

Public Works / Finance Committee



Regular Meeting ~Agenda~

Laurie M. Hopkins
City Clerk

www.ci.moscow.id.us

208.883.7015

Monday, September 23,
2019

3:00 PM

Council Chambers
206 E. Third St.

REGULAR AGENDA

1. Approval of the August 26, 2019 Public Works / Finance Minutes (ACTION ITEM) - Caylee Birge

Minutes presented for approval.

PROPOSED ACTIONS: Approve minutes, amend minutes, or provide staff further direction.

2. Public Meeting: Proposed Lot Division at 212 E. Sixth Street (ACTION ITEM) - Mike Ray

The applicants, Rod and Jenny Story, are requesting a lot division for an existing lot of approximately 11,521 square feet in size located at 212 East Sixth Street. The applicant is requesting the lot division in order to create two lots of approximately 6,529 square feet and 4,992 square feet in size. The proposed westernmost lot contains a 4-unit multi-family apartment building and the easternmost lot contains a medical office building. The subject property is located within the Central Business Zoning District (CB) where there is no minimum lot size, minimum lot width, or setback requirements. Per Moscow City Code, property owners within 600 feet of the property have been notified of the proposed division and a sign was posted seven (7) days prior to the public meeting date.

PROPOSED ACTIONS: Take public comment if applicable and recommend approval of the lot division request with conditions; or recommend approval of the lot division request with no conditions; or recommend denial of the lot division request; or provide staff further direction.

3. Finley-Buttes Limited Partnership Contract for Long Haul and Disposal of Solid Waste (ACTION ITEM) - Gary J. Riedner / Tim Davis

City Council authorized the issuance of a Request for Proposals for Transportation and Disposal of Municipal Solid Waste on January 10, 2018. Two proposals were received and after evaluation, the proposal from Finley Buttes Limited Partnership (FBLP) was determined to be the most favorable, and on April 16, 2018, City Council directed staff to negotiate the agreement with FBLP. Staff has been pursuing negotiations since that time and the attached Memo from Sanitation Manager Tim Davis outlines the history and process. The attached Agreement for Solid Waste Transportation and Disposal Between the City of Moscow and Finley-Buttes Limited Partnership is presented for City Council consideration.

Recommend approval of the attached Agreement for Solid Waste Transportation and Disposal Between the City of Moscow and Finley-Buttes Limited Partnership or provide staff further direction.

REPORTS

Water Building Repair Status Report - Bill Belknap

ADJOURN

NOTICE: Moscow City Council and committee meetings are televised, videotaped and/or recorded. Individuals attending the meeting who require special assistance to accommodate physical, hearing, or other impairments, please contact the City Clerk, at (208) 883-7015 or TDD 883-7019, as soon as possible so that arrangements may be made.

Public Works / Finance Committee



Regular Meeting ~Minutes~

Laurie M. Hopkins
City Clerk

www.ci.moscow.id.us

208.883.7015

Monday, August 26, 2019

3:00 PM

**Council Chambers
206 E. Third St.**

REGULAR AGENDA

The meeting was called to order at 3:00 p.m.

PRESENT: Art Bettge, Jim Boland, Anne Zabala
OTHER: Council Member Gina Taruscio, Mayor Bill Lambert
STAFF: Gary J. Riedner, Mia Bautista, Mike Ray, Bill Belknap, Dwight Curtis, Caylee Birge

1. Approval of August 12, 2019 Public Works / Finance Minutes. (ACTION ITEM) - Caylee Birge

Minutes presented for approval.

PROPOSED ACTIONS: Approve minutes, amend minutes, or provide staff further direction.

The minutes were approved as presented.

2. Public Meeting: 406 Southview Ave Lot Division (ACTION ITEM) - Mike Ray

The applicant, Andy Blum, is requesting a lot division for an existing lot of approximately 10,787 square feet in size located at 406 Southview Avenue. The applicant is requesting the lot division in order to create two lots of approximately 4,797 square feet and 5,990 square feet in size. The intent of the lot division is to accommodate a twinhome that is currently being constructed upon the property. The subject property is located within the Medium Density Residential (R-3) Zoning District which requires a minimum lot size of 3,250 square feet and a minimum lot width of 30 feet for twinhomes. Both proposed lots meet the minimum lot area and width requirements of the R-3 Zone. Property owners within 600 feet of the property have been notified of the proposed division and a sign was posted seven (7) days prior to the public meeting date.

PROPOSED ACTIONS: Take public comment if applicable and recommend approval of the lot division request with no conditions; or recommend approval of the lot division request with conditions; or recommend denial of the lot division request; or provide staff further direction.

Ray introduced the item as written above.

Andy Blume of 1233 Wiltshire in Moscow would like to build more houses at an affordable price.

The Committee recommended approval and that it be placed on the Council consent agenda.

3. L2 Property Tax Certification (ACTION ITEM) - Gary J. Riedner / Sarah Banks

On August 19, 2019, the City Council approved the 2020 L2 tax certification to be filed with Latah County, in the aggregate amount of \$7,270,329. The original interest rate for the May 21, 2019 ten-year General Obligation bond was estimated at 2.21%. This resulted in an approximate cost of \$85 per year per \$100,000 of assessed property value and an annual debt service amount of \$1,100,000. On August 20, 2019, the G.O. bonds were sold with an interest rate of approximately 1.27%. Because of the lower interest rate, the annual debt service for FY2020 will decrease to \$994,288 which lowers the estimated cost to \$73 per \$100,000 of assessed property value. The attached amended L2 reflects the lower G.O bond and interest as well as the decreased aggregate amount. If approved, staff will still be able to meet the time requirements for filing the certification with Latah County.

PROPOSED ACTIONS: Recommend approval of the L2 tax certification in the aggregate amount of \$7,164,617, or provide staff further direction

Riedner introduced the item as written above. Typically, the total money needed for construction is collected, however if the total cost comes in lower than the bid, the bond can be paid off in less time. The Committee recommended approval and that it be placed on the Council regular agenda.

4. Open Budget for Fiscal Year 2018-2019 (FY2019) (ACTION ITEM) - Gary J. Riedner / Sarah Banks

The State of Idaho provides a process for cities to amend the original fiscal year budget appropriation ordinance in accordance with Idaho Code section 50-1003. Throughout the year, the City has received additional federal, state and local grant awards, donations within the Recreation and Culture Fund, and the City Council has authorized expenditures, including fleet purchases including a fire engine, e-ticketing equipment, and unanticipated capital projects. Staff is proposing to amend Ordinance 2018-09 in the amount of \$1,660,825 to accommodate the authorized appropriations.

PROPOSED ACTIONS: Review the ordinance and forward to the full Council for a public hearing to take place September 3, 2019, or provide staff further direction.

Riedner introduced the item as written above. The culture and recreation funds have an overage because of donations. The Itani project was scheduled for 2018 but will be completed in 2019. The Committee recommended approval and that it be placed on the Council regular agenda.

ADJOURN

The meeting was closed at 3:15 p.m.

COMMITTEE STAFF REPORT

DATE: Monday, September 23, 2019



RESPONSIBLE STAFF

Michael Ray, Assistant CD Director/Planning Manager

ADDITIONAL PRESENTER(S)

OTHER RESOURCES

AGENDA ITEM TITLE

Public Meeting: Proposed Lot Division at 212 E. Sixth Street (ACTION ITEM) - Mike Ray

DESCRIPTION

The applicants, Rod and Jenny Story, are requesting a lot division for an existing lot of approximately 11,521 square feet in size located at 212 East Sixth Street. The applicant is requesting the lot division in order to create two lots of approximately 6,529 square feet and 4,992 square feet in size. The proposed westernmost lot contains a 4-unit multi-family apartment building and the easternmost lot contains a medical office building. The subject property is located within the Central Business Zoning District (CB) where there is no minimum lot size, minimum lot width, or setback requirements. Per Moscow City Code, property owners within 600 feet of the property have been notified of the proposed division and a sign was posted seven (7) days prior to the public meeting date.

STAFF RECOMMENDATION

Take public comment if applicable and recommend approval of the lot division request with the following condition:

1. Should it be determined that the two existing buildings upon the subject property share a common sanitary sewer line, then the applicant shall enter into an agreement acknowledging that is the case and that the owners shall be responsible for any future maintenance or repair of the line.

PROPOSED ACTIONS

PROPOSED ACTIONS: Take public comment if applicable and recommend approval of the lot division request with conditions; or recommend approval of the lot division request with no conditions; or recommend denial of the lot division request; or provide staff further direction.

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. Packet
2. Public Hearing Notice

Rod and Jenny Story
jennystory76@gmail.com
(208)310-0261

8/23/19

To the Mayor and City Council of Moscow, Idaho,

We herein submit our intent to divide the property located at the NE corner of 6th and Washington in the City of Moscow, currently containing two structures addressed at 520 S Washington and 212 E 6th Street. This property is held in full ownership by Rod and Jenny Story. For the existing description of property please see attached copy of deed. For the proposed description of property please see attached record of survey 599718 and corresponding documents provided by surveyor. Also please refer to the site plan provided.

Signed

Rod Story

Jenny Story

The image shows two handwritten signatures in black ink. The top signature is for Rod Story, featuring a large, stylized 'R' and 'S'. The bottom signature is for Jenny Story, written in a cursive script.



Rim Rock Consulting, Inc.

LUP2019-0028

PROFESSIONAL LAND SURVEYORS
GIS & MAPPING SERVICES

JOHN L. DUNN, PLS / ID, WA / CFEDS
DUANE E. PRIEST, PLS / ID
MICHAEL E. DAHLIN, PLS / ID, WA

PROPERTY DESCRIPTION FOR JENNY STORY PARCEL 1

A parcel of land located in Lots 5 & 6 and in the south 10 feet of Lot 4 of Block 6 of the Plat of the west part of the City of Moscow in Section 8, Township 39 North, Range 5 West of the Boise Meridian, Latah County, Idaho, described as follows:

BEGINNING at the southwest corner of said Lot 6;
Thence along the west line thereof, N 00°21'05" E, 92.16 feet;
Thence leaving said west line, S 89°38'55" E, 54.15 feet to a point on the east line of Lot 4;
Thence along said east line, S 00°21'05" W, 92.16 feet to the southeast corner of Lot 6;
Thence along the south line thereof, N 89°38'55" W, 54.15 feet to the **POINT OF BEGINNING**.

Containing 4992 square feet, more or less.

This description was prepared by John L. Dunn on July 2, 2019.

RECEIVED

AUG 05 2019

City of Moscow

129 West 3rd Street, #102 • Moscow, ID 83843
(208) 883-5339 phone • (208) 883-4309 fax
rimrock@rimrockconsulting.net



08/25/19



Rim Rock Consulting, Inc.

LUP2019-0028

PROFESSIONAL LAND SURVEYORS
GIS & MAPPING SERVICES

JOHN L. DUNN, PLS / ID, WA / CFEDS
DUANE E. PRIEST, PLS / ID
MICHAEL E. DAHLIN, PLS / ID, WA

PROPERTY DESCRIPTION FOR JENNY STORY PARCEL 2

A parcel of land located in Lots 5 & 6 and in the south 10 feet of Lot 4 of Block 6 of the Plat of the west part of the City of Moscow in Section 8, Township 39 North, Range 5 West of the Boise Meridian, Latah County, Idaho, described as follows:

BEGINNING at the southeast corner of said Lot 6;
Thence along the south line thereof, N 89°38'55" W, 70.85 feet;
Thence leaving said south line, N 00°21'05" E, 92.16 feet;
Thence S 89°38'55" E, 70.85 feet to a point on the east line of Lot 4;
Thence along said east line, S 00°21'05" W, 92.16 feet to the
POINT OF BEGINNING.

Containing 6529 square feet, more or less.

This description was prepared by John L. Dunn on July 2, 2019.

RECEIVED

AUG 05 2019

City of Moscow

129 West 3rd Street, #102 • Moscow, ID 83843
(208) 883-5339 phone • (208) 883-4309 fax
rimrock@rimrockconsulting.net



08/25/19

59424 (3) X

589507
LUP 2019-0028

NO. _____
AT THE REQUEST OF _____
LATAH COUNTY TITLE CO.
DATE & HOUR
12-8-17 3:00
HENRIANNE K. WESTBERG
LATAH COUNTY RECORDER
FEE \$ 15.00 BY: [Signature]

WARRANTY DEED

For Value Received, **ORI Properties, LLC, an Idaho limited liability company**

the Grantor, hereby grants, bargains, sells, conveys and warrants unto

Rodney R. Story and Jennifer D. Story, husband and wife

the Grantees, whose current address is: *906 West C Street, Moscow Id 83843*

the following described premises, located in Latah County State of Idaho to wit:

The South 10 feet of Lot 4, and all of Lots 5 and 6, Block 6, Original Town of Moscow, as shown by the recorded plat thereof.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, including all water and water rights, ditch and ditch rights.

SUBJECT to reservations in United States Patent, restrictive covenants, existing and recorded rights-of-way and easements, zoning and building ordinances, and taxes and assessments as prorated between the parties hereto.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s) successors, heirs and assigns forever. Said Grantor(s) do hereby covenant to and with said Grantee(s), that Grantor(s) are the owner in fee simple of said premises; that said premises are free from all encumbrances except as hereinabove set forth of record and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

08/25/19

Dated this 8th day of DECEMBER, 2017.

ORI Properties, LLC

[Signature]
By: Thomas P. Saylor, III, Member

[Signature]
By: Mary M. Maggio, Member

STATE OF IDAHO)

COUNTY OF LATAH) ss.

On this 8 day of December, 2017 before me, the undersigned, a Notary Public, in and for said State, personally appeared **Thomas P. Saylor, III and Mary M. Maggio** known to me, and/or identified to me on the basis of satisfactory evidence, to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same as **members of ORI Properties, LLC, an Idaho limited liability company**, and acknowledged that they executed this instrument on behalf of the said limited liability company.

WITNESS MY HAND AND OFFICIAL SEAL.

X [Signature]
Notary Public For: Idaho
Residing at: Moscow, ID
My Commission Expires: 10-14-23



Dated this 7 day of December, 2017.

ORI Properties, LLC

Brian D. Thie
By: Brian D. Thie, Member

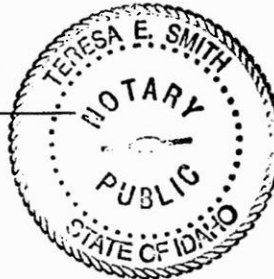
Glenda D. Thie
By: Glenda D. Thie, Member

STATE OF Idaho)
) ss.
COUNTY OF Benewah)

On this 7 day of December, 2017, before me, the undersigned, a Notary Public, in and for said State, personally appeared **Brian D. Thie and Glenda D. Thie**, known to me, and/or identified to me on the basis of satisfactory evidence, to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same as **Members of ORI Properties, LLC**, and acknowledged that they executed this instrument on behalf of the said limited liability company.

WITNESS MY HAND AND OFFICIAL SEAL.

X Teresa E. Smith
Notary Public For: Idaho
Residing at: St. Maries
My Commission Expires: 12/09/23



Address
 STORY, RODNEY R
 906 W C ST
 MOSCOW ID,83843

Legal
 MOSCOW ORIGINAL
 BLK 6 S 10' OF LOT 4
 LOTS 5 & 6

7 Deeds for Parcel: RPM0001006005BA

Friday, August 23, 2019 10:58 AM

Deed Number	Deed Type	Deed Date	Deed Description
136/28			
254580	Decree Terminating Life Estate	06/22/1971	Augusta E Rogers
324753	QC	11/13/1982	Edger R & Barbara G Townsend to W Wilson & Emelda M Rogers (S 10' lot 4)
337608	WD	06/29/1984	Wilson & Emelda M Rogers to Allen V & Donna M Bowles, hw and Robert M & Eva W Magyar, hw
364620	QC	03/18/1988	Robert W Magyar, Eve W Magyar to Allen V Bowles and Donna M Bowles hw
483832	WD	12/31/2003	Allen V Bowles and Donna M Bowles hw to ORI Properties LLC
589597	WD	12/08/2017	ORI Properties LLC, Idaho LLC to Rodney R Story and Jennifer D Story, h/w

8/23/19

PMO100 - PARCEL MASTER INQUIRY

10:57:45

LUP2019-0028

PARCEL: RP M0001006005B A F1=SL

F9=MS

F17=DD

F24=LD

LEGAL DESCRIPTION

STORY, RODNEY R
& STORY, JENNIFER D H/W*TREND - MOSCOW ORIGINAL
BLK 6 S 10' OF LOT 4
LOTS 5 & 6

906 W C ST

CODE AREA 1-0000 OWNER CD

PARC TYPE OF LOC CODE

MOSCOW ID 83843

EFFDATE 3141983 EXPDATE

212 E 6TH 83843

PREV PARCEL

CAT/ST#	RY	QUANTITY	UN	VALUE	HO MRKT	HO EXMP	CB MRKT	OTHER
21 1	2019		LT	160800				
42 1	2019			280000				

TOTALS

440800

ENTER NEXT PARCEL NUMBER RP A

FKeys: F2=TX F3=Exit F5=SS F6=NM F7=LG
F8=CT F13=TM F18=HS F20=SrcH F22=EU

08/25/19

WASHINGTON STREET

Sidewalk

Concrete Retaining Wall

PARCEL 1

520 S. Washington
4-Plex Residence

6TH STREET

PARCEL 2

212 E. 6th
Office

Asphalt
paving

ALLEY

Existing Description of Property:
Moscow Original
Block 6
South 10ft of Lot 4
Lots 5 and 6

Property containing 11,521 sq ft
Seismic Zone - B
Frost Depth 30"
Zoning - CB
Occupancy- B and R

Proposed Descriptions of Property, Parcels 1 & 2
See Rim Rock Consulting sheets, attached

Notes:

- No existing easements on property
- Structures separately metered for all utilities.
- Both structures provided with full gutters that empty above grade. No locatable drain tile or other storm water systems below surface on property.
- Paved handicap parking space for office use

Drawn by- Luke Ryan
luke@arcbuilt.com
208.596.2470
8/21/2019

Provided by-
Anderson Family Construction
1046 Wallen Rd. Moscow ID
www.afcbuilt.com
208.596.1123

Jenny Story
906 West C Street
Moscow, ID 83842
jennystory76@gmail.com

JENNY STORY
212 E 6TH & 520 S WASHINGTON
LOT DIVISION

A-1.1

08/25/19



NOTICE OF PUBLIC MEETING

Proposed Lot Division at 212 E Sixth Street
in the City of Moscow, Idaho (LUP2019-0028)

A public meeting before the Public Works/Finance Committee of the City Council will be conducted during which the following proposal will be considered:

Applicant is requesting a lot division to divide an existing lot of approximately 11,521 sf in size to two lots of approximately 4,992 sf and 6,529 sf. The property is currently addressed 212 E Sixth Street, as shown on the vicinity map below.

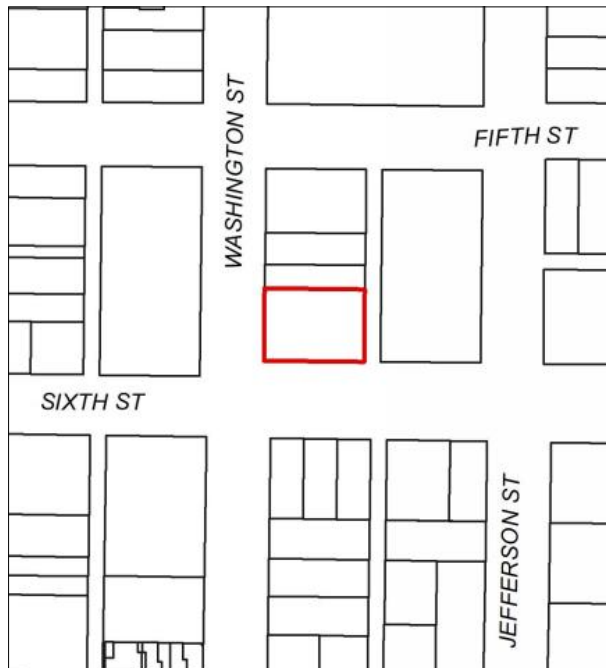
MEETING DATE AND TIME: Monday, September 23, 2019

LOCATION OF MEETING: Council Chambers, Second Floor, Moscow City Hall
206 East Third Street, Moscow, Idaho

MEETING TIME: 3:00 p.m.

Note: Meeting start time is not necessarily indicative of discussion start time for the application advertised in this notice. Multiple hearings and/or agenda items may make it difficult to determine hearing start time, which could occur late in the meeting.

The file containing information on this matter is available for public review (an appointment may be necessary) at the Community Development Department located in the Paul Mann Building, 221 East Second Street, Moscow, Idaho. You may also call 883-7035 to obtain the meeting agenda, further information on the application or the public hearing process, and/or to request a meeting with City Staff.



Laurie Hopkins, Moscow City Clerk

Anne Peterson, Deputy City Clerk

COMMITTEE STAFF REPORT

DATE: Monday, September 23, 2019



RESPONSIBLE STAFF

ADDITIONAL PRESENTER(S)

OTHER RESOURCES

AGENDA ITEM TITLE

Finley-Buttes Limited Partnership Contract for Long Haul and Disposal of Solid Waste (ACTION ITEM) - Gary J. Riedner / Tim Davis

DESCRIPTION

City Council authorized the issuance of a Request for Proposals for Transportation and Disposal of Municipal Solid Waste on January 10, 2018. Two proposals were received and after evaluation, the proposal from Finley Buttes Limited Partnership (FBLP) was determined to be the most favorable, and on April 16, 2018, City Council directed staff to negotiate the agreement with FBLP. Staff has been pursuing negotiations since that time and the attached Memo from Sanitation Manager Tim Davis outlines the history and process. The attached Agreement for Solid Waste Transportation and Disposal Between the City of Moscow and Finley-Buttes Limited Partnership is presented for City Council consideration.

STAFF RECOMMENDATION

Recommend approval of the attached Agreement for Solid Waste Transportation and Disposal Between the City of Moscow and Finley-Buttes Limited Partnership.

PROPOSED ACTIONS

Recommend approval of the attached Agreement for Solid Waste Transportation and Disposal Between the City of Moscow and Finley-Buttes Limited Partnership or provide staff further direction.

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. FBLP MEMO 09192019
2. Solid Waste Transportation and Disposal Agreement - version 8.7.19 - mod...

