate and will consist of approximately 24,000 feet of pipe placed from the pump stations to the connection point just north of the Laguna de Santa Rosa. The design of the system will allow for the pumping of up to approximately 42.5 million gallons per year of Leachate to the treatment facility.

The pump stations will be able to pump the Leachate for approximately 4,850 feet to the high point on Mecham Road, from which point it will travel via gravity for approximately 19,700 feet to the connection point with the existing trunk line.

The leachate pipeline will be double-walled. Along the leachate pipeline route, a system for leak detection will be installed at points where leaks from the main line into the outer pipe can be checked. If the main leachate pipe does leak, it will be contained within the outer pipe.

The alignment of the leachate pipeline will be primarily within the road shoulder under existing road pavement (and/or rocked shoulder) beginning on Hammel Road and Stony Point Road. Where the leachate pipeline crosses Highway 116, the leachate pipeline will be placed under the Highway. The leachate pipeline will then travel to the connection point with the Rohnert Park sewer trunk line at Stony Point Road and the Laguna De Santa Rosa (just south of the Rohnert Park Expressway).

EXHIBIT P

LIST OF GRANT AGREEMENTS

[THE LIST OF THESE DOCUMENTS ARE UNDER DEVELOPMENT AND WILL BE PROVIDED VIA ADDENDUM]

SCHEDULE 2.1(C)

PERSONAL PROPERTY

ITEM NO	DESCRIPTION	YEAR IN SERVICE	HOURS OR MILEAGE	PURCHASE ORDER
8977 7	PORTABLE AIR MONITORING SYSTEM	Jul-99	xxxxx	8610-0442
8979 0	PORTABLE CAR PORT	Jul-99	xxxxx	8610-0496
8979 1	PORTABLE MODULAR BUILDING	Jul-99	xxxxx	8610-0476
G300	WTR TRK 92 WHITE - GMC	Mar-93	3670 **	Unknown
G329	STREET SWEEPER G329	Feb-96	3496 **	8610-0200
G346	WATER TRUCK	Jul-97	166557 **	Unknown
G348	98 6YD DUMP w/ ELLIPTICAL BODY	July-98	28663	8610-0286
G415	Forklift, mid size, 4W/Drive *	Jul-06		8610-1025
G426	Development Rig * ASV POSI-TRACK CRAWLER	Jul-07	1262 **	8610-1069
H235	TRACTOR	July-99	xxxxx	8610-0372
H248	CAT WHEEL LOADER *	Jul-00	10819 **	8610-0607
H256	Cat Articulated Truck	Jul-03	4565 **	8610-0839
H258	Cat 14H Motor Grader	July-04	1518	8610-0864
H260	Cat Articulated Dump Truck *	Jul-04	8992 **	8610-0887
H261	Cat D250E - Possi Shell - On BPO	Jul-04	3389 **	050-6-1880
H269	963 Caterpillar Wheel loader **	July-06	5111	8610-1022
H276	Cat Sweeper - ***	July-07	3341	8610-1107
J050	EXCAVATOR AND BUCKET	July-01	7377	8610-0630
J057	D9 Cat Tractor Crawler *	Jul-03	5971 **	8610-0818
J058	963C Cat Track Loader	Jul-03	10422 **	8610-0840
K218	AERO MULCHER 35 HP	Nov-95	xxxxx	8610-0199
K255	Snorkle - Manlift with Boom *	Jul-03		8610-0868
K258	Rock Mobile Screen System on Trailer *	Jul-04	1709 **	8610-0909
K270	Forklift - K270	July-06	3133	JPA PO
K271	Forklift - K271	July-06	2469	JPA PO
K272	Forklift - K272	Jul-06	2693 **	JPA PO
L260	1983 Siebert lowboy trailer *	July-04	xxxxx	8610-0885
L263	20 x 8 ft Mobile Trailer - Cashiers *	Jul-04	xxxxx	8610-0914

- * - There is backup documentation
- ** - As of March 2008

SCHEDULE 2.1(D)

ASSIGNED CONTRACTS

1. Renewable Energy Purchase Agreement dated as of November 8, 2005, by and between the County and the Power and Water Resources Pooling Authority, as amended by _____ dated as of _____, 2008. (PWRPA Agreement) *[date to be inserted via addendum once complete]*
2. Lease dated as of _____, 2008, by and between the SCWMA and the County. (HHW Lease) *[date to be inserted via addendum once complete]*
3. Organic Material Processing, Composting and Marketing Services Agreement dated as of September 28, 1999, by and among the SCWMA, the County and Sonoma Compost Company, as amended by that certain First Amendment dated as of July 11, 2000, that certain Second Amendment dated as of March 23, 2004, that certain Third Amendment dated as of April 27, 2004, that certain Fourth Amendment dated as of July 20, 2004, that certain Fifth Amendment dated as of July 12, 2005 and that certain Sixth Amendment dated as of _____, 2008. (Compost Agreement)
4. Revocable License Agreement dated as of March 21, 2006, by and between the County and the County of Mendocino.
5. Revocable License Agreement dated as of January 31, 2006, by and between the County and UNAVCO, Inc.
6. Preventative Maintenance Agreement dated as of March 5, 1992, by and between the County and Michigan Cogenerations Systems, Inc., as amended by that certain First Amendment dated as of September 19, 1995, between the County and Michigan Cogenerations Systems, Inc., that certain Second Amendment dated as of July 10, 2001, between the County and Michigan Cogenerations Systems, Inc.; that certain Third Amendment dated as of May 18, 2008, between the County and Michigan Cogenerations Systems, Inc. Pursuant to the Third Amendment, Michigan Cogeneration Systems, Inc., assigned its interest in the agreement to LES Project Holdings, LLC.
7. Agreement for Landfill Leachate and Gray Water User Charges dated as of August 8, 2006, by and between the County and the City of Santa Rosa.
8. Agreement for Sewer Connection and Demand Fee dated as of June 22, 2004, by and between the County and the City of Santa Rosa.
9. Agreement for Sewer Transmission Services dated as of August 28, 2001, by and between the County and the City of Rohnert Park.

