

**AMENDMENT NO. 4 TO AGREEMENT FOR
TRANSFER STATION AND DISPOSAL SERVICES
REPUBLIC SERVICES, INC., dba PALOMAR TRANSFER STATION, INC.**

This Amendment No. 4 is entered into and effective as of the 16th day of October, 2019, amending the agreement dated June 1, 2002, (the "Agreement") by and between the City of Carlsbad, a municipal corporation, ("City"), and Republic Services, Inc., dba Palomar Transfer Station, Inc., a California corporation, ("Contractor") (collectively, the "Parties") for transfer station and disposal services.

RECITALS

A. WHEREAS, on May 30, 2011, the Parties executed Amendment No. 1 to the Agreement to extend the deadline for the City to deliver written notice to Contractor of the City's election to send some or all of the City's waste to the Palomar Transfer Station (PTS) during the Subsequent Operating Period pursuant to Section 6.03; and

B. WHEREAS, on November 8, 2011, the Parties executed Amendment No. 2 to the Agreement to further extend the deadline for the City to deliver written notice to Contractor of the City's election to send some or all of the City's waste to the PTS during the Subsequent Operating Period pursuant to Section 6.03; and

C. WHEREAS, on February 15, 2012, the Parties executed Amendment No. 3 to the Agreement to extend the Initial PTS Operating Period for ten (10) years and one (1) month, with one (1) three (3) year extension option at the mutual agreement of the Parties; and

D. WHEREAS, pursuant to Section 4.01 of the Agreement, all City source separated organic materials (currently defined as green waste) accepted at the Transfer Station are currently delivered to the Otay Landfill, the Designated Organics Processing Facility under the Agreement, for use as Alternative Daily Cover (ADC); and

E. WHEREAS, beginning on January 1, 2020, pursuant to Assembly Bill 1594, the City will not receive diversion credit for its green waste that is used as ADC at landfills; and

F. WHEREAS, the City currently relies on ADC diversion credit to meet the 50 percent citywide diversion rate requirement under Assembly Bill 939; and

G. WHEREAS, Section 3.29 of the Agreement allows the City to deliver, or cause to be delivered, source separated recyclable materials such as green waste, which are collected from City residents or businesses by designated hauler(s), to the Transfer Station for consolidation and transfer and transport to a processing location or off-site location designated by the City; and

H. WHEREAS, under Section 3.29, the City has designated Agromin – OC, LLC (Agromin) as the processing location for composting of all source separated organic materials that are delivered to the Transfer Station by the City's designated hauler; and

I. WHEREAS, under Section 3.29, the Parties have negotiated a change in the Contractor's scope of work for the new composting services and changes to Contractor's

compensation for the PTS Organic Fee - Compost, effective Jan. 1, 2020, as reflected in the amended City-Regulated Service Fees which are attached to and incorporated by this reference as Exhibit "A".

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained herein, City and Contractor agree as follows:

1. The following shall be added after the last paragraph in Section 3.29:

Contractor shall Transfer and Transport to Agromin for composting all Source Separated Organic Materials that are collected from City residents or businesses by the City's Designated Hauler(s) and Delivered to the Transfer Station. Contractor shall apply the PTS Organic Fee – Compost to the City's Source Separated Organic Materials, as that fee may be adjusted from time to time under Section 8.06.

2. The attached Exhibit "A" shall serve as the fee schedule for the PTS Organic Fee – Compost.

3. All referenced amendments to the Agreement shall be effective beginning on January 1, 2020.

4. All other provisions of the Agreement, as it may have been amended from time to time, will remain in full force and effect.

5. All requisite insurance policies to be maintained by Contractor pursuant to the Agreement, as may have been amended from time to time, will include coverage for this Amendment.

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6. The individuals executing this Amendment and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Amendment.

CONTRACTOR

Republic Services, Inc., dba Palomar Transfer Station, Inc., a California Corporation

By:



(sign here)

Tim Oudman, Vice President
(print name/title)

CITY OF CARLSBAD, a municipal corporation of the State of California

By:



Matt Hall, Mayor


ATTEST:

By:



(sign here)

Eileen B. Schuler, Secretary
(print name/title)



for Hector Gomez, Deputy City Clerk
for Barbara Engleson, City Clerk

If required by City, proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A
Chairman,
President, or
Vice-President

Group B
Secretary,
Assistant Secretary,
CFO or Assistant Treasurer

Otherwise, the corporation must attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CELIA A. BREWER, City Attorney

BY: 

Deputy City Attorney

CERTIFICATE OF SECRETARY

The undersigned, Secretary of **PALOMAR TRANSFER STATION, INC.**, a California corporation (the "Company"), does hereby certify on behalf of the Company, that **TIM OUDMAN** is a duly elected Vice President of the Company, that in such capacity he, the President, or any Vice President of the Company, can exercise such power and perform such duties as usually accompanies such offices, and implicit in such power is the authority to execute that certain Statement of Information (Domestic Stock and Agricultural Cooperative Corporations) for the State of California on behalf of the Company, and that there is no current intention to remove him from such office.

IN WITNESS WHEREOF, the undersigned has hereunto set her hand this 27th day of September, 2019.



Eileen B. Schuler, Secretary

EXHIBIT "A"

**CITY-REGULATED SERVICE FEE FOR COMPOST
EFFECTIVE JANUARY 1, 2020**

PTS Organic Fee – COMPOST	
Component	Per Ton Charges
Base	\$61.02
Fuel	\$4.77
Government Fees	\$2.50
Total Rate	\$68.29 per ton



CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 17

DATE (MM/DD/YYYY)
08/30/2019

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 CANNON COCHRAN MANAGEMENT SERVICES, INC. 17015 N. SCOTTSDALE RD SCOTTSDALE, AZ 85255	CONTACT NAME: _____	
	PHONE (A/C No.Ext): _____	FAX (A/C No.Ext): _____
E-MAIL ADDRESS: certicateatteam@ccmsi.com		
INSURED REPUBLIC SERVICES, INC. 18500 N. ALLIED WAY PHOENIX, AZ 85054	INSURER(S) AFFORDING COVERAGE	
	INSURER A: ACE American Insurance Co.	
	INSURER B: Indemnity Insurance Company of NA	
	INSURER C: ACE Fire Underwriters	
	INSURER D: Illinois Union Insurance Company	
	INSURER E: ACE Property and Casualty Insurance Co	
	INSURER F:	
NAIC #		

COVERAGES

CERTIFICATE NUMBER: 1613126

REVISION NUMBER: 1

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.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR _____ _____ GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER: _____			HDO G71570848	06/30/2019	06/30/2020	EACH OCCURRENCE	\$ 5,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 5,000,000
							MED EXP (Any one person)	
							PERSONAL & ADV INJURY	\$ 5,000,000
							GENERAL AGGREGATE	\$ 5,000,000
							PRODUCTS -COMP/OP AGG	\$ 5,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> _____			ISA H25297635	06/30/2019	06/30/2020	COMBINED SINGLE LIMIT (Ea accident)	\$ 5,000,000
							BODILY INJURY (Per person)	
							BODILY INJURY (Per accident)	
							PROPERTY DAMAGE (Per accident)	
E	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			G46782148-003	06/30/2019	06/30/2020	EACH OCCURRENCE	\$ 5,000,000
							AGGREGATE	\$ 5,000,000
B A C A D	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	WLR C66040380-AOS WLR C66040343-CA/MA/OR SCF C66040422 -WI WCU C6604046A - OH XS TNS C65221159 TX NSXS	06/30/2019 06/30/2019 06/30/2019 06/30/2019	06/30/2020 06/30/2020 06/30/2020 06/30/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT E.L. DISEASE -EA EMPLOYEE E.L. DISEASE -POLICY LIMIT	\$ 3,000,000 \$ 3,000,000 \$ 3,000,000
	Contractor's Pollution Liability:			See page 2 for details	06/30/2019	06/30/2020		

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

Division Number: 4517 - Named Insured Includes: Palomar Transfer Station, Inc. - Dba: Palomar TS

CERTIFICATE HOLDER
 CITY OF CARLSBAD
 1635 FARADAY AVENUE
 CARLSBAD, CA 92008
 United States
CANCELLATION

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



ADDITIONAL REMARKS SCHEDULE

AGENCY		NAMED INSURED	
POLICY NUMBER See First Page		REPUBLIC SERVICES, INC. 18500 N. ALLIED WAY PHOENIX, AZ 85054	
CARRIER See First Page	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM.

FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

The following provisions apply when required by written contract. As used below, the term certificate holder also includes any person or organization that the insured has become obligated to include as a result of an executed contract or agreement.

GENERAL LIABILITY:

Certificate holder is Additional Insured including on-going and completed operations when required by written contract.
 Coverage is primary and non-contributory when required by written contract.
 Waiver of Subrogation in favor of the certificate holder is included when required by written contract.

AUTO LIABILITY:

Certificate holder is Additional Insured when required by written contract.
 Coverage is primary and non-contributory when required by written contract.
 Waiver of Subrogation in favor of the certificate holder is included when required by written contract.

WORKERS COMPENSATION AND EMPLOYERS LIABILITY:

Waiver of Subrogation in favor of the certificate holder is included when required by written contract where allowed by state law.

Stop gap coverage for ND, WA and WY is covered under policy no. WLR C66040380 and stop gap coverage for OH is covered under policy no. WCU C6604046A, as noted on page 1 of this certificate.

TEXAS EXCESS INDEMNITY AND EMPLOYERS LIABILITY:

Insured is a registered non-subscriber to the Texas Workers Compensation Act. Insured has filed an approved Indemnity Plan with the Texas Department of Insurance which offers an alternative in benefits to employees rather than the traditional Workers Compensation Insurance in Texas. The excess policy (#TNS C65221159) shown on this certificate provides excess Indemnity and Employers Liability coverage for the approved Indemnity Plan.

Contractual Liability is included in the General Liability and Automobile Liability coverage forms. The General Liability and Automobile Liability policies do not contain endorsements excluding Contractual Liability.

Separation of Insured (Cross Liability) coverage is provided to the Additional Insured, when required by written contract, per the Conditions of the Commercial General Liability Coverage form and the Automobile Liability Coverage form.

The Umbrella/Excess Liability policy is follow form over the General Liability, Automobile Liability and Employer's Liability policies shown on this certificate.

Insurer Affording Pollution Coverage - Tokio Marine Specialty Insurance Co. (NAIC # 23850) Policy No. PPK1992482

Contracting Operations Environmental Liability - \$10,000,000 Per Contamination Incident/\$10,000,000 General Aggregate
 Professional Liability - \$10,000,000 Per Incident/\$10,000,000 General Aggregate

Additional Insured includes: City of Carlsbad, its officers, directors, employees, volunteers and agents, when required by written contract.

NOTICE: THESE POLICY FORMS AND THE APPLICABLE RATES ARE EXEMPT FROM THE FILING REQUIREMENTS OF THE NEW YORK INSURANCE LAW AND REGULATIONS. HOWEVER, THE FORMS AND RATES MUST MEET THE MINIMUM STANDARDS OF THE NEW YORK INSURANCE LAW AND REGULATIONS.

POLICY NUMBER: HDO G71570848

Endorsement Number: 43
COMMERCIAL GENERAL LIABILITY
 CG 20 10 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Any Owner, Lessee or Contractor whom you have agreed to include as an additional insured under a written contract, provided such contract was executed prior to the date of loss.	All locations where you are performing operations for such additional insured pursuant to any written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

NOTICE: THESE POLICY FORMS AND THE APPLICABLE RATES ARE EXEMPT FROM THE FILING REQUIREMENTS OF THE NEW YORK INSURANCE LAW AND REGULATIONS. HOWEVER, THE FORMS AND RATES MUST MEET THE MINIMUM STANDARDS OF THE NEW YORK INSURANCE LAW AND REGULATIONS.

POLICY NUMBER: HDO G71570848

Endorsement Number: 64
COMMERCIAL GENERAL LIABILITY
CG 20 37 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
Any Owner, Lessee or Contractor whom you have agreed to include as an additional insured under a written contract, provided such contract was executed prior to the date of loss	All locations where you perform work for such additional insured pursuant to any such written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

POLICY NUMBER: HDO G71570848

Endorsement Number: 296⁸

COMMERCIAL GENERAL LIABILITY
CG 24 04 05 09

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization: Any person or organization against whom you have agreed to waive your right of recovery in a written contract, provided such contract was executed prior to the date of loss.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us of Section IV – Conditions:**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

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NON-CONTRIBUTORY ENDORSEMENT FOR ADDITIONAL INSURED

Named Insured Republic Services, Inc.			Endorsement Number 27
Policy Symbol HDO	Policy Number G71570848	Policy Period 06/30/2019 to 06/30/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL GENERAL LIABILITY COVERAGEScheduleOrganization

Any additional insured with whom you have agreed to provide such non-contributory insurance, pursuant to and as required under a written contract executed prior to the date of loss.

Additional Insured Endorsement

CG2026; CG2010; CG2037

(If no information is filled in, the schedule shall read: "All persons or entities added as additional insureds through an endorsement with the term "Additional Insured" in the title)

For organizations that are listed in the Schedule above that are also an Additional Insured under an endorsement attached to this policy, the following is added to Section IV.4.a:

If other insurance is available to an insured we cover under any of the endorsements listed or described above (the "Additional Insured") for a loss we cover under this policy, this insurance will apply to such loss on a primary basis and we will not seek contribution from the other insurance available to the Additional Insured.

 Authorized Agent

NOTICE TO OTHERS ENDORSEMENT - NOTICE BY INSURED'S REPRESENTATIVE

Named Insured Republic Services, Inc.			Endorsement Number 58
Policy Symbol HDO	Policy Number G71570848	Policy Period 06/30/2019 TO 06/30/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Company			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

GENERAL LIABILITY COVERAGE FORM

- A. If we cancel, non-renew, or materially change the Policy prior to its expiration date by notice to the first Named Insured for any reason other than nonpayment of premium, we will, as set out in this endorsement, send written notice of such cancellation, non-renewal or material change, to the first Named Insured and will allow its representative to send such notice to all persons or organizations that the first Named Insured has contractually agreed to provide such notice.
- B. The notice referenced in this endorsement as provided by your representative is intended only to be a courtesy notification. The failure to provide advance notification of cancellation, non-renewal, or material change will impose no obligation or liability of any kind upon us, our agents or representatives, will not extend any Policy cancellation date and will not negate any cancellation, non-renewal or material change of the Policy.
- C. We will only be responsible for sending such notice to the first Named Insured who will notify its representative, and its representative will, in turn, send all applicable persons or organizations notice of cancellation, non-renewal, or material change at least 30 days prior to the applicable event date
- D. This endorsement does not apply in the event that the first Named Insured cancels the Policy.

All other terms and conditions of the Policy remain unchanged.

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**ADDITIONAL INSURED –
DESIGNATED PERSONS OR ORGANIZATIONS**

Named Insured Republic Services, Inc.			Endorsement Number 22
Policy Symbol ISA	Policy Number H25297635	Policy Period 06/30/2019 TO 06/30/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM
AUTO DEALERS COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
EXCESS BUSINESS AUTO COVERAGE FORM**

Additional Insured(s): Any person or organization whom you have agreed to include as an additional insured under written contract, provided such contract was executed prior to the date of loss.

- A. For a covered "auto," Who Is Insured is amended to include as an "insured," the persons or organizations named in this endorsement. However, these persons or organizations are an "insured" only for "bodily injury" or "property damage" resulting from acts or omissions of:
1. You.
 2. Any of your "employees" or agents.
 3. Any person operating a covered "auto" with permission from you, any of your "employees" or agents.
- B. The persons or organizations named in this endorsement are not liable for payment of your premium.


Authorized Representative

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WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS

Named Insured Republic Services, Inc.			Endorsement Number 146
Policy Symbol ISA	Policy Number H25297635	Policy Period 06/30/2019 TO 06/30/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This Endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM
MOTOR CARRIERS COVERAGE FORM
AUTO DEALERS COVERAGE FORM**

We waive any right of recovery we may have against the person or organization shown in the Schedule below because of payments we make for injury or damage arising out of the use of a covered auto. The waiver applies only to the person or organization shown in the SCHEDULE.

SCHEDULE

Any person or organization against whom you have agreed to waive your right of recovery in a written contract, provided such contract was executed prior to the date of loss.

Authorized Representative

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NON-CONTRIBUTORY ENDORSEMENT FOR ADDITIONAL INSURED

Named Insured Republic Services, Inc.			Endorsement Number 113
Policy Symbol ISA	Policy Number H25297635	Policy Period 06/30/2019 TO 06/30/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
AUTO DEALERS COVERAGE FORM**

ScheduleOrganization

Any additional insured with whom you have agreed to provide such non-contributory insurance, pursuant to and as required under written contract executed prior to the date of loss.

Additional Insured Endorsement

DA9U74b

(If no information is filled in, the schedule shall read: "All persons or entities added as additional insureds through an endorsement with the term "Additional Insured" in the title)

For organizations that are listed in the Schedule above that are also an Additional Insured under an endorsement attached to this policy, the following is added to the Other Insurance Condition under General Conditions:

If other insurance is available to an insured we cover under any of the endorsements listed or described above (the "Additional Insured") for a loss we cover under this policy, this insurance will apply to such loss on a primary basis and we will not seek contribution from the other insurance available to the Additional Insured.

 Authorized Representative

NOTICE TO OTHERS ENDORSEMENT - NOTICE BY INSUREDS REPRESENTATIVE

Named Insured Republic Services, Inc.			Endorsement Number 149
Policy Symbol ISA	Policy Number H25297635	Policy Period 06/30/2019 TO 06/30/2020	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Company			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

BUSINESS AUTO COVERAGE FORM

- A. If we cancel, non-renew, or materially change the Policy prior to its expiration date by notice to the first Named Insured for any reason other than nonpayment of premium, we will, as set out in this endorsement, send written notice of such cancellation, non-renewal or material change, to the first Named Insured and will allow its representative to send such notice to all persons or organizations that the first Named Insured has contractually agreed to provide such notice.
- B. The notice referenced in this endorsement as provided by your representative is intended only to be a courtesy notification. The failure to provide advance notification of cancellation, non-renewal, or material change will impose no obligation or liability of any kind upon us, our agents or representatives, will not extend any Policy cancellation date and will not negate any cancellation, non-renewal or material change of the Policy.
- C. We will only be responsible for sending such notice to the first Named Insured who will notify its representative, and its representative will, in turn, send all applicable persons or organizations notice of cancellation, non-renewal, or material change at least 30 days prior to the applicable event date
- D. This endorsement does not apply in the event that the first Named Insured cancels the Policy.

All other terms and conditions of the Policy remain unchanged.

Workers' Compensation and Employers' Liability Policy

Named Insured REPUBLIC SERVICES, INC. 18500 N ALLIED WAY PHOENIX AZ 85054	Endorsement Number
	Policy Number Symbol: WLR Number: C66040343
Policy Period 06-30-2019 TO 06-30-2020	Effective Date of Endorsement 06-30-2019
Issued By (Name of Insurance Company) ACE AMERICAN INSURANCE COMPANY	
Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy	

CALIFORNIA WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because California is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule, where you are required by a written contract to obtain this waiver from us.

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

Schedule

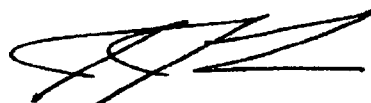
1. () Specific Waiver
Name of person or organization:

- (X) Blanket Waiver
Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations:
ALL OPERATIONS CONDUCTED BY AN INSURED PURSUANT TO SUCH WRITTEN CONTRACT

3. Premium:
The premium charge for this endorsement shall be 2.0 percent of the California premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Minimum Premium: \$0



Authorized Representative

PI-EVCP-303 (12/16)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**ADDITIONAL INSURED SCHEDULE**

This endorsement modifies and is subject to the insurance provided under the following:

CONTRACTOR ENVIRONMENTAL AND PROFESSIONAL COVERAGE**Tokio Marine Specialty Insurance Company****Policy No.: PPK1992482****Endorsement Effective Date: 6/30/2019**

It is hereby agreed that the following individuals, entities or organizations are scheduled as an **additional insured**, but solely with respect to liability arising out of the following checked operations for any **claims** or **remediation expense** reported by the **Named Insured** or an **insured** for:

- the performance by or on behalf of the **named insured** of **your contracting operations, completed operations** or **transportation**; or
- waste disposal** by or on behalf of the **named insured**; or
- their ownership, use, operation, or financing of **your insured location**.

That the individuals, entities or organizations are vicariously liable for **loss** or **remediation expense** to which this insurance applies as a result of the checked operations performed by or on behalf of an **insured**.

Additional Insured

Entities as required by written contract, provided such contract is fully executed prior any **remediation expense** or **claim** for **remediation expense** or **loss**

The **additional insured** shall not be afforded any coverage under this policy for any **claim** based upon or arising out of the negligence, strict liability or acts, errors or omissions of such **additional insured**.

All other policy terms and conditions remain unchanged.

PI-MANU (06/18)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**WAIVER OF SUBROGATION**

This endorsement modifies and is subject to the insurance provided under the following:

CONTRACTOR ENVIRONMENTAL AND PROFESSIONAL COVERAGE**Tokio Marine Specialty Insurance Company****Policy No.: PPK1992482****Endorsement Effective Date: 6/30/2019**

It is hereby agreed that Section X. **GENERAL CONDITIONS**, includes the following:

A. Subrogation

If we pay any amount under this policy, we shall be subrogated to the **insured's** rights of recovery against any person, firm or organization. The **insured** shall execute and deliver instruments and papers and do whatever is necessary to secure such rights. The **insured** shall not waive or prejudice such rights subsequent to when a **claim** is first made or when the **insured** discovers **contamination**.

Any recovery as a result of a subrogation proceeding arising out of payment of a **professional loss, loss or remediation expense** covered under this insurance shall accrue first to you to the extent of any payments in excess of the Limits of Insurance; then to us to the extent of our payment under the policy; and then to you to the extent of your deductible. Expenses incurred in such subrogation proceedings will be apportioned among the interested parties in the recovery, in the proportion that each interested party's share in the recovery bears to the total recovery.

Notwithstanding the foregoing, we hereby waive our right of subrogation against your client and any entity where required by written contract provided that such contract is fully executed prior to the first commencement of **contamination** or prior to the rendering or failure to render **your professional services**, as applicable to which this insurance applies.

All other policy terms and conditions remain unchanged.

PI-MANU (06/18)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**PRIMARY AND NON-CONTRIBUTORY AMENDMENT**

This endorsement modifies and is subject to the insurance provided under the following:

CONTRACTOR ENVIRONMENTAL AND PROFESSIONAL COVERAGE**Tokio Marine Specialty Insurance Company****Policy No.: PPK1992482****Endorsement Effective Date: 6/30/2019**

It is hereby agreed that Section X, **GENERAL CONDITIONS**, includes the following:

H. Other Insurance

If other valid and collectible insurance is available to the **insured** for coverage granted under this policy, our obligations are limited as follows:

1. This insurance is primary, and our obligations are not affected unless any other insurance is also primary. In that case, we will share with all such other insurance by the method described in Paragraph 2. below, or this insurance will be primary and non-contributory when Paragraph 3. below applies; and
2. If all of the other insurance permits contribution by equal shares, we will also follow this method. In this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the **loss** remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. In contribution by limits, each insurer's share is based upon the ratio its applicable limit of insurance bears to the total applicable limits of insurance of all insurers.
3. This insurance is primary and non-contributory with other valid and collectible insurance, but only if: (i) the **named insured** has a written contract or agreement requiring this insurance to be primary and non-contributory; and (ii) such contract or agreement was executed prior to the date that **your contracting operations** or **your professional services**, as applicable first commenced.

For purposes of this provision, other insurance includes all types of self-insurance, indemnification or other funding arrangement or program that is available to compensate an **insured** for liability.

All other policy terms and conditions remain unchanged.

PI-EVCP-700 (12/16)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CANCELLATION NOTIFICATION

This endorsement modifies and is subject to the insurance provided under the following:

CONTRACTOR ENVIRONMENTAL AND PROFESSIONAL COVERAGE

Tokio Marine Specialty Insurance Company

Policy No.: PPK1992482

Endorsement Effective Date: 6/30/2019

It is hereby agreed that Section X. **GENERAL CONDITIONS, E. Cancellation or Non-Renewal** is amended to include:

We shall send written notice of cancellation to the entity scheduled below not less than:

1. (90)Days prior to the effective date of such cancellation; or
2. (10) Days prior to the effective date of such cancellation in the event of cancellation for non-payment of premium:

Scheduled Entity and Address

Blanket cancellation status as required by written contract

All other policy terms and conditions remain unchanged.

CONTINUATION CERTIFICATE

*mailed to Airtel
2/28/19*

The Western Surety Company (hereinafter called the Surety) hereby continues in force its Bond No. 929237572 in the sum of Two Million Five Hundred Thousand Dollars and 00/100 (\$2,500,000.00) Dollars, on behalf of Palomar Transfer Station, Inc.

in favor of City of Carlsbad

subject to all the conditions and terms thereof through May 31, 2020 at location of risk.

This Continuation is executed upon the express condition that the Surety's liability shall not be cumulative and shall be limited at all times by the amount of the penalty stated in the bond.

IN WITNESS WHEREOF, the Surety has caused this instrument to be signed by its duly authorized Attorney-in-Fact and its corporate seal to be hereto affixed this 26 day of February, 2019.

Western Surety Company
Surety

By: *Debbie Lindstrom*
Debbie Lindstrom Attorney-in-Fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

Civil Code § 1189

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 Washington
County of King

On February 26, 2019 before me, Brandi Heinbaugh, Notary Public

personally appeared Debbie Lindstrom

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 Brandi Heinbaugh
Notary Public Signature

Place Notary Public Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to the persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document

Document Date Number of Pages:

Signer's Name:

- Individual
Corporate Officer - Title(s):
Partner - Limited General
Guardian or Conservator
Attorney-in-Fact
Trustee
Other:
Signer is representing



- Individual
Corporate Officer - Title(s):
Partner - Limited General
Guardian or Conservator
Attorney-in-Fact
Trustee
Other:
Signer is representing



Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Robert J Weller, Kathleen M Mitchell, Peggy A Firth, Debbie A Lindstrom, John Drummey Jr, Scott Alderman, Timothy S Buhite, Brandi Heinbaugh, Jamie Stroh, Amber Engel, Individually

of Seattle, WA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 31st day of July, 2018.



WESTERN SURETY COMPANY

Paul T. Bruflat

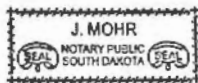
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 31st day of July, 2018, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2021



J. Mohr

J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 26th day of February 2019.



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary

CONTINUATION CERTIFICATE

The Western Surety Company (hereinafter called the Surety) hereby continues in force its Bond No. 929237572 in the sum of Two Million Five Hundred Thousand Dollars and 00/100 (\$2,500,000.00) Dollars, on behalf of Palomar Transfer Station, Inc.

in favor of City of Carlsbad

subject to all the conditions and terms thereof through May 31, 2018 at location of risk.

This Continuation is executed upon the express condition that the Surety's liability shall not be cumulative and shall be limited at all times by the amount of the penalty stated in the bond.