MEMORANDUM



To: Gary J. Riedner, City Supervisor

From: Tim Davis, Sanitation Manager T.D.

cc: Sarah Banks, Finance Director; Tyler Palmer, Deputy Director Operations

Date: September 19, 2019

Re: Proposed Contract for Transportation and Disposal of Municipal Solid Waste with Finley Buttes Limited Partnership

The City of Moscow began exporting municipal solid waste (MSW) to regional landfills in 1993. The U.S. Environmental Protection Agency (EPA) adopted the Resource Conservation and Recovery Act (RCRA) Subtitle D regulations which revised federal regulation of MSW landfills criteria that included non-hazardous landfill restrictions, facility design and operating requirements, ground water and landfill gas monitoring requirements, financial assurance requirements, and closure and post closure care requirements. These requirements include composite liner systems for both the landfill base and cap, installation of leachate collection and treatment systems and installation and monitoring of ground water and gas wells, to name just a few. The implementation of the Subtitle D regulations affected existing and lateral expansions of MSW landfills that received waste on or after October 9, 1993. The EPA essentially gave existing landfills (including the landfill operated by Latah Sanitation, Inc.), the directive to come into compliance with these regulations or discontinue accepting waste and close in compliance with closure requirements.

The City of Moscow, like many other smaller municipalities at the time, elected to work with Latah Sanitation, Inc., to close the MSW landfill because of the costs involved to become compliant with Subtitle D regulations. The decision was complicated by the fact that the tonnage of MSW generated by Moscow and Latah County was relatively small and made it cost prohibitive to operate and maintain a MSW landfill to those stringent standards and requirements.

The City made the decision in 1993 to export its MSW to a regional landfill that is Subtitle D compliant. This remains the most cost effective, viable and efficient option for Moscow's waste now and for the foreseeable future. The original 1993 contract was awarded to Waste Management, Inc. (WMI) which had anticipated opening a new regional landfill in Adams County, Washington, 74 miles from Moscow and had bid the project based on the premise that Moscow's MSW would be transported to that site for disposal. The Adams County Regional Landfill was never opened, however WMI was obligated by the contract to honor the bid price, even though Moscow's MSW was actually being transported WMI's Columbia Ridge Regional Landfill, in Arlington Oregon, 224 miles from Moscow.

WMI, with City of Moscow approval, assigned the Moscow transportation and disposal contract to Waste Connections in 2009. Waste Connections owns Finley Buttes Regional Landfill in Boardman Oregon. Hauling Moscow waste to their own landfill in Boardman, reduced the round trip by approximately 40 miles. Waste Connections also put further cost cutting measures in place

by switching to 53-foot aluminum chip trailers capable of hauling 23% additional volume per load, reducing the number and frequency of loads necessary.

In 2017, Waste Connections was approached by City staff to discuss the potential for extension of the current transportation and disposal contract under the existing terms, but Waste Connections required that any extension needed to include a fuel surcharge escalator. Under that scenario, the City would be put into a vulnerable position due to the uncertainty of fluctuating fuel costs.

Prior to exercising the final 5-year option remaining on the original 1993 contract with Waste Connections, City Council authorized staff to issue a Request for Proposals (RFP) on January 10, 2018, to provide solid waste transportation and disposal services as an opportunity to competitively test the market for a longer-term contract.

Two proposals were received and evaluated by a selection committee consisting of City Supervisor Gary J. Riedner, City Attorney Mia Bautista, Sanitation Manager Tim Davis, Latah County Solid Waste Coordinator Amanda Bashaw and Whitman County Solid Waste Director David Nails. The committee unanimously rated the proposal from Finley Buttes Limited Partnership (a subsidiary of Waste Connections and current contractor for the City of Moscow), as the most favorable proposal.

The Moscow City Council, at its April 16, 2018 regular meeting, instructed staff to begin negotiations with Finley Buttes Limited Partnership. Negotiations began immediately with the hopes of concluding in the summer of 2018. Negotiations started off well but soon bogged down. During this period the City of Moscow requested and was granted three different 30-day extensions of time required to notify Waste Connections of its intent to exercise the remaining five-year option of the original 1993 contract. As negotiations on the RFP were uncertain, the City exercised the final five-year option while continuing to negotiate in good faith on the RFP, that if successful, would supersede the original contract if the parties could agree on terms.

Staff and legal teams from both the City of Moscow and Finley Buttes Limited Partnership have diligently continued negotiations and agree that the proposed contract will meet the needs of both the City and Finley Buttes Limited Partnership.

General terms of the proposed new contract consist of an initial seven (7) year term, with the City of Moscow having sole discretion to exercise two (2), five (5) year renewal options. These terms and options allow the City the flexibility to pursue other potential future opportunities while also positioning Moscow comfortably into the future with one of the most favorable waste transportation and disposal rates in the pacific northwest for municipalities that long-haul waste.

Annual adjustments will be based on 80% of the fluctuation of the Consumer Price Index. The base rate under the proposed contract will begin at \$52.77 per ton for transportation and disposal, which is a difference of \$1.17 per ton under the current contract.

Staff recommends that City Council approve the proposed contract with Finley Buttes Limited Partnership for transportation and disposal of MSW.

AGREEMENT FOR SOLID WASTE TRANSPORTATION AND DISPOSAL
BETWEEN CITY OF MOSCOW, IDAHO AND
FINLEY-BUTTES LIMITED PARTNERSHIP

THIS AGREEMENT FOR SOLID WASTE TRANSPORTATION AND DISPOSAL BETWEEN CITY OF MOSCOW, IDAHO AND FINLEY-BUTTES LIMITED PARTNERSHIP (hereinafter “Agreement”) is made and entered into by and between the City of Moscow, Idaho, a municipal corporation of the State of Idaho, 206 East Third Street, Moscow, Idaho, 83843 (hereinafter “CITY”), and Finley-Buttes Limited Partnership, an Oregon limited partnership, (hereinafter “CONTRACTOR”).

RECITALS

WHEREAS, CONTRACTOR has been selected to own, otherwise provide, and operate for the term of this Agreement, Facilities to accept Acceptable Waste in loaded Trailers at CITY’s designated Solid Waste Processing Facility (hereinafter “SWPF”) and to Transport to and Dispose of that Acceptable Waste at the Disposal Site for CITY; and

WHEREAS, CITY’s authorization to enter into this Agreement is evidenced by the approval of the Moscow City Council at a regular meeting held on _____; and

WHEREAS, CONTRACTOR’s authorization to enter into this Agreement is evidenced by resolution of CONTRACTOR duly adopted by the Board of Directors of CONTRACTOR, a copy of which is attached hereto as Exhibit “A” and by this reference incorporated herein.

ARTICLE 1

Definitions

1.1 For the purposes of this Agreement, the following terms shall have the following meanings:

“*Acceptable Waste*” includes:

Domestic Solid Waste as defined in OAR 340-093-0030(39), which states,

“Domestic Solid Waste” includes, but is not limited to, residential (including single and multiple residences), commercial and institutional wastes, as defined in ORS 459A.100; but the term does not include:

- (a) Sewage sludge or septic tank and cesspool pumpings;
- (b) Building demolition or construction wastes and land clearing debris, if delivered to a disposal site that is limited to those purposes and does not receive other domestic solid wastes;
- (c) Source separated recyclable materials, or material recovered at a disposal site for recycling;
- (d) Industrial waste going to an industrial waste facility; or
- (e) Waste received at an ash monofill from an energy recovery facility.

Construction and Demolition Waste as defined in OAR 340-093-0030(26), which states:

“Construction and Demolition Waste” means solid waste resulting from the construction, repair, or demolition of buildings, roads and other structures, and debris from the clearing of land, but does not include clean fill when separated from other construction and demolition wastes and used as fill materials or otherwise land disposed. Such waste typically consists of materials including concrete, bricks, bituminous concrete, asphalt paving, untreated or chemically treated wood, glass, masonry, roofing, siding, plaster; and soils, rock, stumps, boulders, brush and other similar material. This term does not include industrial solid waste and municipal solid waste generated in residential or commercial activities associated with construction and demolition activities.

Agricultural Waste as defined in OAR 340-093-0030(3), which states:

“Agricultural Waste” means waste on farms resulting from the raising or growing of plants and animals including but not limited to crop residue, manure, animal bedding, and carcasses of dead animals.

Industrial Solid Waste as defined in OAR 340-093-0030(53), which states:

“Industrial Solid Waste” means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under ORS Chapters 465 and 466 or under Subtitle C of the federal Resource Conservation and Recovery Act. Such waste may include, but is not limited to, waste resulting from the following processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; water treatment; and timber products manufacturing. This term does not include construction/demolition waste; municipal solid waste from manufacturing or industrial facilities such as office or “lunch room” waste; or packaging material for products delivered to the generator.

Acceptable “Special Waste” as defined by the CONTRACTOR’s Solid Waste Disposal Permit, attached as Exhibit E.

“*Agreement*” means this Agreement Regarding Solid Waste Transportation and Disposal Services for CITY and all exhibits hereto, including, but not limited to, CONTRACTOR’s authorization to enter into this Agreement, the Proposal for Solid Waste Transportation and Disposal Service Documents, the performance guarantees required under Section 6.4 and all

addenda to the Agreement or Proposal Documents, and any and all appendices, attachments, exhibits, amendments, change orders or modifications of the foregoing documents.

“*Alternate Disposal Site*” means the Disposal Site CONTRACTOR will use in the event the Primary Disposal Site becomes unavailable.

“*Alternate Disposal Site Agreement*” means a legally binding Agreement between CONTRACTOR and the owner or operator of a landfill or other site CONTRACTOR proposes to use in the event of unavailability of the Primary Disposal Site, which Agreement assures CONTRACTOR the right to use the landfill or other Disposal Site for the disposal of all Acceptable Waste CONTRACTOR is obligated to accept under this Agreement.

“*Applicable Law*” means all applicable Federal, State, County or City statutes, rules, codes, regulations, permits, ordinances and resolutions that apply to the Facilities or any of CONTRACTOR’s operations or obligations under this Agreement.

“*Asbestos*” means asbestos or asbestos-containing waste materials as defined under, and that have been packaged in accordance with standards set forth in, regulations promulgated by the United States Environmental Protection Agency at 40 CFR Part 61.141, or any other Applicable Law.

“*Change in law*” means:

A. Any of the following that occurs after October 1, 2018:

(1) The enactment, adoption, promulgation, modification, repeal or change in interpretation of any Federal, State, City, County or other local law, ordinance, code, rule, requirement, regulation or similar legislation;

(2) The issuance of an order, decree or judgment of any Federal, State or Local court, administrative agency or governmental officer or body, to the extent that order, decree or judgment is not also the result of negligent or willful action or failure to act of the Party relying thereon, provided that contesting in good faith any other, decree or judgment shall not constitute or be construed as a willful or negligent action of that Party; or

(3) The imposition of any material conditions on the renewal of any official permit, license or approval which establishes requirements making the construction or operation costs of the Facilities financially more burdensome than the most stringent requirements in effect on October 1, 2018.

(4) Any imposition by a jurisdiction of, or increase in, taxes, fees or charges under applicable State or Federal law, specifically directed at the solid waste industry, including, but not limited to, the handling, Transportation, or Disposal of waste, which is uniformly imposed upon, or increased for, the handling, Transportation or Disposal of solid waste regardless of whether such waste originated in or outside of that jurisdiction and any imposition of, or increase in, fees or

charges for the importation into, or disposal of imported solid waste increased for, waste originating in that jurisdiction.

B. Notwithstanding the foregoing, the following shall not constitute a Change of Law for purposes of this Agreement:

(1) The adoption of, or change, amendment or modification to, any Federal, State, Local or any other law which imposes or increases a tax, fee or charge upon business activities generally, or certain classes of businesses' activities generally, and which is not specifically directed at solid waste Disposal and/or solid waste Transportation business activities, to the exclusion of other businesses activities not directly related to solid waste;

(2) The adoption of or change, amendment or modification to any law, ordinance, code, rule, regulation or similar requirement by a County, City or other local governmental body or agency relating to the handling, Transportation or Disposal of solid waste;

(3) Any imposition of, or increase in, fees or charges by a County, City or other local governmental body under Applicable County or other local Law, specifically directed at the solid waste industry, including, but not limited to, the handling, Transportation, or Disposal of waste, which is uniformly imposed upon, or increased for, the handling, Transportation, or Disposal of waste.

“CITY” means the City of Moscow, Idaho, and its successors as set forth in Article 19 hereof, and its assigns.

“CONTRACTOR” means Finley Buttes Limited Partnership, selected to provide solid waste Transportation and Disposal services in accordance with this Agreement, its successors or assigns and, as applicable, the CONTRACTOR’s officers, employees, agents and subcontractors.

“County” means Latah County, a governmental subdivision of the State of Idaho.

“Consumer Price Index” or “CPI” means the Consumer Price Index Series ID: CUUR0000SA0 All Urban Consumers. All items in U.S. city average, all urban consumers, not seasonally adjusted, All Items, 1982-84=100, as prepared by the United States Department of Labor, Bureau of Labor Statistics (“BLS”), or its successor. If BLS designates an index with a new title or code number or table number as being the continuation of the index cited above, the new index will be used.

“Cost of Service Form” means the form provided by CONTRACTOR in the Response to RFP to submit its price proposal response, Appendix “B”, to CITY’s RFP.

“Delay of Operations” means failure to provide sufficient amount of empty Trailers to allow daily quantities of waste accepted at the SWPF to be loaded and removed; failure to at all times have at least one (1) empty Trailer available at the SWPF; or failure to remove loaded Trailers from the SWPF as specified in the Technical Specifications attached as Exhibit “C”.

“Disposal Site” means a landfill or other site or Facility, which is duly licensed and approved by all governmental bodies and agencies with jurisdiction, and which is to be used by CONTRACTOR for the final disposal, treatment, utilization, processing and/or deposit of any Acceptable Waste received under this Agreement, including all personal property used at that site for purposes of this Agreement.

“Dispose” or *“Disposal”* means all work, services or operations performed by CONTRACTOR pursuant to this Agreement after Acceptable Waste enters the boundaries of a Disposal Site pursuant to this Agreement.

“Facility” or *“Facilities”* means any real or personal property provided in accordance with the requirements of the Specifications, and owned, leased, furnished, operated or used by CONTRACTOR to carry out the provisions of this Agreement, including, but not limited to, any such property used for or in connection with the Primary and/or Alternate Transportation and/or Disposal sites.

“I.C.” means the Idaho Code.

“Medical Waste” means noninfectious and/or non-injurious waste or treated and properly packaged infectious and/or injurious waste originating in a medical, veterinary or intermediate care facility which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals and that may be deposited in the general solid waste stream under applicable Federal, State, County and City laws and regulations including, but not limited to, the regulations of CITY, County and Idaho Health District or Department; the term does not include infectious waste originating in a medical, veterinary or intermediate care facility that has not been treated and may not be deposited in the general solid waste stream under applicable Federal, State, County or CITY laws or regulations, including but not limited to, the Health District or Department regulations. As used above, the term “biologicals” means preparations made from living organisms, and their products, such as vaccines and cultures, treating or immunizing humans or animals or in research pertaining thereto.

“OAR” means Oregon Administrative Rule.

“ORS” means Oregon Revised Statutes.

“Person” or *“Persons”* means, without limitation, any individual, firm, corporation, association, partnership, consortium, joint venture, entity, government agency, or unit of government.

“Primary Disposal Site” means the Disposal Site CONTRACTOR uses for the Acceptable Waste, starting upon the date of commencement of service under this Agreement. The Second Disposal Site shall become the Primary Disposal Site on the Second Disposal Site Date or upon such other date as may be agreed to in writing by CITY and CONTRACTOR.

“Project” means any and all services, matters and things that the Agreement requires to be done, kept, performed and furnished by CONTRACTOR and by CITY, respectively.

“*Representative*” means, depending on the context, the authorized representative of CITY or CONTRACTOR designated in accordance with Article 5.

“*Response to RFP*” means CONTRACTOR’s response to CITY’s Request for Proposals for Solid Waste Transportation and Disposal Services.

“*RFP*” means the Request for Proposals for Solid Waste Transportation and Disposal Services provided by CITY which constitutes the invitation to respond, including the information and instructions to responders, the technical specifications and the response submitted by CONTRACTOR, copies of which are attached hereto as Exhibit “B” and by this reference incorporated herein.

“*Secondary Disposal Site*” means the backup Disposal Site specified in the Proposal for Solid Waste Transportation and Disposal attached hereto as Exhibit “B”.

“*Secondary Disposal Site Agreement*” means a legally binding agreement between CONTRACTOR and the owner or operator of a landfill or other Disposal Site CONTRACTOR proposes to use in the event that the Primary Disposal Site cannot be used, if CONTRACTOR is not the owner of such landfill or other Disposal Site, which agreement assures CONTRACTOR the right to use the landfill or other Disposal Site for the disposal of all Acceptable Waste CONTRACTOR is obligated to accept under this Agreement.

“*Service Fee*” means the amount paid by CITY to CONTRACTOR for performance of its obligations under this Agreement and adjusted, as set forth in Article 8.

“*Solid Waste Processing Facility*” or “*SWPF*” means the site designated pursuant to Section 7.7 at which waste is received and loaded into Trailers.

“*Special Waste*” means the following material if it is managed and disposed of as specified in the Oregon Department of Environmental Quality-approved Special Waste Management Plan: petroleum contaminated soil, sewage sludge and septage, polychlorinated biphenyls (PCBs) in concentrations less than 50 parts per million, bovine spongiform encephalopathy (BSE) waste, free liquid containing solid waste if managed and solidified prior to acceptance.

“*Specifications*” means the technical specifications for services under this Agreement, which are attached to this Agreement as Exhibit “C”.

“*Surety*” means the Person providing a performance guarantee required under Sec 6.4 guaranteeing or providing the funds to guarantee performance of CONTRACTOR’s obligations under this Agreement. The qualifications required of a Surety are set forth in Section 6.4.

“*Term*” or “*Term of Agreement*” means the term of this Agreement set forth in Article 20, including any extensions thereof.

“*Trailer*” means a transfer Trailer or intermodal shipping container on a chassis.

“Transport” or *“Transportation”* means the hauling of empty or loaded Trailers to and from the SWPF and the Disposal Site and includes, but is not limited to, the storage and handling of Trailers at any transfer Facility or other Facilities used by CONTRACTOR to deliver waste to the Disposal Site.

“Transport Facilities” means tractors, Trailers and all other property owned, leased, used or furnished by CONTRACTOR in providing Transport of waste under this Agreement.

“Unacceptable Waste” means

- (1) Hazardous Waste;
- (2) Radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or Hazardous Waste;
- (3) Sewage sludge, human waste, cesspool pumpings, infections waste, liquid waste, vehicles, used oil, batteries, whole waste tires, recyclable material, unless approved in writing by the Oregon Department of Environmental Quality, large appliances, explosives and electronic waste; and
- (4) Any material, the Transportation, handling or Disposal of which would constitute a violation of any applicable State or Federal law pertaining to health, safety, or the environment, whether enacted prior to or subsequent to execution of this Agreement.

“Uncontrollable Circumstance” means:

(1) Any act or event that has had or may reasonably be expected to have a material adverse effect on the rights or obligations of a Party to this Agreement, or a material adverse effect on any one or more of the Facilities or the acquisition, construction, start-up, testing, operation, ownership or possession of the Facilities, if that act or event is beyond the reasonable control of the Party relying thereon as justification for not performing an obligation or complying with any condition required of that Party under this Agreement. Subject to Subsection (2) below, those acts or events shall include, but are not limited to the following:

(a) an act of God (except normal weather conditions for the geographic area of the Facilities), hurricanes, tornadoes, epidemic, landslide, lightning, earthquake, volcano eruption, nuclear radiation, fire or explosion, flood or similar occurrence, an act of public enemy, war, blockade, insurrection, riot, general arrest, or restraint of government and people, civil disturbance or similar occurrence, that directly affects the operation of a Facility;

(b) the failure of any appropriate Federal, State or Local agency or public or private utility having operation jurisdiction over, or responsibility to serve any of the Facilities, to provide, maintain and assure the maintenance of any necessary utility which failure is not caused by CONTRACTOR’s failure to pay for those utilities or CONTRACTOR’s failure to comply with Applicable Law;

- (c) for CONTRACTOR, a non-contractor strike;
- (d) for CITY, any strike or labor dispute; or
- (e) a Change in Law as defined herein.

(2) It is expressly understood and agreed that, notwithstanding any other provision of this definition, the following events or conditions, in and of themselves, shall not constitute an Uncontrollable Circumstance:

(a) adverse changes in the financial ability of any Party to this Agreement to perform its obligations under this Agreement;

(b) the consequences of errors of design, construction, start-up, operation or maintenance on the part of CONTRACTOR or any of its employees, agents or subcontractors;

(c) the failure of CONTRACTOR to secure patents or licenses in connection with the technology necessary to design, construct, operate or maintain the Facilities;

(d) the lack of fitness for use, or the failure to comply with the Specifications or the design of any materials, equipment or parts constituting any part of the facilities;

(e) the failure of any technology to perform;

(f) as to CONTRACTOR, any act or event, the occurrence against which CONTRACTOR is obligated to carry insurance under this Agreement, to the extent CONTRACTOR is so obligated;

(g) any subsurface condition encountered during the construction or expansion of any of the Facilities;

(h) periodic flooding, freezing or snow accumulation which causes restrictions upon the use of or seasonal or other temporary closure of roads, bridges or other transportation facilities thereby making such roads, bridges or transportation facilities unavailable for use by CONTRACTOR, and which is within the range of unavailability experienced in the case of such transportation facilities during one (1) or more of the ten (10) years preceding the year in which this Agreement is executed.

“USC” means United States Code.

1.2 Construction of Terms. Unless otherwise specified in this Agreement, words describing material or work that have a well-known technical or trade meaning shall be construed in accordance with the well-known meaning generally recognized by solid waste professionals, engineers and trades.

ARTICLE 2

General Provisions

2.1 Law Applicable. This Agreement is made in, and shall be construed under the laws of the State of Idaho.

2.2 Entire and Complete Agreement. This Agreement constitutes the entire and complete agreement, and the final expression of the Parties with respect to the subject matter it contains, and supersedes all prior or contemporaneous agreements, understandings, arrangements, commitments and representations, whether oral or written. The body of this Agreement and the exhibits and attachments hereto shall be read as a whole and construed to be consistent, whenever possible, in order to carry out the intent of these documents. In the event of an irreconcilable conflict between the language set forth in the body of this Agreement and any of the exhibits or attachments hereto, the most specific language shall prevail, and if one (1) provision is not more specific than the other, the language in the body of this Agreement shall prevail and this Agreement shall be interpreted as if that conflicting language was not a part of the agreement between the Parties. CONTRACTOR immediately shall bring to CITY's attention for decision and mutual revision, any observed conflicts between or duplications of any Agreement provisions, including exhibits and attachments hereto, or any material omissions from this Agreement. CONTRACTOR shall obtain written instructions from CITY's Representative before proceeding with services affected by omissions or discrepancies in this Agreement.