10. Lease dated as of September 21, 1978, by and between County and Frank and Evelyn Danzart d/b/a Sunrise Garbage Service, as amended by that certain Modification of Lease dated as of July 30, 1979, that certain Amendment No. 1 to Lease Agreement with Sunrise Garbage dated as of April 3, 1984 and that certain Amendment No. 2 to Lease Agreement with Sunrise Garbage Service dated as of April 3, 1987.
11. Agreement dated as of August 1, 2005, by and between the County and West Sonoma County Disposal Service, Inc. for Transport and Disposal of Solid Waste.
- ~~12. Eco-Watt Power Purchase Agreement dated as of May 18, 2006, by and between 3Phases Energy Services, a California company, and the County.~~
- ~~13. _____ dated as of _____, by and between 3Phases Energy Services, a California company, and the County. [to be inserted by addendum]~~

OPTIONAL ASSIGNED CONTRACTS (*[this Section to be revised in connection with award and execution of the Contract]*) see **Exhibit B, Section 2.1.5** of the ITP)

- ~~12.~~ 14. Agreement by and between the County and Keller Canyon Landfill, Inc. for the Disposal of Solid Waste dated as of August 16, 2005.

OPTIONAL ASSIGNED CONTRACTS WITH THIRD PARTY CONSENT (*[this Section to be revised in connection with award and execution of the Contract]*) see **Exhibit B, Section 2.1.5** of the ITP)

13. [Operations and Maintenance Agreement for Sonoma County Transfer Stations, by and between the County and West Sonoma County Disposal, a California corporation, dated as of Sept. 19, 2000, as amended by that certain First Amendment dated as of August 16, 2005.](#)
14. ~~15.~~ Services Agreement for the Reuse and Recycling Operations at the Central Disposal Site and the Healdsburg Transfer Station dated as of March 14, 2006, by and among the County, West Coast Metals and Garbage Reincarnation, Inc.
15. ~~16.~~ Energy Services Agreement dated as of January 10, 2006, by and between the County and VIASYN, Inc.

SCHEDULE 2.1(E)

PERMITS

Annapolis Transfer Station

1. CIWMB Registration Permit No. 49-AA-0364, issued January 17, 2007.
2. Notice of Intent to Comply with State Water Resources Control Board (SWRCB) General Permit to Discharge Storm Water Associated with Industrial Activities, WQ Order No. 97-03-DWQ, WDID 149I006100, submitted May 19, 1997.
3. City of Santa Rosa Non-Residential General Discharge Permit No. SR-NR6284, issued September 14, 2007.

Central Landfill and Central Transfer Station

1. CIWMB Solid Waste Facilities Permit No. 49-AA-0001, issued September 2, 2005.
2. Regional Water Quality Control Board (RWQCB) Waste Discharge Requirements Order No. R1-2004-0040, issued July 22, 2004.
3. Notice of Intent to Comply with State Water Resources Control Board (SWRCB) General Permit to Discharge Storm Water Associated with Industrial Activities, WQ Order No. 97-03-DWQ, WDID 149I006101, submitted May 19, 1997.
4. City of Santa Rosa Non-Residential General Discharge Permit No. SR-IW5202, issued August 31, 2007.

Central Landfill Gas to Energy Plant

1. Bay Area Air Quality Management District (BAAQMD) Major Facility Review Title V Permit for Plant No. A2254, issued August 28, 2007.
2. BAAQMD Permit to Operate Plant A2254, including sources S1, S4-S7 and S9-S15, issued annually.
3. BAAQMD Permit to Operate, Gasoline Dispensing Facility, G# 10896, issued annually.

Guerneville Transfer Station

1. CIWMB Solid Waste Facilities Permit No. 49-AA-0139, issued July 24, 2007.
2. Notice of Intent to Comply with SWRCB General Permit to Discharge Storm Water Associated with Industrial Activities, WQ Order No. 97-03-DWQ, WDID 149I006102, submitted May 19, 1997.
3. City of Santa Rosa Non-Residential General Discharge Permit No. SR-NR6159, issued September 14, 2007.

Healdsburg Transfer Station

1. CIWMB Solid Waste Facilities Permit No. 49-AA-0245, issued June 21, 2006.
2. Notice of Intent to Comply with SWRCB General Permit to Discharge Storm Water Associated with Industrial Activities, WQ Order No. 97-03-DWQ, WDID 149I006103, submitted May 1997.
3. City of Santa Rosa Non-Residential General Discharge Permit No. SR-NR6325, issued September 14, 2007.
4. County of Sonoma Public Health Department Non-Community Water System Permit No. 1114-89, issued July 26, 1989.

Sonoma Transfer Station

1. CIWMB Solid Waste Facilities Permit No. 49-AA-0144, issued February 23, 2007.
2. Notice of Intent to Comply with SWRCB General Permit to Discharge Storm Water Associated with Industrial Activities, WQ Order No. 97-03-DWQ, WDID 149I006105, submitted May 19, 1997.
3. City of Santa Rosa Non-Residential General Discharge Permit No. SR-NR6158, issued September 14, 2007.
4. County of Sonoma Public Health Department Non-Community Water System Permit No. 1047, issued May 24, 1985.