IN WITNESS WHEREOF, the Surety has caused this instrument to be signed by its duly authorized Attorney-in-Fact and its corporate seal to be hereto affixed this 9 day of January, 2017.

Western Surety Company
Surety

By: Debbie Lindstrom
Debbie Lindstrom Attorney-in-Fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

Civil Code § 1189

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 Washington

County of King



On January 9, 2017 before me, Brandi Heinbaugh, Notary Public

personally appeared Debbie Lindstrom

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.

Notary Public
State of Washington
Brandi Heinbaugh
Commission Expires 08-01-2020

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 Brandi Heinbaugh
Brandi Heinbaugh Notary Public Signature

Place Notary Public Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to the persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

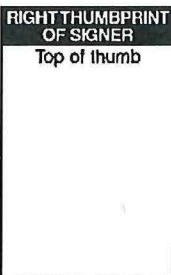
Description of Attached Document

Title or Type of Document

Document Date Number of Pages:

Signer's Name:

- Individual
Corporate Officer - Title(s):
Partner - Limited General
Guardian or Conservator
Attorney-in-Fact
Trustee
Other:
Signer is representing



- Individual
Corporate Officer - Title(s):
Partner - Limited General
Guardian or Conservator
Attorney-in-Fact
Trustee
Other:
Signer is representing



Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Robert J Weller, Kathleen M Mitchell, Peggy A Firth, Debbie A Lindstrom, John Drummey Jr, Scott Alderman, Timothy S Buhite, Simone Rae Frederick, Brandi Heinbaugh, Jamie Stroh, Individually

of Seattle, WA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 21st day of December, 2016.



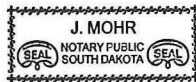
WESTERN SURETY COMPANY

Paul T. Bruflat
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 21st day of December, 2016, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires
June 23, 2021



J. Mohr
J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 9th day of January, 2017.



WESTERN SURETY COMPANY

L. Nelson
L. Nelson, Assistant Secretary

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

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of Seattle, WA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

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WESTERN SURETY COMPANY

Paul T. Bruflat

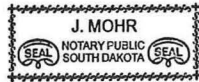
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 21st day of December, 2016, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2021



J. Mohr

J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 9th day of January, 2017.



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

CONTINUATION CERTIFICATE

The Western Surety Company (hereinafter called the Surety) hereby continues in force its Bond No. 929237572 in the sum of Two Million Five Hundred Thousand Dollars and 00/100 (\$2,500,000.00) Dollars, on behalf of Palomar Transfer Station, Inc.

in favor of City of Carlsbad

subject to all the conditions and terms thereof through May 31, 2016 at location of risk.

This Continuation is executed upon the express condition that the Surety's liability shall not be cumulative and shall be limited at all times by the amount of the penalty stated in the bond.

IN WITNESS WHEREOF, the Surety has caused this instrument to be signed by its duly authorized Attorney-in-Fact and its corporate seal to be hereto affixed this 2 day of March, 2015.

Western Surety Company
Surety

By: 
Debbie Lindstrom Attorney-in-Fact

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

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Robert J Weller, Kathleen M Mitchell, Debbie A Lindstrom, John Drummey Jr, Scott Alderman, Timothy S Buhite, Simone Rae Frederick, Individually

of Seattle, WA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 5th day of February, 2015.



WESTERN SURETY COMPANY

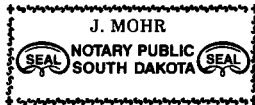
Paul T. Bruflat

Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 5th day of February, 2015, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires
June 23, 2015



J. Mohr

J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 2nd day of March, 2015.



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

**AMENDMENT NO. 3 TO THE AGREEMENT FOR
TRANSFER STATION AND DISPOSAL SERVICES
(PALOMAR TRANSFER STATION, INC.)**

This Amendment No. 3 is entered into effective as of the 15th day of February, 2012, amending the agreement dated June 1, 2002, (the agreement) is entered into by and between the City of Carlsbad, a municipal corporation ("City"), and Palomar Transfer Station, Inc., a California corporation ("Contractor") (collectively, the "Parties") for transfer station and disposal services.

RECITALS

A. WHEREAS, on May 30, 2011, the Parties executed Amendment No. 1 to the Agreement to extend the deadline for the City to deliver written notice to Contractor of the City's election to send some or all of the City's waste to the Palomar Transfer Station (PTS) during the Subsequent Operating Period pursuant to Section 6.03; and

B. WHEREAS, on November 8, 2011, the Parties executed Amendment No. 2 to the Agreement to further extend the deadline for the City to deliver written notice to Contractor of the City's election to send some or all of the City's waste to the PTS during the Subsequent Operating Period pursuant to Section 6.03; and

C. WHEREAS, Section 2.04 of the Agreement allows the City to extend the Initial PTS Operating Period in periods of three (3) year increments; and

D. WHEREAS, the City and Contractor have determined it is in their mutual interests to extend the Initial PTS Operating Period for ten (10) years and one (1) month with one (1) three (3) year extension option at the mutual agreement of the Parties; and

E. WHEREAS, the Parties have negotiated and agreed to City-Regulated Service Fees, effective July 1, 2012, which are attached to and incorporated by this reference as Exhibit "A".

NOW, THEREFORE, in consideration of the foregoing Recitals and for the receipt of other good and valuable consideration, which both Parties hereby acknowledge, the Parties agree as follows:

1. The following shall be added after the current paragraph in section 2.04:

The Initial PTS Operating Period shall be extended for ten (10) years and one (1) month, beginning June 1, 2012, with one (1) three (3) year extension option at the mutual agreement of the Parties.

2. The following terms shall be added under Article 1, "Definitions" of the agreement:

"Fuel Baseline" is the amount that the Contractor and City have agreed upon and will be the value of the Fuel Component as of July 1, 2012. This amount has been determined to be \$8.46 per ton of acceptable waste delivered to the PTS by the City or Designated Hauler.

"Fuel Component" is the portion of the PTS Solid Waste Fee that contains the elements of Contractor's costs relative to the purchase of fuel for transportation services.

"PTS Organic Fee – Alternative Daily Cover" is the fee charged for organic materials other than earthen material placed on the surface of the active face of a municipal solid

waste landfill at the end of each operating day to control vectors, fires, odors, blowing litter, and scavenging.

“PTS Organic Fee – Compost” is a fee charged for organic materials other than earthen material that is transformed into a stable, humus-like product resulting from the biological decomposition of organic matter under controlled conditions.

“PTS Construction & Demolition Fee” is a fee charged for used or discarded materials resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure and such other materials as may be removed during the normal cleanup process of such construction, remodeling, repair, or demolition operations. The PTS Construction and Demolition Fee is comprised in total of the Base Component, the Fuel Component and Governmental Fee Component. The PTS Construction and Demolition Fee shall only be owed by the City’s Designated Hauler to Contractor, and Contractor shall only be obligated to process Construction and Demolition Debris generated within the City and delivered to the PTS by the City or its Designated Hauler, when and if the City delivers written notice of the City’s request that Contractor process such PTS Construction and Demolition Debris. The Contractor obligation to perform such services, and the City’s Designated Hauler’s obligation to pay Contractor for such services, shall commence on the date requested in the City’s written notice, but this date shall not be less than ninety days after the date the City delivers its written notice to Contractor. Prior to the effective date of such written notice, all PTS Construction and Demolition Debris shall be deemed to be PTS Solid Waste within the meaning of this Agreement. Contractor’s obligation to process any PTS Construction and Demolition Debris shall cease if the City’s Designated Hauler does not pay the PTS Construction and Demolition Fee to Contractor.

“Weekly Retail On-Highway Diesel Prices, California Index” is the index produced by the U.S. Energy Information Administration that reflects the price of diesel fuel in California.

3. The following terms shall be deleted from Article 1, “Definitions” of the Agreement: PTS Organic Processing Fee, PTS Organic Transfer Fee, and PTS Organic Transport Fee.

4. The term “PTS Organic Transfer Fee” shall be changed to “PTS Organic Fees” throughout the Agreement.

5. The following terms in Article 1, “Definitions” have been revised to read as follows:

a. “Base Component” means that portion of a Service Fee that is periodically adjusted throughout the Term by CPI. This does not include any portion of the Fuel Component.

b. “PTS Organic Fee(s)” are the per-Ton compensation due to the Contractor from the designated Hauler(s) for the Acceptance of City Source Separated Organic Material during the Initial PTS Operating Period. The PTS Organic Fee(s) are the PTS Organic Fee – Alternative Daily Cover, applicable to organics used as alternative daily cover, and the PTS Organic Fee – Compost applicable to organics that are composted. The PTS Organic Fees also include the Base Component, the Fuel Component, and the Governmental Fee Component.

c. “PTS Solid Waste Fee” is the per-Ton compensation due to the Contractor from the Designated Hauler(s) for Acceptance of City Waste during the Initial PTS Operating Period. The PTS Solid Waste Fee is comprised in total of the Base Component, the Fuel Component and Governmental Fee Component.

6. Section 3.05.D, 3.05.E and 3.05.F shall be revised to read as follows:

- D. Recovering Recyclable Materials, Organic Materials and Construction & Demolition Materials (if requested) from City Waste;
- E. Transferring Solid Waste, Recyclable Materials, Organic Materials and Construction & Demolition Materials (if requested) into large-capacity Transport trailers or containers;
- F. Processing, marketing and Transferring Recyclable Materials, Organic Materials and Construction & Demolition Materials (if requested);

7. The final three sentences of paragraph three under Section 4.01 shall be removed. These sentences reference requirements for the Contractor to secure new proposals and bids for the purpose of selection of the Designated Organics Processing Facility.

8. Section 8.03 A shall be revised as follows:

General. The PTS Solid Waste Fee includes compensation for Transfer Station services, Transportation of City Waste to Designated landfills, Disposal Services, and all applicable Governmental Fees. The PTS Solid Waste Fee shall be effective during the Initial PTS Operating Period. The PTS Solid Waste Fee is separated into three components: The Base Component, the Fuel Component and Governmental Fee Component. The adjustment process for the PTS Solid Waste Fee is presented in Section 8.04. The rates, which will be effective on July 1, 2012, are included in Exhibit "B".

9. Section 8.03B shall be revised as follows:

Base Component. The initial Base Component is that portion of the PTS Solid Waste Fee comprised of the Contractor's fixed and variable costs, excluding the Fuel Component. The Base Component shall be adjusted annually during the Initial Operating Period to reflect 90% of the change in the CPI values as specified in Section 8.04B, but will not otherwise be adjusted except as the result of a modification to the scope of services as provided in Section 16.15. The initial Base Component, which will be effective on July 1, 2012, is included in Exhibit "B".

10. Section 8.03 shall be revised to include the following:

D. Fuel Component. The "Fuel Component" is the portion of the PTS Solid Waste Fee that contains the elements of the Contractor's costs relative to the purchase of fuel for transportation services. The initial Fuel Component, which will be effective on July 1, 2012, is included in Exhibit "B".

11. Section 8.04B shall be revised as follows:

Base Component Annual Adjustment. The annual change to the Base Component of the PTS Solid Fee shall be calculated using 90% of the percentage change in the value of the CPI. If the Base Component Annual Adjustment calculation exceeds five (5) percent, the adjustment of the Base Component will be limited to five (5) percent. The specific adjustments shall be rounded to the nearest cent per ton. The adjustments to the Base component shall be made as shown in Exhibit "C".

12. Section 8.04 D shall be replaced with the following:

D. Fuel Adjustment. The Contractor (PTS) shall have the right to an adjustment of those portions of the PTS Solid Waste Fee which contain the elements of the Contractor's costs relative to the purchase of fuel for transportation services. As of the date of this agreement, the Contractor has determined and the City has agreed that the portion of the PTS Solid Waste Fee which is sensitive to cost of diesel fuel to be \$8.46 (hereafter referred to as "Fuel Baseline"). Contractor and City agree to annually adjust (increase or decrease) the Fuel Baseline portion of the PTS Solid Waste Fee by the 12-month trailing change in the Weekly Retail On-Highway Diesel Prices, California Index provided by the U.S. Energy Information Administration. If for practical business reasons, the Contractor or its provider of transportation services were to change its vehicles from diesel to some other form of energy, the Contractor and City will meet and mutually agree on a new index to replace the Weekly Retail on-Highway Diesel Prices Index and a new Fuel Baseline. The first adjustment to the Fuel Baseline shall be made on July 1, 2013.

The Contractor shall prepare and submit to the City its calculation of the adjusted Fuel Baseline component in accordance with the provisions of Section 8.04.E titled "Adjustment Schedule". The 12-month trailing change will be based on the 12-months in the calendar year preceding the proposed July 1 rate adjustment (January-December).

13. Section 8.04 shall be revised to include the following:

F. Adjusted PTS Solid Waste Fee. The Adjusted Solid Waste Fee shall be calculated as shown in Exhibit "C".

14. Section 8.05 shall be revised as follows:

8.05 PTS Organic Fees (Alternative Daily Cover and Compost)

A. General. The initial PTS Organic Fees include compensation for Transfer Station services, Transportation of City Waste to Designated landfills, Processing of organic materials for use as alternative daily cover or to produce compost, Disposal Services, and all applicable Governmental Fees. The PTS Organic Fees shall be effective during the Initial PTS Operating Period. The PTS Organic Fees are separated into three components: The Base Component, the Fuel Component and Governmental Fee Component. The adjustment process for the PTS Organic Fees is presented in Section 8.06. The initial rates, which will be effective on July 1, 2012, are included in Exhibit "A".

B. Base Component. The initial Base Component is that portion of the PTS Organic Fees comprised of the Contractor's fixed and variable costs, excluding the Fuel Component. The Base Component shall be adjusted annually during the Initial Operating Period to reflect 90% of the change in the CPI values as specified in Section 8.06B, but will not otherwise be adjusted except as the result of a modification to the scope of services as provided in Section 16.15. The initial Base Component, which will be effective on July 1, 2012, is included in Exhibit "B".

C. Governmental Fee Component. The Governmental Fee Component is that portion of the PTS Organic Fees comprised of the Contractor's Governmental Fees. The Governmental Fee Component is subject to adjustment only as necessary to reflect changes in Governmental Fees required by third parties as provided in Section 8.06C. The initial Governmental Fee Component, which will be effective on July 1, 2012, is included in Exhibit "B".

D. **Fuel Component.** The Fuel Component is the portion of the PTS Solid Waste Fee that contains the elements of the Contractor's costs relative to the purchase of fuel for transportation services. The initial Fuel Component, which will be effective on July 1, 2012, is included in Exhibit "B".

15. Section 8.06B shall be revised as follows:

Base Component Annual Adjustment. The annual change to the Base Component of the PTS Organic Fee shall be calculated using 90% of the percentage change in the value of the CPI. If the Base Component Annual Adjustment calculation exceeds five (5) percent, the adjustment of the Base Component will be limited to five (5) percent. The specific adjustments shall be rounded to the nearest cent per Ton. The adjustments to the Base component shall be made as shown in Exhibit "C".

16. Section 8.06D shall be replaced with the following:

D. **Fuel Component Adjustment.** The Contractor (PTS) shall have the right to an adjustment of those portions of the PTS Solid Waste Fee which contain the elements of the Contractor's costs relative to the purchase of fuel for transportation services. As of the date of this agreement, the Contractor has determined and the City has agreed that the portion of the PTS Solid Waste Fee which is sensitive to cost of diesel fuel to be \$8.46 (hereafter referred to as "Fuel Baseline"). Contractor and City agree to annually adjust (increase or decrease) the Fuel Baseline portion of the PTS Solid Waste Fee by the 12-month trailing change in the Weekly Retail On-Highway Diesel Prices, California Index provided by the U.S. Energy Information Administration. If for practical business reasons, the Contractor or its provider of transportation services were to change its vehicles from diesel to some other form of energy, the Contractor and City will meet and mutually agree on a new index to replace the Weekly Retail on-Highway Diesel Prices Index and a new Fuel Baseline. The first adjustment to the Fuel Baseline shall be made on July 1, 2013.

The Contractor shall prepare and submit to the City its calculation of the adjusted Fuel Baseline component in accordance with the provisions of Section 8.04.E titled "Adjustment Schedule". The 12-month trailing change will be based on the 12-months in the calendar year preceding the proposed July 1 rate adjustment (January-December).

17. Section 8.06 shall be revised to include the following:

F. **Adjusted PTS Organic Fees.** The Adjusted PTS Organic Fees shall be calculated as shown in Exhibit "C".

18. The following sections shall be included in the agreement as section 8.06.1 and 8.06.2 and shall be inserted after section 8.06 in its entirety, and before section 8.07:

8.06.1 PTS Construction and Demolition Fee

A. **General.** The PTS Construction and Demolition Fee includes compensation for Transfer Station services, Transportation of PTS Construction and Demolition Debris to the Otay Landfill for processing using the current equipment and processing methods and operations employed at the Otay Landfill for construction and demolition debris, Disposal Services, and all applicable Government Fees. The Construction and Demolition materials currently processed at the Otay Landfill include the following: cardboard, metal, wood, concrete, plastic, and gypsum board. The minimum diversion rate shall be 50%. The PTS Construction & Demolition Fee shall be effective during the Initial PTS

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Operating Period. The PTS Construction & Demolition Fee is separated into three components: The Base Component, the Fuel Component and Government Fee Component. The initial rates, which will be effective on July 1, 2012, are included in Exhibit "B". Should the City request changes to the current processing equipment, methods or operations for construction and demolition debris at the Otay landfill, the parties shall negotiate in good faith a revised scope of services and revised PTS Construction and Demolition Fee applicable to PTS Construction and Demolition Debris; but neither party shall be bound by this provision to agree on any revised services or fees.

- B. **Base Component.** The initial Base Component is that portion of the PTS Construction and Demolition Fee comprised of the Contractor's fixed and variable costs, excluding the Fuel Component. The Base Component shall be adjusted annually during the Initial Operating Period to reflect 90% of the change in the CPI values as specified in Section 8.06.2B, but will not otherwise be adjusted except as the result of a modification to the scope of services as provided in Section 16.15. The initial Base Component, which will be effective on July 1, 2012, is included in Exhibit "B".
- C. **Governmental Fee Component.** The Governmental Fee Component is that portion of the PTS Construction and Demolition Fee comprised of the Contractor's Governmental Fees. The Governmental Fee Component is subject to adjustment only as necessary to reflect changes in Governmental Fees required by third parties as provided in Section 8.06.2.C. The initial Governmental Fee Component, which will be effective on July 1, 2012, is included in Exhibit "B".
- D. **Fuel Component.** The Fuel Component is the portion of the PTS Construction and Demolition Fee that contains the elements of the Contractor's costs relative to the purchase of fuel for transportation services. The initial Fuel Component, which will be effective on July 1, 2012, is included in Exhibit "B".

8.06.2 Adjustment of PTS Construction and Demolition Fee

- A. **General.** The intent of this Agreement is to provide for an annual adjustment to the PTS Construction and Demolition Fee during the Initial PTS Operating Period. The first annual adjustment to the Base Component and the Fuel Component of the PTS Construction and Demolition Fee will be effective July 1, 2013.
- B. **Base Component Annual Adjustment.** The annual change to the Base Component of the PTS Construction and Demolition Fee shall be calculated using 90% of the percentage change in the value of the CPI. If the Base Component Annual Adjustment calculation exceeds five (5) percent, the adjustment of the Base Component will be limited to five (5) percent. The specific adjustments shall be rounded to the nearest cent per Ton. The adjustments to the Base component shall be made as shown in Exhibit "C".
- C. **Governmental Fee Component Annual Adjustment.** The PTS Construction and Demolition Fee includes all applicable Governmental Fees as of the Effective Date. The Governmental Fee Component of the PTS Construction and Demolition Fee shall be adjusted in the same manner described in Section 8.06.2C.
- D. **Fuel Component Adjustment.** The Contractor (PTS) shall have the right to an adjustment of those portions of the PTS Construction and Demolition Fee which contain the elements of the Contractor's costs relative to the purchase of fuel for transportation services. As of the date of this agreement, the Contractor has determined and the City has agreed that the portion of the PTS Solid Waste Fee which is sensitive to cost of

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diesel fuel to be \$8.46 (hereafter referred to as "Fuel Baseline"). Contractor and City agree to annually adjust (increase or decrease) the Fuel Baseline portion of the PTS Construction and Demolition Fee by the 12-month trailing change in the Weekly Retail On-Highway Diesel Prices, California Index provided by the U.S. Energy Information Administration. If for practical business reasons, the Contractor or its provider of transportation services were to change its vehicles from diesel to some other form of energy, the Contractor and City will meet and mutually agree on a new index to replace the Weekly Retail on-Highway Diesel Prices Index and a new Fuel Baseline. The first adjustment to the Fuel Baseline shall be made on July 1, 2013.

The Contractor shall prepare and submit to the City its calculation of the adjusted Fuel Component in accordance with the provisions of Section 8.06.2E titled "Adjustment Schedule". The 12-month trailing change will be based on the 12-months in the calendar year preceding the proposed July 1 rate adjustment (January-December).

- E. **Adjustment Schedule.** The adjustment schedule shall be made in a manner equivalent to the procedures described in Section 8.04.E.
- F. **Adjusted PTS Construction and Demolition Fees.** The Adjusted PTS Construction and Demolition Fees shall be calculated as shown in Exhibit "C".

19. The final two sentences of Section 8.07 shall be removed. These sentences reference PTS reducing rates to the City of San Diego, and implications of such an event occurring to the City of Carlsbad.

20. The attached Exhibit "A" shall serve as the initial fee schedule at the commencement of the Initial PTS Operating Period extension.

21. The attached Exhibit "B" shall serve as the initial detailed fee schedule for each component of the PTS Solid Waste Fee, PTS Organic Fee – Alternative Daily Cover, PTS Organic Fee – Compost, and PTS Construction & Demolition Fee.

22. The attached Exhibit "C" shall serve as an example of how the PTS fees will be adjusted annually.

23. All referenced amendments to the agreement shall be effective starting on June 1, 2012, with the City-Regulated Service Fees described in Exhibits "A" and "B" going into effect on July 1, 2012.

24. All future adjustments of the PTS Solid Waste fee shall occur on July 1 of each year.

25. All other provisions of the Agreement, as may have been amended from time to time, will remain in full force and effect.

26. All requisite insurance policies to be maintained by Contractor pursuant to the Agreement, as may have been amended from time to time, will include coverage for this Amendment.

///

///

27. The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR
PALOMAR TRANSFER STATION, INC.,
a California corporation

CITY OF CARLSBAD, a municipal
corporation of the State of California

By: [Signature]
(sign here)

By: [Signature]
Mayor

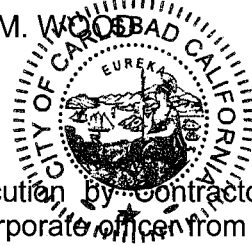
James T. Ambroso / Vice President
(print name/title)

ATTEST:

By: _____
(sign here)

[Signature]
LORRAINE M. WOODS
City Clerk

(print name/title)



If required by City, proper notarial acknowledgment of execution by contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:

Group A
Chairman,
President, **or**
Vice-President

Group B
Secretary,
Assistant Secretary,
CFO **or** Assistant Treasurer

Otherwise, the corporation must attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

RONALD R. BALL, City Attorney

BY: [Signature]
Assistant City Attorney

-12

**AMENDMENT NO. 2 TO THE AGREEMENT FOR
TRANSFER STATION AND DISPOSAL SERVICES
(PALOMAR TRANSFER STATION, INC.)**

This Amendment No. 2 is entered into and effective as of the 8th day of November, 2011, amending the agreement dated June 1, 2002, (the "Agreement") by and between the City of Carlsbad, a municipal corporation, ("City"), and Palomar Transfer Station, Inc., a California corporation ("Contractor") (collectively, the "Parties") for transfer station and disposal services.

RECITALS

A. WHEREAS, on May 30, 2011, the Parties executed Amendment No. 1 to the Agreement to extend the deadline for the City to notice Contractor, in writing, of City's intent to send some, all or none of City's waste to the PTS during the Subsequent Operating Period to 5 pm on December 2, 2011(the "Notice"); and

B. WHEREAS, Section 6.03 of the Agreement provides that the City must give the Contractor one year advance notice of the City's election to send some, all or none of the City's waste to the PTS during the Subsequent Operating Period, and to provide details regarding such waste deliveries; and

C. WHEREAS, the Parties desire to continue their ongoing discussions regarding an extension of the Initial Operating Period, or alternatively, the City to elect to send some, all or none of the City's waste to the PTS during the Subsequent Operating Period should that period commence on June 2, 2012, and, to assist these discussions, both Parties wish to extend the City's deadline to make its decision to provide written notice described in Section 6.03 to Contractor.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained herein, City and Contractor agree as follows:

1. The Agreement, as may have been amended from time to time, hereby extends the Notice deadline to March 30, 2012.


2. All other provisions of the Agreement, as may have been amended from time to time, shall remain in full force and effect.

///
///
///
///
///
///

3. The individuals executing this Amendment and the instruments referenced on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions hereof of this Amendment.

CONTRACTOR
PALOMAR TRANSFER STATION, INC.,
a California corporation

CITY OF CARLSBAD, a municipal
corporation of the State of California

*By: 

(sign here)
Jim Ambroso / Vice President

(print name/title)

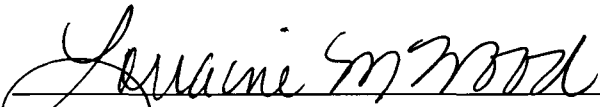
By: 

Mayor

**By: 

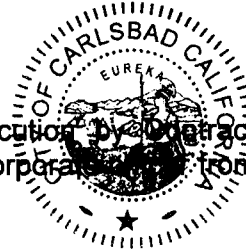
(sign here)
Warren Semper / Assistant Secretary

(print name/title)

ATTEST:


LORRAINE M. WOOD
City Clerk

If required by City, proper notarial acknowledgment of execution by Contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups:



***Group A.**
Chairman,
President, or
Vice-President

****Group B.**
Secretary,
Assistant Secretary,
CFO or Assistant Treasurer

Otherwise, the corporation **must** attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

RONALD R. BALL, City Attorney

By: 

Deputy City Attorney

First Amendment to Transfer Station and Disposal Services Agreement

This Amendment to the "Agreement for Transfer Station and Disposal Services," ("Agreement") between the City of Carlsbad ("City") and Palomar Transfer Station, Inc. ("Contractor"), made as of June 2, 2002, is entered into between the City and Contractor retroactively effective as of May 30, 2011. This Amendment is made in consideration of the following Recitals:

Recitals

WHEREAS, section 6.03 of the Agreement provides that the City must give the Contractor one year advance notice of the City's election to send some or all of the City's waste to the PTS during the Subsequent Operating Period, and to provide details regarding such waste deliveries; and

WHEREAS, the City and Contractor wish to continue their ongoing discussions regarding an extension of the Initial Operating Period or, alternatively, for the City to elect to send some or all of the City's waste to the PTS during the Subsequent Operating Period should that period commence on June 2, 2012, and, to assist these discussions, both Parties wish to extend the City's deadline to make its election to provide the written notices described in Section 6.03 to Contractor.