2.3 Severability. If any provision is for any reason determined to be invalid, illegal or unenforceable under any Applicable Law, the remaining provisions of this Agreement shall remain in effect and bind the Parties; however, the Parties shall negotiate in good faith to amend the Agreement to effectuate the intent of any invalid, illegal or unenforceable provision, if permissible under Applicable Law.

2.4 Time of the Essence. Time is of the essence of this Agreement.

2.5 Waiver of Provisions. CITY's or CONTRACTOR's failure to object to a breach of any Agreement provision is not and shall not be construed as a waiver of that provision. The payment or acceptance of compensation subsequent to any breach is not and shall not be deemed an acceptance of that breach. Any waiver must be in writing and supported by consideration.

2.6 Access. CITY shall have the right and unlimited access to inspect any or all of CONTRACTOR's and subcontractor's operations, Facilities or records related to this Agreement; however, CITY's access to records under this Section shall be subject to the confidentiality provisions of Section 6.9 B. CITY shall have access to operations and Facilities under this Section at any and all times during normal business hours of or when there is activity of any kind at those operations or Facilities.

2.7 No Third-Party Beneficiaries. This Agreement is entered into by CITY in its governmental capacity and is not intended to, nor does it create any third-party beneficiary or rights in any public or private Person.

2.8 Personal Liability. This Agreement is not intended to create or result in any personal liability for any public official or CITY employee or agent, nor shall the Agreement be construed to create that liability.

2.9 Comprehensive Agreement. All services that are necessary to complete and carry out the Project as described in this Agreement shall be considered part of the Project and CONTRACTOR shall perform or provide for the services without extra compensation, unless otherwise expressly stated in this Agreement.

2.10 Subsidiary Agreements. No agreement between CONTRACTOR and its subcontractors, officers, employees or agents including all agreements relating to the use, lease, operation or ownership of the Disposal Site and other Facilities shall prevent, expressly or in effect, CONTRACTOR from performing its obligations under this Agreement.

2.11 Notices.

A. Except as may otherwise be expressly provided, all approvals, requests, reports, notices, communications or other materials or information required or permitted to be made or given by a Party to the other Party hereunder, shall be deemed to have been given or made only if the same is reduced to writing and delivered, either personally or by means of the United States Postal Service (certified mail), to CITY's Representative or CONTRACTOR's Representative, as the case may be, at their respective addresses as set forth below.

B. For all purposes of this Agreement, any such approval, request, report, notice, communication or other material or information which is delivered by means of the United States Postal Service as aforesaid shall be deemed to have been delivered as of the fifth business day next following the date of the postmark thereof.

C. All notices, requests and other communications to either Party hereunder shall be in writing and shall be given to such Party at the following address, or such other address as such Party may hereafter specify for the purpose by notice to the other Party:

If to CITY:

City of Moscow
Sanitation Manager
206 East Third Street
P O Box 9203
Moscow, Idaho 83843

Telephone: (208) 883-7131
tdavis@ci.moscow.id.us
Attention: Tim Davis, Sanitation Manager

If to CONTRACTOR:

Kevin Green
Finley Buttes Limited Partnership
P O Box 350
Boardman, Oregon 97818
KevinG@wasteconnections.com

Telephone: (541) 965-1339
Attention: Kevin Green

2.12 Article, Section and References. Any Articles, Sections or Subsections mentioned in this Agreement by number only, without reference to another document, refer to those Articles, Sections or Subsections contained in this Agreement.

2.13 Amendment or Waiver. Neither this Agreement, nor any provision hereof, may be changed, modified, amended, or waived except by written instrument signed by the Parties.

2.14 Agreement Execution. For purposes of this Agreement, Agreement execution shall be the date CITY executes the Agreement.

ARTICLE 3

Independent CONTRACTOR

3.1 CONTRACTOR as Independent CONTRACTOR. CONTRACTOR shall perform all work under this Agreement as an independent contractor. CONTRACTOR is not, and shall not be considered an employee, agent, sub-agents or servant of CITY for this Agreement or otherwise; CONTRACTOR's subcontractors, employees or agents are not and shall not be considered employees, agents, sub-agent or servants of CITY for this Agreement or otherwise.

3.2 CONTRACTOR's Control of Project. CONTRACTOR shall have the exclusive right to control the services and work performed under this Agreement, and the Persons performing those services and work. CONTRACTOR shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors. Nothing in the Agreement shall be construed as creating a partnership or joint venture between CITY and CONTRACTOR or giving CITY a duty to supervise or control the acts or omissions of any Person performing services or work under this Agreement.

ARTICLE 4

Subcontractors

4.1 Rejection of Subcontractors.

A. During the Term of this Agreement CITY shall have the right to reject any or all subcontracts of all or part of CONTRACTOR's obligations to perform the Project or provide any

of the Facilities if CITY reasonably believes that the subcontractors concerned either have not or will not adequately perform the tasks assigned to them. Criteria include, but are not limited to, conflicting rights or obligations with respect to any portion of the work under this Agreement and/or any related franchise or contract awarded by CITY, including, but not limited to, any franchise or contract for SWPF operation. CITY shall be the sole judge of whether such conflict exists. CONTRACTOR shall inform CITY in writing of all proposed subcontracts not listed in the Bid Documents and any changes of subcontractors from those listed in the Bid Documents and shall not use such subcontractor(s) to perform any part of the Project or provide any of the Facilities under this Agreement without obtaining the written approval of CITY.

B. In no event shall CONTRACTOR's subcontracting or CITY's failure to reject CONTRACTOR's subcontracting of its obligations to operate the Facilities, in any way relieve CONTRACTOR of its responsibilities under this Agreement. CONTRACTOR shall have the exclusive right to control the services and work performed under this Agreement and the Persons performing such services and work. CONTRACTOR shall be solely responsible for the acts and omissions of its officers, agents, employees' suppliers, subcontractors and those subcontractors' suppliers, employees, agents and officers. Nothing in this Agreement shall be construed as creating a partnership or joint venture between CITY and CONTRACTOR or giving CITY a duty to supervise or control the acts or omissions of any Person performing services or work under this Agreement. CONTRACTOR's subcontracting or CITY's approval of that subcontracting of CONTRACTOR's obligation to perform under this Agreement shall not relieve CONTRACTOR of its obligations under this Agreement.

4.2 Assignment of Subcontracts. All contracts between CONTRACTOR and its subcontractors for services and work under this Agreement executed after October 1, 2018 shall contain a clause that if CONTRACTOR defaults in performance of this Agreement and CITY accepts assignment of the subcontract under Article 18, the subcontractor shall recognize CITY or its assignee as CONTRACTOR and CITY or its assignee shall have all the rights, remedies and responsibilities of CONTRACTOR under that subcontract.

ARTICLE 5

CONTRACTOR and CITY Representatives

5.1 Representatives. CONTRACTOR and CITY shall each designate an agent to serve as a competent Representative for the Term of this Agreement. CITY and CONTRACTOR, respectively, shall keep each other informed of the identity of their respective Representative and shall provide each other with a telephone number and other means by which that Representative may be reached twenty-four (24) hours every day.

5.2 CONTRACTOR Representative. CONTRACTOR Representative shall be CONTRACTOR's agent and shall represent CONTRACTOR for all purposes of this Agreement. All written or verbal directions, instructions or notices given by CITY to that Representative and related to the subject matter of the Agreement shall bind CONTRACTOR as if delivered to CONTRACTOR personally. CONTRACTOR's Representative shall be in charge of the Project at all times and shall have authority to act on behalf of CONTRACTOR; CONTRACTOR's Representative's statements, representations, actions and commitments, shall fully bind

CONTRACTOR, subject to the requirements of Section 2.13. CONTRACTOR's Representative shall be accessible at all times during the Term of this Agreement.

5.3 CITY Representative. Unless CITY notifies CONTRACTOR otherwise in writing, CITY's Representative shall be CITY's Representative for all purposes of this Agreement.

ARTICLE 6

CONTRACTOR Responsibilities, Representations and Warranties

6.1 General. CONTRACTOR's responsibilities under this Agreement include, but are not limited to:

A. Acceptance, storage, handling, unloading, Transportation and Disposal of Acceptable Waste, delivered to CONTRACTOR at the SWPF in Trailers that conform to the requirements of the Specifications;

B. Ownership, operation and/or leasing of Facilities necessary to perform its obligations under this Agreement;

C. Procurement and maintenance, as applicable, of the performance guarantees required under Section 6.4;

D. Compliance with all Applicable Laws in accordance with Section 6.9; obtaining any permit, license, certificate or governmental approval required for the Project in accordance with Section 6.6; and the payment of all applicable taxes and fees in accordance with Section 6.7;

E. Procurement and maintenance of insurance in accordance with Article 12;

F. Maintenance of a closure and post-closure trust fund in accordance with Section 6.8;

G. Maintenance of an alternate operations plan and an emergency operations plan in accordance with Sections 6.17 and 6.18 of the Agreement and alternate Facilities in accordance with Section 6.5 of this Agreement;

H. Acceptance and Disposal of Asbestos upon delivery by any CITY employee, subcontractor, or CITY resident to CONTRACTOR's Disposal Site during normal hours of operation, provided that Asbestos may legally be accepted and Disposed of at said site, and provided further that CITY shall pay CONTRACTOR's normal and customary charge for the Disposal of the Asbestos.

I. Performance of all other obligations required under this Agreement.

6.2 Commencement of Service.

A. Commencement of Service to CITY. CONTRACTOR shall commence service to CITY on October 1, 2018. On the date service is to commence, CONTRACTOR shall accept Transport and Dispose of all Acceptable Waste loaded into Trailers at the SWPF by or on behalf of CITY in accordance with this Agreement.

B. Transport and Disposal of All Acceptable Waste from the SWPF. CONTRACTOR shall Transport and Dispose of all Acceptable Waste loaded into Trailers at the SWPF. Such Acceptable Waste may include waste from the County, other cities within the County, and other counties and cities.

6.3 Facilities; Replacement or Repair.

A. Facilities. CONTRACTOR shall construct, own, lease or otherwise provide, maintain and operate in a quantity sufficient to perform the services under this Agreement in a timely manner throughout the Term of the Agreement in accordance with the Specifications, Transport Facilities, Disposal Facilities and alternate facilities. Subject to Section 6.5, CONTRACTOR may add to, delete, improve or replace Facilities during the Term of the Agreement so long as such additions, deletions, improvements or replacements are carried out and operated in accordance with Applicable Law. All Facilities provided by CONTRACTOR shall meet or exceed the requirements in the Specifications and any and all requirements of any Applicable Law.

B. Replacement or Repair. CONTRACTOR at its sole expense shall keep all Facilities in good working order and repair. CONTRACTOR shall be liable for all costs reasonably incurred by CITY to repair or replace the Facilities owned, operated and/ or used by CONTRACTOR or provided to CITY for its use under this Agreement, including, but not limited to, the Trailers, tractors, Transport Facilities and Disposal Facilities. In the event a Trailer is damaged due to failure of CITY or its agents to use reasonable care in loading or moving of the Trailer, CONTRACTOR shall repair or replace the Trailer if not economically feasible to repair. CITY shall reimburse CONTRACTOR for the cost of repair and replacement if and only if:

(1) the repair or replacement is necessary to remedy damage caused by the negligence of CITY or its agent, including a third party SWPF operator, and

(2) CONTRACTOR assigns to CITY any and all subrogation rights it has against such operator or any other Person who may be liable for the damage; and

(3) the costs incurred to repair or replace the Trailer are the least costly means available under the circumstances to repair or replace the Trailer; and

(4) CONTRACTOR fully documents the costs it incurred to CITY's reasonable satisfaction.

CITY shall reimburse CONTRACTOR only for property damage to Trailers; nothing in this Section shall require or be construed to require CITY to reimburse CONTRACTOR for any costs, damages or liabilities for personal injuries in any way related to the use or operation of the Trailers.

C. Rejection of Facilities. CITY may require CONTRACTOR at its sole expense to replace or repair any Facility including, but not limited to, tractors or Trailers used to provide

services under this Agreement, when CITY reasonably believes they are not road-worthy or otherwise do not conform to the Specifications.

6.4 Financial Guarantee of Agreement Performance.

A. Performance Bond. CONTRACTOR shall provide and maintain in force for the Term of the Agreement a performance bond or bonds in substantially the form attached hereto as Exhibit C.

B. Alternate Agreement Performance Guarantee. In its sole discretion, CITY may accept such other form of bond or letter of credit that is approved by CITY. For purposes of this Subsection, the term “performance guarantee” shall mean any bond, letter of credit or other financial guarantee referred to in this Article and provided to guarantee or provide the funds to guarantee the performance of CONTRACTOR’s obligations under this Agreement.

C. Qualifications of Surety. The Surety must be licensed to conduct business in the State of Idaho and all other states where the Project is located. A Surety which provides a bond or other alternate form of performance guarantee in lieu of an irrevocable standby letter of credit must:

(1) conform with all applicable Idaho State statutory and regulatory requirements for sureties, and

(2) be included on the current list of Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, as published in circular 570, as amended, by the Audit Staff Bureau of Accounts, United States Treasury Department.

A Surety providing a letter of credit must be a financial institution whose long-term debt is rated in one (1) of the three (3) highest categories by a nationally recognized rating agency (e.g. Standard & Poor’s rating of AAA, AA or A).

D. Amount of Performance Guarantee. The amount of the performance guarantee for the first year of operations under the Agreement shall be six hundred thousand dollars (\$600,000). For the second and all subsequent years of operations under the Agreement, the amount of the performance guarantee shall be not less than sixty percent (60%) of the revenue CITY projects CONTRACTOR will earn under the Agreement for the period of the performance guarantee. The projection shall be reasonably based upon services provided and revenues earned previously under the Agreement and estimates of future changes in volumes of Acceptable Waste to be handled under the Agreement. Upon request by CONTRACTOR, CITY shall notify CONTRACTOR of its determination of the required amount of the performance guarantee for the upcoming year of service.

E. Duration of Performance Guarantees. The initial and all successor performance guarantees shall be issued for a term of not less than one (1) year; CONTRACTOR shall provide a new performance guarantee or evidence satisfactory to CITY of the renewability of the current

performance guarantee, at least one hundred eighty (180) days before the expiration date of the performance guarantee then in effect. Any performance guarantee provided under this Section shall provide that notwithstanding the termination or expiration of the Agreement, at any time within two (2) years of the end of the period covered by the performance guarantee, CITY may make a claim against the performance guarantee for CONTRACTOR's failure to perform its obligations under the Agreement during the period covered by the performance guarantee. However, CONTRACTOR shall be liable for its obligations under this Agreement notwithstanding the termination of the Surety's obligations under the performance guarantee.

F. Authority of Agent. All performance guarantees given under this Article that are signed by the Surety's agent must be accompanied by a certified copy of that agent's authority to act for the Surety at the time the bond is signed. CITY must approve in writing the Surety providing, and the form and substance of, all performance guarantees, such approval not to be unreasonably withheld, conditioned or delayed. CONTRACTOR may satisfy the obligations under this Article by providing performance guarantees from one or more sureties meeting the qualifications set forth in this Article.

G. Guarantee of Post-Closure Fund. The performance guarantee shall guarantee performance of CONTRACTOR's obligations to contribute to a post-closure fund as set forth in Section 6.8, but may exclude guarantee of other closure and post-closure obligations.

6.5 Alternate Transportation and Disposal Facilities.

A. In the event the services required under this Agreement cannot for any reason be provided with the Primary Transportation and/or Disposal Site or other Facilities, or if CONTRACTOR's Transportation and/or Primary Disposal Site or other Facilities are inadequate or unavailable to provide service under this Agreement, CONTRACTOR shall provide, in accordance with the alternate operations plan required under Section 6.17 of the Agreement, an Alternate Disposal Site and other Facilities that operate in compliance with the requirements of this Agreement and meet or exceed the requirements of all Applicable Laws. The Alternate Disposal Site and other Facilities required under this Section shall be available for use on the day service is commenced under this Agreement. Except as otherwise expressly provided under this Agreement, CONTRACTOR shall provide the Alternate Disposal Site and Other Facilities at no additional cost to CITY.

B. CONTRACTOR may with prior written approval of CITY which shall not be unreasonably withheld, conditioned or delayed, use Facilities, Disposal Sites or processes different from the primary or alternate Disposal Site and other Facilities to carry out CONTRACTOR's obligations under this Agreement. Except as expressly provided otherwise in the Agreement for the case of an Uncontrollable Circumstance, CONTRACTOR shall provide the alternate Disposal Site and other Facilities at no additional cost to CITY.

6.6 Permits, Licenses, Royalties.

A. CONTRACTOR shall obtain, maintain and pay for, at CONTRACTOR's sole expense, all permits required under any Applicable Law for its acquisition, construction,

installation and operation of the Facilities and all other permits necessary to fulfill all its obligations under this Agreement. Without limiting the generality of the foregoing, CONTRACTOR shall, at its sole expense, prepare any environmental impact statement required under Applicable law. Within fifteen (15) days of receiving the notice of award of the Agreement from CITY, CONTRACTOR shall, with respect to the Facilities CONTRACTOR then expects to use to carry out its responsibilities under this Agreement, provide to CITY a list of all permits required for the performance of its obligations under this Agreement designating the issuing agency and the dates of issuance and expiration of those permits, a copy of all current permits and CONTRACTOR's schedule for obtaining or renewing all permits required during the Term of the Agreement. As Facilities are significantly changed, modified or replaced during the Term of this Agreement, CONTRACTOR shall provide copies of new permits relevant to the acquisition, construction, installation and operation of those facilities. To the extent, permitted by Applicable Law, CITY shall provide CONTRACTOR with any information or documents in its control that CONTRACTOR reasonably requests in order to obtain or maintain all required permits. For purposes of this section, the term "permits" means any temporary and/or permanent permits, approvals, licenses, certificates, inspection fees, surcharges and other approvals required for the performance of the Project.

B. CONTRACTOR shall be liable for all fines or civil penalties that may be imposed by any regulatory agency for CONTRACTOR-caused violations of permits, regulations or any other Applicable Laws; CITY shall not be liable for and shall not reimburse CONTRACTOR for payment of those fines or civil penalties. CONTRACTOR reserves the right to contest in good faith, any fine in an administrative proceeding or in court prior to its payment. Notwithstanding the foregoing, CITY shall reimburse CONTRACTOR for all fines and penalties imposed and paid as a result of the Transportation of Unacceptable Waste loaded into a Trailer except for fines and penalties (1) incurred due to the negligence of CONTRACTOR, or (2) related to any Unacceptable Waste discovered, transported and/or disposed of in accordance with Section 10.4, or (3) other Transportation of Unacceptable Waste by CONTRACTOR or CONTRACTOR's agent, employee, assignee or subcontractor, done with knowledge that Unacceptable Waste is being transported.

C. CONTRACTOR shall pay all royalties, fees and license payments, shall defend all lawsuits and hold CITY harmless from any loss resulting therefrom in accordance with Article 11.

6.7 Taxes and Fees. CONTRACTOR shall be responsible and liable for payment of all Federal, State and Local taxes and fees, and surcharges of every form, that apply to any and all Persons, property, income, equipment, materials, supplies, structures or activities that are involved in the performance of the Agreement, including, but not limited to, any income taxes, real property, excise, sales and use taxes and fees that arise in connection with the Agreement; however, CONTRACTOR shall not be liable for payment of any tax or fee for which CITY is ordinarily responsible without regard to the services provided by CONTRACTOR under this Agreement.

6.8 Closure and Post-Closure Fund.

A. CONTRACTOR shall be responsible for all closure and post-closure costs relating to the Facilities. CONTRACTOR shall establish and maintain at its sole expense, or in the case

of use by CONTRACTOR of a Disposal Facility not owned by CONTRACTOR, cause to be established and maintained, any closure and post-closure trust fund now or hereafter required under any Applicable Law.

B. CONTRACTOR shall use the money in the closure and post-closure trust fund, including interest earnings thereon, to guarantee proper closure of the Facilities used in connection with this Agreement and to provide for post-closure monitoring and the mitigation of adverse environmental effects of the Facilities. Money in the trust fund shall be spent in accordance with Applicable Law. Unless Applicable Law provides otherwise, CITY's proportional contribution to the trust fund after the Facilities have been closed and all adverse environmental effects of the Facilities mitigated, shall be paid to CITY. For purposes of this Section, "CITY's proportional contribution to the trust fund" shall mean the fractional portion of total remaining funds available for distribution which is equal to the fraction which results from dividing the amount of funds contributed due to Acceptable Waste and Asbestos delivered to the Facilities under this Agreement by the total amount of contributions to the fund due to delivery of all other waste to the Facilities, regardless of its source.

C. The requirements of this Section shall survive the termination of this Agreement.

6.9 Compliance with Law; Documentation; Confidential Business Records.

A. CONTRACTOR Compliance with Law; CITY Verification. CONTRACTOR, its officers, employees, agents and subcontractors shall comply with all Applicable Laws and the requirements of this Agreement in performing its obligations under this Agreement. CITY shall have the right and be given access to inspect copies of all correspondence or any other documents sent to or received from CONTRACTOR or its subcontractors related to CONTRACTOR's compliance with any Applicable Law or the requirements of this Agreement except for "confidential business records."

B. Confidential Business Records.

(1) CONTRACTOR, may designate documents that are only relevant to the terms of this Agreement as confidential business records; documents reasonably designated as such shall remain the exclusive property of CONTRACTOR. For purposes of this Section, "confidential business records" means all trade secrets, proprietary plans, financial data and the ideas and information contained therein, that CONTRACTOR makes available to CITY for purposes of this Agreement.

(2) If documents are designated as confidential business records, they shall be inspected by an independent accountant or other third party designated by CITY and approved by CONTRACTOR (which approval shall not be unreasonably withheld); the third party selected shall determine whether documents are relevant to CONTRACTOR's compliance with Applicable Law. If the third party determines that the documents are relevant, then CITY may inspect the documents. For documents that contain both relevant and irrelevant information, the third party may delete any irrelevant information.