There is currently pending an application for a Minor Permit Revision to add a Pilot Scale Landfill Gas Compression Plant, Source 15, to the BAAQMD permits, to modify permit conditions to reflect alternative wellhead standards, and reflect recent landfill gas collection system construction activities. The revision to the permit consolidates permitting activities reviewed and approved under BAAQMD Permit Applications #14593, #16497, and #16582. As a result, the following changes will be made to the permit:

- . Add Landfill Gas Compression Plant, S-15, to Tables II-A, IV-A, and VII-A
- . Add Permit Condition #23087 (for S-125) to Section VI "Permit Conditions" and condition reference to Table IV-A.
- . Modify Permit Condition #4044, Part 4 to include gas collection system changes pursuant to Application #16497.
- . Replace Permit Condition #4044, Part 5, with a new part that includes the alternative wellhead standards and operating requirements pursuant to Application #16582.

A complete permit evaluation and statement of basis for this minor revision to the current Major Facility Review Permit for the Sonoma County Central Landfill, Facility #A2254, is available at the Bay Area Air Quality Management District's web site at:

http://www.baaqmd.gov/pmt/title_v/public_notices.htm

Additional Permit Applications

<u>NUMBER</u>	<u>DATE</u>	<u>STATUS</u>	<u>TYPE</u>	<u>DESCRIPTION</u>
<u>BLD08-1511</u>	<u>4/22/2008</u>	<u>PLANCHEK</u>	<u>B-BLD</u>	<u>LANDFILL GAS FLARE REPLACEMENT</u>
<u>BLD08-1330</u>	<u>4/11/2008</u>	<u>PLANCHEK</u>	<u>B-BLD</u>	<u>HHW METAL ENCLOSURE EXPANSION – (SCWMA Project)</u>
<u>BLD08-1331</u>	<u>4/11/2008</u>	<u>PLANCHEK</u>	<u>B-BLD</u>	<u>NEW PREFAB SCALE HOUSE</u>
<u>BLD06-4313</u>	<u>8/10/2006</u>	<u>PREFINAL</u>	<u>B-BLD</u>	<u>LANDFILL GAS TO COMPRESSED NATURAL GAS PILOT SCALE PROCESSING FACILITY</u>

SCHEDULE 4.3

DISCLOSURES TO COUNTY'S REPRESENTATIONS AND WARRANTIES

1. The County has been provided notice by the California Integrated Waste Management Board of violations of the Solid Waste Permit for the Landfill, which notice is further discussed in the CIWMB Settlement. In addition, the County is receiving monthly notices of violation from the CIWMB and the LEA (which include the listing of the Central Landfill on the CIWMB's Inventory of Facilities Violating State Minimum Standards) concerning the County's alleged failure to submit Approved Financial Assurances and final closure and post-closure maintenance and monitoring plans.
2. The County has been provided notice by the North Bay Regional Water Quality Control Board of alleged violations of Waste Discharge Requirement No. R1-2000-62, which was subsequently replaced by Waste Discharge Requirement No. R1-2004-0040, each of which relate to portions of the Landfill.
3. Upon the transfer of the Property to Purchaser, the current uses on the Property will be considered legally non-conforming uses under applicable zoning and planning ordinances.
4. The County has been notified of a claim for payment made against it by North Bay Construction, Inc. relating to potentially defective construction and/or design of the leachate pipeline at the Landfill, which would pipe untreated leachate from the Landfill to waste water treatment plants in Rohnert Park and Santa Rosa.
5. The County has or will initiate procedures to modify the zoning classification of portions of the Land for the purpose of allowing private owned or operated facilities to be allowed under a "Public Facility (PF)" zoning.
6. [The County requested breakdown relief from the BAAQMD for a weather related 4-day GCCS outage in January 2008. BAAQMD has not responded to the request for breakdown relief as of yet.](#)
7. [The BAAQMD issued three NOV's \(Nos. 48225, 49477, and 49479\) to the Landfill during the second half of 2007. BAAQMD has not responded or offered to settle any of these violations as of yet.](#)

SCHEDULE 5.11

PRE-APPROVED CAPITAL EXPENDITURES

Overlay/Repairs of various access Roads – The County will not require reimbursement for this work.

Left Turn Lane on State Highway at Sonoma Transfer Station Access Road – This is a cooperative project with Caltrans – Caltrans is reconstructing the entire stretch of road. County is negotiating a cooperative agreement with Caltrans to fund the left turn lane. It is to be funded by the Refuse Enterprise and the Road Dept. The County will not require reimbursement for this work.

Central Scale House Improvements – This project is to replace the existing C-9 scale house with a new scale house to improve traffic flow. Expected to go to bid in Summer 2008 and a set of the Plans and Specifications will be added to the Website. Estimated cost of \$80,000 and estimated completion is January 2009.

Replacement of Central Landfill Gas Flare - This project will completely replace the blower flare station at the Central Landfill and has an estimated budget of \$800,000. This project will be approved for bids on April 15, 2008 and a set of the Plans and Specifications will be added to the Website. Estimated completion is August 2009.

Central Landfill – Leachate Removal Systems Improvements – This project will include activities to reduce leachate generation in Landfill #1 such as lining of drainage ways to prevent infiltration, French drains and some planting of phytohydraulics (deep-rooted trees) in the saddle area up gradient of Landfill #1 - The County will not require reimbursement for this work.