Amendment

NOW, THEREFORE, in consideration of the foregoing Recitals and for the receipt of other good and valuable consideration, which both Parties hereby acknowledge, the Parties agree as follows:

The deadlines for the City to deliver (in accordance with Section 16.10 of the Agreement, entitled "Notices") written notice to Contractor of the City's election to send some or all of the City's Waste to the PTS during the Subsequent Operating Period pursuant to Section 6.03, are hereby extended to 5 pm on December 2, 2011.

All other terms and conditions of the Agreement shall remain in full force and effect.

CITY OF CARLSBAD

BY: Matt Hall
Matt Hall, Mayor

DATE: June 7, 2011

PALOMAR TRANSFER STATION, INC.

BY: [Signature]

DATE: 5/31/11



PILLSBURY WINTHROP LLP

11682 EL CAMINO REAL SUITE 200 SAN DIEGO, CA 92130-2092 619.234.5000 F: 858.509.4010

June 19, 2002

Carmela D. Nicholas
Phone: 858.509.4058
cnicholas@pillsburywinthrop.com

Ronald Ball, Esq.
City of Carlsbad
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Re: Palomar Transfer Station - Carlsbad, CA
Our File No. 044084-0000012



Dear Ron:

With reference to that certain Agreement for Transfer Station and Disposal Services dated as of June 1, 2002 by and between the City of Carlsbad and Palomar Transfer Station, Inc., enclosed is an original executed Secretary's Certificate dated May 24, 2002 attaching resolutions adopted by the Board of Directors of Allied Waste North America, Inc.

If you have any questions, please do not hesitate to call me.

Very truly yours,


Carmela D. Nicholas

Enclosure

cc: Jo Lynn White, Esq. (w/o encl.)
Mr. James Ambroso (w/o encl.)
Mr. Dick "Bud" F. Chase, Jr. (w/o encl.)
Eric A. Kremer, Esq. (w/o encl.)

CERTIFICATE

The undersigned certifies that she is the duly elected, qualified and acting Assistant Secretary of ALLIED WASTE NORTH AMERICA, INC., a Delaware corporation (the "Corporation") and that attached hereto as Schedule A is a true and correct copy of resolutions duly adopted by the Board of Directors of the Corporation, and that such resolutions have not been amended or rescinded and are in full force and effect on the date hereof.

Dated: May 24, 2002.

A handwritten signature in cursive script that reads "Jo Lynn White". The signature is written in black ink and is positioned above a horizontal line.

Jo Lynn White
Assistant Secretary

SCHEDULE A

WHEREAS, Palomar Transfer Station, Inc., a California corporation ("PTS"), is a wholly-owned subsidiary of the Company;

WHEREAS, PTS desires to enter into certain transactions whereby PTS would (i) assign to the City of Carlsbad, California (the "City") all rights, title and interests of PTS in a certain lease with the County of San Diego, California, whereby PTS will lease a transfer station commonly known as the Palomar Transfer Station, located in Carlsbad, California, and (ii) sublease said transfer station from the City and operate same pursuant to a certain Agreement for Transfer Station and Disposal Services (the "Transfer Station Agreement") between PTS and the City;

WHEREAS, the Transfer Station Agreement requires that the Company shall unconditionally guarantee the performance of PTS's obligations under the Transfer Station Agreement (the "Obligations");

WHEREAS, the Board believes it is in the best interests of the Company to enter into a certain guarantee whereby the Company shall unconditionally guarantee the Obligations in order to permit PTS to enter into the Transfer Station Agreement with the City; and

WHEREAS, the Board has reviewed proposed drafts of, or otherwise been provided with detailed information with respect to a Guarantee made by the Company in favor of the City (the "Guarantee").

NOW, THEREFORE, BE IT RESOLVED, that the Guarantee, in the form presented to the Board, is hereby approved, and the chairman, president, vice president and secretary, assistant secretary, chief financial officer, and assistant treasurer of the Company are authorized and instructed, for and in the name of the Company, to execute and deliver the Guarantee in substantially the form that was presented to the Board, with such changes in such Guarantee as the person executing the same shall approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Omnibus

RESOLVED, that the officers of the Company are, and each acting alone is, hereby authorized, empowered and directed, for and on behalf of the Company, to take or cause to be taken any and all actions, including, without limitation, the execution, acknowledgment, filing, amendment and delivery of any and all papers, agreements, documents, instruments and certificates, and the payment of such sums, as such officers may deem necessary or advisable to carry out and perform the obligations of the Company under the foregoing resolutions and to consummate the transactions contemplated therein and otherwise carry out the purposes and intent of the foregoing resolutions; and the performance of any such acts and the execution, acknowledgment, filing and delivery by such officers of any such papers, agreements, documents, instruments and certificates shall conclusively evidence their authority therefor.



PILLSBURY WINTHROP_{LLP}

11682 EL CAMINO REAL SUITE 200 SAN DIEGO, CA 92130-2092 619.234.5000 F: 858.509.4010

June 13, 2002

Carmela D. Nicholas
Phone: 858.509.4058
cnicholas@pillsburywinthrop.com

Ronald Ball, Esq.
City of Carlsbad
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Re: Carlsbad Transfer Station Agreement
Our File No. 014279-0000012



Dear Ron:

Enclosed for your files is an original fully-executed Assignment of Lease - County Contract with Palomar Transfer Station, APN No. 97-0085-A1 dated June 1, 2002 by Palomar Transfer Station, Inc., as Assignor, City of Carlsbad, as Assignee, and the County of San Diego, as a consenting party.

Please do not hesitate to call me if you have any questions.

Very truly yours,

Carmela D. Nicholas

Enclosure

cc: Mr. Frank Mannen (w/o encl.)
Jo Lynn White, Esq. (w/o encl.)
Mr. James Ambroso (w/o encl.)
Mr. Dick "Bud" F. Chase, Jr. (w/o encl.)
Eric A. Kremer, Esq. (w/o encl.)

ASSIGNMENT OF LEASE

**COUNTY CONTRACT WITH PALOMAR TRANSFER STATION
APN NO. 97-0085-A1**

For a valuable consideration, receipt of which is hereby acknowledged, Palomar Transfer Station, Inc., a California corporation, as ASSIGNOR, hereby assigns and transfers to City of Carlsbad, a municipal corporation, as ASSIGNEE, all right, title, and interest of the undersigned as Lessee in and under that certain Lease known as the Palomar Transfer Station Lease Agreement, APN # 97-0085-A1 with County of San Diego, Dated October 31, 1997 between the County of San Diego, a political subdivision of the State of California, as Lessor, and Palomar Transfer Station, Inc., a California corporation, as Lessee.

ASSIGNOR: PALOMAR TRANSFER STATION, INC., a California corporation

By: [Signature] Dated: June 1, 2002
Name: James T. Ambrosio
Title: Vice President

By: [Signature] Dated: June 1, 2002
Name: Dick F. Chase Jr.
Title: Business Development Mgr., Allied Waste Industries, Inc.

ACCEPTANCE OF ASSIGNMENT

The undersigned Assignee hereby accepts the foregoing assignment and hereby agrees to keep, perform and be bound by all the terms, covenants, and conditions in said Lease on the part of the Lessee therein to be kept and performed as though the undersigned Assignee was the original Lessee thereunder.

ASSIGNEE: CITY OF CARLSBAD, a municipal corporation

By: [Signature] Dated: June 1, 2002
Name: [Signature] Title: Mayor

CONSENT TO ASSIGNMENT

(B/S Auth. 7/30/85 (8))

The COUNTY OF SAN DIEGO does hereby consent to the above assignment. In the event the assignment of this leasehold is not legally consummated within 60 days from the date upon which the COUNTY OF SAN DIEGO took action consenting to the assignment, this consent shall become automatically void and of no further effect.

COUNTY OF SAN DIEGO

By: [Signature] Dated: May 31, 2002
CATHERINE J. TROUT Director (Acting)
Department of General Services
County Lease Administrator

**AGREEMENT FOR TRANSFER STATION
AND DISPOSAL SERVICES**

BETWEEN

THE CITY OF CARLSBAD

AND

PALOMAR TRANSFER STATION, INC.

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EXHIBITS

- A PALOMAR TRANSFER STATION LEASE AGREEMENT
- B SUBLEASE AND DISPOSAL AGREEMENT BETWEEN ALLIED WASTE INDUSTRIES, INC. AND WASTE MANAGEMENT, INC.
- C SUBLEASE AGREEMENT FOR PALOMAR TRANSFER STATION BETWEEN THE CITY AND THE CONTRACTOR
- D GUARANTY AGREEMENT
- E CAPITAL IMPROVEMENT PROJECTS AND COMPLETION SCHEDULE FOR PALOMAR TRANSFER STATION

SCHEDULE 2.04 CTS DEVELOPMENT MILESTONES

SCHEDULE 14.04 FORM OF UCC FINANCING STATEMENT

1 **AGREEMENT FOR TRANSFER STATION AND DISPOSAL SERVICES**

2 This AGREEMENT FOR TRANSFER STATION AND DISPOSAL SERVICES is
3 made as of June 1, 2002, by and between the City of Carlsbad (the "City"), a municipal
4 corporation of the State of California, and Palomar Transfer Station, Inc. (the "Contractor"), a
5 California corporation (collectively "Parties").

6 **RECITALS**

7 **Whereas**, the State of California through enactment of the California Integrated Waste
8 Management Act of 1989, has directed all local agencies, to promote Recycling and to maximize
9 the use of feasible source reduction, Recycling and composting options in order to reduce the
10 amount of municipal solid waste that must be disposed of by land disposal and to plan for
11 disposal of municipal solid waste generated in the City and this Agreement will assist the City in
12 meeting these requirements; and

13 **Whereas**, the City needs a facility to Accept and Transfer City Waste and wishes to
14 ensure the long-term viability of such a facility by securing capacity at a Transfer Station owned
15 by others or by owning a Transfer Station itself; and

16 **Whereas**, the Contractor has entered into a certain Palomar Transfer Station Lease
17 Agreement, dated as of October 31, 1997 (the "County Lease") with the County of San Diego for
18 the Palomar Transfer Station for a term of (25) years commencing June 1, 2002, with the right to
19 fourteen (14) five (5) year extensions, a copy of which is attached hereto as Exhibit A; and,

20 **Whereas**, as of the Effective Date the Contractor shall assign its interest in the County
21 Lease to the City and the City shall become lessee under the County Lease; and

22 **Whereas**, the Contractor shall retain its interest under a certain Sublease and Disposal
23 Agreement dated May 31, 2000 (the "WMI Sublease") between Allied Waste Industries, Inc.,
24 and Waste Management, Inc., for the sublease of the Palomar Transfer Station, a copy of which
25 is attached hereto as Exhibit B; and

26 **Whereas**, in the future the City may, but is not required to, develop and/or own a new
27 Transfer Station in the City; and

28 **Whereas**, the Contractor has the qualifications and experience to operate the Palomar
29 Transfer Station and/or City Transfer Station and can do so in a manner and on terms
30 contemplated herein; and

31 **Whereas**, the City needs to secure Disposal capacity at one or more landfills to serve as
32 the place of safe, legal, and permitted Disposal for City Waste that is not otherwise Diverted
33 through source reduction, reuse, or Recycling efforts; and

34 **Whereas**, the City acknowledges that the Contractor's assignment of the County Lease to
35 the City reduces the Contractor's ability to provide Transfer and Disposal services to
36 communities and waste collection companies; therefore, the City agrees to enter into a sublease
37 agreement (the "PTS Sublease") with the Contractor, in the form attached hereto as Exhibit C

1 whereby the City shall sublease the PTS to the Contractor, and to provide the Contractor with the
2 right to Transfer the remaining available capacity of the Palomar Transfer Station or City
3 Transfer Station after first fully providing for City Waste and the right to use an operational area
4 for twenty-five (25) years commencing June 1, 2002, in exchange for the Contractor's payment
5 for such Transfer right in accordance with this Agreement; and

6 **Whereas**, the Contractor and/or its Affiliates are the owners and operators of several
7 landfill sites in the County of San Diego that can fulfill the City's needs with regards to securing
8 Disposal capacity as provided herein; and

9 **Whereas**, the City has the right to secure the services herein from the Contractor through
10 negotiations and has the authority to enter into this Agreement; and

11 **Whereas**, the City wishes to engage the Contractor to provide the services specified
12 within this Agreement, in accordance with the terms and conditions negotiated between the
13 Parties and documented in this Agreement;

14 **NOW, THEREFORE**, in consideration of the mutual promises, covenants, and
15 conditions contained in this Agreement and for other good and valuable consideration, the
16 Parties agree as follows:

17 **ARTICLE 1**
18 **DEFINITIONS**

19 Unless the context otherwise requires, capitalized terms used in this Agreement will have the
20 meanings specified in this Article.

21 **"Accept"** (or **"Acceptance"** or other variations thereof) is the transfer of ownership of Delivered
22 Waste, Recyclable Materials, or Organic Materials to the Contractor from the Person Delivering
23 the materials, as provided in Section 3.34. Materials will be deemed Accepted unless the
24 Contractor rejects the materials within 24 hours of receipt.

25 **"Affiliate"** means all businesses (including corporations, limited and general partnerships and
26 sole proprietorships) which are directly or indirectly related to the Contractor by virtue of direct
27 or indirect Ownership interest or common management shall be deemed to be "Affiliated with"
28 the Contractor and included within the term "Affiliates" as used herein. An Affiliate shall
29 include a business in which the Contractor has a direct or indirect Ownership interest, a business,
30 which has a direct or indirect Ownership interest in the Contractor and/or a business, which is
31 also Owned, controlled or managed by any business or individual which has a direct or indirect
32 Ownership interest in the Contractor.

33 **"Agreement"** means this Agreement for Transfer Station and Disposal Services between the
34 City and the Contractor.

35 **"Alternative Daily Cover"** means landfill cover material other than at least six (6) inches of
36 earthen material, placed on the surface of the active face of the refuse fill area at the end of each
37 operating day to control vectors, fires, odor, blowing litter, and scavenging as defined in Section
38 20164 of the California Code of Regulations.

- 1 **“Applicable Law”** means all statues, rules, regulations, Permits, orders, or requirements of the
2 United States, State, County, City and local government authorities and agencies having
3 applicable jurisdiction, that apply to or govern the Facilities, the Site or the performance of the
4 Parties’ respective obligations hereunder in effect as of the Execution Date and as amended
5 and/or enacted hereinafter including, but not limited to, Environmental Laws.
- 6 **“Article”** refers to the articles of this Agreement unless otherwise specified.
- 7 **“Base Component”** means that portion of a Service Fee that is periodically adjusted throughout
8 the Term by CPI.
- 9 **“Brown Goods”** means electronic equipment and other small appliances including, but not
10 limited to, audio equipment, televisions, computers, and microwave ovens.
- 11 **“Bulky Goods”** means discarded materials that require special handling due to their size
12 including, but not limited to, White Goods, Brown Goods, furniture, tires, carpets, mattresses,
13 fencing, cabinetry, household fixtures, tree trunks, and similar large items discarded as refuse,
14 but excluding automobiles.
- 15 **“Buyback/Drop-Off Center”** means an area located at the Transfer Station where the
16 Contractor provides Self Haulers the opportunity to Divert Source Separated Recyclable
17 Materials from Disposal for free or for a price paid by the Contractor to Self Hauler when market
18 prices exist for the Recyclable Materials.
- 19 **“California Integrated Waste Management Act”** means California Public Resources Code,
20 §40000 et seq., as may be amended from time to time.
- 21 **“California Integrated Waste Management Board”** means the State entity which oversees and
22 enforces all waste management provisions of Division 30 of the California Public Resources
23 Code and the regulations adopted thereto. The powers and duties of the California Integrated
24 Waste Management Board are described in California Public Resources Code §43300 to §43310,
25 as may be amended from time to time.
- 26 **“Change in Law”** means the occurrence of any event or change in Applicable Law as follows:
- 27 (1) The adoption, promulgation, amendment, modification, rescission, revision or
28 revocation of any Applicable Law or change in judicial or administrative
29 interpretation thereof occurring after the date hereof; or
- 30 (2) Any order or judgment of any federal, state or local court, administrative agency
31 or governmental body issued after the date hereof if:
- 32 (a) Such order or judgment is not also the result of the willful misconduct or
33 negligent action or inaction of the Party relying thereon or of any third
34 party for whom the Party relying thereon is directly responsible; and
- 35 (b) The Party relying thereon, unless excused in writing from so doing by the
36 other Party, shall make or have made, or shall cause or have caused to be

1 made, Reasonable Business Efforts in good faith to contest such order or
2 judgment (it being understood that the contesting in good faith of such an
3 order or judgment shall not constitute or be construed as a willful
4 misconduct or grossly negligent action of such Party); or

5 (3) The imposition by a governmental authority or agency of any new or different
6 material conditions in connection with the issuance, renewal, or modification of
7 any Permit after the Execution Date; or

8 (4) The failure of a governmental authority or agency to issue, or the suspension or
9 termination of, any Permit after the date hereof.

10 **“City”** means the City of Carlsbad, State of California.

11 **“City Council”** means the duly elected representative council, or its successor municipal
12 governing body, of the City.

13 **“City Party(ies)”** means the City, its officers, directors, employees, volunteers and agents and
14 the Designated Haulers (only for such periods where such Designated Haulers are under contract
15 with the City as such).

16 **“City’s Fiscal Year”** means the period commencing July 1 and concluding June 30 of the
17 following year.

18 **“City Source Separated Organic Materials”** means Organic Materials generated in the City
19 which have been Source Separated.

20 **“City Transfer Station (or CTS)”** means the Transfer Station owned and constructed by the
21 City, which as of the Execution Date of this Agreement, has not been sited, acquired, designed,
22 Permitted or constructed.

23 **“City Use Fee”** is the compensation due to the Contractor from the Designated Hauler(s) for
24 Acceptance of City Waste for Transfer during the City Use Period of the Subsequent PTS
25 Operating Period.

26 **“City Use Period”** is that portion of the Subsequent PTS Operating Period when the Contractor
27 operates and maintains the Transfer Station and the City exercises its right to use the Transfer
28 Station as described in Section 2.04.C.

29 **“City Waste”** means Solid Waste originally generated in the City or first collected for Disposal
30 in the City that is Delivered to the Transfer Station by the City, Designated Hauler(s) or Self
31 Haulers.

32 **“Claim”** means any claim by third parties against the Contractor including, but not limited to,
33 injury, death of any person, damage to private property, any and all loss, liability, penalty,
34 forfeiture, claim, demand, action, proceeding or suit of any and every kind and description,
35 whether judicial, quasi-judicial or administrative in nature, arising out of or occasioned in any
36 way by, directly or indirectly, the Contractor’s performance of or its failure to perform its

1 obligations under this Agreement, including the Contractor's failure to comply with all
2 Applicable Law or the Contractor's breach of its representation and warranties under this
3 Agreement.

4 **"Closure"** means all activities and related costs involved in closure of the Designated Landfills
5 or portions of the Designated Landfills in accordance with Applicable Law and Permits.

6 **"Conditional Use Permit"** is defined in Section 3.15.C.

7 **"Contractor"** means Palomar Transfer Station, Inc. (a wholly-owned subsidiary of Allied Waste
8 North America, Inc.), a corporation organized and operating under the laws of California.

9 **"Contractor Capacity Fee"** is the compensation due to the City from the Contractor for the
10 portion of the Transfer Capacity Guarantee that is not used by the Contractor or the Contractor's
11 Haulers during the CTS Marketing Period.

12 **"Contractor's Compensation"** means the payment received by the Contractor in return for
13 providing services in accordance with this Agreement.

14 **"Contractor's Fiscal Year"** means the period commencing January 1 and concluding December
15 31 of the same year.

16 **"Contractor's Hauler(s)"** means the entity or entities that, separate from this Agreement, are
17 designated by the Contractor to Deliver Solid Waste to the City Transfer Station for Transfer
18 purposes and that use some or all of the Contractor's Transfer Capacity Guarantee during the
19 CTS Marketing Period.

20 **"Contractor Use Fee"** is the compensation due to the City from the Contractor for Acceptance
21 of Solid Waste Delivered to the City Transfer Station by the Contractor or the Contractor's
22 Haulers for Transfer during the CTS Marketing Period.

23 **"County"** means the County of San Diego, California.

24 **"County Lease"** is defined in the Recitals to this Agreement.

25 **"CPI"** means the All Urban Consumers San Diego, CA Index (All Urban Consumers; where
26 1982-84 = 100) compiled and published by the United States Department of Labor, Bureau of
27 Labor Statistics. If such index is no longer published, such other index published by the
28 Department of Labor, Bureau of Labor Statistics or its successor agency, for the geographic area
29 corresponding to San Diego County generally or the City specifically, shall be the index used,
30 subject to mutual approval of the parties.

31 **"CTS (or City Transfer Station)"** means the Transfer Station owned and constructed by, or for,
32 the City, which as of the Execution Date of this Agreement, has not been sited, acquired,
33 designed, Permitted or constructed.

34 **"CTS Contractor Operating Period"** means the period when the Contractor operates the City
35 Transfer Station. The duration of such period is described in Section 2.05.

- 1 **“CTS Marketing Period”** means the period when the Contractor shall have the right to market
2 Transfer services to other parties.
- 3 **“CTS Operations Date”** means the date that the City Transfer Station is ready for full
4 operations on which date the Contractor shall commence operations of the City Transfer Station
5 pursuant to this Agreement.
- 6 **“CTS Third Party Operating Period”** means the period when a party, other than the
7 Contractor, that is designated by the City operates the City Transfer Station.
- 8 **“Deliver (Delivers or Delivery or other variations thereof)”** means arrival of Permitted Materials
9 in vehicles at the Transfer Station entrance during Facility receiving hours for the purposes of
10 Acceptance.
- 11 **“Designated Hauler(s)”** means the entity or entities that, separate from this Agreement, are
12 contracted, licensed, permitted, or otherwise designated by the City to collect Permitted
13 Materials within the City. As of the Effective Date, the Designated Hauler is Coast Waste
14 Management, Inc.
- 15 **“Designated Landfill(s)”** means the Solid Waste handling facilities utilized for the Disposal of
16 City Waste received at Transfer Station by the Contractor. As of the Effective Date, the Borrego
17 Landfill, Otay Landfill, Ramona Landfill and Sycamore Landfill, which are owned by the
18 Contractor or its Affiliates, shall be the Designated Landfills.
- 19 **“Designated Organics Processing Facility”** means a Permitted facility where Source Separated
20 Organic Materials Delivered by the Designated Hauler(s) are sorted, ground, mulched or
21 separated for the purposes of land application, Alternate Daily Cover, reuse or composting, so
22 long as that purpose complies with the California Integrated Waste Management Act.
- 23 **“Direct Costs”** means costs directly related to the implementation of this Agreement and all
24 obligations that include any and all of the following:
- 25 (1) Payroll costs directly related to the performance or management or supervision of
26 any obligation pursuant to the provisions hereof, comprised of compensation and
27 fringe benefits, including vacation, sick leave, holidays, retirement, workers’
28 compensation insurance, federal and State unemployment taxes and all medical
29 and health insurance benefits; plus
- 30 (2) The costs of materials, services, direct rental costs and supplies; plus
- 31 (3) Travel and subsistence costs; plus
- 32 (4) The reasonable costs of any payments to subcontractors necessary to and in
33 connection with the performance hereunder; plus
- 34 (5) Any other cost or expense which is directly or normally associated with the task
35 performed; which Direct Costs are substantiated by:

1 (a) A certificate signed by the principal financial officer of the Contractor
2 setting forth the amount of such cost and the reason why such cost is
3 properly chargeable to the City, as the case may be, and stating that such
4 cost is an "arm's length" and competitive price, if there are competitive
5 prices, for the service or materials supplied, and

6 (b) If the City requests, such additional back-up documentation as may be
7 available to reasonably substantiate any such Direct Cost, including
8 invoices from suppliers and subcontractors.

9 **"Disposal (or Dispose or other variations thereof)"** means the ultimate disposition of Solid
10 Waste at a Landfill in Full Regulatory Compliance.

11 **"Disposal Fee"** means the per-Ton compensation due to the Contractor for provision of Disposal
12 services as described in Article 5. The Disposal Fee is part of the Contractor's Compensation
13 under this Agreement.

14 **"Diversion Guarantee"** means the requirement of the Contractor to use Reasonable Business
15 Efforts to Recover and Divert a specific percentage by weight of Recyclable Materials and
16 Organic Materials from the City Waste Delivered to the Transfer Station as specified in Section
17 3.30.A.

18 **"Divert (or Diversion)"** means to prevent Recyclable Materials or Organic Materials from
19 Disposal at landfill or transformation facilities (including facilities using incineration, pyrolysis,
20 distillation, gasification or biological conversion methods) through source reduction, reuse,
21 Recycling and composting, as provided in Section 41780 of the California Integrated Waste
22 Management Act, as such California Integrated Waste Management Act may be hereafter
23 amended or superseded. Diversion is a broad concept that is to be inclusive of material handling
24 and Processing changes that may occur over the Term including, but not limited to,
25 implementation of innovative (but not necessarily fully proven) techniques or technology that
26 reduce Disposal risk, decrease costs and/or are for other reasons deemed desirable by the City.
27 City requested changes in the Diversion programs described in this Agreement are subject to
28 3.30.A. below.

29 **"Effective Date"** means June 1, 2002, as specified in Section 2.01.

30 **"Environmental Laws"** means all federal and State statutes, county, and local ordinances
31 concerning public health, safety and the environment including, by way of example, the
32 Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC
33 §9601 et seq.; the Resource Conservation and Recovery Act, 42 USC §6902 et seq.; the Federal
34 Clean Water Act, 33 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §1601 et
35 seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous
36 Waste Control Act, California Health and Safety Code §25100 et seq.; the California Toxic
37 Substances Control Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne
38 Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and
39 Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the California

1 Integrated Waste Management Act, California Public Resources Code §40000 et seq., as
2 currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

3 **“Execution Date”** means the date when the final signature of the Parties is provided to this
4 Agreement authorizing the Agreement.

5 **“Extension (or Extend)”** means to cause the end date of the CTS Contractor Operating Period to
6 be beyond the fifth (5th) anniversary of the CTS Operations Date through an amendment of this
7 Agreement as provided for in Section 2.05.

8 **“Facilities”** means the plants or sites, owned or leased and maintained, operated, and/or used by
9 the Contractor for purposes of performing under this Agreement including the Transfer Station
10 and Designated Landfills.

11 **“Force Majeure”** events include and are limited to floods, earthquakes, other extraordinary acts
12 of nature, war, terrorism or insurrection, riots, or other similar catastrophic events, not caused or
13 maintained by the Contractor, which event is not reasonably within the ability of the Contractor
14 to intervene in or control, to the extent that such event has a material adverse effect on the ability
15 of the Contractor to perform its obligations under this Agreement. No event, the effects of which
16 could have been prevented by reasonable precautions, including compliance with Applicable
17 Law and Standard Industry Practices shall be a Force Majeure event. No failure of performance
18 by any subcontractor of the Contractor shall be a Force Majeure event unless such failure is itself
19 caused by a Force Majeure event directly affecting the subcontractor.

20 **“Franchise Fee”** means the fee paid by the Contractor to the City for the right to hold the
21 exclusive franchise granted by this Agreement as further described in Section 12.04.