(3) CITY shall not disclose to others any information designated by CONTRACTOR as confidential business records, unless ordered by a court of competent jurisdiction that the information concerned or any portion thereof is subject to disclosure under the

Idaho Public Records Act (I.C. §74-101 et seq.) or any other Applicable Law. CONTRACTOR recognizes and agrees that even if CITY determines that the information is properly withheld from public disclosure, a court may order the disclosure of that information. In such an event of disclosure, CITY shall have no liability to CONTRACTOR for any loss resulting therefrom. Notwithstanding the foregoing, CITY may disclose all information to employees, consultants, attorneys or other agents of CITY examining those documents for purposes of this Agreement. If required by law or a court order to disclose documents designated as confidential business records, CITY shall, to the extent possible, notify CONTRACTOR before that disclosure occurs.

C. All agreements between CONTRACTOR and Persons employed for this Agreement shall contain this Section's requirements. The requirements of this Section shall survive the termination or expiration of the Agreement. All unresolved disputes arising under this Section shall be resolved by arbitration under Article 17.

6.10 Records; Monthly Report. CONTRACTOR shall keep accurate records of all transactions connected with this Agreement including, but not limited to, all correspondence and invoices, weigh tickets or receipts issued at the SWPF or the Disposal Site. CONTRACTOR shall at all times maintain an accounting system that uses generally accepted accounting principles consistently applied for all services rendered and materials supplied, including additional and deleted work, in connection with this Agreement.

CONTRACTOR shall provide to City, by the fifteenth day of each month, a report for the preceding month summarizing routine and extraordinary activities during the prior month and plans and schedules for future activities. The report shall include, but not be limited to,

- A. The tonnage accepted by CONTRACTOR from CITY at the SWPF;
- B. The condition of the Facilities;
- C. A report of all complaints submitted to the Agreement or as required by Section 6.11 and CONTRACTOR's response, if any;
- D. A summary of any extraordinary occurrences affecting CONTRACTOR's performance including, but not limited to, occurrences affecting the Facilities;
- E. Copies of the weigh tickets, invoices and/or receipts for the month;
- F. Changes in the status and readiness of alternate Facilities and emergency Facilities and/ or associated plans;
- G. Documentation regarding Unacceptable Waste, if any, gathered, produced and/or retained as required in Article 10;
- H. Statements documenting the amount deposited in the closure and post-closure trust fund required under Section 6.8;
- I. A summary of the tonnage of and identification by type of recyclable materials recovered, if any, from the Acceptable Waste delivered to CONTRACTOR and the amount of each material sold or marketed that month.

In addition to the monthly report required under this Section 6.10, CONTRACTOR shall provide to CITY within thirty (30) days of the end of any year of operations under the Agreement, an annual report summarizing and consolidating the information contained in the monthly reports provided for the preceding year.

All records required to be maintained by CONTRACTOR under this Section, shall be available for inspection by CITY and/or its auditor.

6.11 Accidents; Complaints.

A. Accidents; Reporting. CONTRACTOR shall be financially liable and otherwise responsible for all injuries, accidents and other mishaps associated with its operations, except to the extent caused by the negligence or intentional actions of CITY. CONTRACTOR shall report by telephone, messenger or electronic transmission, with verification of receipt, any accidents resulting from the performance of this Agreement to CITY as soon as practicable. For purposes of this Section, "accident" shall include the death of any person, any personal injury resulting in inpatient hospitalization or outpatient treatment by a physician, or damage to any real or personal property exceeding five thousand dollars (\$5,000). CONTRACTOR shall report in writing to CITY within seven (7) days of that accident complete details of the accident including witness statements.

B. Response to Complaints; Report. CONTRACTOR shall respond in a reasonable and courteous manner to complaints, charges and allegations related to CONTRACTOR's performance under the Agreement within thirty (30) days of receipt of that complaint, charge or allegation, including but not limited to those complaints made or actions brought by citizens, citizen groups and public agencies. CONTRACTOR shall deliver to CITY as part of the monthly report required under Section 6.10 a report of all complaints submitted that shall include, but not be limited to, the name and address of the complainant, the substance of the complaint including the activity or service at issue, the action, if any, CONTRACTOR has taken to investigate or remedy the problem or an explanation of why no action has been taken.

6.12 Payment of Subcontractors and Laborers. Unless a reasonable dispute exists concerning payment, CONTRACTOR shall promptly pay all subcontractors, materialmen, suppliers or laborers engaged for purposes of this Agreement in accordance with the contract or agreement between that Person and CONTRACTOR.

6.13 Employment Discrimination: It is illegal under the U.S. Federal law to discriminate against an employee, either intentionally or through disparate impact, on account of race, color, gender, religion, sex (including pregnancy), national origin, physical or mental disability, age, sexual orientation, and gender identity. CONTRACTOR shall not discriminate against any employee or applicant for employment. CONTRACTOR's action under this Section shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and other applicants for employment, notices setting forth the provisions of this non-discrimination Section.

6.14 Scheduling; Management; Quality of Performance. CONTRACTOR shall coordinate, schedule in an orderly manner and manage all work done by CONTRACTOR's officers, employees, subcontractors and agents under this Agreement. CONTRACTOR and subcontractors shall perform every act or service under this Agreement in a skillful and competent manner in accordance with the highest standards of the solid waste transportation and disposal industries. Unless otherwise specified herein, CONTRACTOR shall be financially liable and otherwise responsible to CITY for any errors, deficiencies or failures to perform under this Agreement. All workers and subcontractors shall be skilled in their trades. All operators shall be licensed or otherwise qualified as required by law. CONTRACTOR shall furnish evidence of the skill and licenses of its officers, employees, subcontractors, agents and operators upon request of CITY. CONTRACTOR shall at all times enforce strict discipline and good order among its employees and all subcontractors.

6.15 Subsidiary Use of Facilities. CONTRACTOR may use the Transportation Facilities for its own purposes during the transportation of empty Trailers from the Disposal Site to the SWPF if used in accordance with all Applicable Laws. If the Facilities are so used, CONTRACTOR shall be solely responsible for all losses, damages, costs, charges, expenses, judgments or any liabilities whatsoever resulting from that use and shall hold harmless, indemnify and defend CITY from and against all claims, suits and liability that may arise as a result of that use. No CITY property shall in any way be used during CONTRACTOR's use of any Transportation Facility for CONTRACTOR's own purposes.

6.16 Representations and Warranties of CONTRACTOR. CONTRACTOR hereby makes the following representations and warranties to and for the benefit of CITY:

A. CONTRACTOR is duly organized and validly existing as an Oregon Limited Partnership, in good standing under the laws of the States of Idaho, Washington and Oregon, and it is duly qualified to do business in the States of Idaho, Washington and Oregon.

B. CONTRACTOR has full legal right, power and authority to execute and deliver, and perform its obligations under this Agreement, and has duly authorized the execution and delivery of this Agreement by proper action of its Managing Partners, Board of Directors, or other governing entity. This Agreement has been duly executed and delivered by CONTRACTOR and constitutes a legal, valid and binding obligation of CONTRACTOR enforceable against CONTRACTOR in accordance with its terms.

C. Neither the execution or delivery by CONTRACTOR of this Agreement, the performance by CONTRACTOR of its obligations hereunder, nor the fulfillment by CONTRACTOR of the terms and conditions hereof: (i) conflicts with, violates or results in a breach of Applicable Law; or (ii) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other governmental authority, or to the best of CONTRACTOR's knowledge, any agreement or instrument, to which CONTRACTOR is a party or by which CONTRACTOR or any of its properties or assets are bound, or constitutes a default thereunder.

D. No approval, authorization, license, permit, order or consent of, or declaration, registration or filing, with any governmental or administrative authority, commission, board, agency or instrumentality, is required for the valid execution and delivery of this Agreement by CONTRACTOR, except such as has been duly obtained or made or such as CONTRACTOR has given CITY adequate assurance, in CITY's sole discretion, that it will be obtained or made before the commencement of services by CONTRACTOR under this Agreement.

E. Unless otherwise approved by CITY in writing, as of the date CONTRACTOR provides Waste Transportation and Disposal services under this Agreement, there shall not be any action, lawsuit, proceeding or, to the best of CONTRACTOR's knowledge, investigation, at law or inequity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of CONTRACTOR's knowledge, threatened, against CONTRACTOR, wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by CONTRACTOR of its obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this Agreement or any other agreement or instrument entered into by CONTRACTOR in connection with the transactions contemplated hereby.

F. CONTRACTOR holds, or is expressly licensed to use, all patent rights, licenses, and franchises necessary or appropriate to construct, operate and maintain the Facilities pursuant to and in accordance with the terms of the Agreement.

6.17 Alternate Operations Plan. Within sixty (60) days of execution of this Agreement, CONTRACTOR shall submit to CITY for review and approval a complete and detailed alternate operations plan for performing CONTRACTOR's obligations under this Agreement in the event any Primary Disposal Site and/or Transportation Facility for any reason becomes inadequate to satisfy the requirements of the Agreement and for operating the Alternate Disposal Site or other Facilities provided pursuant to the Agreement. The alternate operations plan shall be updated and submitted for CITY approval on an annual basis. This plan shall be of sufficient detail to satisfy CITY that CONTRACTOR is able to maintain operations in the event that Uncontrollable Circumstances prevent the use of the primary system or if for any other reason CONTRACTOR is unable to accept, Transport and Dispose of Acceptable Waste using the Primary Disposal Site or other Facilities pursuant to this Agreement. The plan shall include, but not be limited to:

- A. An inventory of designated alternate Transportation Disposal Site and other Facilities;
- B. A list of personnel and financial and technical resources to implement the plan;
- C. A mobilization plan for each component of the alternate operations system;
- D. Copies of any current operating Permits for an Alternate Disposal Site or other Facilities and a schedule for receiving pending Permits.

E. A copy of the Alternate Disposal Site Agreement for each Alternate Disposal Site designated in the plan.

If no changes have occurred since the last plan was submitted that affect any part of the alternate operations systems, a report stating that fact and signed by CONTRACTOR's Representative is sufficient to satisfy the annual alternate operations plan update required under this Section. CITY's failure to object to the plan is not and shall not be construed as a limitation on CONTRACTOR's obligation to accept, Transport and Dispose of Acceptable Waste in accordance with all Applicable Laws and the requirements of the Agreement.

6.18 Emergency Operations Plan. Within sixty (60) days of execution of this Agreement, CONTRACTOR shall submit to CITY, for its approval, a comprehensive emergency operations plan designed to mitigate and correct hazards that may arise due to accidents or disruption of the Transportation and Disposal of Acceptable Waste under this Agreement, including but not limited to, damage to property, the interruption of traffic along Transportation routes, release of hazardous or dangerous materials and the release of any Acceptable Waste. The emergency operations plan shall be updated and submitted for CITY approval on an annual basis.

The emergency plan shall include:

A. Procedures and a schedule for notifying CITY and the appropriate Federal, State or Local authorities of emergency conditions;

B. The identity of a Representative of CONTRACTOR, telephone number and other means by which that Representative may be reached twenty-four (24) hours of every day;

C. A description of the actions that CONTRACTOR's operating personnel shall take in response to the emergency conditions; and

D. Evidence acceptable to CITY of the existence of a plan setting forth the services that will be rendered by each local emergency response agency in the event of an emergency.

If no changes have occurred since the last plan was submitted that affect any part of the emergency plan, a report stating that fact and signed by CONTRACTOR's Representative is sufficient to satisfy the annual emergency plan update required under this Section. The emergency plan does not diminish CONTRACTOR's responsibility to comply with all Applicable Laws for Transporting, Disposing and otherwise handling all waste in the event of an emergency. CITY's failure to object to the plan is not and shall not be construed as a limitation on CONTRACTOR's obligation to comply with all the requirements of this Agreement including, without limitation, the acceptance, Transportation and Disposal of Acceptable Waste.

6.19 Responsibility for Equipment. Any equipment furnished hereunder by CONTRACTOR shall remain the property of CONTRACTOR; however, CITY acknowledges that it has care, custody and control of the equipment while at CITY's location and accepts responsibility for all loss or damage to the equipment (except for normal wear and tear or for loss or damage resulting from CONTRACTOR's handling of the equipment) and for its contents. CITY agrees not to

overload (by weight or volume), move or alter the equipment, and shall use the equipment only for its proper and intended purpose. CITY agrees to indemnify, defend and hold harmless CONTRACTOR, its employees and agents against claims, damages, suits, penalties, fines, liabilities and costs (including reasonable attorneys' fees) for injury or death to persons or loss or damage to property arising out of CITY's use, operation or possession of the equipment. This indemnification shall not apply if the equipment has any latent defects or defects or malfunctions due to CONTRACTOR'S failure to maintain the equipment to manufacture specifications. CITY agrees to provide unobstructed access to the equipment on the scheduled collection day. If the equipment is inaccessible so that the regularly scheduled pick-up cannot be made, CONTRACTOR will promptly notify CITY and afford CITY a reasonable opportunity to provide the required access; however, CONTRACTOR reserves the right to charge an additional fee for such inaccessibility and/or delay or any additional collection service required by CITY's failure to provide such access. The word "equipment" as used in this Agreement shall mean all containers used for the storage of waste materials, and such other on-site devices as may be specified herein or provided in relation hereto.

ARTICLE 7

CITY Responsibilities, Representations and Warranties

7.1 General. CITY's responsibilities under this Agreement include but are not limited to:

- A. Payment of a Service Fee to CONTRACTOR in accordance with Article 8;
- B. Ownership, operation or authority to utilize the SWPF;
- C. Delivery of Acceptable Waste to CONTRACTOR, loaded in Trailers at the SWPF in accordance with the Specifications;
- D. Provide, operate and maintain, directly or through an agent, contractor or franchisee, all Facilities necessary for operation of the SWPF including scales, compaction equipment and yard tractors.

7.2 Waste Flow; Flow Control. CITY shall enact and maintain in force and effect and use reasonable efforts to enforce applicable ordinances to require all Acceptable Waste (not including waste diverted by legal self-disposal, reuse, recycling or composting, construction and demolition waste, wood waste) to be delivered to the SWPF or other designated facilities.

7.3 Payment; Estimates. As long as CONTRACTOR's Facilities are operationally available to accept, Transport and Dispose of Acceptable waste in a quantity commensurate with the amount of Acceptable Waste delivered to CONTRACTOR pursuant to this Agreement during the Term of this Agreement, CONTRACTOR is providing the Transportation and Disposal Services in Accordance with the requirements of this Agreement and CONTRACTOR is otherwise materially in compliance with the terms of this Agreement, CITY shall pay CONTRACTOR a Service Fee in accordance with Article 8.

7.4 Cooperation with CONTRACTOR. CITY shall use reasonable efforts to cooperate with CONTRACTOR and to respond to CONTRACTOR's reasonable requests for information and assistance, consistent with the provisions of this Agreement. However, it is not CITY's responsibility to notify CONTRACTOR when to begin, cease or resume the Project except for notice of extension of the date of commencement of service as set out in paragraph 6.2 hereof, nor to give early notice of rejection of faulty work, nor in any way to supervise the Project so as to relieve CONTRACTOR of any liability, responsibility or consequence for neglect, negligence, carelessness, substandard or defective work, or for the use of substandard or defective materials or equipment, by CONTRACTOR, CONTRACTOR's officers, employees, subcontractors or agents. CITY does not assume any liability as a result of inspections conducted of the Project and instructions, directions or suggestions given by the inspector shall not relieve CONTRACTOR of any responsibility or liability associated with CONTRACTOR's operations.

7.5 Disputes. All disputes under this Article shall be resolved in accordance with Article 17.

7.6 Access to SWPF; Days and Hours of Operation. Except for the occurrence of an Uncontrollable Circumstance that requires the closure of the SWPF, CONTRACTOR shall, upon reasonable prior notice, have access to the SWPF twenty-four (24) hours per day, seven (7) days per week. However, during inclement weather conditions, access roads are maintained only during normal operating hours. Operating hours shall average eight (8) hours per day, six (6) days per week, excluding the following holidays; New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

7.7 Location of Transfer Station. The SWPF shall be the Latah Sanitation SWPF located five (5) miles east of the City of Moscow, on Highway 8 East.

7.8 CITY warrants that CITY's pavement, curbing or other driving surface or any right of way reasonably necessary for CONTRACTOR to provide the services described herein are sufficient to bear the weight of all of CONTRACTOR's equipment and vehicles reasonably required to perform such services. CONTRACTOR will not be responsible for normal wear and tear of the roads, but shall liable and pay for damage to any such pavement, curbing, driving surface or right of way caused by CONTRACTOR's negligence.

ARTICLE 8

Service Fee and Contractor Compensation

8.1 Calculation of Service Fee.

A. Service Fee. Subject to Section 7.3 and any adjustments and offsets to which CITY is entitled under the Agreement, CITY shall pay to CONTRACTOR for CONTRACTOR's performance of its obligations under this Agreement, a service Fee calculated by:

(1) adjusting the base unit prices specified in Section 8.1 C. for changes in the CPI, as outlined in Sections 8.1 B. and D. to arrive at the per ton price for Transport and the per ton price for Disposal;

(2) multiplying the number of tons delivered to CONTRACTOR under this Agreement at the SWPF and Transported by CONTRACTOR during the billing period by the applicable per ton price for Transport and

(3) multiplying the tonnage of Acceptable Waste Disposed of by CONTRACTOR under this Agreement during the billing period by the applicable per ton Disposal price;

(4) adding the sums calculated under (2) and (3) above; and

(5) adding or subtracting any other increases or decreases in the Service Fee as provided in Sections 8.2, 8.3, and 8.4.

B. Applicable Unit Prices. For Transportation and Disposal Service provided prior to October 1, 2019, the base unit prices stated in Section 8.1 C. shall be used to calculate the Service Fee. For Transportation and Disposal Services provided on or after October 1, 2019, the base unit prices shall be adjusted for changes in the CPI as provided in Section 8.1 D. and the adjusted base unit prices shall be used in calculating the Service Fee.

C. Base Unit Prices. The base unit prices shall be the unit prices as set forth by CONTRACTOR in its Response to RFP for Solid Waste Transportation and Disposal Services which is attached hereto as part of Exhibit "B" subject to the following:

Adjustment to Base Unit Price for the second and subsequent years of the term hereof shall be adjusted upward or downward to reflect changes in the cost of operations, as reflected by fluctuations in the Consumer Price Index, as published by the United States, Bureau of Labor Statistics, Index Series I.D. CUUR0000SA0 All Urban Consumers, U.S. All items, 1982-84=100. The statistics utilized shall be for a one (1) year period and shall be the end adjusted figures for the Annual change for the calendar year, as published in January of each year.

D. CPI Adjustment to Base Unit Prices.

(1) Annual CPI Adjustment of Base Unit Prices. Base unit prices shall be adjusted annually on October 1 of each year commencing October 1, 2019, based on the prior calendar year annual percentage change in the Consumer Price Index, as reported in January, in accordance with the following formula:

$$AUP = BUP \times (1 + (CPI_y \times Z_x))$$

AUP = adjusted unit price

BUP = base unit price

CPI_y = CPI for year y where y = the current year, e.g., y = 2018 for the first annual CPI adjustment to become effective October 1, 2019

Zx = price escalation adjustment for base unit price in percent which shall be as follows:

Transport	80%
Disposal	80%

(2) Change in CPI base Period. In the event the standard reference base period of the CPI is changed, the annual adjustment shall reflect the new base period in the first calendar year the new base period is available. Any unresolved dispute regarding any other change in the definition or calculation of the CPI that materially affects the service Fee under this Article shall be resolved by arbitration in accordance with Article 17 of the Agreement.

8.2 Service Fee Increases

A. Acceptable Increases. After receiving a request from CONTRACTOR to do so (which request shall be substantiated to CITY's reasonable satisfaction in accordance with this Section) the City shall increase the Service Fee by one hundred percent (100%) of CONTRACTOR's reasonable actual increased costs of performing the Project due to the events described below:

(1) Uncontrollable Circumstances. The Service Fee shall be increased to remedy Uncontrollable Circumstances only to the extent permitted under Article 9.

(2) Change in Certain Laws. The Service Fee shall be increased to reflect the reasonable actual cost of CONTRACTOR's compliance with a Change in Law, including, any increase of fees or taxes from the Oregon Department of Environmental Quality.

(3) Additional Work. The Service Fee may be increased for additional work performed in accordance with Article 15.

(4) Notwithstanding the foregoing, CITY, at its sole discretion, may also consider CONTRACTOR requests for reimbursements due to extraordinary fuel price increases. Any such CONTRACTOR request shall in no way obligate CITY to provide reimbursement.

B. General Conditions and Limitations on Service Fee Increases. CITY shall increase the Service Fee under Section 8.2 A. (1) and (2) only for costs incurred that are the least costly means of remedying the effects of an Uncontrollable Circumstance in accordance with Article 9, or for ensuring full compliance with a relevant Change in Law including changes in fees or surcharges and, in accordance with Article 15, for additional work. No Service Fee increase shall be allowed for any cost increases that are in any way attributable to conditions, structures, operations or activities at the Facilities caused by CONTRACTOR or its subcontractors, employees, agents, or servants or are otherwise within CONTRACTOR's control. CONTRACTOR must fully demonstrate, document and substantiate the need for the requested Service Fee increase to CITY's satisfaction and approval as a condition precedent to the CONTRACTOR's right to the Service Fee increase under this Section.

C. Cancellation of Service Fee Increases. On CITY's request, CONTRACTOR shall immediately provide CITY with all documents, information or other evidence in CONTRACTOR's possession or control that CITY requests to determine whether there is a continuing need for the Service Fee increase. In the event CITY determines that a Service Fee increase under this Section is no longer necessary, CITY may cancel that Service Fee increase upon thirty days' notice to CONTRACTOR. If CONTRACTOR objects to that cancellation within that thirty (30) day period, the matter shall be resolved by arbitration in accordance with Article 17. Until that resolution, the Service Fee shall not be reduced; however, CITY shall deposit the disputed portion of the Service Fee into an interest-bearing account acceptable to CONTRACTOR until the matter is resolved and the amount on deposit is awarded or allocated to the Parties. CONTRACTOR shall at all times keep CITY informed as to whether any Service Fee increase remains necessary.

8.3 Service Fee Decreases.

Acceptable Reductions; Notice. Subject to the provisions of this Article, CITY shall reduce the Service Fee one hundred percent (100%) of the reduced costs of CONTRACTOR's performance under the Agreement if the reduced costs are attributable to a condition or event for which CONTRACTOR is entitled to reimbursement of increased costs under this Article. CITY shall serve CONTRACTOR with notice and explanation of CITY's request that the Service Fee be reduced. Within thirty (30) days of service of that notice, CONTRACTOR shall respond in writing to CITY. The written response shall state whether or not CONTRACTOR believes that any reduction in the Service Fee is justified and shall itemize the reduction in cost of performing the Agreement. CONTRACTOR shall fully document and otherwise support its response to CITY's notice under this Section. In the event CITY and CONTRACTOR are unable to agree on whether a reduced Service Fee is appropriate, the matter shall be resolved by arbitration in accordance with Article 17. During that resolution, the Service Fee shall not be reduced; however, CITY shall deposit the disputed portion of the Service Fee into an interest-bearing account acceptable to CONTRACTOR until the matter is resolved and the amount on deposit is awarded to or allocated to the Parties.