SCHEDULE 5.13

CLOSURE AND POST-CLOSURE FINANCIAL ASSURANCES

As adjusted by 2006 Annual Inflation Factors [and](#) dated and signed May 31, 2007*:

Central Landfill:

Closure Financial Assurances = \$47,957,694

30 year Post-Closure Financial Assurances = \$69,527,126

Corrective Action/Leak Fund = \$2,373,231

*The foregoing amounts are adjusted from time to time based on applicable Law.

SCHEDULE 6.11

MINIMUM OPERATING REQUIREMENTS

Central Landfill – Must remain open Monday through Saturday – Purchaser may establish commercial disposal hours within operating limits of the Solid Waste Permits, as such permits may be amended from time to time. Self-haul access on to the Landfill is at the sole option of Purchaser.

Central ~~Tipping Facility~~[Transfer Station](#) and Recycle/Re-use Center -- Must remain open Monday through Saturday -- Purchaser may establish commercial disposal hours within operating limits of the Solid Waste Permits, as such permits may be amended from time to time. Self-haul access for disposal and use of the HHW Facility and a recycle and re-use center to be provided for a minimum of eight (8) hours each operating day during normal business hours.

Annapolis Transfer Station – Must remain open no fewer than three (3) days per week, including Saturday. Purchaser may establish commercial disposal hours within operating limits of the Solid Waste Permits, as such permits may be amended from time to time. Self-haul access for disposal to be provided for a minimum of eight (8) hours each operating day during normal business hours.

Guerneville Transfer Station – Must remain open no fewer than five (5) days per week, including Saturday – Purchaser may establish commercial disposal hours within operating limits of the Solid Waste Permits, as such permits may be amended from time to time. Self-haul access for disposal to be provided for a minimum of eight (8) hours each operating day during normal business hours.

Sonoma Transfer Station -- Must remain open Monday through Saturday – Purchaser may establish commercial disposal hours within operating limits of the Solid Waste Permits, as such permits may be amended from time to time. Self-haul access for disposal to be provided for a minimum of eight (8) hours each operating day during normal business hours.

Healdsburg Transfer Station and Recycle/Re-use Center – Must remain open Monday through Saturday – Purchaser may establish commercial disposal hours within operating limits of the Solid Waste Permits, as such permits may be amended from time to time. Self-haul access for disposal to be provided for a minimum of eight (8) hours each operating day during normal business hours.

SCHEDULE 6.17
TIP FEE SCHEDULES

[See attached]

**TIP FEE SCHEDULE
(WHEN LANDFILL IS NOT ALLOWED TO ACCEPT WASTE FOR DISPOSAL)**

The tip fees and charges set forth in the table below shall apply to County-Controlled Waste and the Waste of the Committed Cities

[table set forth in Form G of RFP to be inserted based on Purchaser's Proposal]

**TIP FEE SCHEDULE
(WHEN LANDFILL IS NOT ALLOWED TO ACCEPT WASTE FOR DISPOSAL)**

[List of Government Fees to be inserted from Purchaser's Proposal]

**TIP FEE SCHEDULE
(WHEN LANDFILL IS ALLOWED TO ACCEPT WASTE FOR DISPOSAL)**

The tip fees and charges set forth in the table below shall apply to County-Controlled Waste and the Waste of the Committed Cities

[table set forth in Form G of RFP to be inserted based on Purchaser's Proposal]

**TIP FEE SCHEDULE
(WHEN LANDFILL IS ALLOWED TO ACCEPT WASTE FOR DISPOSAL)**

[List of Government Fees to be inserted from Purchaser's Proposal]

ADJUSTMENTS TO TIP FEES AND CHARGES

The tip fees and charges set forth on this Schedule 6.17 shall be adjusted and modified under certain circumstances as described herein. Except as expressly set forth below, such tip fees and charges may not be increased for any reason without the prior written consent of the County, in its sole discretion. Where an increase is permitted hereunder, Purchaser is not obligated to implement such increase.

I. Annual Adjustment

Each year, on the Adjustment Date, Purchaser shall be entitled, but not obligated, to adjust the portion of the tip fees delineated as the “Disposal Component” as set forth on this Schedule based on the increase, if any, in the CPI Factor, up to a maximum amount equal to 3.2% per annum. In the event that the CPI Factor exceeds 3.2% in any year, Purchaser shall be limited to a 3.2% increase and the excess increase in the CPI Factor shall not be retained or useable in any future year. The CPI Factor and the annual adjustment described herein shall not apply to the portions of the tip fees delineated as the “Fuels Component”, the “Government Fee Component” or the “Other Public Agency Host Fee Component”. Adjustments under this Section I shall be effective as of the Adjustment Date.

II. Fuels Adjustment.

A. This Section II shall only apply to the portion of the tip fees delineated as the “Fuels Component” as set forth on this Schedule ~~and only during a period in which the Landfill is not allowed to accept Waste for Disposal and Purchaser is out-hauling the County-Controlled Waste or Waste from a Committed City to facilities outside of the County of Sonoma. Adjustments under this Section II shall only apply to Waste being out hauled to facilities outside of the County of Sonoma.~~

B. Each year, on the Adjustment Date ~~and only under the circumstances described in Section II(A)~~, Purchaser shall be entitled, but not obligated, to adjust the portion of the tip fees delineated as the “Fuels Component” as set forth on this Schedule based on the increase, if any, in the Fuel Cost Factor; provided, however, that if there has been a decrease in the Fuel Cost Factor, Purchaser shall adjust the portion of the tip fees delineated as the “Fuels Component” as set forth on this Schedule in the amount of such decrease.