22 **“Full Regulatory Compliance”** means compliance with all applicable Permits for a Transfer
23 Station or a Designated Landfill such that the Contractor shall at all times maintain the ability to
24 comply fully with its obligations under this Agreement.

25 **“Governmental Fee Component”** is that portion of a Service Fee comprised of Governmental
26 Fees which are applicable on or before the Execution Date as well as new costs incurred during
27 the Term adjusted as provided in Articles 8 and 9.

28 **“Governmental Fees”** means governmental and regulatory fees, surcharges, and other costs, that
29 are directly assessed against the Contractor by governmental entities and that the Contractor
30 remits to such entities, or any of the foregoing which are included in fees paid by the Contractor
31 to owners or operators of facilities not owned by the Contractor, such as organic processing
32 facilities, which are necessary for provision of the services by the Contractor under this
33 Agreement. The Governmental Fees are limited to City verified costs incurred by the Contractor
34 as a direct or indirect result of mandatory federal, state, regional and local governmental and/or
35 regulator fees, surcharges, assessments or other governmental payments related to Facility
36 operation and the services to be provided by the Contractor to City under this Agreement except
37 costs related to judgments, settlements, fines, or liquidated damages. Governmental Fees are
38 costs to which no element of overhead, administrative expense, profit, or other cost is added nor
39 with respect to which any other amount is credited, such that the specific amount of such cost is
40 included in the Contractor’s compensation without modification in the calculations.

1 **“Guarantor”** means Allied Waste North America, Inc., a Delaware corporation.

2 **“Guaranty Agreement”** is the agreement attached as Exhibit D that is executed by the
3 Guarantor guaranteeing the timely and full performance of the Contractor’s obligations.

4 **“Hazardous Substance”** shall mean any of the following: (a) any substances defined, regulated
5 or listed (directly or by reference) as "Hazardous Substances," "hazardous materials,"
6 "Hazardous Wastes," "toxic waste," "pollutant" or "toxic substances" or similarly identified as
7 hazardous to human health or the environment, in or pursuant to (i) the Comprehensive
8 Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.
9 (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the
10 Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33
11 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and
12 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and (vii) California Water Code §13050;
13 (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or
14 acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance,
15 material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any
16 other applicable federal, state or local environmental laws currently existing or hereinafter
17 enacted, including, without limitation, friable asbestos, polychlorinated biphenyls, petroleum,
18 natural gas and synthetic fuel products, and by-products.

19 **“Hazardous Waste”** means all substances defined as Hazardous Waste, acutely Hazardous
20 Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code
21 §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such
22 statutes or identified and listed as Hazardous Waste by the U.S. Environmental Protection
23 Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC
24 §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated
25 thereunder.

26 **“Holidays”** are defined as New Year’s Day, Memorial Day, Independence Day (July 4), Labor
27 Day, Thanksgiving Day, and Christmas Day.

28 **“Initial PTS Operating Period”** is the portion of the PTS Operating Period when the Contractor
29 operates and maintains the Transfer Station and the City guarantees Delivery of City Waste and
30 City Source Separated Organic Materials Delivered by, or on behalf of the City, and its
31 Designated Hauler(s) to the Transfer Station as described in Section 2.04.A.

32 **“Landfill”** means a facility where Solid Waste is placed for Disposal.

33 **“LEA”** is defined in Section 13.10.

34 **“Maximum Vehicle Turnaround Time”** shall be, on average, fifteen (15) minutes measured
35 from the time a vehicle Delivering Permitted Materials leaves the scale house unloads Permitted
36 Material in the Transfer Station, and exits the Transfer Station, all in the normal course of
37 business.

38 **“Means and Methods (or Means or Methods)”** refers to the technologies and/or techniques
39 used in all aspects of Solid Waste management. This term is used in relation to Section 16.16 in

1 recognition of the fact that technologies and techniques may well change over the Term. This
2 change in Means and Methods may be the result of the availability of new technologies and/or
3 techniques, or the availability to the Parties of new technologies and/or techniques that were not
4 available to them as of the Execution Date. "Means and Methods" encompasses the full possible
5 or potential range of changes in management practices for Transfer, Transport, and Disposal,
6 material Recovery and Diversion, including the use of innovative but not necessarily fully
7 proven technology and/or techniques. Changes in Means and Methods may include, but are not
8 limited to, technologies and/or techniques that reduce Transfer, Transport, or Disposal volume,
9 risk, or costs and/or are for other reasons deemed desirable by the City.

10 **"Operations and Maintenance Manual"** is a document detailing all procedures associated with
11 operations and maintenance of the Transfer Station as defined in Section 3.13.

12 **"Organic Materials"** means a subset of Recyclable Materials consisting of grass cuttings,
13 weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees (not more than
14 six [6] inches in diameter), and similar organic materials generated at residential commercial,
15 industrial and institutional properties. Materials not normally produced from gardens or
16 landscapes, such as, but not limited to, palm fronds, brick, rock, gravel, large quantities of dirt,
17 concrete, sod, non-organic wastes and oil shall be excluded from Organic Materials. Diseased
18 plants and trees are also excluded from Organic Materials.

19 **"Ownership (or Own or other variations thereof)"** means ownership as defined in the
20 constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in
21 effect on the date here, provided that ten (10) percent shall be substituted for fifty (50) percent in
22 Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; and Section 318(a)(5)(C) shall be
23 disregarded. For purposes of determining ownership under this paragraph and constructive or
24 indirect ownership under Section 318(a), ownership interest of less than ten (10) percent shall be
25 disregarded and percentage interests shall be determined on the basis of the percentage of voting
26 interest of value which the ownership interest represents, whichever is greater.

27 **"Palomar Transfer Station (or PTS)"** means the existing Transfer Station at the McClellan-
28 Palomar Airport in the City, which is situated on land owned by the County of San Diego,
29 Airports Division, and leased by the City.

30 **"Party"** and **"Parties"** refers to the City and the Contractor, individually or together.

31 **"Permits (or Permitting or other variations thereof)"** means all federal, State and local, statutory
32 or regulatory approvals, or other measures or mechanisms necessary for the Contractor to be in
33 Full Regulatory Compliance in the performance of all the Contractor's obligations, as renewed or
34 amended from time to time.

35 **"Permitted Materials"** means Solid Wastes or other materials that the Facilities may receive
36 under their Permits and Applicable Law, including nonhazardous Solid Wastes, Recyclable
37 Materials, construction and demolition waste, Organic Materials, and other materials that may be
38 Accepted and safely handled, Recycled, or Disposed.

- 1 **“Person”** means any individual, firm, association, organization, partnership, corporation,
2 business trust, joint venture, the United States, the State of California, the County, towns, cities,
3 and special purpose districts, excluding the City.
- 4 **“Post-Closure”** pertains to all activities and related costs during the Post-Closure period of the
5 Designated Landfills or portions of the Designated Landfills in accordance with Applicable Law
6 and Permits.
- 7 **“Premises”** means any land or building in the City where solid Waste is generated or
8 accumulated.
- 9 **“Processing”** means to prepare, treat, consolidate, or convert materials through some special
10 method such as baling, crushing, shredding, chipping, grinding, extracting, mechanical or hand
11 classification.
- 12 **“PTS (or Palomar Transfer Station)”** means the existing Transfer Station at the McClellan-
13 Palomar Airport in the City, which is situated on land owned by the County of San Diego,
14 Airports Division, and leased to the City.
- 15 **“PTS Operating Period”** means the period the Contractor operates the Palomar Transfer Station
16 as described in Section 2.04. The PTS Operating Period includes the Initial PTS Operating
17 Period, Subsequent PTS Operating Period, and City Use Period, as applicable.
- 18 **“PTS Organic Fee”** is the per-Ton compensation due to the Contractor from the Designated
19 Hauler(s) for Acceptance of City Source Separated Organic Materials during the Initial PTS
20 Operating Period. The PTS Organic Fee is comprised in total of the PTS Organic Transfer
21 Component, PTS Organic Transport Component, PTS Organic Processing Component, and
22 Governmental Fee Component.
- 23 **“PTS Organic Processing Fee”** means the portion of a PTS Organic Fee that is the per-Ton
24 compensation due to the Contractor for Processing costs charged at the Designated Organics
25 Processing Facility.
- 26 **“PTS Organic Transfer Fee”** means the portion of a PTS Organic Fee that is the per-Ton
27 compensation due to the Contractor for providing Transfer Station services for City Organic
28 Materials.
- 29 **“PTS Organic Transport Fee”** means the portion of the PTS Organic Fee that is the per-Ton
30 compensation due to the Contractor for providing Transport services for City Organic Materials
31 as described in Article 4 during the PTS Operating Period.
- 32 **“PTS Other Fees”** means the Service Fees that the Contractor collects at the Palomar Transfer
33 Station from Transfer Station Users other than the PTS Solid Waste Fee, PTS Organic Fee and
34 City Use Fee.
- 35 **“PTS Service Fees”** means all Service Fees collected by the Contractor from Palomar Transfer
36 Station Users including PTS Other Fees, PTS Solid Waste Fee, PTS Organic Fee, and City Use
37 Fee.

1 **“PTS Solid Waste Fee”** is the per-Ton compensation due to the Contractor from the Designated
2 Hauler(s) for Acceptance of City Waste during the Initial PTS Operating Period. The PTS Solid
3 Waste Fee is comprised in total of the Base Component and Governmental Fee Component.

4 **“PTS Sublease”** means the sublease agreement between the City and the Contractor for the
5 sublease by the Contractor of the Palomar Transfer Station in the form attached in Exhibit C.

6 **“Reasonable Business Efforts”** means those efforts a reasonably prudent business Person in the
7 solid waste industry in Southern California would expend under the same or similar
8 circumstances in the exercise of such Person’s business judgment, intending in good faith to take
9 steps calculated to satisfy the obligation that such Person has undertaken to satisfy in compliance
10 with Applicable Laws, applicable Permits and safe operating procedures.

11 **“Recovered Materials”** means Recyclable Materials or Organic Materials Recovered at the
12 Transfer Station from Permitted Materials.

13 **“Recovery (or Recover, Recovered or other variations thereof)”** means the picking, pulling,
14 sorting, separating, classifying and recovery of Recyclable Materials or Organic Materials from
15 Permitted Materials whether by manual or mechanical means, at the Transfer Station, after
16 Acceptance of Permitted Materials and before marketing of Recovered Materials.

17 **“Recyclable Materials”** means materials having a potential for reuse or reprocessing or other
18 materials declared as Recyclable Materials by the City.

19 **“Recycling (or Recycle or other variations thereof)”** means the process of separating for
20 collection, collecting, treating and/or reconstituting Recyclable Materials, which would
21 otherwise be discarded, and returning them to the economy in the form of raw materials for new,
22 reused, or reconstituted products or reuse. The collection, Transportation or Disposal of Solid
23 Waste, not intended for or capable of reuse, is not Recycling.

24 **“Rolling Stock”** means the mobile equipment used at the Facilities and on the highway to meet
25 the Contractor’s obligations.

26 **“Section”** refers to the sections of this Agreement unless otherwise specified.

27 **“Self Haulers (or Self Haul or other variations thereof)”** means Persons who Deliver Permitted
28 Materials, on their own behalf, and not as a commercial enterprise or on behalf of a municipality.

29 **“Service Fees”** means all charges and fees collected from Transfer Station Users for Delivery of
30 Permitted Materials to the Transfer Station including the PTS Service Fees, CTS Service Fees,
31 Contractor Use Fee, and Contractor Capacity Fee.

32 **“Significant (cost or event)”** means that the cumulative annual financial impact to the City or the
33 Contractor exceeds fifty thousand dollars (\$50,000). Such amount shall be adjusted to reflect
34 CPI changes over the Term in the same manner that liquidated damages are adjusted in
35 accordance with Section 8.09.

36 **“Site”** means the parcel(s) of land on which the Transfer Station is situated.

1 **“Small Self Haul (or Small Self Haulers)”** means Self Haulers arriving in passenger cars, pick-
2 up trucks with beds less than or equal to eight (8) feet in length, and vehicles hauling trailers
3 with beds less than or equal to eight (8) feet in length.

4 **“Solid Waste (or Waste)”** means and includes all putrescible and nonputrescible solid,
5 semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, ashes, industrial wastes,
6 demolition and construction wastes, discarded home and industrial appliances, manure, vegetable
7 or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, as defined
8 in California Public Resources Code §40191, as that section may be amended from time to time.
9 For the purposes of this Agreement, “Solid Waste” does not include abandoned vehicles and
10 parts thereof, Hazardous Waste or low-level radioactive waste, medical waste, Recyclable
11 Materials, or Organic Materials.

12 **“Source Separation (or Source Separate or other variations thereof)”** means the segregation
13 into separate containers by the generator of individual components of material which otherwise
14 would become Solid Waste such as Recyclable Materials or Organic Materials for the sole
15 purpose of reuse, Recycling, or composting.

16 **“Standard Industry Practice(s)”** means reasonable diligence and prudence on part of the
17 Contractor in employing, at a minimum, the then-current development, operations, management,
18 and business practices and standards of the Southern California solid waste management industry
19 in meeting the Contractor’s obligations hereunder for Transfer Station and Transport services,
20 and means reasonable diligence and prudence on part of the Contractor in employing, at a
21 minimum, the then-current development, operations, management, and business practices and
22 Solid Waste Association of North America Manager of Landfill Operations standards, or
23 standards of successor organization, in meeting the Contractor’s obligations hereunder for
24 Disposal services.

25 **“State”** means the State of California.

26 **“Subsequent PTS Operating Period”** is the portion of the PTS Operating Period when the
27 Contractor operates and maintains the Transfer Station and the City is not obligated to deliver
28 any Solid Waste or Source Separated Organic Materials to the Palomar Transfer Station but has
29 the right to Deliver, or cause to be Delivered some or all City Waste or Source Separated
30 Organic Materials collected by the City or its Designated Hauler(s) to the Transfer Station for the
31 purposes of Transfer as described in Section 2.04.B.

32 **“Term”** of this Agreement means the twenty-five (25) year period that this Agreement shall be
33 effective as described in Article 2.

34 **“Ton (or Tonnage or other variations thereof)”** means a unit of measure for weight equivalent to
35 two thousand (2,000) standard pounds (where each pound contains sixteen [16] ounces).

36 **“Transfer (or Transferring or other variations thereof)”** means transferring Solid Waste,
37 Recyclable Materials, or Organic Materials at the Transfer Station from collection vehicles into
38 Transport containers or vehicles for the purposes of Transporting the material to a Disposal
39 Facility, Designated Organics Processing Facility, other Processing facility, or end-user.

1 Transfer does not include Transport, Processing or Disposal, as each such term is further defined
2 in this Agreement.

3 **“Transfer Capacity”** means the quantity of materials that the City Transfer Station can Accept
4 for the purpose of Transferring such material as specified in the CTS Permits.

5 **“Transfer Capacity Guarantee”** means the quantity of Transfer Capacity the City guarantees to
6 make available to the Contractor at the City Transfer Station during the CTS Marketing Period in
7 accordance with Section 7.01.

8 **“Transfer Station”** means a facility used primarily for the purpose of Transferring Solid Waste,
9 Recyclable Materials, and Organic Materials from collection vehicles to Transport containers or
10 vehicles to more efficiently Transport said material to a Disposal facility or Processing facility,
11 and a facility at which Recyclable Materials and Organic Materials may be recovered from the
12 Solid Waste and Diverted from Landfill Disposal. For the purposes of this Agreement, Palomar
13 Transfer Station shall be the designated Transfer Station during the PTS Operating Period and
14 the City Transfer Station shall be the designated Transfer Station during the CTS Contractor
15 Operating Period and CTS Marketing Period.

16 **“Transfer Station Lease Payment”** means the amount the Contractor shall pay the City as
17 specified in Section 12.05

18 **“Transfer Station Throughput Guarantee”** means the requirement of the Contractor to
19 Accept, loadout for Transfer Solid Waste and Organic Materials Delivered to the Transfer
20 Station as specified in Section 3.07.A. The requirements of the Transfer Station Throughput
21 Guarantee do not in any way obligate or guarantee the City to Deliver or cause to be Delivered a
22 minimum amount of Solid Waste or Permitted Materials to the Transfer Station during the Term,
23 but do obligate the City to Deliver or cause to be Delivered all City waste collected by
24 Designated Hauler(s) to the Contractor.

25 **“Transfer Station Users”** means the Persons Delivering Permitted Materials to the Transfer
26 Station including, but not limited to, the City, Designated Hauler(s), and Self Haulers.

27 **“Transport”** means the transportation of Solid Waste to a Disposal facility or Source Separated
28 Organic Materials and Recyclable Materials to Processing facilities or end-users.

29 **“Uncontrollable Circumstance”** means any act, event, or condition, which could not reasonably
30 have been anticipated and prevented, outside either Party’s control and not the result of willful or
31 negligent action or inaction on the part of such Party, whether affecting the Facilities or either
32 Party, which materially and adversely Affects the ability of either Party to perform any of its
33 obligations hereunder, including:

- 34 (1) The failure of any appropriate federal, State, City or local public agency or private
35 utility having operational jurisdiction in the area in which the Facilities are
36 located, to provide and maintain utilities, services, sewer or power transmission
37 lines to the Facilities which are required for Facility operation or capital
38 improvements;

1 (2) A Change in Law other than a Change in Law excluded under subsection (a) of
2 this definition;

3 (3) A Force Majeure event that temporarily or permanently interrupts Facility
4 operations or capital improvements;

5 but excluding:

6 (a) Adverse changes in the financial condition of either Party or any change in
7 law with respect to any taxes based on or measured by net income, or any
8 unincorporated business, payroll, franchise or employment taxes;

9 (b) The consequences of grossly negligent errors in Facility operation or
10 capital improvements on the part of the Contractor, its employees, agents,
11 subcontractor or Affiliates, including grossly negligent errors in plans and
12 specifications for capital improvements that should reasonably have been
13 identified by the Contractor, or the Operations and Maintenance Manual
14 or failure to comply therewith;

15 (c) The failure of the Contractor to secure Permits, patents, technical licenses,
16 trademarks, and the like necessary for Facility operations or capital
17 improvements;

18 (d) Labor actions of the Contractor's employees or subcontractors, including,
19 but not limited to, labor dispute or labor unrest such as a strike, work
20 stoppage or slowdown, sick-out, picketing, or other concerted job action.

21 **"Unpermitted Material(s)"** means wastes or other materials that the Facilities may not receive
22 under their Permits, including:

23 (1) Unpermitted Landfill wastes, including all materials that the Designated Landfills
24 are not permitted to Accept excluding White Goods with chlorinated
25 fluorocarbons and capacitors removed, and other materials that the Contractor
26 Accepts and safely handles, Recycles, or Disposes;

27 (2) Asbestos, including friable materials that can be crumbled with pressure and are
28 therefore likely to emit fibers, being a naturally occurring family of carcinogenic
29 fibrous mineral substances, which may be a Hazardous Waste if it contains more
30 than one percent (1%) asbestos;

31 (3) Ash residue from the incineration of solid wastes, including Solid Waste;
32 infectious waste described in Item 8 below, wood waste, sludge, and agricultural
33 wastes;

34 (4) Auto shredder "fluff" consisting of upholstery, paint, plastics, and other non-
35 metallic substances, which remain after the shredding of automobiles;

36 (5) Dead animals larger than one hundred (100) pounds;

- 1 (6) Hazardous Substances;
- 2 (7) Industrial solid or semi-solid wastes that pose a danger to the operation of the
3 Facilities, including cement kiln dust, or process residues;
- 4 (8) Infectious wastes that have disease transmission potential and are classified as
5 Hazardous Wastes by the State Department of Health Services, including
6 pathological and surgical wastes, medical clinic wastes, wastes from biological
7 laboratories, syringes, needles, blades, tubing, bottles, drugs, patient care items
8 such as linen or personal or food service items from contaminated areas,
9 chemicals, personal hygiene wastes, and carcasses used for medical purposes or
10 with known infectious diseases;
- 11 (9) Liquid wastes that are not spadeable, usually containing less than fifty percent
12 (50%) solids, including cannery and food processing wastes, landfill leachate and
13 gas condensate, boiler blowdown water, grease trap pumpings, oil and geothermal
14 field wastes, septic tank pumpings, rendering plant byproducts, sewage sludge,
15 and those liquid wastes that may be Hazardous Wastes;
- 16 (10) Radioactive wastes under Chapter 7.6 (commencing with Section 25800) of
17 Division 20 of the State Health and Safety Code, and any waste that contains a
18 radioactive material, the storage or disposal of which is subject to any other state
19 or federal regulation and/or;
- 20 (11) Sewage sludge comprised of human (not industrial) residue, excluding grit or
21 screenings, removed from a wastewater treatment facility or septic tank, whether
22 in a dry or semi-dry form.

23 The Parties shall during the Term promptly amend this definition of "Unpermitted Material" to
24 reflect any applicable changes in Permits or Applicable Law.

25 "Waste" means Solid Waste.

26 "Waste Processing Fee" means a fee collected by the Contractor on each Ton of Permitted
27 Material Accepted at the Palomar Transfer Station from any source as further described in
28 Section 12.03.

29 "White Goods" means used appliances including, but not limited to, refrigerators, freezers,
30 dishwashers, washers and dryers, and hot water heaters.

31 "WMI Sublease" is defined in the Recitals to this Agreement.

32 "Working Days (or Work Day or other variations thereof)" means days during which City
33 offices are open to do business with the public, but not in any event Saturdays, Sundays or
34 Holidays.

ARTICLE 2
TERM AND OPERATING PERIODS OF AGREEMENT

1
2
3 **2.01 Effective Date.** The Effective Date of this Agreement shall be June 1, 2002 (“Effective
4 Date”).

5 **2.02 Conditions to Effectiveness of Agreement.** The effectiveness of this Agreement and
6 the obligations of each of the City and the Contractor to perform their respective undertakings
7 provided for in this Agreement are subject to the satisfaction of each and all of the conditions set
8 out below, each of which may be waived in whole or in part by the Party for whose benefit the
9 condition is being satisfied.

10 **A. Accuracy of Representations.** The representations and warranties made by each of the
11 Contractor and the City in this Agreement shall be true and correct in all material respects on and
12 as of the Effective Date of the Agreement as if made on such date, as certified in writing by an
13 authorized officer or representative of each of the Contractor and the City, in form and substance
14 satisfactory to the other Party.

15 **B. Absence of Litigation.** There shall be no litigation pending or threatened in any court
16 challenging the award of the Agreement to the Contractor, the execution of this Agreement or the
17 Effective Date of this Agreement or seeking to restrain or enjoin its performance. Each of the
18 parties shall furnish to the other an estoppel certificate certifying as to the foregoing absence of
19 litigation.

20 **C. Furnishing of Insurance and Bonds.** The Contractor shall have furnished evidence of
21 the insurance and bonds required by Article 14, or, at the Contractor’s election in lieu of the
22 bond required under Section 14.03 below, shall have furnished the UCC financing statement
23 required under Section 14.04 below, which financing statement shall be substantially in the form
24 of the attached Schedule 14.04.

25 **D. Effectiveness of City Council Action.** A Resolution of the City Council approving this
26 Agreement shall have become effective pursuant to California law on or before the Effective
27 Date.

28 **E. Assignment of the PTS Lease.** The Contractor shall have received all necessary
29 approvals to assign, and shall have assigned, and all required Parties shall have consented to the
30 assignment of, the County Lease to the City, including the consent thereto by the County, as of
31 the Effective Date. The WMI Sublease shall not have been amended from the form thereof
32 attached hereto as Exhibit B without the prior written consent of the City except an amendment
33 to confirm its continued effectiveness following the assignment of the County Lease to the City
34 as contemplated hereunder. As long as the Contractor is operating the Palomar Transfer Station,
35 neither party to this Agreement shall enter into any further sublease of the Palomar Transfer
36 Station without the prior written consent of the other Party.

37 **F. Operations and Maintenance Manual.** The Contractor shall have submitted its
38 Operations and Maintenance Manual in accordance with the provisions of Section 3.13.

1 **2.03 Term.** The Term of this Agreement shall be twenty-five (25) years commencing on the
2 Effective Date and ending midnight, May 31, 2027, unless terminated earlier in accordance with
3 Section 15.03. The Term shall include the PTS Operating Period described in Section 2.04 and
4 may include the CTS Contractor Operating Period and CTS Marketing Period described in
5 Sections 2.05 and 2.06, respectively.

6 **2.04 PTS Operating Period.** The PTS Operating Period is the portion of the Term when the
7 Contractor shall be responsible for operating and maintaining the Palomar Transfer Station in a
8 manner consistent with the terms and conditions of this Agreement. The PTS Operating Period
9 shall commence on the Effective Date and end on the final day of the Term, with the exception
10 that if the City develops the City Transfer Station, the PTS Operating Period shall expire at
11 midnight the day prior to the CTS Operations Date. All the Contractor's rights to operate the
12 Palomar Transfer Station or access the Palomar Transfer Station Site shall cease at the end of the
13 PTS Operating Period and the Palomar Transfer Station Site shall thereafter be subject to the use
14 restriction described in Section 16.27 below.

15 **A. Initial PTS Operating Period.** The Initial PTS Operating Period is the portion of the
16 PTS Operating Period when the Contractor operates and maintains the Transfer Station and the
17 City guarantees Delivery of City Waste and City Source Separated organic Materials Delivered
18 by or on behalf of the City and its Designated Hauler(s) to the Transfer Station. The Initial PTS
19 Operating Period shall commence on the Effective Date and shall continue for ten (10) years
20 from the date of commencement unless the City Transfer Station is developed, in which case the
21 Initial PTS Operating Period shall end at midnight the day prior to the CTS Operations Date. In
22 the event the City has not developed the City Transfer Station or the CTS Operations Date has
23 not occurred on or before the tenth (10th) anniversary of the Effective Date, the City shall have
24 the right to extend the Initial PTS Operating Period in periods of three (3) years each; provided,
25 however, the parties shall have re-calculated and re-established the Contractor's Compensation ,
26 as described in Section 8.01.A below, for each such extension of the Initial PTS Operating
27 Period past the tenth (10th) anniversary of the Effective Date. In no case shall the Initial PTS
28 Operating Period extend beyond the expiration date of the Term of this Agreement. In the event
29 the CTS Operations Date has not occurred on or before the ninth (9th) anniversary of the
30 Effective Date, but the City contemplates in good faith that it will occur not later than the twelfth
31 (12th) anniversary of the Effective Date in a period of less than two (2) years, the City shall have
32 the right, by written notice delivered to the Contractor not less than sixty (60) days prior to the
33 ninth (9th) anniversary of the Effective Date, to extend the Initial PTS Operating Period for up to
34 two (2) years on all the same terms and conditions under this Agreement as are then effective. In
35 the event the City delivers said notice regarding the commencement of the CTS Operations Date
36 and the CTS Operations Date does not occur at any time prior to or on the twelfth (12th)
37 anniversary of the Effective Date due to an abandonment by the City of development of the CTS,
38 or a failure by the City to meet the milestone events described on Schedule 2.04(A) hereto with
39 respect to development of the CTS, the parties will effect the re-calculation of the Contractor's
40 Compensation as contemplated under Section 8.01.A below to take immediate effect for the
41 duration of the extension; provided, however, in all events, the Contractor's Compensation shall
42 be re-calculated not later than the twelfth (12th) anniversary of the Effective Date to the extent
43 the Initial PTS Operating Period shall extend past such date.