Upon petition of CONTRACTOR, CITY may at any time cancel reductions made under this Section if CITY determines that the need for the reduction has expired or that a reduction was made in error. CONTRACTOR shall at all times keep CITY informed as to when any reduction due to change in law is appropriate and when any reduction is no longer appropriate.

8.4 Other Service Fee Adjustments or Charges.

A. Alternate Facilities. CITY may adjust the applicable Service Fee to reflect the cost of handling waste at alternate Facilities due to the occurrence of an Uncontrollable Circumstance in accordance with Section 9.3 C. of the Agreement.

B. Liens. CITY may deduct from the Service Fee due CONTRACTOR under Article 8 of this Agreement, the amount necessary to pay any lien filed against any one (1) or more of the Facilities (including any real or personal property) required to fully perform the Agreement

including, without limitation, any Federal or State tax lien, creditor's lien, mechanic's or materialmen's lien, and CITY may pay any such lien.

C. Waste. CITY shall reimburse CONTRACTOR in accordance with Section 10.4 for the cost of testing, inspecting, handling and/or disposing of Unacceptable Waste.

D. Asbestos Delivered to Disposal Site. CONTRACTOR shall be compensated for all Asbestos delivered to CONTRACTOR's Disposal Site by any CITY employee, subcontractor or resident during normal operation hours in accordance with Section 6.1 H. of this Agreement.

E. Mutually Agreed Adjustments. Nothing in this Section prohibits nor shall it be construed to prohibit the adjustment of the Service Fee or any other payment or fee at any time by mutual consent of the Parties, to reflect changes in load weights, equipment, routes or for any other reason mutually agreed upon.

F. Insurance. CONTRACTOR shall reduce the Service Fee by an amount sufficient to reimburse CITY for any insurance obtained by CITY in accordance with Section 12.2 of the Agreement.

G. Additional Work. The Service Fee may, subject to CITY's prior written approval, be increased for additional work or services performed in accordance with Article 15 of the Agreement by an amount equal to CONTRACTOR's actual reasonable cost of performing that work or services plus ten percent (10%) of those costs.

8.5 Payment

A. Invoice. CONTRACTOR shall provide to CITY by the fifteenth day of each month an invoice in a format acceptable to CITY and accompanied by supporting documentation as required by CITY for services performed by CONTRACTOR under this Agreement in the preceding month. CITY shall pay CONTRACTOR by check, draft or warrant for the previous month's service within thirty (30) days of receiving the invoice. If any amount is disputed, CITY may withhold payment of that disputed amount until the dispute is settled in accordance with Section 8.5 B. and Article 17.

B. All unresolved disputes concerning the calculation of or adjustment to payments based on Service Fees or Service Fee components shall be resolved by arbitration in accordance with Article 17. However, the undisputed portion of the adjustment shall be made effective promptly; further adjustment shall be made effective on the resolution of the dispute under Article 17. In addition to any portion of the disputed adjustment ultimately awarded, the arbitrator(s) may also award to CONTRACTOR interest on the disputed amount from the date the Service Fee component or payment adjustment was effective. The interest rate shall be determined by the arbitrator(s) and interest award paid within a period determined by the arbitrator(s), but, in no event later than twelve (12) months from the effective date of the Service Fee component or payment adjustment. The interest award may be made by means of a further increase or decrease in the payment made to CONTRACTOR.

8.6 This Agreement is contingent upon CITY receiving and appropriating the necessary funding to cover CITY's obligations. In the event that such funding is not received or appropriated, then, and in that event, CITY's obligations under this Agreement shall cease and each party shall be released from further performance under this Agreement without any liability to the other party. It is expressly agreed that CITY shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its governmental operations.

ARTICLE 9

Allocation of Risk; Uncontrollable Circumstances

9.1 Contractor Reliance. CONTRACTOR warrants that prior to submitting its response to the RFP, it has examined carefully and acquainted itself with the Agreement, the Project, the Facilities, the difficulties that may be encountered in performing the Project, including without limitation, local periodic frost, flooding and other weather conditions, all Applicable Laws and any and all other matters necessary to the performance of this Agreement.

9.2 CITY Disclaimer. CITY does not warrant or admit the correctness of any investigation, interpretation, deduction or conclusion by CONTRACTOR relative to the RFP issued by CITY in connection with this Agreement, or to the condition or conditions of the SWPF or other Facilities. CONTRACTOR has made and shall make its own deductions and conclusions as to any and all problems that may arise from Facility site conditions and shall accept full legal responsibility and liability for those conditions.

9.3 Uncontrollable Circumstances.

A. Uncontrollable Circumstances Limited. CONTRACTOR's obligations to provide Transport and Disposal services under this Agreement and CITY's obligation to pay Service Fees under the Agreement are subject to Uncontrollable Circumstances that may necessarily and unavoidably prevent or substantially increase the cost of CONTRACTOR's performance of the Project or CITY's performance of its obligations hereunder. No other events shall excuse nonperformance of the obligations of the Parties.

B. Notification; Reconstruction; Service Fee Increases. As soon as possible after the occurrence of an Uncontrollable Circumstance, but in no event later than forty-eight (48) hours following the time the knowledgeable Party becomes aware of the Uncontrollable Circumstance, such Party shall notify the other of the event. If the occurrence of the Uncontrollable Circumstance damages, destroys or otherwise incapacitates any of the Facilities, CONTRACTOR shall, at the earliest practicable time, activate the alternate operation plan prepared in accordance with the Agreement for correcting, repairing or reconstructing the affected Facilities. If the Uncontrollable Circumstance or the damage to the Facilities is not provided for in that plan, CONTRACTOR shall submit to CITY, as soon as practicable, a plan for correcting, repairing replacing or reconstructing the affected Facilities.

C. Obligation to Provide Alternate Facilities. If CONTRACTOR, on the occurrence of an Uncontrollable Circumstance, cannot or fails to provide services under this Agreement with

the primary Facilities, CONTRACTOR shall make available to CITY Alternate Transport and/or Disposal Facilities as applicable, and pursuant to the alternate operations plan identified in Section 6.17. CITY shall increase the Service Fee by one hundred percent (100%) of CONTRACTOR's reasonable actual increased costs of providing these Facilities (net of any insurance proceeds or other recoveries received by CONTRACTOR as a result of the Uncontrollable Circumstance), plus ten percent (10%) of those net increased costs. CONTRACTOR shall not receive a Service Fee increase or any other additional compensation for the use of alternative Facilities unless that use is necessitated by the occurrence of an Uncontrollable Circumstance.

D. Termination of Agreement Due to Uncontrollable Circumstances. Upon the occurrence of an Uncontrollable Circumstance after the date CONTRACTOR commences Transportation and Disposal services under this Agreement, CITY shall calculate any increase in the Service Fee as a result of that event. CITY shall compare the Service Fee as increased by a result of that event to the Service Fee which would have been in effect if that event had not occurred. The comparison shall be computed on a per month basis after adjustment for other increases provided for in Articles 7 and 8. For purposes of this Section, CITY shall take into account the aggregate of any increases in the Service Fee occurring after the date Transportation and Disposal services commence under this Agreement.

CITY may, at its option, terminate this Agreement effective ten (10) days after CITY gives CONTRACTOR written notice of termination upon the occurrence of any Uncontrollable Circumstance which:

(1) Prevents CONTRACTOR from Transporting and Disposing of Acceptable Waste for a period of ten (10) consecutive days; or

(2) If the cumulative increase in the Service Fee as a result of any and all Uncontrollable Circumstances is greater than fifteen percent (15%), excluding all adjustments to the Service Fee otherwise authorized by this Agreement (including without limitation CPI adjustments) provided if CITY provides CONTRACTOR with written notice of its intention to terminate this Agreement pursuant to this Subsection D. (2), then, if CONTRACTOR elects to forego that portion of the increase that causes the Service Fee to increase more than fifteen percent (15%), CITY's right of termination may not be exercised; or

(3) If the Uncontrollable Circumstance and its expected effect on any one (1) or more of the Facilities would prevent operation of the Facilities at least at seventy-five percent (75%) of the normal operational standard for twelve (12) months or more, or result in performance of CONTRACTOR's obligations under the Agreement for twelve (12) months or more through subcontractors or other parties to such an extent that for such period CONTRACTOR will no longer directly perform any substantial and material portion of CONTRACTOR's obligations under the Agreement.

E. Disputes. Unresolved disputes concerning the calculation of remedying the effects of an Uncontrollable Circumstance shall be resolved by arbitration in accordance with Article 17.

9.4 Insurable Uncontrollable Circumstances. If any of the Facilities are damaged or destroyed due to explosion, floods, fire, or other events for which CONTRACTOR is obligated to carry insurance, CONTRACTOR shall act diligently to promptly collect and apply insurance proceeds to the correction or reconstruction of those Facilities.

ARTICLE 10

Ownership; Inspection of Waste; Unacceptable Waste

10.1 Ownership. Subject to the limitations and conditions of this Article, title to Acceptable Waste that is loaded into a Trailer shall pass to CONTRACTOR in accordance with the Specifications at the SWPF as soon as CONTRACTOR accepts that waste, but in no event later than the moment the Trailer is removed from the boundaries of the SWPF. CONTRACTOR shall have the right to recycle or reuse any waste to which it receives title under this Agreement and to retain any payments it receives for the sale of recycled or reused materials.

10.2 SWPF Inspection Program. CITY shall establish and maintain a program of operating and monitoring procedures for the SWPF reasonably calculated to prevent the loading of Unacceptable Waste into Trailers. SWPF operators shall be instructed and trained to implement the program.

10.3 Waste Inspection at Disposal Site; Handling of Suspected Unacceptable Waste

A. Notwithstanding anything herein to the contrary: (a) CONTRACTOR shall have no obligation to collect or transport Unacceptable Waste; (b) if CONTRACTOR finds what reasonably appears to be discarded Unacceptable Waste, CONTRACTOR shall promptly notify CITY and the producer of the Unacceptable Waste, if the producer can be readily identified; and (c) title to and liability for any Unacceptable Waste shall remain with the producer of the Unacceptable Waste, even if CONTRACTOR inadvertently collects or disposes of such Unacceptable Waste.

CONTRACTOR shall take immediate action to minimize any environmental damage that may be caused by the delivery of Unacceptable Waste to the Facilities and dispose of that Unacceptable Waste in accordance with all Applicable Laws. CONTRACTOR shall be reimbursed by CITY for handling and disposing of Unacceptable Waste in accordance with Section 10.4 B.

B. CONTRACTOR shall make reasonable efforts to reject all Trailers that CONTRACTOR knows or has reason to know contain Unacceptable Waste. If despite CONTRACTOR's efforts, Unacceptable Waste is delivered to the Disposal Site, CONTRACTOR shall promptly notify the North Idaho Health District, Idaho Department of Environmental Quality, and CITY. CONTRACTOR shall take all steps possible to assist the North Idaho Health District, the Idaho Department of Environmental Quality, and CITY in determining the source of the Unacceptable Waste and the person or persons who delivered the materials and any person or persons who caused, allowed, or facilitated that delivery. Subject to the approval of the North Idaho Health District, Idaho Department of Environmental Quality, and CITY, and obtaining any

other necessary approvals, CONTRACTOR shall take all measures necessary to remove Unacceptable Waste from the Facilities and dispose of Unacceptable Waste in a manner consistent with Applicable Law. In the event Unacceptable Waste is delivered to the Facilities despite CONTRACTOR's best efforts to reject that waste in accordance with this Section 10.3, CONTRACTOR shall pay all costs of any investigation, clean-up, disposal, and remediation of the Facilities, or any other property, as necessary, and may seek reimbursement from CITY for those costs in accordance with Section 10.4. Nothing in this Agreement shall create any liability of CITY or CONTRACTOR to any third party for the failure to detect Unacceptable Waste.

C. CONTRACTOR may inspect the contents of all Trailers delivered to the Disposal Site under this Agreement. CITY may be present to observe any inspection conducted under this Article and may, at its sole discretion and cost, inspect any waste delivered to the Disposal Site under this Agreement. If CONTRACTOR discovers Unacceptable Waste or waste that CONTRACTOR suspects is Unacceptable Waste in a Trailer CONTRACTOR shall:

(1) verbally notify CITY of the discovery of the suspected or actual Unacceptable Waste within one (1) hour of that discovery, unless that discovery occurs after 4:00 p.m. (local time), in which event notification shall be given to CITY the next business day.

(2) gather, preserve, maintain and make available to CITY all evidence demonstrating that the Unacceptable Waste was delivered to CONTRACTOR pursuant to this Agreement, including, without limitation, the time the Trailer was accepted by CONTRACTOR at the SWPF, the transportation route and schedule of the transportation of the Trailer to the Disposal Site, the time the Trailer was delivered to the Disposal Site, any photographs of the Unacceptable Waste or Trailer or otherwise that might establish that the waste is Unacceptable Waste and/or was delivered pursuant to this Agreement, samples of Acceptable Waste from the Trailer that may demonstrate that the Trailer was delivered to the Disposal Site under this Agreement, and/or may demonstrate the origin of the Unacceptable Waste, laboratory results (if any), any statements or documentation provided by Federal, State or Local authorities regarding the character of the waste and any other material or documentation CITY reasonably believes is relevant;

(3) test or arrange to have tested, at CONTRACTOR's own expense, the waste to ascertain whether that waste is Unacceptable Waste;

(4) permit CITY to inspect that Unacceptable Waste within seventy-two (72) hours of notice by CONTRACTOR to CITY of the existence of that Unacceptable Waste, test the Unacceptable Waste within a reasonable period of time, and examine all other evidence gathered by CONTRACTOR under Section 10.3 B., above, at any time after the discovery of that Unacceptable Waste; for purposes of any inspection conducted pursuant to this Section, CITY shall have unrestricted access to the Disposal Site and/or any other site or Facility at which the Waste is located; and

(5) after completion of Subsections (1) – (4) above, or such other actions as are agreed to by CITY in writing, dispose of the Unacceptable Waste and seek reimbursement from CITY for the actual reasonable cost of that disposal in accordance with Section 10.4.

10.4 Liability for Testing, Inspecting, handling and/or Disposing of Unacceptable Waste.

A. Absence of Unacceptable Waste. If, after inspecting and/or testing the waste, CITY discovers no Unacceptable Waste, or discovers that the Unacceptable Waste was not delivered to the Disposal Site under this Agreement, CONTRACTOR shall dispose of that waste at no additional cost to CITY and shall reimburse CITY for CITY's costs, if any, of inspecting and/or testing that waste including, but not limited to, laboratory fees, transportation and handling costs, and labor costs.

B. Procedures After Unacceptable Waste Discovered. If Unacceptable Waste is discovered at the Disposal Site, and there is proof satisfactory to CITY (acting reasonably) that the Unacceptable Waste was delivered to the Disposal Site under this Agreement, and CONTRACTOR complies with all the requirements of this Article, CITY shall pay or reimburse CONTRACTOR for the actual reasonable cost of the inspection, testing, identification, handling and disposal of that Unacceptable Waste, subject to the limitations and conditions of this Article. Payment or reimbursement by CITY will only be made if CONTRACTOR:

(1) complies with the requirements of this Article including, but not limited to, subsections 10.3 A. through C., above;

(2) assists CITY, to the extent possible, in ascertaining the Person previously owning or responsible for the delivery of the Unacceptable Waste to the Transfer Station; and

(3) documents its actual costs, the reasonableness of those costs and that the costs represent the least costly method of inspecting, testing, identifying, handling and/or disposing of the Unacceptable Waste in compliance with Applicable Law.

C. Payments to CONTRACTOR. Any payment or reimbursement made by CITY to CONTRACTOR under this Section shall be paid in four (4) consecutive quarterly installments or a single lump sum at CITY's sole discretion. The first installment or the lump sum payment shall be paid on the fifteenth day of January, April, July or October, whichever date first occurs thirty (30) days after the Unacceptable Waste was discovered at the Disposal Site pursuant to this Article. CITY shall also pay to CONTRACTOR interest at the rate of five percent (5%) accruing on any payment due under this Article from the date the costs are incurred, to handle and Dispose of the Unacceptable Waste, to the date payment for that handling and Disposal is made. Any unresolved disputes arising under this Article relating to CONTRACTOR's actual reasonable costs shall be resolved by arbitration in accordance with Article 17.

10.5 Notice of Change in Law – Unacceptable Waste. CONTRACTOR shall provide CITY with notice of any change in the laws of any State through which the waste is Transported and in which the Disposal Site is located which laws regulate the type of materials which may lawfully be Transported through said State, and/or Disposed of at such Disposal Site, within forty-eight (48) hours of receipt by CONTRACTOR of knowledge of such change, but in no event later than the date such laws become effective.

ARTICLE 11

Indemnification

11.1 CONTRACTOR's Indemnification of CITY.

A. Subject only to the limitations expressly set forth in this Article, CONTRACTOR covenants and agrees that, to the maximum extent permitted by Applicable Law, CONTRACTOR will defend, indemnify and hold CITY harmless from any and all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, lawsuits and actions including, but not limited to, reasonable attorney's fees and expenses at trial and on appeal, relating to or resulting from:

(1) any injury to or death of any person or persons, or loss of or damage to property caused by CONTRACTOR or any of its officers, agents, employees, subcontractors (or any officer, agent or employee of any subcontractor), or any Person under the control of or acting at the direction of CONTRACTOR or any subcontractor, arising in connection with or as a result; of

(a) this Agreement;

(b) the performance by CONTRACTOR of its obligations hereunder;

(c) the use or operation of the Facilities by CONTRACTOR; or

(d) the condition of the Facilities or the Disposal Site under the management of CONTRACTOR between the execution of this Agreement and the termination of the Agreement;

(2) any breach of any express or implied warranty arising in connection with any sale of the Facilities to a third party;

(3) any condition of the Facilities, now existing or arising during the Term of this Agreement, relating to hazardous or toxic substances or any other condition that is adverse to the public health and/or environmental impact of the Facilities, now existing or arising during the Term of this Agreement which, under any Applicable Law in appropriate administrative or judicial proceedings, is determined to be unsafe or adverse to the public health or the environment; or

(4) an actual or allegation of infringement, violation or conversion of any patent, license, proprietary right, trade secret or other similar interest, in connection with the operation of the Facilities by CONTRACTOR or the design, technology, processes, machinery or equipment used at the Facilities by CONTRACTOR.

B. Notwithstanding anything express or implied herein to the contrary, or any express or implied limits on CONTRACTOR's indemnity and hold harmless agreement set forth above, CONTRACTOR shall defend and indemnify CITY against, and hold the CITY harmless from, any and all penalties, fines and charges of any Federal, State or Local government having jurisdiction

over the Facilities, or of any actions arising out of CONTRACTOR's performance under this Agreement, and any and all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, lawsuits and actions including, but not limited to, reasonable attorney's fees and expenses at trial and on appeal, arising from any violation or alleged violation of any Applicable Law by CONTRACTOR in connection with or as a result of the operations at the Facilities or CONTRACTOR's performance of any of its obligations hereunder.

11.2 CITY's Indemnification of CONTRACTOR. Subject only to the limitations expressly set forth in this Article, CITY covenants that to the maximum extent permitted by law, it will indemnify CONTRACTOR against and hold CONTRACTOR harmless from any and all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, lawsuits; and actions including, but not limited to, reasonable attorney's fees and expenses at trial and on appeal, relating to or resulting from any injury to or death of any person or persons, or loss of or damage to property caused by CITY or any of its officers, agents, employees, or any person under the control of or alleged to be under the control of or acting at the direction of CITY, to the extent Article VIII, § 4 of the Idaho Constitution and the Idaho Tort Claims Act will allow, caused by, inclusion of Unacceptable Waste, the negligent acts and/or errors or omissions or willful misconduct by CITY, its agents, officers, and employees; violation of any law, rule, regulation, order, permit, or license by the CITY, its agents, officers or employees.

11.3 No Indemnification for Negligent Acts. Neither Party hereto shall be required to indemnify the other or hold the other harmless pursuant to the provisions of this Article with respect to any loss, damage or claim due to the negligence of such other Party.

11.4 Contribution for Joint or Concurrent Negligence. In case of joint or concurring negligence of the Parties giving rise to a loss or claim against either or both of them, each Party shall have full rights of contribution against the other as permitted by law.

11.5 Notice of Claims; Defenses; Settlement.

A. Any Party entitled to indemnification, hereunder (the "Notifying Party") shall notify the indemnifying Party (the "Responding Party") within ten (10) days of the Notifying Party's receipt of written notice from any third party of any act, omission or occurrence with respect to which the Notifying Party intends to seek indemnification in accordance with this Agreement and, if requested by the Responding Party, shall also supply to the Responding Party all records, data, contracts and documents reasonably related to such third party claims to enable the Responding Party to evaluate such claim for purposes hereof. If the Responding Party replies in writing to the Notifying Party within twenty (20) days from the date of such notice, that it will undertake the defense of the Notifying Party and will hold the Notifying Party harmless with respect to such claims, then no additional attorney's fees incurred by the Notifying Party in its own defense shall be compensable as a claim entitled to indemnity, unless (1) the Responding Party has agreed to pay such fees and expenses; (2) the Responding Party shall have failed to assume the defense of such claim or has failed to employ counsel reasonably satisfactory to the Notifying Party; or (3) the named Parties in any action or proceeding relating to such claim (including any impleaded parties) include both the Responding Party and the Notifying Party, and such Notifying Party has been advised by its counsel that the Notifying Party has a conflicting

interest from the Responding Party or that there may be one (1) or more legal defenses available to the Notifying Party which are different from or additional to those available to the Responding Party. The Notifying Party will reasonably cooperate in providing information and testimony to assist in the defense of the matter, but all out-of-pocket costs thereof shall be a part of the indemnified amounts for which the Responding Party shall hold the Notifying Party harmless. Control of the defense of the claims shall be the right and responsibility, in this case, of the Responding Party, which shall have authority to contest, compromise or settle the matter in its sole discretion.