C. The initial Fuel Cost Factor shall be determined on each Adjustment Date by taking the percentage change in the “Fuel Cost Index” during the period commencing one month preceding the Closing Date until one month preceding the initial Adjustment Date, based on the “Average of Series ID: WPU057303” during such period (so, if the Adjustment Date is March 1, 2010, the relevant period for assessing the percentage change is February 2009 through February 2010) and multiplying that percentage by the portion of the tip fees delineated as the “Fuels Component” as set forth on this Schedule. Purchaser shall be entitled, but not obligated, to increase the tip fees

by the increase, if any, in the Fuel Cost Factor. Purchaser shall decrease the tip fees by the decrease, if any, in the Fuel Cost Factor. The Fuel Cost Index for successive Adjustment Dates shall be revised to reflect the Fuel Cost Index for the period commencing one month preceding the immediately prior Adjustment Date and the “Fuel Component” shall be the then-current “Fuel Component”. The formula described above shall apply to each annual calculation of the Fuel Cost Factor.

D. Adjustments under this Section II shall be effective as of the Adjustment Date.

III. Government Fee Adjustment.

A. This Section III shall apply to adjustments of the portion of the tip fees delineated as the “Government Fee Component” as set forth on this Schedule and only for those federal and state regulatory fees set forth in this Schedule. Each year, on the Adjustment Date, Purchaser shall deliver to the County and each Committed City a current list of all federal or state regulatory fees applicable to the Facilities and any other facility outside of the County of Sonoma at which Purchaser is disposing of Waste ~~that is delivered to the Facilities.~~

B. If, during the period from and after the Closing Date through and until August 31, 2030, a federal or state regulatory fee that is charged on Waste that is delivered to the Facilities is initiated or an existing federal or state regulatory fee set forth in this Schedule is adjusted, Purchaser, the County and the Committed Cities, as the case may be, shall be entitled to an adjustment of the tip fees set forth in this Schedule. If the federal or state regulatory fee was in effect as of the ~~Effective~~Execution Date and not included on this Schedule, any adjustment therein shall not entitle Purchaser to any increase in the tip fees.

C. With respect to a new federal or state regulatory fee described in Section III(B), the increase in the tip fees applicable to County-Controlled Waste and the Waste from any Committed City shall be limited to the amount of such new federal or state regulatory fee on a per Ton of Waste basis, without profit, mark-up, overhead or any additional charges thereon. With respect to an increase in an existing federal or state regulatory fee described in Section III(B), the increase in the tip fees applicable to County-Controlled Waste and the Waste from any Committed City shall be limited to the amount of such increase on a per Ton of Waste basis, without profit, mark-up, overhead or any additional charges thereon. With respect to a decrease, suspension or elimination of an existing federal or state regulatory fee described in Section III(B), the decrease in the tip fees applicable to County-Controlled Waste and the Waste from any Committed City shall be the amount of such decrease, eliminated federal or state regulatory fee or suspended federal or state regulatory fee, as applicable, on a per Ton of Waste basis.

D. Adjustments under this Section III shall be effective as of the date on which the applicable federal or state regulatory fee is increased, decreased, commenced or suspended, as the case may be.

IV. Other Public Agency Host Fee Adjustment.

A. This Section IV shall apply to adjustments of the portion of the tip fees delineated as the “Other Public Agency Host Fee Component” as set forth on this Schedule. Each year, on the Adjustment Date, Purchaser shall deliver to the County and each Committed City a current list of all host fees assessed by a county, city, joint powers authority or other regional agency, with jurisdiction over a facility outside of the County of Sonoma at which Purchaser is disposing of Waste ~~that is delivered to the Facilities.~~

B. If, during the period from and after the Closing Date through and until August 31, 2030, a county, city, joint powers authority or other regional agency, with jurisdiction over a facility outside of the County of Sonoma at which Purchaser is disposing of Waste ~~that is delivered to the Facilities~~, initiates a new host fee or adjusts an existing host fee, Purchaser, the County and the Committed Cities, as the case may be, will be entitled to an adjustment of the tip fees set forth in this Schedule; provided, however, that the adjustment set forth in this Section IV shall apply only during such periods in which the Landfill is not allowed to accept Waste for disposal.

C. With respect to a new host fee described in Section IV(B), the increase in the tip fees applicable to County-Controlled Waste and the Waste from any Committed City shall be limited to the amount of such new host fee on a per Ton of Waste basis, without profit, mark-up, overhead or any additional charges thereon. With respect to an increase in an existing host fee described in Section IV(B), the increase in the tip fees applicable to County-Controlled Waste and the Waste from any Committed City shall be limited to the amount of such increase on a per Ton of Waste basis, without profit, mark-up, overhead or any additional charges thereon. With respect to a decrease, suspension or elimination of an existing host fee described in Section IV(B), the decrease in the tip fees applicable to County-Controlled Waste and the Waste from any Committed City shall be the amount of such decrease, eliminated host fee or suspended host fee, as applicable, on a per Ton of Waste basis.

E. The Program Fees shall not be considered a host fee under this Section IV and this Section IV shall not apply thereto.

F. Adjustments under this Section IV shall be effective as of the date on which the applicable host fee is increased, decreased, commenced or suspended, as the case may be.