1 **B. Subsequent PTS Operating Period.** The Subsequent PTS Operating Period is the
2 portion of the PTS Operating Period when the Contractor operates and maintains the Palomar
3 Transfer Station and the City is not obligated to deliver any Solid Waste or Source Separated
4 Organic Materials to the Palomar Transfer Station but has the right to Deliver, or cause to be
5 Delivered some or all City Waste or Source Separated Organic Materials collected by the City or
6 its Designated Hauler(s) to the Transfer Station for the purposes of Transfer under provisions of
7 this Agreement in accordance with Article 6. The Subsequent PTS Operating Period shall
8 commence on the day following the end of the initial PTS Operating Period and shall end on the
9 last day of the Term or at midnight the day prior to the CTS Operations Date.

10 **C. City Use Period.** The City Use Period is the portion of the Subsequent PTS Operating
11 Period when the Contractor operates and maintains the Palomar Transfer Station and the City
12 exercises its right to use the Transfer Station by Delivering or arranging for Delivery of Solid
13 Waste or Source Separated Organic Materials to the Palomar Transfer Station. The terms and
14 conditions associated with the City Use Period are described in Article 6.

15 **2.05 CTS Contractor Operating Period.** The CTS Contractor Operating Period is the
16 portion of the Term when the Contractor operates and maintains the City Transfer Station in a
17 manner consistent with the terms and conditions of this Agreement.

18 **A. General.** The CTS Contractor Operating Period shall occur only in the event the City
19 develops the City Transfer Station, and in such case the CTS Contractor Operating Period shall
20 begin on the CTS Operations Date. The CTS Operations Date may occur on any date during the
21 Term provided that such date shall occur no later than the twentieth (20th) anniversary of the
22 Effective Date. The Contractor shall operate and maintain the City Transfer Station for a period
23 of five (5) years commencing on the CTS Operations Date, unless the CTS Operations Date
24 occurs prior to fifth (5th) anniversary of the Effective Date. In such case the CTS Contractor
25 Operating Period shall commence on the CTS Operations Date and end on the tenth (10th)
26 anniversary of the Effective Date. The City shall direct the Delivery of City Waste and City
27 Source Separated Organic Materials Delivered by, or on behalf of the City and its Designated
28 Hauler(s) to the City Transfer Station during the CTS Contractor Operating Period. The City
29 shall notify the Contractor of its intent to commence operations of the City Transfer Station no
30 later than one (1) year prior to the CTS Operations Date (e.g., if the CTS Operations Date is
31 April 1, 2004, the City shall notify the Contractor of such date and its plans to commence CTS
32 operations in accordance with this provision no later than March 31, 2003).

33 **B. Extension of CTS Contractor Operating Period.** The City may, in its sole discretion,
34 Extend the CTS Contractor Operating Period beyond the fifth (5th) anniversary of the CTS
35 Operations Date for up to five (5) periods of three (3) years each for a CTS Contractor Operating
36 Period that may total but not exceed twenty (20) years provided that in no case shall the end of
37 the CTS Contractor Operating Period Extend beyond the expiration date of the Term of this
38 Agreement. The City shall notify the Contractor of its intent to exercise this Extension provision
39 not later than six (6) months prior to the end of the CTS Contractor Operating Period or then-
40 current Extension. The City's guarantee to Deliver City Waste and City Source Separated
41 Organic Materials Delivered by, or on behalf of the City and its Designated Hauler(s) to the City
42 Transfer Station shall remain in effect through any Extensions. The Contractor's Compensation
43 shall be mutually agreed to by the Parties for each such extension.

1 The CTS Contractor Operating Period may be Extended, conditioned on the City's confirmation
2 that the preconditions below are satisfied, each of which may be waived in whole or in part by
3 the City Council.

4 1. Since the Execution Date, there shall not have occurred any material change, financial or
5 otherwise, that would adversely effect the ability of the Guarantor to perform its obligations
6 under the Guaranty Agreement or the ability of the Contractor to perform its obligations
7 hereunder or its obligations under any other agreement, contract or instrument entered into or to
8 be entered into by the Contractor in connection with Facilities operation, the Contractor's
9 obligations hereunder, the services hereunder and the transactions contemplated hereby.

10 2. The representations and warranties made by the Contractor in Article 18 shall be true and
11 correct in all material respects on and as of the date of the commencement of the Extension as if
12 made on such date, as certified in writing by an authorized officer of the Contractor, in form and
13 substance satisfactory to the City.

14 3. The Contractor shall not have been assessed in any single year by City liquidated
15 damages in excess of one-half percent (0.5%) of the annual Contractor's Compensation as
16 established in accordance with Articles 8, 9, and 10.

17 4. The Contractor shall not have been delinquent by more than thirty (30) calendar days in
18 any payment to the City.

19 5. The Contractor shall not have had officials, with supervisory, management, or
20 administrative responsibility for the performance of services under this Agreement, found guilty
21 of a felony or liable for a civil penalty in excess of twenty-five thousand dollars (\$25,000)
22 related to their duties under this Agreement or any agreement with a municipal agency in the
23 United States.

24 **C. Contractor's Right of First Offer.** In the event the City does not Extend the CTS
25 Contractor Operating Period under the provisions of subsection B above and the City intends to
26 negotiate with or solicit proposals from third parties to operate and maintain the City Transfer
27 Station, the City shall first provide the Contractor with an opportunity to present an offer to
28 continue operations and maintenance of the City Transfer Station. The Contractor's offer for
29 continued operations and maintenance of the City Transfer Station shall be provided within thirty
30 (30) calendar days of the City's request. The City shall review the Contractor's offer and the
31 Parties shall negotiate in good faith to reach an agreement for the Contractor's continued
32 operations and maintenance of the City Transfer Station. In the event the Parties do not reach an
33 agreement within sixty (60) calendar days of the City's receipt of the Contractor's offer, the City
34 shall have the right to enter into negotiations with other parties or to solicit proposals for the
35 operations and maintenance of the City Transfer Station at the expiration of the CTS Contractor
36 Operating Period. In the event the City solicits proposals from other parties for CTS operations
37 and maintenance, the Contractor shall have the opportunity to participate in the proposal process
38 and submit a proposal.

39 **2.06 CTS Marketing Period.** The CTS Marketing Period is the portion of the Term when the
40 Contractor shall have the right to market Transfer Station services to other parties and to Deliver

1 to the City Transfer all Solid Waste in excess of the amount of City Solid Waste delivered up to,
2 but not to exceed the Permitted capacity of the CTS. The CTS Marketing Period shall
3 commence on the CTS Operations Date and shall terminate on the expiration date of the Term.
4 The terms and conditions associated with the CTS Marketing Period are described in Article 7.

5 **ARTICLE 3**
6 **TRANSFER STATION SERVICES**

7 **3.01 General.** The Contractor shall provide, in accordance with Standard Industry Practices,
8 Transfer Station Services described in this Section during the Initial PTS Operating Period and
9 CTS Contractor Operating Period. The Contractor's obligations with regard to Transfer Station
10 services during the Initial PTS Operating Period and CTS Contractor Operating Period shall be
11 the same unless otherwise noted in this Article or elsewhere in this Agreement or unless required
12 by a Permit including any Permit issued by the City associated with its land use regulatory
13 responsibilities. The Contractor shall lease the Transfer Station from the City.

14 The Contractor shall be responsible for managing the WMI Sublease. The Contractor shall
15 retain all payments from Waste Management, Inc., under the WMI Sublease.

16 **3.02 Palomar Transfer Station Capital Improvements.**

17 **A. Contractor Responsibilities.** The Contractor shall be responsible for, or shall arrange
18 for, the execution of the capital improvement projects listed in Exhibit E. The Contractor's
19 responsibilities related to the capital improvements include, but are not limited to, design,
20 engineering, permitting, financing, construction, and any other services as may be required to
21 accomplish the capital improvements. All costs associated with the capital improvements shall
22 be the Contractor's responsibility. Capital improvements other than those listed in Exhibit E
23 shall be handled as a modification of the scope of service pursuant to Section 16.15.

24 **B. Schedule for Completion.** The City requires certain capital improvement projects to the
25 PTS be completed to insure that the Transfer Station can adequately serve the City. Exhibit E
26 includes a completion date for each capital improvement project. The Contractor shall use its
27 good faith best efforts to complete the capital improvement projects in accordance with the
28 completion date(s) provided in Exhibit E. To secure timely completion of such capital
29 improvements, at such time as all permits and approvals required for the construction of the
30 capital improvement projects have been obtained by the Contractor, the Contractor shall cause to
31 be issued in favor of the City a completion bond in the estimated amount of the full construction
32 cost of the capital improvement projects to be completed by the Contractor. In the event the
33 Contractor does not complete the capital improvement projects within twenty-four (24) months
34 following the Contractor's obtaining of all permits and approvals for such construction, as the
35 same may be extended due to the occurrence of any Uncontrollable Circumstance, the City shall
36 be entitled to draw down on said completion bond and complete the capital improvement
37 projects with the proceeds thereof.

38 **C. Monthly Progress Report.** Following the Effective Date and until all capital
39 improvement projects are completed, the Contractor shall provide a written progress report as
40 requested by the City describing commenced, on-going, and completed capital improvement

1 projects since any previous report; and compare such progress with the completion dates
2 provided in Exhibit E. Upon the City's request, the Contractor shall meet with the City to
3 discuss the status of the capital improvement projects.

4 **D. Professional Liability Insurance.** If any professional services (i.e., services for which
5 applicable State licensing laws would apply), are provided by employees of the Contractor in
6 connection with the capital improvement projects described in Section 3.02.A above, the
7 Contractor shall maintain during said project, and for a period of ten (10) years thereafter,
8 professional liability insurance in an amount equal to not less than five million dollars
9 (\$5,000,000) per occurrence and five million dollars (\$5,000,000) annual aggregate. If such
10 professional services are to be provided by a design professional under contract to the
11 Contractor, then the Contractor shall require the same insurance from the design professional to
12 the extent available at commercially reasonable rates.

13 **3.03 City Transfer Station Development.**

14 **A. City Responsibilities.** In the event the City decides, at its sole discretion, to develop the
15 City Transfer Station, the City shall be responsible for siting, Permitting, land acquisition,
16 design, engineering, financing, and construction of a City Transfer Station.

17 **B. Contractor Responsibilities.** In the event the City decides to develop the City Transfer
18 Station, then the Contractor shall be responsible for the following:

19 **1. Design and Construction Input.** The Contractor shall review the City Transfer Station
20 plans and specifications in the draft, final, and "as built" stages to verify that the facility design
21 allows the Contractor to safely and efficiently fulfill its obligations under this Agreement in
22 accordance with Applicable Law and Permit requirements. After review of the final plans and
23 specifications, the Contractor shall certify in writing that if the City Transfer Station is built in
24 accordance with such plans and specifications that the Contractor can operate the City Transfer
25 Station in such a way as to meet its obligations contained in this Agreement. The professional
26 liability insurance requirements described under Section 3.01.D above shall apply to any
27 professional services provided by the Contractor in connection with this Section.

28 **2. Permitting Assistance.** The Contractor's responsibilities are described in Section
29 3.09.B.

30 **3. Costs.** The actual necessary and reasonable Direct Costs incurred by the Contractor for
31 the Contractor's responsibilities listed in this Section shall be borne by the Contractor.

32 **4. Contractor Cooperation.** The Contractor shall participate in any meetings held with
33 regard to the City Transfer Station development at the request of the City and shall use
34 Reasonable Business Efforts to cooperate with the City and its agents during the siting,
35 Permitting, land acquisition, design, engineering, financing, and construction of the City Transfer
36 Station.

1 **3.04 Operations and Maintenance Standards.**

2 **A. General.** Beginning on the Effective Date, the Contractor warrants to comply with the
3 Transfer Station Throughput Guarantee in Section 3.07.A and, on a Reasonable Business Efforts
4 basis taking into consideration compliance with prudent safety requirements, the Diversion
5 Guarantee in Section 3.30.A during the Initial PTS Operating Period and CTS Contractor
6 Operating Period and to perform the Contractor's obligations with respect to Transfer Station
7 services hereunder in accordance with sound management and operations practice, its Operations
8 and Maintenance Manual, regulatory and Permit requirements, Applicable Law, the provisions
9 hereof, and covenants, conditions and restrictions pertaining to the Transfer Station.

10 **B. Compliance with Palomar Transfer Station Lease.** The Contractor shall comply with
11 requirements of the County Lease including requirements listed in Exhibits B, C, and D of the
12 County Lease, which include operations and performance standards and Federal Aviation
13 Administration (FAA) requirements.

14 **3.05 General Description of Operating Requirements.** The Contractor shall be responsible
15 for all operations, maintenance, monitoring, and reporting requirements associated with the
16 Transfer Station operations, including, but not limited to, the following:

17 A. Operating scale house and scale system;

18 B. Directing on-Site traffic to appropriate unloading areas and providing a safe working
19 environment for Transfer Station Users, visitors and employees;

20 C. Managing Permitted Materials Accepted at the Transfer Station;

21 D. Recovering Recyclable Materials and Organic Materials from City Waste;

22 E. Transferring Solid Waste, Recyclable Materials and Organic Materials into large-capacity
23 Transport trailers or containers;

24 F. Processing, marketing, and Transferring Recyclable Materials and Organic Materials;

25 G. Providing, operating, and maintaining all equipment, Rolling Stock and supplies
26 necessary for managing and Transferring Permitted Materials and for performing all other
27 aspects of Transfer Station operations;

28 H. Properly managing dust, odors, litter, vectors, and other potential nuisances;

29 I. Complying with all Permits and Applicable Law.

30 J. Segregating City Waste and Organic Materials Delivered by the City and Designated
31 Haulers from materials Delivered by Other Transfer Station Users, and separately Transferring
32 such City Waste and City Organic Materials in the event a portion of the Solid Waste
33 Transferred from the Transfer Station is Disposed at a non-Designated Landfill.

1 **3.06 Receipt of Permitted Materials.** Commencing on the Effective Date and continuing
2 through the Initial PTS Operating Period and CTS Contractor Operating Period, the Contractor
3 shall receive and Accept at the Transfer Station:

4 A. All Acceptable City Waste and City Source Separated Organic Materials Delivered by, or
5 on behalf of the City and its Designated Hauler(s).

6 B. All Acceptable City Waste Delivered by Self Haulers.

7 C. All Recyclable Materials Delivered by Self Haulers to the Buyback/Drop-Off Center.

8 D. All Recyclable Materials Delivered by, or on behalf of, the City and its Designated
9 Hauler(s) for the purpose of consolidating such material and Transferring it to a Processing
10 facility during the CTS Contractor Operating Period.

11 **3.07 Transfer Station Throughput Guarantee and Waste Acceptance Priority.**

12 A. **Transfer Station Throughput Guarantee.** Subject to applicable Permit restriction
13 which from time to time may be in effect:

14 1. **Initial PTS Operating Period and CTS Contractor Operating Period.** During the
15 Initial PTS Operating Period and CTS Contractor Operating Period, the Contractor shall
16 guarantee its ability to Accept, Transfer, Transport, and Dispose of all Solid Waste Delivered by
17 the City or its Designated Hauler(s) and all Solid Waste generated in the City and Delivered to
18 the Transfer Station by Self Haulers, and the Contractor shall guarantee its ability to Accept,
19 Transfer and Transport all City Source Separated Organic Material Delivered to the Transfer
20 Station by the City or its Designated Hauler(s).

21 2. **City Use Period during the Subsequent PTS Operating Period.** In the event the City
22 exercises its right to Deliver, or cause to be Delivered, City Waste or Source Separated Organic
23 Materials to the Palomar Transfer Station during the City Use Period, the Contractor shall
24 guarantee its ability to Accept and Transfer all Solid Waste or Source Separated Organic
25 Materials Delivered by the City or its Designated Hauler(s) during the City Use Period in the
26 amounts estimated by the City annually in good faith as verified and adjusted based on actual
27 Delivered amounts on a half yearly basis, as more fully provided below. The City shall annually
28 provide a non-binding estimate of the amount of Solid Waste to be Delivered during the next
29 twelve (12) calendar month period. The City shall submit the estimate to the Contractor ninety
30 (90) days prior to the commencement of the City Use Period and in subsequent years prior to the
31 anniversary thereof. The City shall use its best efforts to apportion the annual estimate on a
32 monthly basis. Six (6) months after the annual estimate has become effective, the Parties shall
33 adjust the estimate for the next six (6) months based on the actual amounts Delivered during the
34 immediately preceding 6 month period.

1 **B. Waste Acceptance Priority.** Acceptance of Permitted Materials Delivered by the City
2 or its Designated Hauler(s) shall have priority at the Transfer Station as follows:

3 **1. Commitment of All Solid Wastes during City Use Period.**

4 During the City Use Period, the City or its Designated Hauler(s) shall have priority use of
5 Permitted capacity at the Palomar Transfer Station provided the City commits all City
6 Solid Waste to the Palomar Transfer Station.

7 **2. Partial Commitment of Solid Waste during City Use Period.**

8 In the event the City commits only a portion of its Solid Waste to the Palomar Transfer
9 Station, the Contractor is only required to provide priority use for the amount committed.

10 **C. Contractor Agreements with Transfer Station Users.** The Contractor has the right to
11 enter into agreements with Transfer Station Users other than the City and its Designated
12 Hauler(s) for Transfer, Transport and Disposal services for Permitted Materials provided that the
13 term of any such agreement(s) does not extend beyond the end of the Term of this Agreement
14 and provided that any such agreement includes provisions related to the potential shift of
15 operations from the Palomar Transfer Station to the City Transfer Station at the commencement
16 of the CTS Contractor Operating Period. Upon City request, the Contractor shall provide the
17 City with a copy of any and all agreements with other Transfer Station Users.

18 **D. No Representation by City.** The City makes no representation, and is under no
19 obligation, regarding the quantity or composition of the Solid Waste, Recyclable Materials, or
20 Organic Materials Delivered to the Transfer Station by the City, Designated Haulers, Self
21 Haulers, or other Transfer Station Users.

22 **3.08 Operating Days and Hours.** The Contractor shall have the right to use and operate the
23 Transfer Station every day of the year during the Initial PTS Operating Period and CTS
24 Contractor Operating Period of the Agreement subject to applicable Permit restriction. The
25 Contractor shall operate the Transfer Station continuously and uninterruptedly every day of the
26 year, except Holidays, during the Initial PTS Operating Period and CTS Contractor Operating
27 Period of the Agreement except when the Contractor is prevented from doing so by an
28 Uncontrollable Circumstance.

29 At a minimum, the Transfer Station shall Accept Permitted Materials seven (7) days per week
30 from 5:30 a.m. to 5:00 p.m. from City and Designated Haulers. In addition, the Transfer Station
31 shall, at a minimum, Accept Permitted Materials from Self Haulers from 7:30 a.m. to 4:00 p.m.
32 on Saturday and Sundays, except Holidays other than during any week in which the normal
33 Waste pickup schedule of the Designated Hauler has been altered due to the occurrence of a
34 Holiday, in which event, the Contractor shall not be obligated to hold open the Transfer Station
35 for Self Haulers on Saturday of said week. The Contractor may Accept Permitted Materials and
36 operate the Transfer Station beyond the hours set forth above, provided that it complies with
37 Transfer Station Permits. The City and the Contractor shall meet and confer on the
38 modifications to the facility receiving hours and days.

1 **3.09 Permits.**

2 **A. Palomar Transfer Station Permits.** The Contractor shall make best efforts to obtain all
3 Permits, which are necessary during the PTS Operating Period for the Contractor to fulfill its
4 obligations hereunder with regards to the operation of the Palomar Transfer Station. The
5 Contractor shall submit a draft of all applications for Permits to the City for its review and
6 approval prior to filing an application with the permitting agency. The Contractor shall keep the
7 City fully informed at all times of the status of all Permit applications. The Contractor shall not
8 agree to Permit terms and conditions without the prior written consent of the City which consent
9 shall not be unreasonably withheld. Copies of all Permits shall be delivered to the City within
10 ten (10) working days of their receipt by the Contractor. When appropriate and practical, City
11 shall assist the Contractor in securing the necessary Conditional Use Permit(s) and amendments
12 to such provided that the City shall in no way act in a manner that compromises its duties with
13 regard to reviewing, approving, and issuing such permits.

14 **B. City Transfer Station Permits.** City shall be responsible for obtaining all Permits
15 required for the operation of the City Transfer Station including the conditional use permit issued
16 by the City and solid waste facilities permit issued by the local enforcement agency/California
17 Integrated Waste Management Board. Furthermore, the City shall be responsible for the renewal
18 and amendment of the operating Permits and any new Permits, which may become necessary
19 during the Term for the City Transfer Station. All Permits shall be in the name of the City. the
20 Contractor shall take direction from the City with regards to the City's request for assistance in
21 securing necessary Permits, providing information and documentation required in support of
22 Permit applications, preparing Permit applications, and other related activities. The City shall
23 seek the Contractor's review of draft Permit applications prior to filing an application with the
24 permitting agency so that the Contractor can provide its input. The City shall deliver copies of
25 all Permits to the Contractor within five (5) working days of their receipt by City.

26 **C. Contractor Compliance with Permits.** The Contractor shall comply with all Permits
27 and terms and conditions of such Permits as they may be amended or superseded (including any
28 mitigation measures related to the operation and maintenance of the Transfer Station which were
29 adopted by the City when the Transfer Station's environmental impact report was certified as
30 well as the requirements of the California Integrated Waste Management Board); provided,
31 however, in the event of any conflict between the terms and provisions of this Agreement and
32 any such Permits, the terms and provisions of such Permits shall control as to the Contractor's
33 performance of its obligations under this Agreement.

34 The Contractor shall be solely responsible for paying any fines or penalties imposed by
35 governmental agencies for the Contractor's noncompliance with Permit terms for the Transfer
36 Station or the Contractor's failure to obtain necessary Permits for the Palomar Transfer Station.

37 In the event of any necessary increased expenses net of any increased revenues to the Contractor
38 as a result of any City-initiated Permits or amendments thereto, or conditions imposed by the
39 City, the Contractor shall be reimbursed for such necessary increased expenses net of any
40 increased revenues, which shall be handled as a modification of the scope of services pursuant to
41 Section 16.15 below. If such events or conditions impact all Transfer Station Users, the

1 Contractor's reimbursement for increased expenses net of any increased revenues shall be
2 apportioned to all Transfer Station Users.

3 **3.10 Equipment, Repair, and Maintenance.**

4 **A. General.** The Contractor shall purchase, lease, or otherwise procure, operate, and
5 maintain the Rolling Stock, equipment, supplies, and materials necessary for safe and efficient
6 Transfer Station operations, while meeting all Permit requirements and complying with
7 Applicable Law.

8 The Contractor shall maintain the Transfer Station structures, Processing equipment, Rolling
9 Stock, and the Site in good working order and repair. The Contractor shall maintain a spare parts
10 inventory and perform periodic maintenance in accordance with the Operations and Maintenance
11 Manual. If maintenance and repair activities must be performed during Facility receiving hours,
12 the activities shall be performed in a manner that does not impede the Contractor's ability to
13 fulfill the Contractor's obligations and does not jeopardize safety of Transfer Station Users,
14 visitors or employees. The Contractor shall maintain the aesthetic appearance of the Transfer
15 Station and Site in a clean and neat manner in accordance with the Facility plans and
16 specifications and the Operations and Maintenance Manual with due regard for reasonable
17 control of odors, dust and noise.

18 **B. Maintenance.** The Contractor shall perform all necessary preventive and ongoing
19 maintenance functions for the Transfer Station to keep it in good working order, including but
20 not limited to conforming with warranties and guidelines for the use of equipment and
21 complying with all necessary and required inspections and reporting as required under
22 Applicable Law and regulations.

23 **C. Offices.** Building office areas shall be kept clean and orderly. Work areas within
24 buildings and structures shall be routinely swept or vacuumed and washed or dusted.

25 **D. Transfer Building.** The building loadout areas, and access ramps shall be cleaned and
26 swept at the end of each operation day.

27 **E. Interior Surfaces.** Interior surfaces of buildings and structures shall be repainted or
28 refurbished as needed by the Contractor so that they present an acceptable appearance. The type
29 of paint, color, and method of application shall match existing and be of equal quality and shall
30 conform to the conditions, covenants and restrictions for the Transfer Station Site.

31 **F. Exterior Surfaces.** Exterior surfaces of buildings and structures shall be repainted or
32 refurbished by the Contractor as needed so that they present an acceptable appearance. The type
33 of paint, color, and method of application shall match existing and be of equal quality and shall
34 conform to the conditions, covenants and restrictions for the Transfer Station Site.

35 **G. Safe Condition and Repair.** The Contractor shall maintain in good condition the roofs,
36 structural portions and exterior walls (including plate glass, glass windows, window frames,
37 doors and door frames), paved exterior areas and scales. The Contractor shall keep and maintain
38 in good, safe condition and repair the Transfer Station, appurtenances and every part thereof,
39 including without limitation the stationary equipment; plumbing and sewage facilities,

1 mechanical, electrical, lighting, heating, ventilating and air conditioning systems; fire and dust
2 suppression systems; fuel storage and dispensing facilities; and all personal property furnished
3 by the Contractor including vehicles.

4 **H. Periodic Maintenance.** The Contractor shall perform periodic maintenance on all
5 equipment and Rolling Stock as specified in the Operations and Maintenance Manual and in
6 accordance with manufacturer's specifications and recommendations.

7 **I. Repair of Damage.** The Contractor shall also repair any damage to the Transfer Station
8 caused by the actions of its employees, subcontractors, or other Contractor agents or by Transfer
9 Station Users and visitors.

10 **3.11 Safety.**

11 **A. Traffic Flow.** The Contractor shall direct traffic upon entry to the Transfer Station Site
12 so that vehicles travel, queue, unload and exit in a safe manner. The Contractor shall ensure that
13 no vehicles queue on public streets in the normal course of business.

14 **B. Fire Protection.** The Contractor shall provide and maintain all necessary and
15 appropriate fire control equipment, as provided in the Operations and Maintenance Manual and
16 in accordance with the City Fire Department requirements.

17 **C. Safety Training.** The Contractor shall perform regular safety training for all Transfer
18 Station employees and safety training for its subcontractors as appropriate.

19 **3.12 Litter and Vectors.** The Contractor shall maintain the Transfer Station Site in a neat and
20 orderly condition that minimizes the potential attraction of birds, rodents and insects, and shall,
21 on a daily basis, remove litter and debris on Site and litter and debris along major access roads as
22 specified in the conditional use permit. In the event of apparent vector activity, the Contractor
23 shall implement reasonable additional vector control measures within twenty-four (24) hours.
24 The Contractor shall implement and maintain a litter control program and diligently monitor and
25 enforce the vehicle tarp requirements for all vehicles including Self Haul vehicles included in the
26 litter control program.