B. In the event the Responding Party replies in writing within twenty (20) days from the date of notice that it accepts responsibility for the indemnified claim regarding the matter in question but does not desire to take an active role in the defense of said matter then, alternatively, the Responding Party may consent to the Notifying Party's selecting an attorney to defend the matter who is satisfactory to the Responding Party, that consent and satisfaction with the selection of that attorney to be evidenced in writing. In that case, however, no matter will be settled or compromised without the written consent of the Responding Party; further, at any time the Responding Party may elect to assume the active control of the matter, including the replacement of the selected counsel by other counsel satisfactory solely to it, and thereafter may consent, settle or compromise the case in its sole discretion.

C. If, on the other hand, the Responding Party replies to the Notifying Party within twenty (20) days from the date of the notice, but denies its responsibility to indemnify and hold the Notifying Party harmless with respect to the claim, both Parties shall attempt to agree upon a mutually satisfactory attorney to represent them and agree on who shall control the defense of the claim and has the authority to approve any proposal, settlement or compromise. If no agreement can be reached, or if the Responding Party does not reply to the Notifying Party within twenty (20) days from the date of the notice, each Party may designate its own attorney, whose reasonable fees shall be compensable as an indemnified claim to the Notifying Party. Whether or not any such agreement can be reached or the Responding Party does or does not reply, each Party shall reasonably cooperate in providing information and testimony to assist in the defense of the matter, and the costs thereof (including out-of-pocket expenses) shall be a part of the claims which shall be paid by the Party who is later determined to be responsible therefor under the assumptions of liability and other revisions for indemnification under this Agreement. Any indemnification in this Agreement shall include all indemnification of the respective officers, directors, employees, agents, shareholders and successors and assigns of the Notifying Party.

11.6 Beneficiaries of Indemnification Provisions. The foregoing indemnification and hold harmless provisions are for the sole and exclusive benefit and protection of CITY and its successors, CONTRACTOR, and any affiliates of CONTRACTOR, and their respective officers, officials, agents and employees, and are not intended, nor shall they be construed, to confer any rights on or liabilities to any person or persons other than CITY and CONTRACTOR and their respective officers, officials, agents and employees.

11.7 Unacceptable Waste Liability. Notwithstanding Section 11.1, above, CITY shall be liable for losses incurred during Transportation, caused by the presence of Unacceptable Waste in a loaded Trailer and all losses related to the handling and disposal of Unacceptable Waste after

CONTRACTOR has properly notified CITY of the discovery of Unacceptable Waste attributable to this Agreement and otherwise complied with Article 10.

11.8 Waiver of Workman's Compensation Immunity. It is further specifically and expressly understood that the indemnification provided in this Article constitutes CONTRACTOR's waiver of immunity under the Idaho Worker's Compensation statutes solely for the purposes of this indemnification and not with respect to claims by any third party.

11.9 Royalties; License Fees; Patents. CONTRACTOR shall pay all royalties fees and license payments, shall defend all lawsuits or claims for patent infringements that may occur in the performance of this Agreement and shall hold CITY harmless from any loss on account thereof.

11.10 No Waiver. Except as otherwise expressly stated herein, the Parties do not, under this Article, waive or surrender indemnity available under any Federal, State, Regional or Local Law. This Article shall survive termination or expiration of the Agreement.

ARTICLE 12

CONTRACTOR and CITY Liability Insurance

12.1 General

A. CONTRACTOR shall obtain, maintain and pay for the insurance coverage designated in this Article from generally recognized and financially responsible insurers that are approved by CITY and licensed in the State of Idaho and whose claims paying ability is rated not less than "A" by A.M. Best Company, Inc. at all times during the Term of the Agreement. The insurance must fully protect CITY from any and all claims, risks and losses in connection with any activity performed by CONTRACTOR under this Agreement, except Uncontrollable Circumstances unless otherwise designated as insurable events hereunder.

B. CONTRACTOR may, as an alternative and subject to CITY's prior written approval, which may be withheld or granted in its sole discretion, engage in a program of full or partial self-insurance with reasonable reserves set aside by CONTRACTOR to satisfy all or a part of its obligations under this Article.

12.2 Replacement Insurance. In the event CONTRACTOR breaches any provision of this Article, CITY, in its sole discretion may procure and maintain, at CONTRACTOR's sole expense, insurance to the extent CITY reasonably deems proper. In the event CITY obtains such insurance, CONTRACTOR shall reimburse CITY for the cost of that insurance within fifteen (15) days of receiving written notice from CITY to do so or, in CITY's sole discretion, CITY may reduce the Service Fee due CONTRACTOR in accordance with Section 8.4 F.

12.3 Required Coverage. Within sixty (60) days of execution of this Agreement, CONTRACTOR, at its sole expense, shall obtain and file with CITY a certified copy of the certificates of insurance along with the endorsement that include the coverage required under this Article which coverage shall take effect on the date any operations constituting part of the Project under the Agreement commence. All insurance shall be subject to CITY's approval of the company, terms and coverages.

The insurance policies must provide the following:

A. Coverages

Extended Bodily Injury
Employees as Additional Insured
Premises/Operations Liability (M&C)
Products and Completed Operations Liability through guarantee period
Blanket Contractual Liability
Broad Form Property Damage Liability (including completed operations)
Stop Gap or Employers Contingent Liability Automobile Liability
Automobile Liability, including coverage for owned, non-owned, leased or hired vehicles, including "Any Auto" coverage as contained in ACORD Certificate of Liability Insurance
Explosion, Collapse, Underground damage (referred to as "X.C.U.")
Owners and Contractors Protective Liability Railroad Protective Coverage
Pollution Liability (same coverage as Section 12.4 D. pertaining to marine operations)

B. Minimum Limits for all Coverages (unless otherwise specified herein):

\$1,000,000 per occurrence;
\$5,000,000 annual aggregate;

The coverage limits set forth in this Article shall increase or decrease annually to reflect one hundred percent (100%) of the increase or decrease in the CPI for the previous year. These limits are subject to revision by CITY to protect the interests of CONTRACTOR and CITY.

C. Separation of Insureds. The insurance shall be endorsed to include a "cross liability," "severability of interests," or "separation of insureds" indicating essentially that:

except with respect to the limits of insurance, and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured and separately to each insured against whom claim is made or suit is brought.

D. Change in Coverage. All policies of insurance provided under this Agreement shall state:

The types and amounts of coverages provided by this policy to CITY or any other named or additional insureds shall not be terminated, reduced or otherwise modified in any respect without providing at least thirty (30) calendar days prior written notice to:

City of Moscow, Idaho
206 East Third
P O Box 9203
Moscow, Idaho 83843
Attention: Tim Davis, Sanitation Manager

E. Compliance Required. Failure of CONTRACTOR to maintain any and all of the terms of the foregoing insurance provisions shall be considered a material breach of this Agreement and cause for its termination at the option of CITY, subject to the provisions of Section 16.2 C.

12.4 CONTRACTOR's current mode of transportation for performance of its duties under this Agreement is by tractor-trailer. If CONTRACTOR opts to change current mode of transportation, CONTRACTOR shall notify CITY and provide sufficient assurances that CONTRACTOR has insurance coverage for such mode of transportation that includes Umbrella coverage of not less than \$15,000,000 (fifteen million).

12.5 Workers Compensation. CONTRACTOR shall provide workers compensation or evidence of participation in the Idaho State Department of Idaho State Industrial Commission program and any other program in any other State in which operations are performed by CONTRACTOR to satisfy its obligations hereunder, or, in lieu thereof, CONTRACTOR may provide a self-insurance or alternate insurance program for workers' compensation if allowed by Applicable State Law and approved by CITY in CITY's sole discretion.

12.6 Minimum Insurance. Maintenance of insurance by CONTRACTOR, as specified in this Article, shall constitute the minimum coverage required and shall in no way lessen or limit the liability or responsibility of CONTRACTOR under this Agreement. CONTRACTOR shall carry, at its own expense, any additional insurance it deems necessary.

12.7 Change in Law. CONTRACTOR immediately shall increase the amounts of insurance required to reflect any changes in Idaho State, any other State where the Project is carried out, Federal or other Applicable Law to ensure that the insurance provided shall cover, at a minimum and in addition to the designated insurance requirements listed in this Article, the maximum limit under any applicable tort claims act.

12.8 Failure to Provide Insurance. CONTRACTOR's failure to fully comply with any provision of this Article shall be considered a Class C Default under this Agreement.

12.9 Unavailability. In the event that any of the insurance required by this Article becomes unavailable, or is available only on a "claims made" rather than on an "occurrence" basis, CONTRACTOR shall secure insurance with substitute provisions providing as much protection to CITY as is reasonably available in the insurance marketplace and approved in writing by CITY.

12.10 Collection of Insurance Proceeds. If any of the Facilities are damaged or destroyed due to events for which CONTRACTOR is obligated to carry insurance, CONTRACTOR shall act

diligently to promptly collect and apply insurance proceeds to the repair or reconstruction of those Facilities.

ARTICLE 13

Alternate Facilities

13.1 Alternate Facilities; Service Fee Adjustment. CONTRACTOR may, with CITY's written approval, use Facilities, sites or processes different from the Facilities to carry out CONTRACTOR's obligations under this Agreement. CITY may adjust applicable Service Fee components to reflect reasonable actual cost increases or decreases in providing and operating those alternate Facilities.

13.2 Disputes. Unresolved disputes concerning Service Fee calculations or adjustments under this Article shall be resolved by arbitration in accordance with Article 17.

ARTICLE 14

Coordination Meetings

14.1 Initial Coordination Meeting. Prior to the commencement of services under this Agreement, CONTRACTOR, CITY, principal subcontractors and others requested by either Party, shall meet in Moscow, Idaho, to discuss scheduling, processes, materials, change orders, personnel and any other matters the Parties deem appropriate.

14.2 Periodic Coordination Meetings and Reports. CITY and CONTRACTOR shall hold periodic coordination meetings in Moscow, Idaho, but no less than one (1) every six (6) months to review the progress of the work and to discuss operations, problems and/or complaints made by third parties. Any cost incurred by any Person to attend a coordination meeting shall be borne by that Person. Either CITY or CONTRACTOR may organize, call and notify the other Party of that meeting. If requested, CONTRACTOR shall submit a report to CITY no later than ten (10) calendar days before that meeting regarding operations, problems, complaints or any other matter relating to or arising under the Agreement.

ARTICLE 15

Additional or Deleted Work

15.1 Payment or Credit for Additional Services. All requests for payment for services or work under this Agreement, in addition to the services of work described in the Agreement, shall be made only under the conditions and procedures of this Article. For purposes of this Article, the term "additional work" means work that is in addition to the Project or other work required to be performed under the Agreement or any amendments thereof, but does not include any work required to comply with any changes in law, statutes, rules, regulations, ordinances, permit(s), permit conditions or regulatory provisions. Nothing in this Article is intended to negate or lessen any other precondition or procedure for payment or reimbursement provided in this Agreement.

15.2 Additional Work.

A. CITY shall submit to CONTRACTOR a written request to perform any work or services additional to those performed under this Agreement. Within thirty (30) days of that request, CONTRACTOR may submit to CITY an itemized proposal stating the costs for performing the additional work or services, a schedule and the impact the performance of that additional work or services will have on CONTRACTOR's performance under this Agreement. CONTRACTOR's proposal shall be based on Contractor's reasonable estimate for performing the additional work or services.

B. Upon receipt of CONTRACTOR's proposal, CITY may request CONTRACTOR perform the relevant additional work or services within thirty (30) days after receipt of Contractor's proposal. The City shall pay Contractor a fee equal to Contractor's proposal. If CITY approves CONTRACTOR's written proposal, CITY shall notify CONTRACTOR in writing and order CONTRACTOR to proceed. Unless CONTRACTOR performed to remedy what a reasonable person would recognize as an emergency, CONTRACTOR shall not be entitled to Service Fee increases for the additional work or services performed unless CITY orders CONTRACTOR to perform the work or services in accordance with this Article.

C. Unresolved disputes concerning the calculation of or adjustments to Service Fees under this Section shall be resolved by arbitration in accordance with Article 17.

ARTICLE 16

Defaults in Performance of the Agreement

16.1 CONTRACTOR Default. There shall be four (4) classes of defaults by CONTRACTOR in its performance under this Agreement:

A. A Class A default is:

(1) Without the consent of CONTRACTOR, the entrance of a decree or order under Title 7 or 11 of the United States Code, or any other applicable bankruptcy, insolvency, reorganization or similar law appointing a receiver, liquidator, trustee or similar official for all or any substantial part of CONTRACTOR's properties, and such decree or order remains in effect (and is not stayed) for sixty (60) consecutive days; or

(2) The filing by CONTRACTOR of a petition, answer or consent seeking relief under Title 7 or 11 of the United States Code, or any other similar applicable bankruptcy, insolvency, reorganization or other similar law, or consent to the institution of proceedings thereunder or the filing of that petition or to the appointment of a receiver, liquidator, trustee, or other similar official for all or any substantial part of the properties of CONTRACTOR, or the making of a general assignment for the benefit of a creditor; or

(3) Failure to provide, replace and/or maintain the Agreement performance bond, letter of credit or other performance guarantee required by Section 6.4.

(4) CONTRACTOR's failure to commence Waste Transport and Disposal service with Facilities properly permitted under Applicable Law, in substantial and material compliance with the Specifications, on the date designated herein or by CITY, if the date of commencement of service is extended.

(5) Direct or indirect change of control or transfer of controlling interest in the beneficial ownership of CONTRACTOR other than as expressly permitted under in Section 18.3;

(6) Contamination of the environment by CONTRACTOR in violation of any Applicable Law as a result of its operations under this Agreement.

B. A Class B default includes, on the commencement of services under this Agreement, CONTRACTOR's:

(1) Failure to perform the basic Transport and/or Disposal services required under this Agreement and it appears to CITY's Representative, in that Representative's reasonable judgment, that CONTRACTOR has abandoned the Project;

(2) Failure to substantially perform the basic Transport and/ or Disposal services under this Agreement on three (3) or more occasions of three (3) days duration in any given year.

C. A Class C default includes CONTRACTOR's failure to procure and maintain insurance under Article 12.

D. A Class D default includes a delay of operations as described in Section 1.3 of the specifications or any other failure by CONTRACTOR to perform its obligations under this Agreement.

Notwithstanding anything in this Section to the contrary, a delay or interruption in the performance of all or any part of the Agreement resulting from Uncontrollable Circumstances shall not be deemed a default under this Section.

16.2 Consequences of CONTRACTOR Defaults.

A. Class A Default. In the event of a Class A default, CONTRACTOR or Surety shall be permitted to remedy the default within ten (10) days from notice of the default by CITY. If the Class A default is not remedied within ten (10) days from the notice of the default, CITY may, at its sole option:

(1) Terminate the Agreement and use any other method or Person to transport and/or dispose of waste and may sue for actual damages;

(2) Seek a judicial remedy of specific performance; or

(3) Pursue any combination of the foregoing or any other remedy provided under this Agreement or by law.

B. Class B Default. In the event of a Class B default, CONTRACTOR or Surety shall be permitted to remedy the default within ten (10) days from notice by CITY and shall pay to CITY, CITY's actual damages and costs for providing alternative Transportation and/or Disposal of Acceptable Waste or otherwise operating after the change in ownership under Section 18.3. If the Class B default is not remedied within ten (10) days, CITY may at its sole discretion:

(1) Terminate the Agreement and use any other method or Person to Transport and/or Dispose of Acceptable Waste;

(2) Seek the appointment of a receiver for the Facilities in the Superior or other Court with jurisdiction of over the Facilities, such receiver to continue operation of those Facilities under the direction of that Court;

(3) Seek judicial remedy or specific performance;

(4) Pursue any combination of the foregoing or any other remedy provided under this Agreement or by law.

C. Class C Default. In the event of a Class C default, CONTRACTOR or the Surety shall be permitted to remedy the default within fifteen (15) days from notice by CITY, and from the date of that notice to the date the default is remedied shall pay to CITY liquidated damages for failure to procure and/or maintain insurance in the types and amounts required by Article 12, a per day fee equal to twice the annual cost of obtaining that insurance, on the day of the default, divided by three hundred sixty five (365) (i.e., twice the daily cost of the insurance).

D. Class D Default. In the event of a delay of operations as defined in Article 1 of this Agreement, Contractor shall be responsible to reimburse CITY for any out-of-pocket costs, plus twenty percent (20%) incurred by CITY as a result of such delay of operations. If Contractor does not remedy any such delay of operations within twelve (12) hours after receipt of notice from CITY, it shall be considered a Class D Default. If the same or similar Class D Default occurs on two (2) occasions within a three (3) month time period, the Class D Default will be considered chronic and material to the operations under the Agreement, and CITY, at its sole option, may terminate the Agreement.

E. Termination. In addition to liquidated damages, specific performance, and any other remedies provided above, CITY shall have the right to terminate this Agreement:

(1) Immediately on the occurrence of an event of default described in Section 16.1 A. or 16.1 B., and

(2) On the occurrence of any event of default described in Section 16.1 C. or 16.1 D., if that event of default shall occur and be continuing for ninety (90) days beyond the date

CONTRACTOR receives the default notice, or occurs on a chronic basis and is material to CONTRACTOR's operations under the Agreement.

Any unresolved dispute, concerning whether an event of default is chronic or material for purposes of terminating the Agreement, shall be resolved in accordance with Article 17. In the event CITY terminates the Agreement, CONTRACTOR shall be entitled to payment of any Service Fee due prior to the effective date of CITY's notice of termination of this Agreement, but only to the extent the amount of such Service Fee exceeds amounts owed to CITY. CITY shall retain the right to pursue any cause of action or assert any claim or remedy it may have against CONTRACTOR despite its termination of the Agreement.

16.3 Default Procedure

A. Notice. To initiate default proceedings under this Article, CITY's Representative shall give CONTRACTOR and its Surety written notice of the default specifying with particularity the event of default that has occurred, and specifying CITY's intention to declare CONTRACTOR in default. Unless CONTRACTOR shows cause to CITY's satisfaction why it should not be declared in default under the Agreement within the applicable cure period, CITY shall declare CONTRACTOR in default and shall be entitled to the remedies set forth in Section 16.2 above.

B. No Adjustment for CITY Savings. If in the event of a default, CITY secures performance of the services described in this Agreement at a cost less than the Service Fees established in accordance with Article A, as adjusted in accordance with this Agreement, CITY shall retain that difference.

C. Procedure for Collection of Liquidated Damages. CITY may draw upon the letter of credit provided by CONTRACTOR (in the event a letter of credit is used), if CITY determines that a default has occurred and that CITY has or will incur costs as a result. CITY may draw amounts equal to actual costs or liquidated damages, as applicable. In the event of a court or arbitrator's determination that all or part of any draw was not justified, CITY shall repay the amount overdrawn to CONTRACTOR together with interest at the rate of CONTRACTOR's actual interest costs incurred in connection with the draw or portion thereof.

D. Offset of Service Fees. Any amount due CONTRACTOR under this Agreement at the time of default shall be reduced by any amount due CITY under this Agreement.

16.4 City Default. For purposes of this Agreement, a CITY-event of default shall constitute the failure or refusal by CITY to fulfill any of its material obligations under this Agreement (unless that failure or refusal results from an Uncontrollable Circumstance). To initiate default proceedings under this Article, CONTRACTOR's Representative shall give CITY written notice of that default specifying with particularity the event of default that has occurred, and specifying CONTRACTOR's intention to declare CITY in default. If within thirty (30) days of notice by CONTRACTOR, except as provided in Subsection D. below, CITY has failed to cure the default or give CONTRACTOR reasonable assurances that the default or threatened default will be promptly cured, CONTRACTOR shall have the right to any or all of the following remedies to the extent provided by law:

A. Specific Performance. For each and every default, CONTRACTOR shall be entitled to a judicial remedy of specific performance or mandamus requiring CITY to specifically perform CITY's responsibilities as provided in Article 7; it being agreed that in the case of a default by CITY, CONTRACTOR's remedies at law will be inadequate.

B. Injunctive Relief.

(1) For each and every default, CONTRACTOR shall be entitled to the remedy of a permanent or temporary injunction, either in mandatory or prohibitory form, it being agreed that in the case of a default, CONTRACTOR's remedy at law is inadequate.

(2) If the governing body of CITY places, as an agenda item before its deliberative body, any proposed ordinance, rule or other regulation that threatens, on its effective date, to precipitate a default of CITY's responsibilities under Article 7, CONTRACTOR may seek an injunction from a court of competent jurisdiction enjoining CITY's deliberative body from enacting that ordinance, rule or regulation, if CONTRACTOR can show that CONTRACTOR will be irreparably damaged as a result of the enactment of that proposed ordinance, rule or regulation.

C. For each and every CITY default, CONTRACTOR may charge to CITY the CONTRACTOR's actual reasonable costs incurred as a result of that default, but in no event greater than three thousand dollars (\$3,000) per day.

D. Termination or Suspension of CONTRACTOR's Performance of the Agreement. For any CITY default that, within sixty (60) days of CITY's receipt of the notice required under this Section, is not remedied and for which CITY does not give CONTRACTOR reasonable assurance that it will be remedied, and is material to CITY's operations under the Agreement, CONTRACTOR shall be entitled to terminate the Agreement.

E. Limitation of Liability of CITY. The obligations of CITY under this Agreement are limited obligations payable solely from such amounts as may lawfully be paid by CITY for services of the type required to be rendered by CONTRACTOR under this Agreement. The obligations of CITY hereunder shall not be payable from the general funds of CITY, and the incurrence or non-performance of such obligations shall not constitute or create a legal or equitable pledge of, or lien or encumbrance upon, or claim against, any of the assets or property of CITY or upon any of its income, receipts or revenues other than upon its income receipts and revenues derived from its regulation and operation of a system for the handling of solid waste within its boundaries. The execution and delivery of this Agreement by CITY shall not impose any personal liability on the members, officers, employees or agents of CITY. No recourse shall be had by CONTRACTOR for any claims based on this Agreement against any member, officer employee or other agent of CITY in his or her individual capacity, all such liability, if any, being expressly waived by CONTRACTOR by the execution of this Agreement.