V. Tip Fee Adjustment Events

A. Except as otherwise provided in this Agreement, if, at any time, Purchaser determines that a Tip Fee Adjustment Event has occurred, Purchaser shall submit a written notice (a “Tip Fee Adjustment Event Notice”) to the County. The Tip Fee Adjustment Event Notice shall (1) identify the Tip Fee Adjustment Event and its date of occurrence in reasonable detail, (2) describe Purchaser’s current estimate of the anticipated adverse and beneficial effects of the Tip Fee Adjustment Event and the basis for such estimate, (3) include written analysis and

calculation of Purchaser's current estimate of the estimated increase or decrease in costs to the extent applicable to the Tip Fee Adjustment Event, (4) the actions Purchaser has taken prior to the Tip Fee Adjustment Event Notice and will take thereafter to mitigate any cost impacts of the Tip Fee Adjustment Event; (5) as to a Discriminatory Change in Law, an analysis of how the Change in Law meets the definition of a Discriminatory Change in Law; (6) as to a Discriminatory Change in Law, a description of the changes in operations at the Facilities that are required to comply with the Law, when compliance is required, and whether Purchaser is eligible for any exemptions or variances; and (7) the estimated adjustment to the tip fees on County-Controlled Waste and the Waste of the Committed Cities) to address the impact of the Tip Fee Adjustment Event. Only the identifiable direct cost impacts of the Tip Fee Adjustment Event may be included and only the portion of the tip fees delineated as the "Disposal Fee Component" as set forth on this Schedule may be adjusted.

B. Time is of the essence in Purchaser's delivery of its written Tip Fee Adjustment Event Notice. Accordingly, if for any reason Purchaser fails to deliver such written Tip Fee Adjustment Event Notice:

(1) Within 60 days following the date (herein the "starting date") on which Purchaser first became aware (or should have been aware, using all reasonable due diligence) of the occurrence of such Tip Fee Adjustment Event, Purchaser shall be deemed to have irrevocably and forever waived and released the portion of any tip fee adjustment attributable to such Tip Fee Adjustment Event accruing after such 60-day deadline and until the date Purchaser submits the written Tip Fee Adjustment Event Notice; and

(2) Within 90 days following the starting date, Purchaser shall be deemed to have irrevocably and forever waived and released any and all tip fee adjustment attributable to such Tip Fee Adjustment Event.

C. County shall promptly acknowledge receipt of each Tip Fee Adjustment Event Notice. If the County agrees that a Tip Fee Adjustment Event has occurred, County and Purchaser shall commence good faith negotiations to determine the tip fee adjustment, if any, to which Purchaser is entitled in order to place Purchaser in the same economic circumstance as if the Tip Fee Adjustment Event had not occurred. The County shall deliver its notification of agreement or disagreement with Purchaser's notification that a Tip Fee Adjustment Event has occurred within 30 days after receipt of the Tip Fee Adjustment Event Notice, including the complete documentation required thereunder. Failure of the County to respond during such 30 day period shall constitute the County's disagreement thereof. If the County and Purchaser are unable to agree upon whether a Tip Fee Adjustment Event has occurred, such dispute shall be resolved pursuant to the dispute resolution provisions set forth in Section 11.18. In addition, pursuant to the terms of each City Disposal Agreement, a Committed City may initiate or join in a Dispute Claim concerning whether a Tip Fee Adjustment Event has occurred; provided, however, that all Dispute Claims related to the same issue and dispute and involving the County and/or one or more Cities shall be determined pursuant a single arbitration proceeding under ~~this~~ Section 11.18. If the Dispute Claim of the County or a City is resolved in a manner that determines a Tip

Fee Adjustment Event has not occurred, the County and the Committed Cities shall each be entitled to the benefit of such resolution of the Dispute Claim.

D. If Purchaser complies with the notice and information requirements above and the County agrees with Purchaser's assertion of a Tip Fee Adjustment Event or the County or a Committed City delivers a written notice as described in Section VI, then within 30 days, the County and Purchaser shall commence good faith negotiations to determine the tip fee adjustment, if any, to which Purchaser is entitled or obligated to apply to the County-Controlled Waste and the Waste of the Committed Cities. Once agreed upon or otherwise determined, Purchaser may implement the tip fee adjustment, if an increase, no earlier than 30 days after County's delivery of written notice of agreement and, if a decrease, no later than 30 days after County's delivery of written notice of agreement. If the Tip Fee Adjustment Event results in an increase in costs, Purchaser may increase the tip fees in the amount of the increased costs, subject to the provisions of this Section V. If the Tip Fee Adjustment Event results in a decrease in costs, Purchaser shall decrease the tip fees in the amount of the decreased costs.

E. The tip fee adjustment shall be determined by applying the following provisions.

(1) Cost impacts attributable to a Tip Fee Adjustment Event shall:

(a) Exclude (i) third-party entertainment costs, lobbying and political activity costs, costs of alcoholic beverages, costs for first class travel in excess of prevailing economy travel costs, and costs of club memberships, in each case to the extent that such costs would not be reimbursed to an employee of County in the regular course of business, and (ii) unallowable costs under the following provisions of the federal Contract Cost Principles, 48 CFR 31.205: 31.205-8 (contributions or donations), 31.205-13 (employee morale, health, welfare, food service, and dormitory costs and credits), 31.205-14 (entertainment costs), 31.205-15 (fines, penalties, and mischarging costs), 31.205-27 (organization costs), 31.205-34 (recruitment costs), 31.205-35 (relocation costs), 31.205-43 (trade, business, technical and professional activity costs), 31.205-44 (training and education costs), and 31.205-47 (costs related to legal and other proceedings);