27 **3.13 Operations and Maintenance Manual.** On the Effective Date, the Contractor shall
28 submit to the City its Operations and Maintenance Manual. The Operations and Maintenance
29 Manual shall contain sufficient detail to allow a third party reasonably experienced in Transfer
30 Station operations to operate and maintain the Transfer Station, its equipment, and Rolling Stock,
31 and to handle emergencies at the Facility. On or before June 1 of each year following the
32 Effective Date during the PTS Operating Period or CTS Contractor Operating Period, the
33 Contractor shall review the Operations and Maintenance Manual, revise it to reflect any changes
34 in Transfer Station operation procedures during the previous calendar year, describe anticipated
35 changes and scheduled Facility downtime during the upcoming calendar year, and submit a copy
36 of the updated Operations and Maintenance Manual and written information regarding scheduled
37 facility downtime to the City. The updated Operations and Maintenance Manual shall conform
38 to the requirements of this Agreement. The City may, but need not comment on the original
39 submittal or the annual updates to the Operations and Maintenance Manual. Neither the annual
40 review nor comment upon, nor the failure of the City to comment upon the Operations and

1 Maintenance Manual shall (1) relieve the Contractor of any of the Contractor's obligations and
2 responsibilities hereunder or impose any liability upon the City, nor (2) be deemed to be a
3 representation by the City that the Contractor's Transfer Station operation is in accordance with
4 the Operations and Maintenance Manual or signifies that the Contractor has complied with all
5 the Contractor's obligations with respect to Transfer Station operation or with Applicable Law.

6 **3.14 Meetings.** Upon the request of either Party, the City and the Contractor shall meet to
7 discuss Transfer Station operations and any related matters raised by either Party.

8 **3.15 Complaints about Transfer Station Operation.**

9 **A. General.** The Contractor shall take all reasonable steps to minimize complaints. All
10 complaints about the operation and maintenance of the Transfer Station shall be directed to the
11 Person designated as Transfer Station general manager by the Contractor. The Contractor shall
12 promptly and politely respond to complaints, including complaints from Designated Hauler(s)'s
13 drivers, Self Haulers, other Transfer Station Users, City staff and its representatives, and the
14 public at large, related to the Transfer Station Operations. The Contractor shall use Reasonable
15 Business Efforts to resolve such complaints within thirty (30) calendar days of receipt thereof.
16 Such complaints shall not be directed by the Contractor to the City with the exception of those
17 that pertain to the City's obligations. The Transfer Station manager shall compile a log of all
18 complaints brought to the attention of the Contractor in a form that can be readily audited, and
19 that indicates the date and time the complaint was received; the name, address and telephone
20 number of the Person making the complaint; the corrective action taken in response to the
21 complaint; and the date the corrective action was taken.

22 **B. Complaint Log.** Each calendar quarter the Contractor shall send the City a copy of the
23 complaint log for the previous quarter in accordance with Section 13.05.A. In the event more
24 than fifty (50) complaints were received during a given month from a reasonable number of
25 unrelated Persons, the Contractor shall pay liquidated damages in accordance with Section
26 15.03.B.5.

27 **C. Litter Complaints.** If the Contractor receives a complaint regarding litter problems on
28 Site or along major access roads as specified in any conditional use permit for the Transfer
29 Station ("Conditional Use Permit"), the Contractor shall promptly clean up litter within the same
30 Working Day if the complaint was received before noon and by the end of the following
31 Working Day if the complaint was received after noon.

32 **3.16 Signage.** The Contractor shall post easily-readable signs approved by the City at the
33 entrance to the Transfer Station: detailing the regulations that must be followed by vehicles
34 entering the Site; indicating the Transfer Station receiving hours; describing the types of
35 Permitted Materials Accepted from Transfer Station Users; stating Service Fees charged; and
36 listing a local telephone number to call for information and assistance in case of emergency. All
37 signage shall, at a minimum, be provided in English and Spanish and shall be consistent with
38 conditional use permit requirements.

39 **3.17 Accommodating Transfer Station Users.** The Contractor shall provide a parking area
40 for Transfer Station User vehicles adjacent to the Site exit where the Contractor will permit

1 Transfer Station Users, including, but not limited to, Designated Hauler drivers, to park their
2 vehicles and use bathroom facilities or make telephone calls on a public telephone provided by
3 the Contractor. The Contractor shall allow Designated Hauler drivers to call their supervisors
4 without charge.

5 **3.18 Rejection of Unpermitted Material.**

6 **A. Inspection.** The Contractor shall use Standard Industry Practices to detect and discover
7 Unpermitted Material and shall not knowingly Accept Unpermitted Material. The Contractor
8 shall comply with the inspection procedures contained in the Operations and Maintenance
9 Manual. The Contractor shall promptly modify such procedure to reflect any changes in Permits
10 or Applicable Law.

11 **B. Unpermitted Materials Handling and Costs.** The Contractor shall arrange for or
12 provide transportation and delivery to an appropriately permitted recycling, incineration, or
13 disposal facility of all Unpermitted Material that are encountered at the Transfer Station and
14 which cannot be Accepted at a Designated Landfill. The Contractor is solely responsible for
15 handling and arranging transport and disposition of any Unpermitted Material that is contained in
16 or with Solid Waste, Recyclable Materials, or Organic Materials Accepted by the Contractor, and
17 for all related costs. The Contractor has the right to pursue any remedies against the Person(s)
18 generating or Delivering the Unpermitted Materials to the Transfer Station excluding the City.

19 **C. Remedies for Rejected Materials.** If the Contractor rejects material Delivered to the
20 Transfer Station at the time of Delivery because it contains Unpermitted Material including
21 Hazardous Waste, the Contractor shall direct the Person(s) who Delivered the Unpermitted
22 Material to cause removal and disposal of it in a safe and lawful manner, at the sole expense of
23 the Person(s). In the event that Unpermitted Material is Delivered to the Transfer Station or Site,
24 the Contractor shall be entitled to pursue whatever remedies, if any, it may have against
25 Person(s) bringing such Unpermitted Material to the Transfer Station provided that in no case
26 shall the City be considered the Person bringing such Unpermitted Material to the Transfer
27 Station. In the event a City Designated Hauler Delivers Unpermitted Materials on a frequent or
28 continuous basis and the Designated Hauler refuses to provide for the proper handling and
29 Disposition of such Unpermitted Material, the Contractor shall provide written notice to the City
30 of such refusal by Designated Hauler. Nothing herein shall excuse the Contractor from the
31 responsibility of handling such Unpermitted Materials in a lawful manner and to arrange for the
32 proper disposition of such materials.

33 **D. Notification.** In the event the Contractor provides notice to the LEA or to the County of
34 San Diego Department of Environmental Health of the Contractor's rejection of any Delivered
35 Materials, the Contractor shall promptly provide a copy of any such notice to the City.

36 **3.19 Provision of Emergency Services.** The Contractor shall provide emergency services at
37 the City's request in the event of major accidents, disruptions, or natural calamities subject to
38 applicable Permit restrictions. The Contractor shall be capable of providing emergency services
39 within twenty-four (24) hours of notification by the City or as soon thereafter as is reasonably
40 practical in light of the circumstances. Emergency services, which exceed the Contractor's
41 obligations under this Agreement including, but not limited to, obligations related to facility

1 receiving hours, the types and quantities of Permitted Materials Accepted, the nature of material
2 Recovery activities, and Transfer requirements, shall be compensated through a modification to
3 the scope of services using procedures described in Section 16.15.

4 **3.20 City Right to Access Transfer Station.** City and its designated representative(s) shall
5 have the right to enter, observe and inspect the Transfer Station at any time during Transfer
6 Station operations; conduct studies or surveys of the Transfer Station; meet with the Transfer
7 Station manager or his or her representatives at any time during normal operating hours; and
8 meet with other employees upon request, which request shall not be unreasonably denied by the
9 Contractor, provided that upon arrival at the Premises the City or its designated representative
10 shall immediately contact the Facility/Site manager or his/her designee, and provided that the
11 City and its representatives comply with the Contractor's reasonable safety and security rules
12 and shall not interfere with the work of the Contractor or its subcontractors. Upon City request,
13 the Contractor shall make personnel available to accompany City employees on inspections. The
14 Contractor shall ensure that its employees cooperate with the City and respond to the City's
15 reasonable inquiries. Upon City request, the Contractor shall make operational and business
16 records available to the City or its agent during Transfer Station receiving hours described in
17 Section 3.08 and shall provide the City copies of such records at the City's request.

18 **3.21 Treatment of Customers.** In performing this Agreement, the Contractor shall be
19 attentive to customer needs and shall not discriminate against customers or potential customers
20 because of race, color, religion, gender, sexual orientation, marital status, physical or mental
21 disability or national origin.

22 **3.22 Professionalism.** The Contractor, its employees, subcontractors, or other agents shall act
23 in a professional and courteous manner at all times including times when such Persons are
24 interacting with the Designated Hauler(s), its employees, subcontractors, or other agents. The
25 Contractor, its employees, subcontractors, or other agents shall follow all operating procedures
26 established for the Transfer Station including, but not limited to, those related to health and
27 safety, traffic, gate house operations, Solid Waste unloading, load checking operations and
28 procedures in the Operating and Maintenance Manual.

29 **3.23 Cooperation and Disputes.** The Contractor shall fully comply with its obligations and
30 cooperate to its fullest extent with the Designated Hauler(s), and other Transfer Station Users. In
31 the event of disputes between the Contractor and Designated Hauler(s), the Contractor shall
32 attempt to resolve the dispute directly with the Designated Hauler(s). As a last resort, the
33 Contractor may request assistance from the City in resolving the dispute. In the event of a
34 dispute, the Contractor shall continue performance of the Contractor's obligations under this
35 Agreement and shall attempt to continue to resolve such dispute in a cooperative manner,
36 including but not limited to negotiating in good faith.

37 **3.24 Personnel.**

38 **A. Initial Hiring Practices.** The Contractor shall use Reasonable Business Efforts to
39 include, where relevant, such Transfer Station operating skills and Palomar Transfer Station
40 knowledge among criteria for employment at the Transfer Station. Subject to Applicable Laws,
41 the Contractor agrees to inform and offer employment to the employees presently employed at

1 the Palomar Transfer Station who may become unemployed as a result of the City's commitment
2 to enter into this Agreement, for as many positions as the Contractor has available at the Transfer
3 Station provided that such persons file an application for said jobs and meet all performance
4 criteria required of other candidates for the same position.

5 **B. Equal Employment Opportunity.** During performance of the Contractor's obligations
6 hereunder, the Contractor agrees, for itself, its assignees and successor in interest, as follows:

7 1. **Compliance with Regulations.** The Contractor shall comply with the Executive Order
8 11246 entitled "Equal Opportunity in Federal Employment," as amended by Executive Orders
9 11375 and 12086 and as supplemented in Department of Labor regulations (41 CFR Chapter 60)
10 (for purposes of this Section 3.24, "Regulations").

11 2. **Nondiscrimination.** The Contractor hereby agrees that it will not discriminate against
12 any employee or applicant for employment because of race, color, religion, gender, sexual
13 orientation, marital status or national origin as provided under Applicable Laws.

14 3. **Solicitations for Subcontractors, Including Procurements of Materials and**
15 **Equipment.** In all solicitations made by the Contractor for work to be performed under any
16 subcontract, including procurements of materials or equipment, each potential subcontractor or
17 supplier shall be notified by the Contractor of the Contractor's obligation under the Regulations
18 relative to nondiscrimination on the ground of race, color, religion, gender, national origin, age,
19 marital status, physical handicap or sexual orientation.

20 4. **Information and Reports.** The Contractor shall provide all information and reports
21 required by the Regulations, or by any orders or by any order or instructions issued pursuant
22 thereto, and will permit access to its books, records, accounts, other sources of information and
23 the Transfer Station as may be determined by the City to be pertinent to ascertain compliance
24 with such Regulations, orders and instructions. Where any information required of the
25 Contractor is in the exclusive possession of another who fails or refuses to furnish this
26 information, the Contractor shall so certify to the City, and shall set forth what efforts it has
27 made to obtain the information.

28 5. **Incorporation of Provisions.** The Contractor shall include the provisions of paragraphs
29 (1) through (4) of this Section in every subcontract, including procurements of materials and
30 leases of equipment, unless exempted by the Regulations or by any order or instructions issued
31 pursuant thereto. The Contractor shall take such action with respect to any subcontract or
32 procurement as the City may reasonably direct as a means of enforcing such provisions,
33 including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is
34 threatened with, litigation with a subcontractor or supplier as a result of such direction, the
35 Contractor may request City to enter such litigation to protect the interests of City.

36 **C. Qualifications and Performance.** The Contractor shall engage and train qualified and
37 competent employees, including managerial, supervisory, clerical, maintenance, and operating
38 personnel, in numbers necessary and sufficient for Transfer Station operation and to perform the
39 Contractor's obligations. The Contractor shall train such staff to perform their work in a safe
40 and efficient manner in accordance with the health and safety plan in the Operation and

1 Maintenance Manual and shall ensure that each staff person treats Transfer Station Users, City
2 employees and its representatives, and other members of the public with courtesy.

3 **3.25 Scale Operation.**

4 **A. Maintenance and Operation.** The Contractor shall maintain at least two (2) State
5 certified motor vehicle scales in accordance with Applicable Law and in a manner that allows for
6 Designated Hauler(s)' Delivery vehicles with unloaded ("tare") weights to bypass the weighing
7 operation when exiting the Transfer Station after unloading Permitted Materials. All scales shall
8 be linked to a centralized computer recording and billing system which shall be compatible with
9 the Contractor's systems and account for tracking all incoming and outgoing materials. The
10 Contractor shall operate such scales during facility receiving hours established in Section 3.08,
11 provided that the Contractor shall provide City with visual access to weighing information at all
12 times and copies thereof on the next Working Day on which the scale house is open.

13 **B. Vehicle Tare Weights.** When new vehicles are placed into service by the City or its
14 Designated Hauler(s), the Contractor shall promptly weigh such additional and replacement
15 vehicles and determine the tare weight(s) of each vehicle. In measuring the vehicle tare weight,
16 the Contractor shall record tare weight, hauler name, and vehicle identification number and
17 within ten (10) Working Days of weighing, the Contractor shall provide the City and Designated
18 Hauler(s) with a report listing vehicle tare weight information. The Contractor shall have the
19 right to request re-taring of vehicles two (2) times per year, unless there is reasonable suspicion
20 or evidence that tare weights are not accurate, in which case, tare weights may be updated more
21 frequently to ensure accuracy. In no case shall tare weights be updated more than four (4) times
22 per year.

23 **C. Substitute Scales.** To the extent practicable, if any scales in inoperable, being tested or
24 otherwise unavailable, all vehicles shall be weighed on the remaining operating scales. To the
25 extent that all the scales are inoperable, being tested, or otherwise unavailable, the Contractor
26 shall substitute portable scales until the permanent scales are replaced or repaired. The
27 Contractor shall arrange for any inoperable scale to be repaired as soon as possible and, in any
28 event, within seventy-two (72) hours (excluding Holidays) of the failure of the permanent scale.
29 The Contractor shall arrange to immediately obtain a temporary substitute scales(s) should the
30 repair of the permanent scale require more than twelve (12) hours.

31 **D. Estimates.** Pending substitution of portable scales or during power outages, the
32 Contractor shall estimate the quantity of Solid Waste Delivered to the Transfer Station and
33 Transported from the Transfer Station Site, on the basis of delivery vehicle and Transport trailer
34 volumes, tare weight, Designated Landfill and/or Processing facility weight records, and data
35 obtained through historical information from the Transfer Station. These estimates shall take the
36 place of actual weighing and shall be the basis for records while scales are inoperable. If the
37 City and the Contractor cannot agree on the estimated quantities, the Parties shall handle the
38 matter in accordance with the dispute resolution procedures in Section 16.14. The Contractor
39 shall not estimate the weight of Recovered Materials but shall weigh Recovered Materials when
40 scales are operable.

1 **E. Testing.** The Contractor shall test and calibrate all scales in accordance with Applicable
2 Law, but at least every twelve (12) months. Upon City request, the Contractor shall provide the
3 City with copies of test results. The Contractor shall further test and calibrate any or all scales
4 upon written request therefore by the City, within three (3) Working Days of such request. If
5 such test results indicate that the scale or scales complied with Applicable Law, the City will
6 reimburse the Contractor the Direct Costs of such tests. If such test results indicate that the scale
7 or scales did not comply with Applicable Law, the Contractor will bear the costs thereof and the
8 Contractor shall at its own cost adjust and correct, consistent with the results of such test, all
9 weight measurements recorded and Service Fees calculated, charged and paid, as the case may
10 be, from the date of such request.

11 **F. Weighing Standards and Procedures.** The Transfer Station scale house(s) at the Site
12 entrance serve as the location for weighing vehicles and collecting Service Fees. The Contractor
13 scale house personnel shall be responsible for inspecting the Permitted Materials Delivered to the
14 Transfer Station. All City, Designated Hauler, and other large-capacity Delivery vehicles shall
15 be charged Service Fees based on the Tonnage of Permitted Materials Delivered to the Transfer
16 Station. Thus, the Contractor shall weigh and record inbound weights of all City, Designated
17 Hauler, and other large-capacity Delivery vehicles when the vehicles arrive at the Site. In
18 addition, the Contractor shall weigh and record outbound weights of such vehicles for which the
19 Contractor does not maintain tare weight information. Small Self Haul vehicles may be charged
20 Service Fees based on the volume of Permitted Materials Delivered to the Transfer Station.
21 Thus, the Contractor may estimate the volume of Permitted Materials Delivered by Small Self
22 Haul vehicles rather than weighing such vehicles. When appropriate, the Contractor shall collect
23 payment of Service Fees from Transfer Station Users or shall charge the Transfer Station User's
24 account. The Contractor shall provide each Transfer Station User a receipt showing the date,
25 time, quantity and type of Permitted Materials Delivered to the Transfer Station and the Service
26 Fee charged for such material. The scale house computer system shall compile information into
27 various reports in which a typical transaction includes documentation of the Service Fee charged,
28 weight of vehicle, vehicle identification number, customer account, material type, route number,
29 vehicle type and origin of Permitted Materials.

30 **G. Records.** In accordance with Article 13, the Contractor shall maintain scale records that
31 provide information such as, but not limited to, inbound and outbound weights of vehicles,
32 vehicle identification number, jurisdiction of origin of materials received, type of material,
33 hauler identification and/or classification, type, weight, and destination of outbound materials.

34 **3.26 Collection of Service Fees.** The Contractor shall collect Service Fees from all Persons
35 Delivering Permitted Materials to the Transfer Station with the exception of Self Haulers
36 Delivering Recyclable Materials to the Buyback/Drop-Off Center. The Contractor shall keep
37 complete and accurate records of all Service Fees collected, shall keep safe all monies and
38 negotiables collected, and shall make certain payments to the City as provided in Article 12.

39 **3.27 Vehicle Turnaround Time.** The Contractor shall operate the Transfer Station so that all
40 City and Designated Hauler Delivery vehicles Delivering Permitted Materials are processed from
41 the scale house weighing operation, unloaded and exited from the facility in no more than fifteen
42 (15) minutes on average in the normal course of business, from leaving the scale house

1 (Maximum Vehicle Turnaround Time). Should the Contractor fail to meet the Maximum
2 Vehicle Turnaround Time, it shall pay liquidated damages stated in Section 15.04.B.1.

3 **3.28 Buyback/Drop-Off Center.** The Contractor shall Accept and, if appropriate, purchase at
4 a Buyback/Drop-Off Center Recyclable Materials that are separated and Delivered to the
5 Transfer Station by Self Haulers. The Contractor shall Process and market the Recyclable
6 Materials received and retain any revenues from the sale of such materials. The Buyback/Drop-
7 Off Center shall be opened and staffed to receive Recyclable Materials from Self Haulers 8:00
8 a.m. to 4:00 p.m., Tuesday through Saturday. At a minimum the Buyback/Drop-Off Center shall
9 Accept California Redemption Value beverage containers, mixed paper, corrugated cardboard,
10 newspaper, white ledger paper, and nonredemption value glass containers.

11 **3.29 Receipt and Transfer of Source Separated Recyclable Materials.** The City reserves
12 the right to Deliver, or cause to be Delivered, Source Separated Recyclable Materials, which are
13 collected from City residents or businesses by Designated Hauler(s), to the Transfer Station for
14 consolidation and Transfer and Transport to a Processing location or off-Site location designated
15 by the City, to the extent that space for this operation is reasonably available without otherwise
16 impairing Transfer Station operations. If the City exercises such right, a change in the
17 Contractor's scope of work and determination of the Contractor's Compensation for such
18 services shall be determined through the process described in Section 16.15. The City shall
19 provide notice to the Contractor thirty (30) days prior to the date the City intends to commence
20 Delivery of Recyclable Materials to the Transfer Station.

21 **3.30 Materials Recovery Activities.**

22 **A. Diversion Guarantee.** The Contractor recognizes and acknowledges that the City is
23 required by Applicable Law to Divert at least fifty percent (50%) of its Solid Waste from
24 Disposal. The Contractor further acknowledges that material recovery activities performed at the
25 Transfer Station may assist the City in meeting its Diversion objective and, to the extent
26 consistent with safe and prudent operating conditions in the Transfer Station facilities, commits
27 to Diverting on a Reasonable Business Efforts basis two (2) percent of the City Waste Delivered
28 by the City, Designated Haulers, and Self Haulers through the material recovery activities
29 described in this Section.

30 **B. White Goods.** The Contractor shall Accept and Divert White Goods Delivered to the
31 Transfer Station using Reasonable Business Efforts. The Contractor shall handle, Recover,
32 Process, and market such White Goods in accordance with Applicable Law. The Contractor may
33 seek reimbursement from the Transfer Station Users Delivering White Goods by establishing
34 Service Fees for Acceptance of White Goods.

35 **C. Brown Goods.** The Contractor shall use Reasonable Business Efforts to Recover and
36 Divert Brown Goods from City Waste by Processing and marketing the Recovered Brown
37 Goods.

38 **D. Bulky Goods.** The Contractor shall use Reasonable Business Efforts to Divert Bulky
39 Goods from the Solid Waste by sorting the Solid Waste on the floor of the Transfer Station. The

1 Contractor shall use Reasonable Business Efforts to arrange for the reuse or Recycling of the
2 Bulky Goods.

3 **E. Other Recyclable Materials.** The Contractor shall use Reasonable Business Efforts to
4 operate the Transfer Station for Recovery and Processing of additional materials such as
5 construction and demolition waste and Organic Materials.

6 **F. Measurement of Diversion.** The Contractor shall document the quantity of White
7 Goods, Brown Goods, Bulky Goods, and other Recyclable Materials or Organic Materials
8 removed from the Solid Waste Accepted at the Transfer Station and the quantity of such
9 Diverted material from Disposal. The Contractor will calculate and measure compliance with the
10 Diversion Guarantee on a monthly basis using a methodology acceptable to the City and shall
11 report thereon in accordance with reporting requirements in Article 13.

12 **G. City Requested Material Recovery Operations.** The Contractor recognizes that the
13 City is committed to Recycling Solid Waste that has in the past been Disposed of in Landfills.
14 For that reason, the Contractor, if directed by the City, shall submit a proposal to provide
15 material Recovery operations that may include activities designed to Recover and Divert
16 reuseable and Recyclable Materials from residential, commercial, or Self Haul Waste through a
17 combination of mechanical and manual techniques. Any change in the Contractor's scope of
18 work and determination of the Contractor's Compensation for such services shall be determined
19 through the process described in Section 16.15.

20 **3.31 Marketing of Recovered Materials.**

21 **A. General.** The Contractor shall use Standard Industry Practices to market Recovered
22 Materials.

23 **B. End Use Certificate.** To the extent practicable, the Contractor shall obtain a certification
24 of end use from the Person that purchased or took possession of the Recovered Materials
25 establishing that the Recovered Materials have been, in fact, Recycled, re-used or otherwise
26 Diverted from Disposal. The Contractor shall not permit Recovered Materials to be incinerated,
27 pyrolyzed, distilled, gasified, biologically converted other than being composted, or otherwise
28 subjected to transformation as defined in Section 0201 of the California Integrated Waste
29 Management Act except to the extent permitted by Applicable Law with respect to Waste
30 Diversion.

31 **C. Marketing Records.** The Contractor shall maintain complete, accurate, and detailed
32 marketing records, including Tonnage of material marketed, purchaser, and end use in
33 accordance with Article 13. The Contractor shall supply the City with additional information
34 and documentation within fifteen (15) calendar days of the City's request, describing the
35 information requested with reasonable specificity.

36 **D. Recovered Materials Revenues.** The Contractor shall retain all Recovered Materials
37 Revenues.

38 **E. Avoided Disposal Costs.** As an incentive to Divert materials Accepted at the Transfer
39 Station, the Contractor shall benefit from any Disposal costs which are avoided through the

1 Contractor's Recovery, Processing, marketing, and Diversion of Recovered Materials; however,
2 when the quantity of Diverted City Waste equals more than ten (10) percent of the City Waste
3 Accepted, the Contractor shall share equally with the City in any benefits of Disposal costs
4 which are avoided as described in Section 12.07.

5 **3.32 Waste Requiring Disposal.** All Solid Waste remaining after the material Recovery
6 activities shall be Transported to and Disposed of at a Designated Landfill in accordance with
7 provisions of Articles 4 and 5.

8 **3.33 Security.** The Contractor shall maintain adequate security at the Transfer Station Site
9 during the PTS Operating Period and CTS Contractor Operating Period, as determined by the
10 Contractor.

11 **3.34 Ownership of Permitted Materials.** Once Solid Waste, Recyclable Materials, or
12 Organic Materials are Delivered to the Transfer Station, ownership and the right to possession of
13 such material shall transfer directly from the Person Delivering such material to the Contractor.
14 the Contractor is hereby granted the right to retain, Recycle, Process, Dispose of and otherwise
15 use such Permitted Materials, or any part thereof, in any lawful fashion or for any lawful purpose
16 desired by the Contractor with the exception that City Source Separated Organic Material shall
17 be delivered by the Contractor to the Designated Organics Processing Facility. This right is
18 subject to:

19 A. The Contractor's objective to meet the Diversion Guarantee and to assist the City in
20 meeting its Diversion goals; and

21 B. City's right to direct the Contractor to Process Organic and Recyclable Materials at a
22 particular licensed facility, if and only if City exercises such right by providing specific
23 written direction to the Contractor.

24 Subject to the provisions of this Agreement, the Contractor shall have the right to retain any
25 benefit resulting from its right to retain, Recycle, Process, Dispose of, or reuse the Solid Waste,
26 Recyclable Materials, or Organic Materials which it receives subject to the provision of this
27 Agreement. Solid Waste, or any part thereof, which is Disposed of at a Disposal site or sites
28 (whether landfill or transformation facility) shall become the property of the owner or operator of
29 the Disposal site(s) once deposited there by the Contractor. During the City Use Period, City
30 may obtain ownership or possession of City Waste upon written notice of its intent to do so,
31 however, nothing in this Agreement shall be construed as giving rise to any inference that City
32 has such ownership or possession unless such written notice has been given to the Contractor.