16.5 CONTRACTOR's Bankruptcy/Receivership. If during the Term of this Agreement, CONTRACTOR becomes insolvent, is dissolved, files a petition under any bankruptcy statute, is the debtor in any involuntary bankruptcy case that is not dismissed within sixty (60) days after the

petition commencing that case is filed, makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors or, on account of its insolvency, such event could impair or frustrate CONTRACTOR's performance of this Agreement. Therefore, in addition to other remedies provided in the Agreement, upon the occurrence of any one (1) or more of those events, CITY shall be entitled to obtain from CONTRACTOR or its successor-in-interest, adequate assurance of future performance in accordance with the terms and conditions of this Agreement. Failure of CONTRACTOR and Surety to comply with that request within ten (10) calendar days of service on CONTRACTOR and Surety of a written request from CITY for that assurance, shall entitle CITY to terminate the Agreement or suspend CONTRACTOR's performance of the Agreement. CITY shall not be bound to the Agreement by any trustee or receiver appointed to take possession of any of the Facilities or CONTRACTOR's business.

16.6 No Waiver by CITY. Nothing in this Article, and no actions taken pursuant to this Article, shall constitute a waiver or surrender of any rights, remedies, claims or causes of action that CITY may have against CONTRACTOR or its Surety under any other provision of this Agreement or any provision of law.

ARTICLE 17

Dispute Resolution

17.1 Good Faith Negotiation; Arbitration.

A. The Parties shall attempt to resolve any and all disputes to the mutual satisfaction of both Parties by good faith negotiations.

B. Whenever a Party desires to initiate the dispute resolution process set forth in this Article, it shall do so by giving a dispute notice to the other Party. Upon delivery of any dispute notice, the Representative of the recipient thereof shall deliver to the Party giving that dispute notice a signed and dated receipt therefore, which receipt shall serve as conclusive evidence of the date upon which such dispute notice was delivered, notwithstanding the provisions of Section 2.11. Within five (5) days after the delivery of a dispute notice, the Parties shall meet for the purpose of negotiating a resolution of the dispute.

C. Subject to the conditions and limitations of this Article, controversies or claims arising out of or relating to the Service Fee, payment to CONTRACTOR or other calculations under Articles 6, 7, 8 and 16 of this Agreement, and any other unresolved disputes designated for arbitration in the Agreement, shall be exclusively settled by arbitration in accordance with this Article subject to the right of appeal as provided herein. All other controversies and claims shall be decided exclusively by the District Court of the Second Judicial District of the State of Idaho, in and for the County of Latah, unless otherwise agreed to by the Parties.

17.2 Initiation of Arbitration. If any dispute related to the calculation of the Service Fee or any payment to CONTRACTOR or any other fee or cost required under this Agreement is not resolved by negotiations of the Parties within twenty (20) days after the date either Party delivers to the other a notice of dispute, either Party shall have the option to submit that dispute for resolution

pursuant to arbitration as provided in this Article 17 by delivering a request for arbitration to the other Party (an “Arbitration Request”).

17.3 Selection and Qualification of Arbitrators.

A. Designation. Judicial Arbitration and Mediation Services of Seattle, Washington (JAMS) shall generate and deliver to the Parties a list of five (5) potential arbitrators. Each Party shall strike one (1) name from the list and return the list to JAMS, which shall appoint the arbitrator from among the remaining names.

B. Qualifications. The arbitrator shall be an attorney licensed to practice law in the State of Idaho or Washington who has served as a full-time judge of a court of general jurisdiction of the State of Idaho or Washington. He/she shall be selected from an appropriate panel of experienced arbitrators as established by JAMS.

C. Replacement. If the arbitrator declines to act, dies or is otherwise unable to participate, JAMS shall designate a new arbitrator. If the impartial arbitrator declines, dies or is otherwise unable to act, a new arbitrator shall be chosen pursuant to subparagraph A.

17.4 Powers of Arbitrator. The arbitrator shall have full power to make such regulations and to give such orders and directions as he/she shall deem expedient with regard to the matters submitted to the arbitrator for resolution, as well as in respect to the mode and times of executing and performing any of the acts, deeds, matters and things which may be awarded or directed to be done. Without limiting the generality of the foregoing, the arbitrator shall proceed with the following enumerated powers:

A. Non-appearance. The arbitration may proceed in the absence of any Party or representative who, after due notice, fails to appear or fails to obtain a continuance. However, an award shall not be made solely on the default of a Party, and the arbitrator shall require the appearing Party who is present to submit such evidence as necessary for the making of an award.

B. Pre-Hearing Matters. The arbitrator may conduct such pre-hearing conferences as are necessary in his/her discretion to expedite and resolve the dispute. There shall be no discovery or dispositive motion practice except as may be permitted by the arbitrator; provided, however that any such discovery or dispositive motion practice shall not conflict with or extend the time limits specified herein. If the arbitrator decides, in his or her sole discretion, that independent experts should be retained to determine particular issues, the arbitrator may retain such experts at the Parties’ expense, and may award such expenses as part of the award in favor of the prevailing Party.

17.5 Conduct of Proceedings.

A. Rules. The arbitrator shall not be bound by any rules of civil procedure or evidence, but rather shall conduct the hearing and other proceedings in a fair and equitable manner.

B. Hearing Date and Duration. The arbitration hearing shall commence not later than thirty (30) calendar days after the appointment of the arbitrator.

C. Evidence. The arbitrator may require the Parties to submit certain evidence by written declaration or in such other manner as the arbitrator deems appropriate. The arbitrator shall consider such written and oral testimony as reasonable business persons would use in the conduct of their day-to-day affairs. Live testimony and cross-examination shall be limited to that necessary to insure a fair hearing to the Parties.

D. Venue. The arbitration hearing shall be held in Moscow, Idaho unless all Parties agree otherwise.

17.6 Decision – Right of Appeal. The arbitrator shall make his or her award within thirty (30) days following the conclusion of the arbitration hearing. In rendering the award, the arbitrator shall set forth written findings of fact and conclusions of law. The award shall be final and binding upon the Parties, subject to the right of appeal which shall be exercised in the form of an original action in the Latah County District Court, with the matter to be tried to the court de novo. Any action which constitutes an appeal from the arbitrator's award shall be filed with the court and served upon the other Party within thirty (30) days from the date of receipt of notice of the award by the appellant and otherwise shall be barred. In the event the appellant is not the prevailing Party in the action as determined by the court, then the court shall award the other Party its reasonable costs, attorneys' fees, consultant fees, expert witness fees, and other costs reasonably incurred in defense of the appeal.

17.7 Provisional Remedies. Pending the selection of the arbitrator, any Party may request JAMS to appoint an arbitrator for the limited purpose of awarding preliminary relief. This award may be immediately entered in any Federal or State Court having jurisdiction thereof even though the decision on the underlying dispute may still be pending. Once appointed, the arbitrator may, upon request of a Party, issue a superseding order to modify or reverse such preliminary relief or may himself/herself order preliminary relief pending a full hearing on the merits of the underlying dispute. Any such initial or superseding order of preliminary relief may be immediately entered in any Federal or State Court having jurisdiction thereof, even though the decision on the underlying dispute may still be pending. Such preliminary relief may be granted by the arbitrators only after notice to and opportunity to be heard by the opposing Party unless the Party applying for such relief demonstrates that its purpose would be rendered futile by giving notice.

17.8 Final Remedies; Arbitrator's Fees. The arbitrator may grant any remedy or relief that the arbitrator deems to be just, equitable and within the scope of the Parties' agreement, including specific performance of a contract or injunctive relief; provided, however, that the arbitrator may not award any punitive or exemplary damages. Each Party shall be responsible for its own attorney's fees and costs incurred in the arbitration proceeding. The arbitrator's fees and arbitration expenses shall be borne equally among the Parties.

17.9 No Consolidation. There shall be no consolidation of any arbitration between CITY and CONTRACTOR with any other arbitration involving, arising from or relating to the Project, without prior written approval from CITY.

17.10 Expedited Procedures. In the event that CITY determines, in its sole opinion, that the public interest requires a speedy resolution of any arbitrable controversy or claim regardless of the amount, CITY shall have the option of electing resolution of the controversy or claim by the Expedited Procedures of the Commercial Arbitration Rules of the American Arbitration Association (Rules 54 through 58).

17.11 Venue. The Parties agree that proper venue for any judicial proceeding to enforce any decision or award made by an arbitrator under this Section shall be exclusively in Latah County in the State of Idaho. In the event of litigation concerning it, it is agreed that proper venue shall be the District Court of the Second Judicial District of the State of Idaho, in and for the County of Latah.

17.12 Attorney Fees and Costs. Each Party shall be responsible for their own attorney fees and costs incurred during the arbitration process as set forth in Section 17.8 above. In the event an appeal of an arbitration decision is filed or other suit or action to enforce any right or award under an arbitration decision is instituted, the prevailing Party shall be entitled to reasonable attorney fees and costs from the losing Party.

17.13 Standing. Only CITY and CONTRACTOR shall have standing to bring or become a Party to arbitration claims or legal actions under this Agreement.

ARTICLE 18

Successors; Assignment

18.1 Contractor Delegation. CITY executes this Agreement with CONTRACTOR as the qualified Party to accomplish the Project. CONTRACTOR's delegation of any Agreement duties shall require the prior written consent of CITY. Any delegation of duties shall not relieve CONTRACTOR or the Surety of any liability and/or obligation to perform.

18.2 Assignment. CONTRACTOR shall not assign any rights or obligations under or arising from this Agreement without the prior written consent of CITY, unless otherwise permitted under Section 18.3.

18.3 Change in Control or Ownership. Any direct or indirect change in control or the transfer of a direct or indirect controlling interest in the beneficial ownership of CONTRACTOR shall constitute a Class B default under the terms of this Agreement, unless CITY consents to that transfer, such consent shall not be unreasonably withheld, . "The transfer of a direct or indirect interest of CONTRACTOR" shall include, but is not limited to, the transfer or assignment of twenty-five percent (25%) or more of the beneficial ownership of CONTRACTOR to or from a single entity, unless CITY consents to that transfer or assignment; however, the following transfers or assignments shall not be construed as "the transfer of a controlling interest of CONTRACTOR": (a) intra-company transfers in the form of transfers between different subsidiaries or branches of CONTRACTOR's parent corporation; or (b) if CONTRACTOR, or its parent corporation is a closely held corporation, transfers or assignments between individuals who own, in whole or in part, the parent or any subsidiary, including transfers or assignments between or to (1) the

individuals who own, in whole or in part, the parent or subsidiary; (2) the spouses, surviving spouses and linear descendants (including adopted children) of the persons described in (b)(1), above; (3) a trust estate, corporation, partnership or other entity owned by the persons described in (b)(1), above; and (4) a corporate trustee designated to act in a fiduciary capacity for the estate or trust of any person described in (b)(1), above.

Notwithstanding the foregoing, CITY may, in its sole discretion and at CONTRACTOR's sole expense (including, but not limited to, CITY's attorney's fees, if any), determine that new ownership can adequately and faithfully render the service called for in this Agreement for the remaining Term of the Agreement, and CITY may then elect to execute a novation, all owing new ownership to assume the rights and duties of this Agreement and releasing the previous ownership of all obligations and liability. The new ownership would then be solely liable for any work and/or claims related to this Agreement.

18.4 Binding Effect. This Agreement shall bind and inure to the benefit of the successors or assigns hereto, whether by merger, consolidation, transfer of assets, or transfer of ownership of CONTRACTOR.

ARTICLE 19

Dissolution of CITY and Successor to CITY

In the event that CITY is dissolved or its solid waste functions and powers, relative to this Agreement, are taken from CITY by legislative act or by referendum of the people, or by agreement, all of the duties, rights, and remedies of CITY under the Agreement, including, but not limited to, all bonds executed for this Agreement, shall remain in full force and effect and shall be transferred to either (i) the successor to CITY as specified by the legislative act or referendum by which CITY is dissolved; or (ii) if no successor to CITY is specified by the relevant legislation or referendum, the State of Idaho shall be deemed to be the successor to CITY under this Agreement.

ARTICLE 20

Term; Option to Renew; Termination

20.1 Initial Term. The initial Term of this Agreement shall begin on its execution, and, unless renewed or sooner terminated by CITY as provided in this Agreement, shall end seven (7) years from the date of commencement of service.

20.2 CITY's Option to Renew. CITY shall have the right to renew the Agreement for two (2) additional periods of five (5) and five (5) years in duration under the same provisions and for the same Service Fee calculated in accordance with Article 8 of this Agreement. CITY shall give CONTRACTOR one hundred twenty (120) days written notice of its intention to exercise its option to renew the Agreement. If CITY does not exercise its option to renew the Agreement, it will terminate upon the last day of the current Agreement term.

20.3 New Performance Guarantee of CONTRACTOR. In the event CITY elects to renew the Agreement, CONTRACTOR must provide to CITY, at least ninety (90) days before the expiration

of the then current period, a new performance guarantee acceptable to CITY, in its sole discretion, pursuant to Section 6.4.

DATED this _____ day of _____, 2019.

CONTRACTOR

Finley-Buttes Limited Partnership

CITY

City of Moscow, Idaho

Bill Lambert, Mayor

ATTEST:

Laurie M. Hopkins, City Clerk

ACKNOWLEDGMENT

STATE OF)
) ss.
COUNTY OF)

On this _____ day of _____, 2019, before me, a Notary Public in and for said State, appeared _____, known to me to be the person named above and acknowledged that he/she executed the foregoing document as the duly authorized representative for Finley-Buttes Limited Partnership.

Notary Public for the State of _____
Residing at _____
My commission expires _____

EXHIBIT “A”
CONTRACTOR’s AUTHORIZATION

EXHIBIT “B”
RFP PROPOSAL



Proposal for
Solid Waste Transportation
and Disposal Services
Prepared for the City of Moscow
February 14, 2018





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A—Transmittal Letter

February 14, 2018

Laurie Hopkins, City Clerk
City of Moscow
221 E. Second Street
Moscow, ID 83843

Subject: Proposal for Solid Waste Transportation and Disposal

Dear Ms. Hopkins and Proposal Review Committee Members:

Enclosed is Finley-Buttes Limited Partnership's (FBLP's) dba Finley Buttes Regional Landfill's (FBRL's) proposal to the City of Moscow (City) for solid waste transportation and disposal. We are excited about the opportunity to continue supporting the City.

Like Waste Connections of Idaho, Inc. (WCID), FBLP is a wholly owned subsidiary of Waste Connections, Inc. (WCI). WCID has been pleased to provide transportation and disposal services to the City over several years and hopes to continue for many years. Under a new contract with FBLP, the City will experience **no** changes in the service or staff who have been providing service under the WCID contract.

Throughout WCID's contract with the City, we have made efforts to improve the efficiency and minimize environmental impact of operations, including the introduction of larger possum-belly trailers that have 22 cubic yards of additional volume (15% more volume than the 53-foot trailers used in prior service) and 23% more volume than 48-foot rail containers. This change lessened the frequency of trailer change-outs and lowered the greenhouse gas emissions of our operations. FBLP will continue to seek out cost-effective and environmentally responsible improvements, should it be awarded this contract.

Key Contact Person and Contract Manager

Dean Large
Sales Manager
Waste Connections, Inc.
PO Box 61726
Vancouver, WA 98666
DeanL@wcnx.org
(360) 608-3902

Contractual Authority

Jason Hudson
Division Vice President, Columbia River
Division
Waste Connections, Inc.
12115 NE 99th St., Suite 1830
Vancouver, WA 98682
JasonH@wcnx.org
(360) 944-2374



Name of Company to Execute Contract

Finley-Buttes Limited Partnership

Proposal Validity

FBLP hereby states that its proposal will be valid for one hundred eighty (180) days from the RFP due date.

If you should have any questions or need additional information, please do not hesitate to contact Dean or either of us.

Sincerely,

Finley-Buttes Limited Partnership

A handwritten signature in blue ink, appearing to read "Kevin Green".

Kevin Green
District Manager
Finley Buttes Regional Landfill
73221 Bombing Range Road
Boardman, OR 97818
KevinG@wcnx.org
541-965-1339

A handwritten signature in blue ink, appearing to read "Jason Hudson".

Jason Hudson
Division Vice President, Columbia River
Division
Waste Connections, Inc.
12115 NE 99th St., Suite 1830
Vancouver, WA 98682
JasonH@wcnx.org
(360) 944-2374

CC: Dean Large, FBRL; Jocelyn Jones, FBRL



B—Business Structure

Company to Execute Contract

A corporation and wholly owned subsidiary of Waste Connections, Inc., Finley-Buttes Limited Partnership (FBLP) dba Finley Buttes Regional Landfill (FBRL) is the entity that will enter into the City agreement. Waste Connections, Inc. is a publicly-traded corporation whose common shares are traded under the ticker symbol WCN on both the New York Stock Exchange and the Toronto Stock Exchange. No other entities will be participating in the execution of the proposal.

FBRL proposes to continue operations currently provided to the City under a contract with FBLP. On February 18, 2009, the City consented to the sale of the Waste Management of Washington contract for solid waste transportation and disposal services to WCID originally dated September 30, 1993. FBLP will be obligated to manage the long-term contract for transportation and disposal services and receive solid waste at FBRL, located near Boardman, Oregon.

Subcontractor

Supporting FBRL is Dietrich Trucking LLC, a Washington limited liability company. Dietrich Trucking currently provides subcontract solid waste transportation services between the City of Moscow SWPF Transfer Station and FBRL. These operations will remain unchanged under any new contract. Dietrich Trucking uses six 53-foot possum-belly solid waste trailers having a maximum payload of 32.5 tons. The transfer station has loaded an average of 30.14 tons per trailer over the past 3 years. The introduction of these trailers to the City of Moscow solid waste service has increased maximum payloads by 15 percent and reduced greenhouse gas emissions. Increasing payloads should save time for the City's transfer station operators by decreasing the number of loads each year.

Commitment

FBRL and the managers of Dietrich Trucking are committed to the City of Moscow solid waste services throughout the term of this agreement. Unlike prior solid waste contract holders, we have no plans to offer the contract to any other solid waste firm. Managers at FBRL and Dietrich Trucking have been managing solid waste transportation and disposal services since 1993 and Finley Buttes has more than 200 years of remaining life.

About FBRL

FBRL began operations in 1990 as a fully compliant Subtitle D solid waste landfill. Located south of Boardman, Oregon, Finley Buttes enjoys the benefit of a favorable geology, climate, and transportation hub. Currently, FBRL has approximately 200 years of remaining life and has always operated to the highest environmental standards set by the Environmental Protection Agency. The regulating agency for FBRL is the Oregon DEQ, who issued permit #394 to FBRL in 1990.

FBRL consists of 1,800 acres of property, of which 498 acres are currently permitted for landfill operation. The landfill has an approved design capacity of over 80 million tons and averages 3,200 tons per day in daily gate receipts and over 800,000 tons of solid waste annually. At this rate of fill, it will have a site life in excess of 200 years. FBRL is located in Boardman, Oregon, about 160 miles east of Portland, Oregon. WCI acquired the landfill in March 1999.

Proposal for the City Solid Waste Disposal by Finley Buttes Regional Landfill 1



FBRL has operated a unique landfill gas-to-energy facility since December 2007. It helps meet Renewable Portfolio Standard (RPS) requirements for renewable energy and the EPA's new Source Performance Standards (NSPS) for greenhouse gas reductions. Energy from the facility is transmitted to PacifiCorp's Troutdale, Oregon, substation where it is distributed to PacifiCorp customers. Use of the landfill gas to co-generate both electricity and heat for Cascade Specialties, Inc.'s adjacent onion drying plant results in energy conversion efficiencies that exceed 70 percent.



Summary of FBRL:

- Subtitle D Regional Landfill: Accepts MSW, Special Waste, Asbestos, C&D, Liquids for Solidification and Liquids for Beneficial Use
- Remaining Capacity: 143,066,000 CY
- Annual tons per year: over 800,000 tons per year or 3,200 tons per day (open 5 days/week)
- Permitted landfill footprint: 498 acres
- Total property: 1,800 acres
- 18 employees (Operators, Laborers, Mechanics Office Staff, Sales Staff)
- Landfill Gas-to-Energy Plant
 - Vertical and horizontal gas wells
 - Landfill gas (LFG) is collected and used to operate 3 Caterpillar engines, generating 4.6 MW of electricity that is transmitted into the electrical grid (enough to power 3,000 homes).
 - Transfers 210,000 therms per year of heat to onion drying plant Cascade Specialties. As a result of this agreement, Cascade Specialties has reduced their annual natural gas usage by 20%-30%.



About Dietrich Trucking

D & R Dietrich and Sons started trucking services in 1999, near the end of Dick Dietrich's 30-year career as the owner of Dietrich Excavation, where Richard had become a valuable employee. As Richard took the helm of their new company, Sand & Gravel Magazine stated, "D & R Dietrich & Sons

2 Proposal for City of Moscow Solid Waste Transportation and Disposal



is one of the most respected mid-size dump truck and excavation outfits in Southwestern Washington.” D & R continuously grew and became Dietrich Trucking, LLC in 2008. Fast-forward to 2018: Dietrich Trucking has 105 employees, a fleet of over 90 trucks, and is one of the most respected mid-size trucking companies in Washington, Oregon, and Idaho.

In collaboration with their customers, each of Dietrich’s solid waste truck-and-trailer configurations can haul up to 32.5 tons by using 53-foot possum-belly solid waste trailers, where the industry standard is 28 tons or less. Dietrich currently provides the City of Moscow’s MSW transportation service out of their Lewiston, Idaho, yard and have also been transporting solid waste out of the Clearwater Mill for 15 years, with whom Dietrich received a 10-year contract extension in October 2017. Dietrich currently provides similar MSW transportation for the Washington cities of Port Angeles, Grays Harbor, Raymond, Long Beach, and Lewis and Skamania counties; and for the City of Gresham, Oregon.

C—Schedule

FBRL already has equipment, management, and staffing in place—the management team, supporting staff and equipment will remain unchanged under a new contract with the City of Moscow. We currently have six tractors and trailers assigned to your operations and typically replace tractors and trailers on a 10-year cycle. Dietrich Trucking has a local office and maintenance facility in Lewiston, Idaho, to support the City of Moscow solid waste requirements.

D—Insurance and Performance Bond

Evidence of insurance and performance bond are attached as Appendixes A and B. A performance bond will be issued to the City of Moscow in the amount of \$600,000.00 prior to October 1, 2018. Subsequent performance bonds will be in the amount of 60% of the cost of service expected during the period of the bond.

E—Experience

FBRL is a subsidiary of Waste Connections, Inc. WCI owns or operates 94 active municipal solid waste (“MSW”), E&P, and/or non-MSW landfills; has hauling operations in 38 states as well as Canada; and owns or operates 133 transfer stations.

Since its founding in 1997 in Vancouver, Washington, WCI has grown into the third largest solid waste and recycling services provider in North America through a series of acquisitions of private and publicly-traded waste companies; divestitures from other solid waste companies; privatization of governmental operations; and successfully bidding, securing, and maintaining a large number of municipal contracts.