(b) Exclude amounts paid or to be paid to Affiliates in excess of the pricing Purchaser could reasonably obtain in a bona fide, arms' length, competitive transaction with an unaffiliated Entity;

(c) Exclude those costs incurred in investigating, analyzing, asserting, pursuing or enforcing any claim or dispute, including legal, accounting, financial advisory and technical advisory fees and expenses;

(d) Take into account any savings in costs resulting from the Tip Fee Adjustment Event, including as a result of reduced ~~Fonnages~~Tons of Waste;

(e) Be subject to Purchaser's obligation to mitigate cost increases and augment cost decreases in accordance with Section III(I) below;_

(f) Exclude any impact on revenues of Purchaser or derived or generated by or resulting from operations at or of the Facilities;

(g) Exclude any costs or liabilities associated with the Assumed Liabilities, it being the express intent of the Parties that a Tip Fee Adjustment Event shall not limit, modify or alter Purchaser's obligations for the Assumed Liabilities and all other Purchaser obligations under the Contract Documents or entitle Purchaser to recover the cost or revenue impact associated with any of the Assumed Liabilities (including those relating to (1) Closure and Post-Closure Obligations; (2) Remediation; (3) any Environmental Conditions; (4) the ownership or possession of any equipment, structures, fixtures, surface impoundments or any other facility used for the treatment, storage, handling or disposal of Hazardous Substances, Leachate and/or Landfill Gas; (5) liabilities pursuant to applicable Law or Governmental Authority and (6) taxes (including property, business and income taxes)) or other Purchaser obligations under the Contract Documents, even if a Tip Fee Adjustment Event has occurred;

(h) Exclude any impact on costs associated with green waste or wood waste, recyclables, Unpermitted Waste or any other materials or items other than the handling and disposal of permitted Waste, as such term is used specifically under this Agreement

(i) As to a Force Majeure Event, exclude any cost impact during the initial 90 days after its occurrence;

(j) Exclude mark-up, profit and overhead, additional charges on such costs and cost impact; and.

(j) Be net of all insurance available to Purchaser, and net of all deductibles and self-insured retentions under such insurance.

(2) The tip fee adjustment must be proportionately allocated by Purchaser to all ~~Tonnage~~ Tons of Waste delivered to or disposed of at the Facilities or other facilities owned or operated by Purchaser or an Affiliate within the County of Sonoma. In no event shall County-Controlled Waste or the Waste from a Committed City bear a disproportionate share of the cost impact of any Tip Fee Adjustment Event or subsidize the tip fees of any other Entity, including Cities that do not commit their Waste or Entities delivering Self-Haul Waste. Allocation shall be on the basis of total Tons of Waste delivered to or disposed of at the Facilities or other facilities owned or operated by Purchaser or an Affiliate within the County of Sonoma during the prior reporting period.

F. Once the County and Purchaser agree to a tip fee adjustment, the tip fee adjustment shall be final and binding as to the resolution of the Tip Fee Adjustment Event as between such Parties. In no event shall Purchaser be entitled to any further adjustments in tip fees or other compensation that in any manner arises from, relates to or is derived from the Tip Fee Adjustment Event, including in the event that the actual ~~Tonnage~~Tons of Waste does not compensate Purchaser for the impact of the Tip Fee Adjustment Event. As a condition precedent to the adjustment of the tip fees, Purchaser shall execute a full, unconditional, irrevocable release, in form reasonably acceptable to County, of any other claims, Losses or rights to compensation or monetary or other relief associated with such Tip Fee Adjustment Event.

G. Purchaser shall conduct all discussions and negotiations to determine any tip fee adjustment, and shall share with County and the Committed Cities all data, documents and information pertaining thereto, on an Open Book Basis.

H. Purchaser shall take all steps reasonably necessary to mitigate the consequences of any Tip Fee Adjustment Event, including all steps that would generally be taken in accordance with Prudent Solid Waste Practices.

VI. County or Committed City Initiation of Adjustment

The County or any Committed City may also deliver a written notice to Purchaser if it believes that a Tip Fee Adjustment Event or other circumstance warranting an adjustment to the tip fees under this Schedule 6.17 has occurred and the result is a decrease in Purchaser's costs.

VII. Disputes Concerning Tip Fee Adjustments

If the County and Purchaser are unable to agree on the amount of a tip fee adjustment pursuant to this Schedule, such dispute shall be resolved pursuant to the dispute resolution provisions set forth in Section 11.18. In addition, pursuant to the terms of each City Disposal Agreement, a Committed City may initiate or join in a Dispute Claim concerning a tip fee adjustment; provided, however, that all Dispute Claims related to the same issue and dispute and involving the County and/or one or more Committed Cities shall be determined pursuant a single arbitration proceeding under ~~this~~ Section 11.18. If the Dispute Claim of the County or a Committed City is resolved in a manner that reduces or eliminates the tip fee adjustment for the party to such Dispute Claim, each of the County and the Committed Cities shall be entitled to the benefit of the resolution of the Dispute Claim.

VIII. No Duplication.

In no event shall Purchaser be entitled to duplicative adjustments for the same item. If a Tip Fee Adjustment Event or other allowable adjustment under this Schedule 6.17 impacts more than one component of the tip fees, Purchaser shall not be entitled to any adjustment that provides compensation in excess of the cost impact of the item. If an item has a cost impact affecting

more than one component and one of those components has a limit on the amount of an adjustment, that limitation shall apply to the total adjustment available for the item.