33 **3.35 Contractor Operational Area.** Throughout the Term, Contractor shall have exclusive
34 rights to an operational area at the Transfer Station Site equivalent to the area being used as of
35 the Effective Date of this Agreement for the purpose of providing parking sufficient for at least
36 seventy (70) collection trucks and maintenance facilities for use as a trucking terminal to support
37 Solid Waste and Recyclable Materials collection operations, for storage space and for other uses
38 associated with the Contractor's business operations or its Affiliates' operations. The right to
39 use the designated operational area shall be free of charge to the Contractor.

1 **3.36 Standard Industry Practices.** The Contractor shall employ Standard Industry Practices
2 in conducting all activities specified in this Article.

3 **ARTICLE 4**
4 **TRANSPORTATION SERVICES**

5 **4.01 General.** The Contractor shall provide, in accordance with Standard Industry Practices,
6 Transportation services described in this Section during the Initial PTS Operating Period and
7 CTS Contractor Operating Period. During the Subsequent PTS Operating Period and CTS Third
8 Party Operation Period, the Contractor shall not be obligated to provide Transportation services
9 to the City or its Designated Hauler(s).

10 During the Initial PTS Operating Period and the CTS Contractor Operating Period, the
11 Contractor shall Transport and deliver to a Designated Landfill for Disposal as specified in
12 Article 5 all City Waste Accepted at the Transfer Station that is not Recycled, reused, or
13 otherwise Diverted. No City Waste may be Disposed of at any location other than a Designated
14 Landfill except in cases of Uncontrollable Circumstances, the Contractor shall have the right to
15 deliver Waste to another Permitted Solid Waste Disposal Facility with notice and approval of the
16 City, not to be unreasonably withheld, conditioned or delayed. Delivery of City Waste to the
17 Designated Landfill shall occur during the receiving hours of the Designated Landfill. The date,
18 time, vehicle identification number, and weight of all vehicles Transporting City Waste shall be
19 recorded when the vehicle leaves the Transfer Station Site.

20 During the Initial PTS Operating Period and CTS Contractor Operating Period, the Contractor
21 shall Transport and deliver to the Designated Organics Processing Facility all City Source
22 Separated Organic Materials Accepted at the Transfer Station. Delivery of City Source
23 Separated Organic Materials to the Designated Organics Processing Facility shall occur during
24 the receiving hours of the Designated Organics Processing Facility. The date, time, vehicle
25 identification number, and weight of all vehicles Transporting City Source Separated Organic
26 Materials shall be recorded when the vehicle leaves the Transfer Station Site. The Contractor
27 shall secure proposals and bids for purposes of selection of the Designated Organics Processing
28 Facility and submit the same to the City. The City shall select the Designated Organics
29 Processing Facility based on such proposals and bids. In the event the Governmental Fees
30 charged by the Designated Organics Processing Facility increase at any time, the City shall have
31 the right to direct the Contractor to obtain new proposals and bids and the City may elect to
32 select a new Designated Organics Processing Facility based on such new proposals and bids.

33 The Contractor agrees to move all Solid Waste off the Transfer Station tipping floor and to
34 Transport all Solid Waste off-Site within forty-eight (48) hours of receipt thereof, and to conduct
35 Transfer and Transport services in accordance with Transfer Station Permits and Applicable
36 Law. The Contractor shall Transport Solid Waste, Recyclable Materials, and Organic Materials
37 in accordance with the protocol included in the Operations and Maintenance Manual. The
38 Contractor shall Transport Solid Waste, Recyclable Materials, and Organic Materials with
39 sufficient regularity and frequency to minimize storage of Solid Waste, Recyclable Materials,
40 and Organic Materials at the Transfer Station, avoid creation of nuisance, and to minimize the
41 amount of Solid Waste, Recyclable Materials, and Organic Materials stored in the Transfer
42 Station to create a safe, efficient operating environment in the Transfer Station.

1 **4.02 Transport Equipment.** The Contractor shall be responsible for acquisition, supply,
2 operation, repair, and replacement of all Rolling Stock, storage and/or Transport containers,
3 loading equipment, and other necessary equipment for Transportation of Solid Waste to a
4 Designated Landfill and Transportation of City Source Separated Organic Material to the
5 Designated Organics Processing Facility. Tractors and transfer trailers shall be kept clean, shall
6 be thoroughly washed on the exterior at least once every week, and shall be thoroughly cleaned
7 with pressurized hot water at least once per year. The tractors and trailers shall be repainted
8 and/or refurbished so that they present a reasonably acceptable appearance to the City. the
9 Contractor's name and truck identification number shall be clearly marked on all vehicles that
10 travel off the Transfer Station Site.

11 All Transport vehicles shall be inspected by the driver prior to leaving the Transfer Station at the
12 start of the day. The driver shall use a standard inspection checklist designed by the Contractor.
13 Each driver is required to maintain a driver's daily log.

14 **4.03 Mode of Transport.**

15 **A. Initial Mode of Transport.** The initial mode of Transporting Solid Waste and City
16 Source Separated Organic Materials shall be by large volume highway Transfer truck and trailer.

17 **B. Alternative Modes of Transport.** During the Initial PTS Operating Period and CTS
18 Contractor Operating Period, the use of rail haul or another alternative mode of Transport may be
19 of potential interest to the City or the Contractor. Alternative modes of Transport may be
20 considered a change in the Contractor's obligation and shall be addressed as a modification to
21 scope of services in accordance with Section 16.15.

22 **4.04 Prohibition of Disposal of Recovered Materials.** The Contractor shall not Transport
23 Recovered Materials, Source Separated Recyclable Materials or Source Separated Organic
24 Materials, to a Designated Landfill or any other disposal facility for the purpose of Disposal,
25 without the prior consent of the City.

26 **4.05 Transport Routes.** The Contractor shall select routes from the Transfer Station to
27 Disposal facilities and Processing facilities, which minimize inconvenience and disturbance to
28 the public and comply with Permits and Applicable Law. The Contractor shall provide City with
29 prompt notice of such selection and any change in routes that affect area(s) within the City limits
30 within a two (2) mile radius of the Transfer Station.

31 **4.06 Highway Rolling Stock Loading Standard.** The Contractor shall load Solid Waste,
32 Recyclable Materials, and Organic Materials into the highway Rolling Stock in a manner, which
33 minimizes vehicle waiting time and maximizes the weight of materials in each vehicle, without
34 exceeding legal limits. Each vehicle shall be efficiently loaded by combining materials of
35 varying densities, distributing materials with respect to axle weights, tamping down or
36 compacting the materials in the vehicles, or by other suitable means.

37 **4.07 Litter Prevention.** The Contractor shall not spill or scatter Solid Waste, Organic
38 Materials or Recovered Materials during Transfer or Transportation thereof. The Contractor
39 shall enclose or cover all vehicles Transporting Solid Waste, Organic Materials or Recovered
40 Materials from the Transfer Station in a manner approved by the City. If any Solid Waste,

1 Organic Materials or Recovered Materials are spilled or scattered, whether on private or public
2 property, the Contractor shall immediately clean them up.

3 **4.08 Vehicle Parking, Fueling and Maintenance.** The Contractor may park, fuel, maintain,
4 and repair vehicles for Transportation of Solid Waste, Organic Materials, or Recovered Materials
5 at the designated area of the Transfer Station; provided the Contractor shall ensure that such
6 vehicles do not interfere with or pose any hazard to the Transfer Station Users Delivering
7 Permitted Materials to the Transfer Station.

8 **4.09 Transport Permit.** The Contractor shall secure and maintain all Permits required for
9 Transporting Solid Waste, Organic Materials, and Recovered Materials by Applicable Law. The
10 Contractor shall supply the City with copies of any such Permits (including prior Permits, current
11 Permits, or renewals thereof) promptly upon request.

12 **4.10 Standard Industry Practices.** the Contractor shall employ Standard Industry Practices
13 in conducting all activities specified in this Article.

14 **ARTICLE 5**
15 **DISPOSAL SERVICES**

16 **5.01 General.** the Contractor shall provide, in accordance with Standard Industry Practices,
17 Disposal services described in this Section during the Initial PTS Operating Period and CTS
18 Contractor Operating Period at Designated Landfills. During the Subsequent PTS Operating
19 Period and CTS Third Party Operating Period, the Contractor shall not be obligated to provide
20 Disposal services to the City or its Designated Hauler(s).

21 **5.02 Responsibilities of the Contractor.** During the Initial PTS Operating Period and CTS
22 Operating Period, the Contractor or, as applicable, its Affiliates owning and/or operating the
23 Designated Landfills shall be responsible for the following Disposal activities. (All references to
24 "Affiliates" in this Article 5 shall mean and refer to those Affiliates of the Contractor who own
25 and/or operate the Designated Landfills).

26 **A. Accept Waste.** The Contractor's Affiliate shall Accept and Dispose of Solid Waste
27 delivered from the Transfer Station, and weigh all delivery vehicles at the time of entry at a
28 Designated Landfill site using the Contractor's scales. If appropriate, the Contractor's Affiliate
29 shall provide and operate Transport trailer tippers for the purposes of unloading Transport
30 vehicle trailers.

31 **B. Operations.** The Contractor or its Affiliate(s), at its cost and expense, shall at all times
32 operate one or more of the Designated Landfill(s). The responsibilities of the Contractor or its
33 Affiliate(s), as applicable, for the Designated Landfill shall include, but are not limited to:

34 1. Operation, management, and maintenance of the refuse fill areas;

35 2. Provision, operation, and maintenance of all equipment, and supplies necessary for
36 operations, Closure, Post-Closure, and environmental monitoring;

1 3. Operation, management and maintenance of leachate and landfill gas management
2 systems, groundwater monitoring and management systems, storm water drainage and control
3 systems, treatment facilities, buildings, on-site roadways, utilities, and any other required facility
4 elements.

5 C. **Equipment and Supplies.** The Contractor's Affiliate shall provide all equipment, and
6 consumables necessary to operate Designated Landfills.

7 D. **Traffic Control and Direction.** The Contractor's Affiliate shall be responsible for the
8 construction and maintenance of all roads required at the Designated Landfills. The Contractor's
9 Affiliate shall direct on-site traffic to appropriate unloading areas and provide a safe working
10 environment.

11 E. **Hazardous Substances.** The Contractor's Affiliate shall maintain an effective
12 monitoring system to prevent Hazardous Substances from being Accepted at a Designated
13 Landfill as required by Applicable Law, and shall ensure the capability to manage Hazardous
14 Substances following inappropriate Acceptance of a Hazardous Substance.

15 F. **Permits.** The Contractor's Affiliate shall obtain and maintain all Permits required for
16 operation of the Designated Landfills and for the performance of its obligations thereunder.

17 G. **Invoicing.** The Contractor's Affiliate shall invoice the Transfer Station operations on a
18 monthly basis requesting payment of the Disposal Fee corresponding to the Tonnages of Waste
19 delivered from the Transfer Station during the previous month.

20 H. **Closure and Post-Closure.** The Contractor's Affiliate shall safely manage the
21 Designated Landfills and Designated Landfills properties in Full Regulatory Compliance during
22 Closure and Post-Closure period(s) including fulfillment of State funding requirements. The
23 Contractor acknowledges that it, through the performance of its Affiliate, is solely responsible in
24 relation to the City for (i) the appropriate Closure and Post-Closure activities of the Designated
25 Landfills and (ii) the establishment and funding of any reserve funds required by Applicable Law
26 for the purposes of providing funds for the payment of costs of Closure of the Designated
27 Landfills (or any cell within the Designated Landfill) or Post-Closure activities relating to the
28 Designated Landfills. Without limitation, in no event shall the City or its Designated Hauler(s)
29 be responsible for paying any deficiencies in such required reserves. In addition, the City or its
30 Designated Hauler(s) shall have no responsibility to make any payments in the event that actual
31 Closure and Post-Closure costs relating to the Designated Landfills exceed the amounts reserved
32 by the Contractor for such purposes.

33 **5.03 Receiving and Operating Hours.** Beginning on the Effective Date, the Contractor's
34 Affiliates shall keep open and operate one or more Designated Landfills continuously and
35 uninterrupted during facility receiving hours, except as limited by applicable Permits
36 restrictions, throughout the Initial PTS Operating Period and CTS Contractor Operating Period,
37 except when the Contractor is prevented from doing so by an Uncontrollable Circumstance.

38 **5.04 Scale Operation.** Scale operation shall be performed consistent with the procedures set
39 forth in Section 3.25 or Standard Industry Practice.

1 **5.05 Right to Enter Facility and Observe Operations.** The Right to Access provisions of
2 Section 3.20 shall apply except 48 hours notice by the City will be required to enter and observe
3 the Designated Landfills.

4 **5.06 Record Keeping.** The Contractor shall keep daily records of Solid Waste delivered from
5 the Transfer Station sufficient to determine compliance with all provisions of this Agreement.
6 At a minimum, such record keeping shall consist of the date, time of weighing, and weight for
7 each incoming vehicle; invoices submitted by the Contractor to the Transfer Station operator,
8 including all background data used in generating the invoices. the Contractor shall maintain
9 records so as to be available to the City upon City request, and shall within five (5) Working
10 Days provide the City copies of such records. All such records shall be preserved and retained
11 for a period no less than seven (7) years including retention of records beyond the expiration or
12 termination date of the Agreement.

13 **5.07 Meetings.** Upon five (5) Working Days notice of a request by either Party to meet with
14 the other Party, the Parties shall meet to discuss operations of Designated Landfills and any
15 related matters raised by either Party.

16 **5.08 Contractor Landfill Capacity Guarantee and Waste Acceptance Priority.**

17 **A. Landfill Capacity Guarantee.** During the Initial PTS Operating Period and CTS
18 Contractor Operating Period, the Contractor shall guarantee its ability to Accept and Dispose of
19 all City Waste Transported from the Palomar Transfer Station to a Designated Landfill including
20 all Solid Waste Delivered to the Palomar Transfer Station by the City, Designated Hauler(s), and
21 Self Haulers. The Contractor shall have the right to select one or more Designated Landfills
22 where Solid Waste from the Transfer Station will be Disposed.

23 **B. No Representation by City.** The City makes no representation, and is under no
24 obligation, regarding the quantity or composition of the Solid Waste delivered to the Designated
25 Landfills by the City, Designated Haulers, Self Haulers, or other Transfer Station Users.

26 **5.09 Contractor Representative.** A representative of the Contractor or its Affiliate shall be
27 present at the Designated Landfill(s) at all times that any operations are being conducted thereon
28 with respect to Disposal of Waste as is the Contractor's responsibility under this Agreement.
29 The representative shall be available during the Contractor's or Affiliate's office hours for
30 telephone communications with the City Manager or his/her designee. The Contractor shall file
31 with the City Manager the name, address and telephone number of a representative who can be
32 contacted at any time during normal business hours. The representative must be fully authorized
33 and equipped to respond to reasonable requests of the City Manager or his/her designee.

34 **5.10 Standard Industry Practices.** The Contractor shall employ Standard Industry Practices
35 in conducting all activities specified in this Article.

ARTICLE 6
SUBSEQUENT PTS OPERATING PERIOD

6.01 General. The Contractor's and the City's rights and responsibilities during the Subsequent PTS Operating Period are described in this Article. The Contractor's Compensation during the Subsequent PTS Operating Period is described in Article 9.

6.02 Transfer Station Services. During the Subsequent PTS Operating Period, the Contractor and the City shall comply with Transfer Station requirements for the Palomar Transfer Station in accordance with requirements of Article 3 with the exception of services described in Sections 3.03 (City Transfer Station Development), 3.06 (Receipt of Permitted Materials), 3.07 (Transfer Station Throughput Guarantee and Waste Acceptance Priority), 3.30 (Materials Recovery Activities), 3.31 (Marketing of Recovered Materials), and 3.32 (Waste Requiring Disposal), which shall not be required under this Agreement during the Subsequent PTS Operating Period. To the extent practical, the Contractor shall segregate City Waste from materials delivered by other Transfer Station Users and shall separately transfer such materials in the event different landfills are utilized for disposal.

6.03 City Right to Transfer (City Use Period). City shall have the right to arrange for Delivery of all or a portion of City Waste and Source Separated Organic Materials collected by the City or its Designated Hauler to the Palomar Transfer Station for Transfer. In the event the City chooses to exercise its right to use the Palomar Transfer Station, the City shall provide one (1) year written notice to the Contractor of the date such Deliveries shall commence, the type and estimated daily Tonnage of material to be Delivered to the Palomar Transfer Station, and the date such Deliveries shall cease, the name(s) of the Designated Hauler(s) to Deliver such material, and a statement of the City's commitment to Direct its Designated Hauler(s) to Deliver all or a portion of such material collected in the City. During the City Use Period, the City shall be responsible for arranging Transportation, Disposal, and Processing services for such materials. The Contractor shall be obligated to receive and Accept City Waste and Source Separate Organic Materials Delivered by City or its Designated Hauler(s) and Transfer such materials into containers or vehicles designated by the City. City or its Designated Hauler(s) shall compensate the Contractor for use of the Transfer Station during the City Use Period in accordance with Article 9.

6.04 Receipt of Permitted Materials. During the Subsequent PTS Operating Period, the Contractor shall receive and Accept at the Palomar Transfer Station all City Waste Delivered by Self Haulers and all Recyclable Materials Delivered by Self Haulers to the Buyback/Drop-Off Center. During the City Use Period, the Contractor shall receive and Accept at the Palomar Transfer Station all City Waste and City Source Separated Organic Materials Delivered by, or on behalf of the City and its Designated Hauler(s). During the City Use Period, the Contractor comply with Waste acceptance priorities stated in Section 3.07.B.

The City makes no representation, and is under no obligation, regarding the quantity or composition of the Solid Waste, Recyclable Materials, or Organic Materials Delivered to the Transfer Station by the City, Designated Haulers, or Self Haulers.

1 **6.05 Transfer Station Throughput Guarantee and Waste Receiving Priority.** The
2 Contractor shall not be responsible for providing a Transfer Station Throughput Guarantee
3 except during the City Use Period when the Contractor shall guarantee its ability to Accept and
4 Transfer all Solid Waste Delivered by the City or its Designated Hauler(s), and the Contractor
5 shall guarantee its ability to Accept and Transfer all City Source Separated Organic Material
6 Delivered to the Transfer Station by the City or its Designated Hauler(s).

7 **6.06 Materials Recovery Activities.** The Contractor shall not be obligated to perform any
8 material Recovery activities; however, in the event the Contractor Recovers Recyclable
9 Materials, the Contractor shall use Reasonable Business Efforts to market Recovered Materials
10 and the Contractor shall retain all Recovered Materials Revenues.

11 **6.07 Transportation, Disposal, and Processing Services.** The Contractor shall be solely
12 responsible for providing or arranging for Transportation and Disposal or Processing services for
13 Solid Waste, Recyclable Materials and Organic Materials Accepted at the Palomar Transfer
14 Station from Transfer Station Users other than the City and its Designated Hauler(s) and may
15 select the Disposal and Processing facilities where materials shall be delivered. When providing
16 Transport services during the Subsequent PTS Operating Period for Transfer Station Users, the
17 Contractor shall comply with requirements specified in Article 4 with the exception of Section
18 4.01.

19 **6.08 Contractor's Right of First Offer.** The City shall be responsible for arranging
20 Transportation and Disposal or Processing services for Solid Waste and Source Separated
21 Organic Materials Accepted at the Palomar Transfer Station from the City or its Designated
22 Haulers during the City Use Period. The City shall provide the Contractor with an opportunity to
23 present an offer for Disposal services prior to the City seeking offers from other Disposal
24 providers. The Contractor's offer for Disposal services shall be provided within thirty (30)
25 calendar days of the City's request. The City shall review the Contractor's offer and the Parties
26 shall negotiate in good faith to reach an agreement for the Contractor's provision of
27 Transportation, Processing, and/or Disposal services. In the event the Parties do not reach an
28 agreement within sixty (60) calendar days of the City's receipt of the Contractor's offer, the City
29 shall have the right to enter into negotiations with other parties or to solicit proposals for
30 Transportation, Processing, and/or Disposal services for City Waste Delivered to the Palomar
31 Transfer Station by the City or its Designated Haulers during the City Use Period. In the event
32 the City solicits proposals from other parties for Disposal services, the Contractor shall have the
33 opportunity to participate in the proposal process and submit a proposal.

34 **ARTICLE 7**
35 **CTS MARKETING PERIOD**

36 **7.01 General.** During the CTS Marketing Period, the City shall guarantee Transfer Capacity
37 to the Contractor. The Contractor shall have the right, and the corresponding obligation to pay
38 for the right, to use capacity up to but not exceeding the Transfer Capacity Guarantee, which
39 shall be equal to one thousand two hundred (1,200) Tons of Solid Waste per day (Monday
40 through Friday) and eight hundred (800) Tons of Solid Waste each Saturday and Sunday and the
41 right to Deliver to the City Transfer Station Solid Waste up to but not exceeding the Transfer
42 Capacity Guarantee. City and the Contractor shall meet and confer to discuss pricing for such

1 use and the terms and conditions of any additional capacity to be provided the Contractor in
2 addition to the amount of the Transfer Capacity Guarantee.

3 **7.02 Transfer Station Services.** The City shall provide or arrange for Transfer Station
4 services at the City Transfer Station which, at a minimum, shall be similar in nature to those
5 required by the Contractor in Section 3.05 except requirements of Sections 3.05.D and 3.05.F.
6 To the extent practical, the City or its designated Transfer Station operator shall segregate Solid
7 Waste Delivered by the Contractor or the Contractor's Haulers from materials Delivered by other
8 transfer station users and shall separately Transfer such materials.

9 **7.03 CTS Marketing Period.** The Contractor shall have the right to market Transfer Station
10 services at the City Transfer Station and Deliver, or arrange for Delivery of Solid Waste,
11 Recyclable Materials, and Organic Materials collected by the Contractor or other parties up to
12 but not exceeding the Transfer Capacity Guarantee specified in Section 7.01.

13 **7.04 Receipt of Permitted Materials.** During the CTS Third Party Operating Period, City or
14 its designated Transfer Station operator shall receive and Accept at the City Transfer Station
15 Solid Waste, Recyclable Materials, or Organic Materials Delivered by the Contractor or the
16 Contractor's Haulers through agreements between such parties and the Contractor provided that
17 quantities of such materials do not exceed maximum the Transfer Capacity Guarantee stated in
18 Section 7.01.

19 **7.05 Professionalism.** The Contractor and the Contractor's Haulers shall act in a professional
20 and courteous manner at all times including times when such Persons are interacting with the
21 City, its employees, subcontractors, designated Transfer Station operator, or other agents. The
22 Contractor, its employees, subcontractors, or other agents and the Contractor's Haulers shall
23 follow all operating procedures established by the Transfer Station including, but not limited to,
24 those related to health and safety, traffic, gate house operations, Solid Waste unloading, load
25 checking operations and procedures in the Operating and Maintenance Manual.

26 **7.06 Cooperation and Disputes.** During the CTS Third Party Operating Period, the
27 Contractor and the Contractor's Haulers shall cooperate to the fullest extent with the City, its
28 designated Transfer Station operator, and other Transfer Station Users. In the event of disputes
29 between the Contractor and the City's designated Transfer Station operator, the Contractor shall
30 attempt to resolve the dispute directly with the City's designated Transfer Station operator. The
31 Contractor may request assistance from the City in resolving the dispute. In the event of an
32 unresolved dispute, the dispute shall be finally resolved between the Contractor and the City
33 pursuant to the provisions of Section 16.14 below, during which time the Contractor shall
34 continue performance of the Contractor's obligations under this Agreement. The Contractor's
35 cooperation with the City's designated Transfer Station operator shall include, but not be limited
36 to, the Contractor's responsibility to arrange for loading of its Transportation vehicles at times
37 during normal business hours which are convenient with the City's designated Transfer Station
38 operator.

**ARTICLE 8
CONTRACTOR'S COMPENSATION DURING
INITIAL PTS OPERATING PERIOD**

8.01 General. During the Initial PTS Operating Period, the Contractor's Compensation provided for in this Article shall be the full, entire, and complete compensation due to the Contractor pursuant to this Agreement for all labor, equipment, materials and supplies, taxes, insurance, bonds, overhead, profit, and all other things necessary to perform all the services required by this Agreement.

A. Re-Calculation of Contractor's Compensation. It is the intention of the parties that the Contractor's Compensation shall be re-calculated and re-established by the parties in the event that the Initial PTS Operating Period extends beyond the tenth (10th) anniversary of the Effective Date (the "Re-Adjustment Date") for any reason. In the event the City elects to extend the Initial PTS Operating Period under Section 2.04 (A) above (except where the CTS Operations Date is expected to occur by the twelfth (12th) year of the Term, or upon commencement of the Subsequent PTS Operating Period), the Contractor shall deliver to the City, not later than ninety (90) days prior to the Re-Adjustment Date, the Contractor's calculation of the Contractor's Compensation for the portion of the Term extending past the Re-Adjustment Date.

8.02 Service Fees. Service Fees are the per-Ton charges or per-item charges the Designated Hauler(s), Self Haulers, and other Transfer Station Users pay the Contractor for Delivery of Permitted Materials to the Transfer Station.

A. City-Regulated Service Fee. During the Initial PTS Operating period, the City through its contract with Designated Hauler(s), shall set and maintain residential, commercial, and other relevant collection rates levied by Designated Hauler(s) at levels and at appropriate times to adequately allow the Designated Hauler(s) to pay the Contractor the PTS Solid Waste Fees and PTS Organic Fee set by this Agreement. The City's obligation to set and maintain the PTS Solid Waste Fee and PTS Organic Fee described in this Section shall also apply in the event the City, at some future date, should decide to perform collection services itself for all or part of the City Waste or City Source Separated Organic Materials.

B. Contractor-Regulated Service Fees. The Contractor shall be solely responsible for setting, adjusting, and regulating PTS Other Fees for Permitted Materials Delivered to the Palomar Transfer Station generated outside the City provided that such Service Fees are set to provide for payments to City as required in Article 12 and recognize the City as a most favored customer in accordance with Section 8.07. Fees for self-hauled solid waste generated within the City shall be approved by the City Manager.

C. Collection of Service Fees. The Contractor is responsible for collection of all PTS Service Fees. Service Fees may be collected from Designated Hauler(s) and other Transfer Station Users at the Transfer Station scale house at the time of Delivery of Permitted Materials or the Contractor may submit monthly invoices to Transfer Station Users requesting payment for Service Fees. The Contractor shall be liable for all delinquent payments and bad debt.

1 **D. Only Compensation Due by City or its Designated Hauler(s).** The PTS Solid Waste
2 Fee and PTS Organic Fee collected from the Designated Hauler(s) during the Initial PTS
3 Operating Period are the only compensation due the Contractor from the Designated Hauler(s)
4 for service provided during the Initial PTS Operating Period unless otherwise provided in this
5 Agreement or agreed to by the Parties. The Contractor shall not charge City for Permitted
6 Materials, equal to or less than 100 Tons annually, generated in the City and Delivered to the
7 Transfer Station in City owned and operated vehicles.