In 2009, WCID purchased the contract for solid waste transportation and disposal services from Waste Management of Washington for the City of Moscow. WCID provides a fleet of 53-foot possum belly solid waste trailers to the City of Moscow Transfer Station and manages the transportation of MSW to FBRL and disposal of MSW at FBRL in Boardman, Oregon. In 2017, WCID handled 20,300 tons of solid waste from the City.

WCI provides similar solid waste transportation and disposal services to Lewis County (52,282 tons in 2017); Aberdeen and Grays Harbor (53,526 tons in 2017); Port Angeles (20,873 tons in 2017);

Proposal for the City Solid Waste Disposal by Finley Buttes Regional Landfill **3**



Skamania County (7,810 tons in 2017); and Clark County (360,623 tons in 2017). Our supporting transportation infrastructure is broad, and our staff are highly experienced. FBRL is the only landfill in Oregon that accepts MSW using barge, rail, and trucking. The Port of Morrow has a solid waste unloading site originally built in support of solid waste hauls using barges. FBRL operates a unit-train sized (9,000 feet) rail siding at the Port of Morrow to receive solid waste by rail. FBRL is near the intersection of I-84 and I-82, where the routes from Portland, Seattle, and Boise converge. This interstate provides reliable truck transport of solid waste to FBRL.

FBRL supports private solid waste collection companies in Pendleton, Hermiston, Heppner, Pasco, and other communities throughout the Northwest with solid waste disposal services. These customers self-haul solid waste to FBRL.

F—References

City of Moscow

Tim Davis
221 E. Second Street
Moscow, ID 83843
208-883-7131
tdavis@ci.moscow.id.us

Skamania County

Brad Uhlig
PO Box 790
Stevenson, WA 98648
(509) 427-3926
uhlig@co.skamania.wa.us

Lewis County

Steve Skinner
Lewis County
PO Box 180
Centralia, WA 98531
(360) 740-1403
Steve.Skinner@lewiscountywa.gov

Grays Harbor/Aberdeen

Mark Cox
Grays Harbor County
PO Box 511
Montesano, WA 98563
(360) 964-1647
mcox@co.grays-harbor.wa



Clark County

Mike Davis
1601 E. Fourth Plain Blvd.
Building 17
Vancouver, WA 98661
360-397-6118, ext 4920

G—Breach of Contract Resolution

Neither FBLP dba FBRL or Dietrich Trucking LLC has received a breach of contract claim during the past 5 years for any contract.

H—Litigation History

Neither FBLP dba FBRL or Dietrich Trucking has had litigation with a local or state agency during the past 5 years.

I—RCRA Subtitle D Landfill Plan

FBRL wholly owns the 1,800-acre landfill located south of Boardman, Oregon. Within the 1,800-acre property, the Oregon DEQ issued permit #394 for 510 acres. We have not expanded into the entire footprint and anticipate a remaining useful life of 200 years. Typically, we line five to 10 acres at a time, typically every two years.

Our Wasco County Landfill acts as a backup to Finley Buttes. Located in The Dalles, Oregon, the Wasco County Landfill has 335 acres and currently has approximately 60 years of remaining life. Wasco is a Subtitle D solid waste landfill operating under Oregon DEQ permit #53.

J—Transport Plan

Dietrich Trucking LLC, guaranteed by FBLP, currently operates six 53-foot, possum-belly solid waste trailers managed from their operations base in Lewiston, Idaho. These trailers have proven to be sufficient to transport 100% of the City of Moscow's solid waste to FBRL. Empty trailers are staged at the City of Moscow Transfer Station, filled by the City-managed employees, and transported to FBRL. Typically, the transportation route is from the transfer station to FBRL, using WA highway 270 to Pullman, WA; highway 195 from Pullman to Colfax, WA; highway 26 from Colfax to WA highway 395; south on WA highway 395 to OR highway 730; west on OR highway 730 to Bombing Range Road, and south on Bombing Range Road to FBRL.

Dietrich Trucking occasionally needs to move its current fleet of 56 trailers from the many sites it manages. The flexibility of a transportation system using trucks allows Dietrich to respond quickly to changing conditions unique to each site. It typically takes one to two days to relocate equipment from any operation in Washington or Oregon. Local management based in Lewiston is readily accessible to the City of Moscow.



K—Alternate Operations Plan

The primary system of operations used by FBRL is truck transport. Due to the location of the City of Moscow, truck transport is the only way to remove solid waste from the transfer station. We rely on a Washington and Oregon system of highways to transport waste out of the City of Moscow. While our primary transport route runs through Colfax to WA highway 395, we could reach FBRL using alternate routes, including WA highway 12 through Lewiston.

Because FBRL is serviced by barge through the Port of Morrow, we could transport solid waste containers through the Port of Lewiston or Tidewater's Wilma Terminal for transport to the Port of Morrow. Likewise, the Port of Lewiston is rail served. In the extremely unlikely event truck transport is no longer available, we would consider solid waste transport by rail through Lewiston.

Dietrich Trucking currently operates 56 solid waste trailers in Oregon and Washington, ordered 10 trailers for delivery Q2 2018 and plans to order 20 additional trailers later this year. If a disaster occurs in a local community, and with a fleet of 86 trailers, Dietrich has equipment assets that could relocate in support of emergency scenarios. Additionally, FBRL has access to hundreds of open-top solid waste shipping containers that were built to transport solid waste on rail or by barge.

Any regional disaster will tax the solid waste system. As a subsidiary of WCI, the 3rd largest solid waste company in the United States and the largest solid waste company in Canada, FBRL can draw upon WCI's resources and work together, as a region, to mitigate the emergency situation.

L—Price Proposal

Our price to provide transportation and disposal service to the City of Moscow is as follows:

Appendix B	
Proposed Cost of Service	
Cost proposals are based on unit weight of quantities of MSW made available to the proposer. Proposed costs will be used as a basis of contract and no changes or adjustments of cost will be made during contracted period of time. Proposer must complete both Cost of Disposal and Cost of Transportation sections below.	
Cost For Disposal of MSW	<u>\$32.69</u> Per Ton
Cost For Transportation of MSW	<u>\$19.06</u> Per Ton
Method For Annual Rate Adjustments:	<u>80% of Consumer Price Index, U.S. Average</u>



M—Proposal Firm Offer

As stated in the enclosed transmittal letter, FBLP hereby states that its proposal will be valid for one hundred eighty (180) days from the RFP due date. The proposal shall remain firm and unaltered from 180 days following February 14, 2018.

Appendix A--Certificate of Insurance



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
07/24/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Insurance Services West, Inc. Portland Oregon office 851 SW 6th Avenue Suite 385 Portland OR 97204-1309 USA		CONTACT NAME: PHONE (A/C No. Ext): (866) 283-7122 FAX (A/C No.): (800) 363-0105 E-MAIL ADDRESS:	
INSURED Waste Connections US, Inc. 3 Waterway Square Place Suite 110 The Woodlands TX 77380 USA		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: ACE American Insurance Company	22667
		INSURER B: Indemnity Insurance Co of North America	43575
		INSURER C: ACE Fire Underwriters Insurance Co.	20702
		INSURER D: ACE Property & Casualty Insurance Co.	20699
		INSURER E:	
		INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 570067647281 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. **Limits shown are as requested**

INSR L/R	TYPE OF INSURANCE	ADOL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Contractual Liability GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO. JECT ☐ LOC ☐ OTHER:			HDOG27867510	08/01/2017	08/01/2018	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$5,000 MED EXP (Any one person) Excluded PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$5,000,000 PRODUCTS - COMPROP AGG \$2,000,000
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			ISA H09061071	08/01/2017	08/01/2018	COMBINED SINGLE LIMIT (Ea accident) \$5,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
D	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION			XOOG27614620003 SIR applies per policy terms & conditions	08/01/2017	08/01/2018	EACH OCCURRENCE \$15,000,000 AGGREGATE \$15,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory in NH) if yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WLR64413557 AOS WLR64413545 CA, MA	08/01/2017	08/01/2018	☒ PER STATUTE ☐ OTHER E L EACH ACCIDENT \$1,500,000 E L DISEASE-EA EMPLOYEE \$1,500,000 E L DISEASE-POLICY LIMIT \$1,500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Named Insured Includes: Waste Connections of Idaho, Inc.
City of Moscow is included as Additional Insured. Additional Insured does not apply to workers' Compensation.

CERTIFICATE HOLDER

CANCELLATION

City of Moscow 122 East 4th Street Moscow ID 83843 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

ACORD 25 (2016/03)

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AGENCY CUSTOMER ID: 10780715
LOC #:



AGENCY Aon Risk Insurance Services West, Inc.		NAMED INSURED Waste Connections US, Inc.
POLICY NUMBER See Certificate Number: 570067647281		
CARRIER See Certificate Number: 570067647281	NAIC CODE	EFFECTIVE DATE

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

ADDITIONAL POLICIES	If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.
----------------------------	--

ACORD 101 (2008/01)

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Appendix B--Performance Bond



January 19, 2018

City of Moscow
221 E. Second Street
Moscow, ID 83843

Re: Finley-Buttes Limited Partnership
Solid Waste Transportation and Disposal Services
Bond Requirement: \$600,000.00

To Whom It May Concern:

Finley-Buttes Limited Partnership is a highly regarded client of The Hanover Insurance Company for bonding purposes.

We understand that Finley-Buttes Limited Partnership will be presenting a proposal to you for Solid Waste Transportation and Disposal Services. If the proposal is accepted and Finley-Buttes Limited Partnership is asked to post a performance bond, The Hanover Insurance Company will issue this bond on their preferred annually renewable performance bond form in the amount of \$600,000.00 per the Request for Proposals dated January 10, 2018, a copy of which is attached.

If you have any questions about this fine client please feel free to me a call at 916.971.8845.

Sincerely,

The Hanover Insurance Company

By: 

Lisa Betancur, Attorney-In-Fact

2505 Second Ave, Suite 705 ■ Seattle WA 98121

Phone | 206-454-8708 Fax | 508-635-1703

www.Hanover.com

Appendix B--Performance Bond

THE HANOVER INSURANCE COMPANY MASSACHUSETTS BAY INSURANCE COMPANY CITIZENS INSURANCE COMPANY OF AMERICA

POWER OF ATTORNEY

THIS Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

KNOW ALL PERSONS BY THESE PRESENTS:

That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, (hereinafter individually and collectively the "Company") does hereby constitute and appoint:

David W. Garese, Audrey C. Skeen, Brooke A. Skeen, Lisa Betancur and/or Robert Garese

Of **Excel Bonds & Insurance Services, Inc. of Sacramento, CA** each individually, if there be more than one named, as its true and lawful attorney(s)-in-fact to sign, execute, seal, acknowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, any and all surety bonds, recognizances, undertakings, or other surety obligations. The execution of such surety bonds, recognizances, undertakings or surety obligations, in pursuance of these presents, shall be as binding upon the Company as if they had been duly signed by the president and attested by the secretary of the Company, in their own proper persons. Provided however, that this power of attorney limits the acts of those named herein; and they have no authority to bind the Company except in the manner stated and to the extent of any limitation stated below:

Any such obligations in the United States, not to exceed Ten Million and No/100 (\$10,000,000) in any single instance

That this power is made and executed pursuant to the authority of the following Resolutions passed by the Board of Directors of said Company, and said Resolutions remain in full force and effect:

RESOLVED: That the President or any Vice President, in conjunction with any Vice President, be and they hereby are authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as it acts, to execute and acknowledge for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, waivers of citation and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. Any such writings so executed by such Attorneys-in-fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company in their own proper persons.

RESOLVED: That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereto, granted and executed by the President or Vice President in conjunction with any Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures thereon may be facsimile. (Adopted October 7, 1981 - The Hanover Insurance Company, Adopted April 14, 1982 - Massachusetts Bay Insurance Company, Adopted September 7, 2001 - Citizens Insurance Company of America)

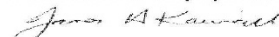
IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by two Vice Presidents, this **15th** day of **March, 2017**.

The Hanover Insurance Company
Massachusetts Bay Insurance Company
Citizens Insurance Company of America


John C. Roche, EVP and President

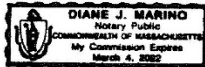


The Hanover Insurance Company
Massachusetts Bay Insurance Company
Citizens Insurance Company of America


James H. Kawiecki, Vice President

THE COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF WORCESTER) ss

On this **15th** day of **March, 2017** before me came the above named Vice Presidents of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.

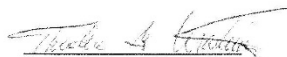



Diane J. Marino, Notary Public
My Commission Expires March 4, 2022

I, the undersigned Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this 19th day of January 2018

CERTIFIED COPY


Theodore G. Martinez, Vice President

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Sacramento)

On January 19, 2018 before me, Margaret Mary Catarella, Notary Public
(insert name and title of the officer)

personally appeared Lisa Betancur
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 Margaret Mary Catarella (Seal)



Appendix B--Performance Bond

Bond No. _____
Premium \$ _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, _____, as Principal, and _____, a corporation duly organized under the laws of the state of _____ and licensed to do business in the State of _____, as Surety, are held and firmly bound unto _____ (Obligee), in the penal sum of _____ (\$_____) Dollars, lawful money of the United States of America, for the payment of which sum, well and truly to be made, the Principal and Surety do bind themselves, their heirs, executors, administrators, and successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the above bounden Principal has entered into a certain written Contract with the above named Obligee, for _____ and more fully described in said Contract, a copy of which is attached, which Agreement is made a part hereof and incorporated herein by reference, except that nothing said therein shall alter, enlarge, expand or otherwise modify the term of the bond as set out below.

NOW, THEREFORE, if Principal, its executors, administrators, successors and assigns shall promptly and faithfully perform the Contract, according to the terms, stipulations or conditions thereof, then this obligation shall become null and void, otherwise to remain in full force and effect. This bond is executed by the Surety and accepted by the Obligee subject to the following express condition:

Notwithstanding the provisions of the Contract, the term of this bond shall apply from _____, _____, until _____, _____, and may be extended by the Surety by Continuation Certificate. However, neither nonrenewal by the Surety, nor the failure or inability of the Principal to file a replacement bond in the event of nonrenewal, shall itself constitute a loss to the obligee recoverable under this bond or any renewal or continuation thereof. The liability of the Surety under this bond and all continuation certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.

Sealed with our seals and dated this _____ day of _____, _____.

(Witness)

(Attest)

, Attorney-In-Fact

S-5025 (7/98)

EXHIBIT “C”
TECHNICAL SPECIFICATIONS

1. Trailers
 - 1.1 General Requirements
 - 1.2 Maintenance and Repairs
 - 1.3 Provision and Storage Requirements
2. Weighing and Basis of Payment
 - 2.1 Measuring Devices
 - 2.2 Weighing Procedures and Basis of Payment
 - 2.3 Scale Recalibration
 - 2.4 Alternate Weighing Procedures
3. Disposal Site

TECHNICAL SPECIFICATIONS

1. TRAILERS

1.1 GENERAL REQUIREMENTS

It is the intent of these Specifications to ensure that Contractor equipment is suitable for long distance waste Transport. Trailers shall be rigid and durable, corrosion resistant, nonabsorbent, easily cleanable, and suitable for handling with no sharp edges or other hazardous conditions. Trailers shall be capable of withstanding the rugged use typically associated with handling solid waste.

Trailers shall be designed, engineered, and rated to perform satisfactorily and safely at all times. Trailers shall be of a top-load design, and shall be suitable for in-Trailer compaction of waste with a knuckleboom crane or similar compaction devise. Trailers shall have a single compartment and shall be a maximum height of 14 feet (measured from ground), and shall have a width that does not require special permits for use on public roads. Trailers shall be a minimum exterior length of 48 feet and a maximum exterior length of 53 feet. Overall height, bridge span, and distance between axles of Trailers when combined with tractor shall conform to all applicable local, state, and federal regulations.

Trailers shall be 100 percent leak proof to a height of 18 inches from the Trailer floor.

Trailer shall be numbered so that the number cannot be hand-removed. The number shall be a minimum of 6 inches in height and shall be easily legible at a distance of 50 feet. No Trailer number shall be duplicated.

Trailers shall be designed and maintained so that leakage or spillage of either waste or liquids from the Trailer while in transit or storage does not occur, and that waste does not blow out of the Trailer during Transport. Trailers shall have a top cover that prevents entry of water and that is easily removed or opened for loading and replaced for Transport so that removal and replacement can each be accomplished routinely by one person in five minutes or less.

1.2 MAINTENANCE AND REPAIRS

Trailers shall be maintained by the Contractor in accordance with the manufacturer's recommended maintenance schedule, and shall be maintained in a safe working condition at all times. Trailers shall be inspected at least monthly for corrosion, leaks, loose fitting doors and latches, holes or other damage to the top closing mechanism, seals, sidings, frames or other damage incurred during Transport and Disposal of waste, and repaired as necessary. The Contractor shall keep and maintain Trailer maintenance logs and provide to the City upon request.

Each time a Trailer is emptied, all waste shall be removed from the Trailer, and the Contractor shall clean Trailers as necessary to comply with the requirements of the jurisdictional health department(s) and to mitigate malodor, unsightliness, or attraction of vectors.

If a Trailer is damaged during loading, the Contractor shall repair or replace the Trailer. The City will reimburse the Contractor for all reasonable costs of repair or replacement of Trailers damaged through the gross negligence of the Solid Waste Processing Facility (SWPF) operator. The City shall be notified immediately and be allowed to inspect and investigate any damages caused by Transfer Station operator. The Contractor, at its own expense, shall repair or replace Trailers as necessary due to normal wear and tear.

1.3 PROVISION AND STORAGE REQUIREMENTS

As provided in Article 7, the Contractor shall have access to the SWPF 24 hours per day and 7 days per week to accept waste.

A staging area will be provided at the SWPF where the Contractor shall deliver empty Trailers and accept loaded Trailers, and may store empty and loaded Trailers. Trailer provision and storage requirements include the following:

- A. The Contractor shall provide sufficient Trailers to allow the daily removal of all waste tonnage accepted at the SWPF during normal operating hours. At least one empty Trailer shall be available at the SWPF at all times during normal operating hours.
- B. Loaded Trailers may be stored at the staging area a maximum of 48 hours without penalty, however, the Contractor must exert reasonable efforts to remove each Trailer no more than 24 hours after loading.
- C. The Contractor may store a maximum of 5 Trailers in the staging area at any one time, and may store additional Trailers onsite with prior written approval from the City.
- D. The Contractor shall communicate with SWPF operators to ensure an adequate number of Trailers are provided during normal operating hours.

Failure to comply with the Trailer provision and storage requirements shall constitute a delay of operations.

2. WEIGHING AND BASIS OF PAYMENT

The following specifications shall be used for weighing and determining the basis of payment for this Contract. The City reserves the right to establish any other reliable means of measuring waste quantities, weighing and establishing the basis of payment, establishing scale calibration and alternate weighing procedures.

2.1 MEASURING DEVICES

Scales used for weighing waste will be designed and maintained in accordance with the requirements set forth in “Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,” U.S. Department of Commerce, National Institute of Standards and Technology, Handbook 44.

2.2 WEIGHING PROCEDURE AND BASIS OF PAYMENT

Empty Trailers shall be coupled to a SWPF Tractor at the staging area and pulled under the SWPF loading area and axle weighed (tare). Following loading, the SWPF Tractor and loaded Trailer will be axle weighed (gross). A manual weigh ticket, not to be used for basis of payment, will be prepared indicating Trailer number, date, time and gross, tare and net axle weights. A copy of the manual weigh ticket will be placed in the document container attached to the loaded Trailer. The Contractor’s tractor operator will give the copy of the manual weigh ticket, to be referenced to the Disposal Site weigh ticket, to the scale operator at the Disposal Site prior to weighing in the loaded Tractor-Trailer. The Contractor will weigh in loaded Tractor-Trailer and weigh out empty Tractor-Trailer at the Disposal Site to determine the gross, tare and net weights.

The net weight shown on the Disposal Site weigh ticket will serve as the basis of payment for all services provided by the Contractor. Copies of both the Disposal Site weigh ticket and SWPF weigh ticket will be submitted to the City with each monthly billing statement.

Random Tractor-Trailer weights to determine gross, tare and net weights will be conducted at the main scale at the SWPF to randomly compare weigh tickets at the Disposal Site. Currently, due to the scale configuration and traffic safety concerns at the SWPF, not all Tractor-Trailers can be weighed on the main scale during normal operating hours. If more than two random weight comparisons, during a calendar year, vary by more than one percent, the City and Contractor shall attempt to reach a mutually satisfactory resolution by informal negotiations. If a mutually satisfactory resolution is not achieved through informal negotiations, either party may initiate dispute resolution procedures under Article 17 of the Solid Waste Transportation and Disposal Services Contract.

The City will also provide scales that allow the Contractor to verify that loaded Tractor-Trailer combinations conform to legal gross vehicle weight and axle weight requirements prior to leaving SWPF with a loaded Trailer. The Contractor may refuse to accept a loaded Trailer if the Tractor-Trailer combination that results after that Trailer is coupled with the Contractor’s Tractor exceeds legal gross vehicle weight or axle weight requirements.

2.3 SCALE RECALIBRATION

If the City disagrees with the weight information contained on a weigh ticket, the City may request, in writing, recalibration of the Disposal Site scales. If the scales are found to be properly calibrated, the City shall pay all costs incurred for recalibration; if the Disposal Site scales are improperly calibrated, the Contractor will pay for the recalibration. The Contractor will reimburse the City for any overpayment and the City shall reimburse the Contractor for any underpayment attributable to improper scale calibration, retroactive to the date of the City’s written request.

2.4 ALTERNATE WEIGHING PROCEDURES

The City reserves the right to establish alternate weighing procedures at any time during the term of this Contract providing any alternate weighing procedures meet the requirements set forth in § 2.1 of this Exhibit C.

3. DISPOSAL SITE

Disposal Sites shall, at a minimum, be constructed, operated, monitored, closed, and otherwise maintained in a manner that complies with all Applicable Laws.

The Contractor shall not Dispose of waste from the City in a landfill, or an expansion cell next to an existing landfill, that is, or is proposed to be, on the National Priority List of federal Superfund Program (40 CFR Part 300), or that is, or proposed to be, on a similar list under a similar program for any state.

If a Disposal Site is located in a jurisdiction that is required to prepare a Comprehensive Solid Waste Management Plan, the Plan of the receiving jurisdiction shall allow waste import to the Disposal Site.

EXHIBIT “D”
CONTRACTOR’S PERFORMANCE BOND