SCHEDULE 8.4

CLOSING DELIVERIES BY COUNTY

County shall deliver, or cause to be delivered, to Purchaser on or before the Closing, the following documents:

1. **Deed**. A Grant Deed for each Facility, substantially in the form of Exhibit B, duly executed by County.
2. **FIRPTA Affidavit and California Form**. A Certificate of Non-Foreign Status, substantially in the form of Exhibit G, and California Form 597, each duly executed by County.
3. **Bill of Sale**. A Quitclaim Bill of Sale for each Facility, substantially in the form of Exhibit I, duly executed by County.
4. **Agency Agreement**. The Agency Agreement, substantially in the form of Exhibit K, duly executed by the SCWMA.
5. **Assignment and Assumption Agreement**. An Assignment and Assumption Agreement for each Facility, substantially in the form of Exhibit L, duly executed by County.
6. **Easement Agreement**. An Easement Agreement relating to the leachate pipeline, substantially in the form of Exhibit M, duly executed by County.
7. **Committed Cities**. A list setting forth the Committed Cities, duly executed by County.
8. **Other Documents**. Such other documents, instruments or certificates as Title Company may reasonably request.

SCHEDULE 9.6

CLOSING DELIVERIES BY PURCHASER

Purchaser shall deliver, or cause to be delivered, to County on or before the Closing, the following documents and payments:

1. **Initial Purchase Price and Other Payments.** The Initial Purchase Price, in immediately available funds, plus such additional amounts as are necessary to pay the Closing costs set forth in Section 5.5.
2. **Guaranty.** A Guaranty, Indemnification and Release Agreement in the form of Exhibit F, duly executed by Guarantor.
3. **CC&Rs.** The CC&Rs for each Facility, substantially in the form of Exhibit C, duly executed by Purchaser.
4. **Agency Agreement.** The Agency Agreement, substantially in the form of Exhibit K, duly executed by Purchaser.
5. **Assignment and Assumption Agreement.** An Assignment and Assumption Agreement for each Facility, substantially in the form of Exhibit L, duly executed by Purchaser.
6. **Easement Agreement.** An Easement Agreement relating to the leachate pipeline, substantially in the form of Exhibit M, duly executed by Purchaser.
7. **City Disposal Agreements.** A City Disposal Agreement for each City that wishes to become a Committed City, substantially in the form of Exhibit N, duly executed by Purchaser.
8. **Committed Cities.** A list setting forth the Committed Cities, duly executed by Purchaser.
9. **Legal Opinion.** A legal opinion, in the form of Exhibit H, from California outside counsel to Purchaser and Guarantor with respect to (i) the formation, existence and standing of Purchaser and Guarantor; (ii) the valid authorization, execution and delivery by Purchaser of this Agreement, the CC&Rs and the enforceability thereof; and (iii) the valid authorization, execution and delivery by Guarantor of the Guaranty and the enforceability thereof.
10. **Organizational Documents and Good Standing Certificate for Purchaser.** The corporate, partnership or limited liability company formation documents, certified as of the Closing Date by the _____ of Purchaser [*to be filled in based on Purchaser's type of entity*], and a good standing certificate for Purchaser from the state of its organization and the California Secretary of State.
11. **Officer's Certificate -- Purchaser.** A Certificate of the corporate secretary or assistant secretary, clerk, treasurer or controller, as applicable, of Purchaser, certifying that the officer(s) signing this Agreement and any other documents delivered by Purchaser in connection

with the Closing have been duly authorized to sign and execute such document(s) on behalf of Purchaser.

12. **Purchaser's Resolutions.** A certified copy of the resolutions of Purchaser, as may be required to authorize the transactions contemplated by this Agreement and authorizing specified officers or representatives of Purchaser, as the case may be, to execute and deliver this Agreement and any other documents or instruments which they deem necessary and appropriate in connection with this Agreement.

13. **Organizational Documents and Good Standing Certificate for Guarantor.** The corporate, partnership or limited liability company formation documents, certified as of the Closing Date by an authorized officer of Guarantor, and a good standing certificate for Guarantor from the state of its organization and the California Secretary of State.

14. **Officer's Certificate -- Guarantor.** A Certificate of the corporate secretary or assistant secretary, clerk, treasurer or controller, as applicable, of Guarantor, certifying that the officer(s) signing the Guaranty and any other documents delivered by Guarantor in connection with the Closing have been duly authorized to sign and execute such document(s) on behalf of Guarantor.

15. **Guarantor's Resolutions.** A certified copy of the resolutions of Guarantor, as may be required to authorize the transactions contemplated by the Guaranty and authorizing specified officers or representatives of Guarantor to execute and deliver the Guaranty and any other documents or instruments which they deem necessary and appropriate in connection with this Guaranty.

16. **Post-Closing Letter of Credit.** The original Post-Closing Letter of Credit, in the form of Exhibit D-2 and otherwise meeting all terms and conditions of Section 6.6 of this Agreement.

17. **Other Documents.** Such other documents, instruments or certificates as County or the Title Company may reasonably request (including all documents and funds required by Title Company to issue title insurance, as required under this Agreement, to Purchaser).

Document comparison done by Workshare DeltaView on Wednesday, July 09, 2008
8:36:26 AM

Input:	
Document 1	file://C:/Documents and Settings/bc/My Documents/CAB FILES/Sonoma OLD Purchase and Sale Agreement -- working.DOC
Document 2	file://C:/Documents and Settings/bc/My Documents/CAB FILES/Sonoma NEW Purchase and Sale Agreement.DOC
Rendering set	standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	902
Deletions	409
Moved from	11
Moved to	11
Style change	0
Format changed	0
Total changes	1333