8 **8.03 PTS Solid Waste Fee.**

9 **A. General.** The initial PTS Solid Waste Fee (thirty-six dollars [\$36.00] per Ton) includes
10 compensation for Transfer Station services, Transportation of City Waste to Designated
11 Landfills, Disposal Services, and all applicable Governmental Fees. The PTS Solid Waste Fee
12 shall be effective during the Initial PTS Operating Period. The PTS Solid Waste Fee is separated
13 into two components: the Base Component and Governmental Fee Component. The adjustment
14 process for the PTS Solid Waste Fee is presented in Section 8.04.

15 **B. Base Component.** The initial Base Component is that portion of the PTS Solid Waste
16 Fee comprised of the Contractor's fixed and variable costs and equals thirty-two dollars (\$32)
17 per Ton. The Base Component shall be adjusted annually during the Initial PTS Operating
18 Period to reflect the change in the CPI values as specified in Section 8.04.B, but will not
19 otherwise be adjusted except as the result of a modification to the scope of services as provided
20 in Section 16.15.

21 **C. Governmental Fee Component.** The Governmental Fee Component is that portion of
22 PTS Solid Waste Fee comprised of the Contractor's Governmental Fees. The Governmental Fee
23 Component is subject to adjustment only as necessary to reflect changes in Governmental Fees
24 required by third parties as provided in Section 8.04.C.

25 **8.04 Adjustment of PTS Solid Waste Fee.**

26 **A. General.** The intent of this Agreement is to provide for an annual adjustment to the PTS
27 Solid Waste Fee during the Initial PTS Operating Period. The first annual adjustment to the
28 Base Component of the PTS Solid Waste Fee will be effective June 1, 2003. The annual
29 adjustment will reflect the annual change in the CPI and the effect of such change on the Base
30 Component of the PTS Solid Waste Fee and changes in Governmental Fees. A change in any
31 fees shall be effective in accordance with the provisions of this section.

32 **B. Base Component Annual Adjustment.** The annual change to the Base Component of
33 the PTS Solid Waste Fee shall be calculated using the value of the most recently published CPI
34 and the value of the CPI twelve (12) months prior to the most recently published CPI (previous
35 12-month CPI value). The specific adjustments shall be rounded to the nearest cent per Ton.
36 The adjustment to the Base Component shall be made as follows:

37
$$\text{Adjusted PTS Solid Waste Fee Base Component} = \text{Base Component of the PTS Solid}$$

38
$$\text{Waste Fee} \times (\text{most recent CPI value} / \text{previous 12-month CPI value})$$

1 For example, assume:

- 2 1. Date of first annual adjustment is June 1, 2003
- 3 2. Then-current Base Component of the PTS Solid Waste Fee = \$32.00 per Ton
- 4 3. Most recent CPI value (February 2003) = 126.1
- 5 4. Previous 12-month CPI value (February 2002) = 124.2

6 The Adjusted Variable Components are calculated as follows:

7 Adjusted PTS Solid Waste Fee Base Component = $\$32.00 \times (126.1/124.2) = \32.48 per
8 Ton

9 If during an annual adjustment, the CPI change for the annual period exceeds five (5) percent,
10 the City will adjust the Base Component of the PTS Solid Waste Fee by five (5) percent.

11 **C. Governmental Fee Component Annual Adjustment.** The initial PTS Solid Waste Fee
12 (thirty six [\$36.00] per Ton) includes all applicable Governmental Fees as of the Effective Date
13 (that equals four dollars [\$4.00] per Ton). The annual net change to the Governmental Fees shall
14 be made to reflect any adjustment (either increase or decrease) in Governmental Fees subsequent
15 to the Effective Date. The following steps shall be used to determine if an adjustment in
16 Governmental Fee Component should be made:

- 17 1. No later than March 1, the Contractor shall provide written verification and
18 documentation of the specific Governmental Fees to be included in the PTS Solid Waste Fee
19 (listed separately) comprising the then-current Governmental Fee Component and present the
20 amount by which they have increased, decreased, or remained the same by comparing
21 Governmental Fees to those included in the PTS Solid Waste Fee on the Effective Date.
- 22 2. Based on the information submitted by the Contractor, and any additional information the
23 City may reasonably request and/or separately collect for its independent verification, the City
24 shall adjust the Governmental Fee Component to reflect any verified net increases or decreases.
25 The specific adjustments shall be rounded to the nearest cent per Ton.
- 26 3. The annual adjustment provided for in this Section shall not occur until the City has, to
27 its reasonable satisfaction, verified the then-current Governmental Fees, except that the City shall
28 not unreasonably delay an adjustment of the PTS Solid Waste Fee.
- 29 4. In the event any Governmental Fee, or increase therein, becomes effective at a time other
30 than the time for the annual adjustment in the Governmental Fee Component, the Contractor
31 shall provide not less than ninety (90) days prior written notice thereof to the City and, subject to
32 the City's verification thereof, an adjustment for such new or increased Governmental Fee shall
33 become effective as of the expiration of such 90-day period.

1 **D. Adjusted PTS Solid Waste Fee.** The adjusted PTS Solid Waste Fee shall be calculated
2 as follows:

3 Adjusted PTS Solid Waste Fee = (PTS Solid Waste Fee Adjusted Base Component +
4 Adjusted Governmental Fee Component)

5 For example, assume:

- 6 1. Date of annual adjustment is June 1, 2003
- 7 2. Adjusted PTS Solid Waste Fee Base Component = \$ 32.48 per Ton
- 8 3. Net change in Governmental Fee Component = \$0.25 per Ton
- 9 4. Adjusted Governmental Fee Component = \$4.25 per Ton

10 The Adjusted PTS Solid Waste Fee is calculated as follows:

11 Adjusted PTS Solid Waste Fee = \$32.48 + \$4.25 per Ton

12 Adjusted PTS Solid Waste Fee = \$36.73 per Ton.

13 **E. Adjustment Schedule.** The Contractor shall prepare and submit to the City its
14 calculation of the adjusted PTS Solid Waste Fee on or before March 1 of each year during the
15 Initial PTS Operating Period. The Contractor's submittal shall present the calculation of the
16 adjusted PTS Solid Waste Fee and all supporting documentation needed to verify the calculation,
17 CPI indices, and Governmental Fees. City staff will review the Contractor's submittal within
18 fourteen (14) calendar days of receipt and acknowledge the City's acceptance of the adjusted
19 PTS Solid Waste Fee or shall provide comments describing any exceptions to the Contractor's
20 calculations. If the City staff does not accept the Contractor's calculation of the PTS Solid
21 Waste Fee, the Contractor and the City shall meet within seven (7) calendar days of the
22 Contractor's receipt of the City's comments to resolve outstanding issues. In the event the City
23 and the Contractor cannot agree on the adjusted PTS Solid Waste Fee within sixty (60) calendar
24 days of the Contractor's submittal of its calculation of the adjusted PTS Solid Waste Fee, the
25 matter shall be resolved through the dispute resolution procedures described in Section 16.14.
26 The City will give notice to the Contractor of any change in the PTS Solid Waste Fee no later
27 than thirty (30) calendar days prior to the effective date of the new PTS Solid Waste Fee.

28 **8.05 PTS Organic Transfer Fee.**

29 **A. General.** The initial PTS Organic Transfer Fee (six dollars per Ton) includes
30 compensation for Transfer Station services and applicable Governmental Fees. The PTS
31 Organic Transfer Fee is separated into two components: the Base Component, and the
32 Governmental Fee Component such that the PTS Organic Transfer Fee equals the sum of the two
33 components. The adjustment process for the PTS Organic Transfer Fee is presented in Section
34 8.06.

1 **B. Base Component.** The initial Base Component is that portion of the PTS Organic
2 Transfer Fee comprised of the Contractor's fixed and variable costs and equals six dollars
3 (\$6.00) per Ton. The Base Component shall be adjusted annually during the initial PTS
4 Operating Period to reflect the change in the CPI values as specified in Section 8.04.B., but will
5 not otherwise be adjusted except as the result of a modification to the scope of services as
6 provided in Section 16.15.

7 **C. Governmental Fee Component.** The Governmental Fee Component is that portion of
8 PTS Organic Transfer Fee comprised of the Contractor's Governmental Fees. The
9 Governmental Fee Component is subject to adjustment only as necessary to reflect changes in
10 Governmental Fees required by third parties as provided in Section 8.06.C.

11 **8.06 Adjustment of PTS Organic Transfer Fee.**

12 **A. General.** The intent of this Agreement is to provide for an annual adjustment to the PTS
13 Organic Transfer Fee during the Initial PTS Operating Period. The first annual adjustment to the
14 Base Component of the PTS Organic Transfer Fee will be effective June 1, 2003. The annual
15 adjustment will reflect the change in the CPI and the effect of such change on the Base
16 Component of the PTS Organic Transfer Fee and changes in Governmental Fees.

17 **B. Base Component Annual Adjustment.** The annual change to the Base Component of
18 the PTS Organic Transfer Fee will be calculated using the value of the most recently published
19 CPI and the value of the CPI which is twelve (12) months prior to the most recently published
20 value of CPI (previous 12-month CPI value). The specific adjustments shall be rounded to the
21 nearest cent per Ton. The adjustment to the Base Component shall be made as follows:

$$\text{Adjusted PTS Organic Transfer Fee Base Component} = \text{Base Component of the PTS Organic Transfer Fee} \times (\text{most recent CPI value} / \text{previous 12-month CPI value})$$

24 For example, assume:

- 25 1. Date of annual adjustment is June 1, 2003
- 26 2. Then-current Base Component of the PTS Organic Transfer Fee = \$6.00 per Ton
- 27 3. Most recent CPI value (February 2003) = 126.1
- 28 4. Previous 12-month CPI value (February 2002) = 124.2

29 The Adjusted Variable Components are calculated as follows:

$$\text{Adjusted PTS Organic Transfer Fee Base Component} = \$6.00 \times (126.1/124.2) = \$6.09 \text{ per Ton}$$

32 **C. Governmental Fee Component Annual Adjustment.** The initial PTS Organic Transfer
33 Fee (six dollars [\$6.00]) per Ton) includes all applicable Governmental Fees as of the Effective
34 Date and equals no dollars (\$0.00) per Ton. The Governmental Fee Component of the PTS
35 Organic Transfer Fee shall be adjusted in the same manner described in Section 8.04.C., except

1 that no Governmental Fees are included in the initial PTS Organic Transfer Fee, and only
2 Governmental Fees applied specifically to the Transfer of Organic Materials after the Effective
3 Date will be considered.

4 **D. Adjusted PTS Organic Transfer Fee.** The adjusted PTS Organic Transfer Fee shall be
5 calculated as follows:

6 Adjusted PTS Organic Transfer Fee = PTS Organic Transfer Fee Adjusted Base
7 Component + Adjusted Governmental Fee Component

8 For example, assume:

- 9 1. Date of annual adjustment is June 1, 2003
10 2. Adjusted PTS Organic Transfer Fee Component = \$6.09 per Ton
11 3. Net Change in Governmental Fee Component = \$0.25 per Ton
12 4. Adjusted Governmental Fee Component = \$0.25 per Ton

13 The Adjusted PTS Organic Transfer Fee is calculated as follows:

14 Adjusted PTS Organic Transfer Fee = \$6.09 + \$0.25 per Ton

15 Adjusted PTS Organic Transfer Fee = \$6.34 per Ton.

16 **E. Adjustment Schedule.** The adjustment schedule shall be made in a manner equivalent to
17 the procedures described in Section 8.04.E.

18 **8.07 City is Most Favored Customer.** The Contractor shall not charge PTS Other Fees for
19 services substantially similar to the City's, which are less (giving effect to any payment of any
20 rebates revenue share or other fees of any kind to other users) than the PTS Solid Waste Fee or
21 PTS Organic Fee regardless of the duration of the contract and waste quantities associated with
22 the other Transfer Station Users. Furthermore, in the event Allied Waste Industries, Inc., reduces
23 its Disposal charges to the City of San Diego subsequent to June 1, 2001, the Contractor shall
24 reduce the PTS Solid Waste Fee by the same amount that Allied Waste Industries, Inc., reduced
25 its Disposal charges to the City of San Diego. In such case, the PTS Solid Waste Fee shall be
26 adjusted by reducing the Base Component of the PTS Solid Waste Fee.

27 **8.08 Liquidated Damages.**

28 **A. Adjustment.** The amount of the liquidated damages specified in Section 15.04 for
29 specific events of the Contractor nonperformance shall be adjusted on an annual basis at the
30 same time the PTS Solid Waste Fee is adjusted. If during an annual adjustment, the CPI changes
31 for the annual period exceeds five (5) percent, the City will adjust the amount by five (5) percent.
32 The first annual increase will be effective June 1, 2003. Liquidated damages amounts will be
33 adjusted to reflect one hundred (100) percent of the change in CPI using the method presented
34 below:

1 Adjusted liquidated damage amount = Then-current liquidated damage amount x (most
2 recent CPI value/previous 12-month CPI value)

3 For example, assume:

- 4 1. Date of annual adjustment is June 1, 2003
- 5 2. Then-current liquidated damage for vehicle turnaround reliability = \$100.00 per event
- 6 3. Most recent CPI value (February 2003) = 126.1
- 7 4. Previous 12-month CPI value (February 2002) = 124.2

8 The adjusted liquidated damage amount is calculated as follows:

9 Adjusted liquidated damage for vehicle turnaround reliability = \$100.00 x (126.1/124.2)
10 = \$101.53 per event

11 **B. Payment of Liquidated Damages.** the Contractor shall pay the City liquidated damages
12 due pursuant to procedures described in Section 12.06.

13 **8.09 Recovered Materials Revenue.** As provided in Section 3.31.D, the Contractor shall
14 retain all revenues earned from the sale of Recovered Materials.

15 **8.10 Payment of Governmental Fees and Processing Costs.** The Contractor shall pay, when
16 and as due, any and all Governmental Fees to the appropriate federal, State, regional, or local
17 governmental entities which levied the fees and shall provide City with proof of such payments
18 promptly upon request. The Contractor shall pay, when and as due, the owner of the Designated
19 Organics Processing Facility the Processing cost due for delivery of City Source Separated
20 Organic Materials. The obligation of the Contractor to pay the owner of the Designated Organic
21 Processing Facility, shall be conditioned upon the Contractor receiving timely payment from the
22 City's Designated Solid Waste Hauler.

23 **8.11 Payment of Taxes.** The Contractor shall pay, when and as due, any and all federal,
24 State, local fees, assessments, or taxes incurred as a result of the Contractor's Compensation
25 hereunder, including estimated taxes, and shall provide the City with proof of such payments
26 promptly upon request.

27 **ARTICLE 9**
28 **CONTRACTOR'S COMPENSATION DURING**
29 **SUBSEQUENT PTS OPERATING PERIOD**

30 **9.01 General.** The Contractor's Compensation for the Subsequent PTS Operating Period shall
31 be determined in the manner set forth in this article with reference to the right of first offer
32 provisions set forth in Section 6.08 above. During the Subsequent PTS Operating Period, the
33 Contractor's Compensation provided for in this Article shall be the full, entire, and complete
34 compensation due to the Contractor pursuant to this Agreement for all labor, equipment,

1 materials and supplies, taxes, insurance, bonds, overhead, profit, and all other things necessary to
2 perform all the services required by this Agreement.

3 **9.02 Service Fees.** Service Fees are the per-Ton charges or per-item charges the Designated
4 Hauler(s), Self Haulers, and other Transfer Station Users pay the Contractor for Delivery of
5 Permitted Materials to the Transfer Station.

6 **A. City-Regulated Use Fee.** During the City Use Period, the City through its contract with
7 Designated Hauler(s), shall set and maintain residential, commercial, and other relevant
8 collection rates levied by Designated Hauler(s) at levels and at appropriate times to adequately
9 allow the Designated Hauler(s) to pay the Contractor the City Use Fee set by this Agreement.
10 The City's obligation to set and maintain the City Use Fee described in this Section shall also
11 apply in the event the City, at some future date, should decide to perform collection services
12 itself for all or part of the City Waste.

13 **B. Contractor-Regulated Service Fees.** The Contractor shall be solely responsible for
14 setting, periodically adjusting, and regulating PTS Other Fees for Permitted Materials Delivered
15 to the Palomar Transfer Station by Self Haulers and Persons Delivering Permitted Materials
16 generated outside the City provided that such Service Fees are set to provide for payments to
17 City as required in Article 12 and recognize the City as a most favored customer in accordance
18 with Section 9.06.

19 **C. Collection of Service Fees.** The Contractor is responsible for collection of all PTS
20 Service Fees. Service Fees may be collected from Designated Hauler(s) and other Transfer
21 Station Users at the Transfer Station scale house at the time of Delivery of Permitted Materials or
22 the Contractor may submit monthly invoices to Transfer Station Users requesting payment for
23 Service Fees. The Contractor shall be liable for all delinquent payments and bad debt.

24 **D. Only Compensation Due by City.** City Use Fees collected from the Designated
25 Hauler(s) during the City Use Period are the only compensation due the Contractor from the City
26 or its Designated Hauler(s) for service provided during the Subsequent PTS Operating Period
27 unless otherwise provided in this Agreement or agreed to by the Parties. The Contractor shall
28 not charge City for Permitted Materials, equal to or less than 100 Tons annually, generated in the
29 City and Delivered to the Transfer Station in City owned and operated vehicles.

30 **9.03 City Use Fee.**

31 **A. General.** The initial City Use Fee includes compensation for Transfer Station services.
32 The City Use Fee is divided into two components: the Base Component and Governmental Fee
33 Component. The elements of the City Use Fee are described below. The City Use Fee shall be
34 effective during the City Use Period during the Subsequent PTS Operating Period. The periodic
35 adjustment process for the City Use Fee is presented in Sections 9.04 and 9.05.

36 **B. Base Component.** The initial Base Component is that portion of City Use Fee
37 comprised of the Contractor's fixed and variable costs and equals six dollars (\$6.00) per Ton.
38 The Base Component shall be adjusted annually during the Subsequent PTS Operating Period to
39 reflect the change in the CPI values as specified in Sections 9.04.B and 9.05.B, but will not

1 otherwise be adjusted except as the result of a modification to the scope of services as provided
2 in Section 16.15.

3 **C. Governmental Fee Component.** The Governmental Fee Component is that portion of
4 the City Use Fee comprised of the Contractor's Governmental Fees. The Governmental Fee
5 Component is subject to adjustment only as necessary to reflect changes in Governmental Fees
6 required by third parties as provided in Sections 9.04.C and 9.05.C.

7 **9.04 Initial Adjustment of City Use Fee.**

8 **A. General.** The intent of this Agreement is to provide for an initial adjustment to the City
9 Use Fee (the use fee that will be in effect at the beginning of the City Use Period) in accordance
10 with this Section and an annual adjustment of the City Use Fee thereafter in accordance with
11 Section 9.05. The initial adjustment will reflect changes in the value of CPI from the Effective
12 Date of the Agreement to the commencement date of the City Use Period and the effect of such
13 changes on the Base Component of the City Use Fee and changes in Governmental Fees.

14 **B. Base Component Initial Adjustment.** The initial change to the Base Component of the
15 City Use Fee will be calculated using the value of the then most recently published CPI and the
16 value of the CPI when the Effective Date occurred. The specific adjustments shall be rounded to
17 the nearest cent per Ton. The adjustment to the Base Component shall be made as follows:

18
$$\text{Adjusted City Use Fee Base Component} = \text{Base Component of the City Use Fee} \times (\text{then}$$

19
$$\text{most recent CPI value/the value of the CPI when the Effective Date occurred}).$$

20 For example, assume:

- 21 1. The commencement date of the City Use Period is June 1, 2015
- 22 2. The Effective Date is June 1, 2002
- 23 3. The Base Component of the City Use Fee as previously adjusted for CPI from the
24 Effective Date to the City Use Period commencement date = \$6.00 per Ton
- 25 4. Most recent CPI (February 2015) = 172.6
- 26 5. CPI for the month when the Effective Date occurred (June 2002) = 124.2

27

28 The Adjusted Base Component of the City Use Fee is calculated as follows:

29
$$\text{Adjusted City Use Fee Base Component} = \$6.00 \times (172.6/124.2) = \$8.34 \text{ per Ton}$$

30 For any year in which the average annual CPI change during the period between the Effective
31 Date and the commencement date of the City Use Period exceeds five (5) percent, the City will
32 adjust the Base Component of the City Use Fee five (5) percent annually.

1 **C. Governmental Fee Component Adjustment.** The Governmental Fee Component of the
2 City Use Fee shall be adjusted in the same manner described in Section 8.04.C to reflect all
3 changes to the applicable Governmental Fees since the Effective Date.

4 **D. Adjusted City Use Fee.** The adjusted City Use Fee shall be calculated as follows:

5 Adjusted City Use Fee = (Adjusted Base Component + Adjusted Governmental Fee
6 Component)

7 For example, assume:

8 1. Date of commencement of the City Use Period is June 1, 2015

9 2. Effective Date is June 1, 2002

10 3. Adjusted City Use Fee Base = \$8.34 per Ton

11 4. The then-current Governmental Fee Component = \$0.25 per Ton

12 The Adjusted City Use Fee is calculated as follows:

13 Adjusted City Use Fee = \$8.34+ \$0.25

14 Adjusted City Use Fee = \$8.59 per Ton.

15 **E. Adjustment Schedule.** The adjustment schedule shall be made in a manner equivalent to
16 the procedures described in Section 8.04.E with the exception that the Contractor shall submit to
17 the City its calculation of the adjusted City Use Fee no later than ninety (90) calendar days prior
18 to the anniversary date of the City Use Period.

19 **9.05 Annual Adjustment of City Use Fee.**

20 **A. General.** The intent of this Agreement is to provide for an annual adjustment to the City
21 Use Fee during the City Use Period. The annual adjustment of the City Use Fee shall be
22 effective on the annual anniversary date of the commencement date of the City Use Period. The
23 annual adjustment will reflect changes in the value of the CPI and the effect of such changes on
24 the Base Component of the City Use Fee and changes in Governmental Fees.

25 **B. Base Component Annual Adjustment.** The annual change to the Base Component of
26 the City Use Fee will be calculated using the value of the then most recently published CPI and
27 the value of the CPI which is twelve (12) months prior to the most recently published CPI
28 (previous 12-month CPI value). The specific adjustments shall be rounded to the nearest cent
29 per Ton. The adjustment to the Base Component shall be made as follows:

30 Adjusted City Use Fee Base Component = Base Component of the City Use Fee x (then
31 most recent CPI value/previous 12-month CPI value)

1 For example, assume:

- 2 1. The commencement date of the City Use Period is June 1, 2015
- 3 2. The first annual adjustment shall occur on the first anniversary date = June 1, 2016
- 4 3. The then-current Base Component of the City Use Fee = \$8.34 per Ton
- 5 4. Most recent CPI value (February 2016) = 177.8
- 6 5. Previous 12-month CPI value (February 2015) = 172.6

7 The Adjusted Base Component is calculated as follows:

8
$$\text{Adjusted City Use Fee Base Component} = \$8.34 \times (177.8/172.6) = \$8.59 \text{ per Ton}$$

9 If during the annual adjustment, the CPI change for the annual period exceeds five (5) percent,
10 the City will adjust the Base Component of the City Use Fee five (5) percent.

11 **C. Governmental Fee Component Annual Adjustment.** Adjustments to the
12 Governmental Fee Component shall be made following the procedures described in Section
13 8.04.C., except that no Governmental Fees are included in the initial City Use Fee and only
14 Governmental Fees applied specifically to the Transfer of Solid Waste after the Effective Date
15 will be considered.

16 **D. Adjusted City Use Fee.** The adjusted City Use Fee shall be calculated as follows:

17
$$\text{Adjusted City Use Fee} = \text{Adjusted City Use Fee Base Component} + \text{Adjusted}$$

18
$$\text{Governmental Fee Component}$$

19 **E. Adjustment Schedule.** The adjustment schedule shall be made in a manner equivalent to
20 the procedures described in Section 8.04.E with the exception that the Contractor shall submit to
21 the City its calculation of the adjusted City Use Fee no later than ninety (90) calendar days prior
22 to the anniversary date of the City Use Period.

23 **9.06 City is Most Favored Customer.** The Contractor shall not charge PTS User Service
24 Fees for services substantially similar to the City's relating to the Acceptance, Transfer and
25 Disposal of Solid Waste, which are less (giving effect to the payment of any rebates, revenue
26 share or other fees of any kind to the other users) than the City Use Fee (which the Contractor
27 shall have the right to reduce in order to effect compliance with this Section at any time and from
28 time to time) regardless of the duration of the contract and waste quantities associated with the
29 other Palomar Transfer Station Users. Provided, City shall be entitled to the "most favored
30 customer" benefit hereunder only so long as Waste is directed by City to be disposed in a
31 Designated Landfill owned by the Contractor or its Affiliates.

1 **9.07 Liquidated Damages.**

2 **A. Adjustment.** The amount of the liquidated damages specified in Section 15.03 for
3 specific events of Contractor nonperformance shall be adjusted at the same time the City Use Fee
4 is adjusted. Liquidated damages amounts will be adjusted to reflect one hundred (100) percent
5 of the change in the value of the CPI (except as otherwise provided below) using the method
6 presented below:

7 Initial adjustment to liquidated damages = Liquidated damage amount Effective June 1,
8 2002 x (most recent value of the CPI/the value of the CPI when the Effective Date
9 occurred)

10 Annual adjustment to liquidated damages = Then-current liquidated damage x (most
11 recent CPI value/previous 12-month CPI value) If during an annual adjustment, the CPI
12 change for an annual period exceeds five (5) percent, the City shall adjust the amount by
13 only five (5) percent.

14 **B. Payment of Liquidated Damages.** The Contractor shall pay the City liquidated
15 damages due pursuant to procedures described in Section 12.06.

16 **9.08 Recovered Materials Revenue.** As provided in Section 3.31.D, the Contractor shall
17 retain all revenues earned from the sale of Recovered Materials.

18 **9.09 Payment of Governmental Fees.** The Contractor shall pay, when and as due, any and
19 all Governmental Fees to the appropriate federal, State, regional, or local governmental entities
20 which levied the fees and shall provide City with proof of such payments promptly upon request.

21 **9.10 Payment of Taxes.** The Contractor shall pay, when and as due, any and all federal,
22 State, local fees, assessments, or taxes incurred as a result of the Contractor's Compensation
23 hereunder, including estimated taxes, and shall provide City with proof of such payments
24 promptly upon request.

25 **ARTICLE 10**
26 **CONTRACTOR'S COMPENSATION DURING**
27 **CTS CONTRACTOR OPERATING PERIOD**

28 **10.01 General.** The Contractor's compensation during the CTS Operating period shall be
29 subject to negotiation, if and when the City, at its sole discretion, elects to develop the CTS.

30 **ARTICLE 11**
31 **CONTRACTOR PAYMENT TO**
32 **CITY DURING CTS MARKETING PERIOD**

33 **11.01 General.** The Contractor's payment to the City during CTS Marketing Period shall be
34 subject to negotiation, if and when City, at its sole discretion, elects to develop the CTS.

1
2

**ARTICLE 12
PAYMENTS TO THE CITY**

3 **12.01 General.** It is the intent of this Article to specify all payments the Contractor shall make
4 to the City including the Waste Processing Fee, Franchise Fee, Transfer Station Lease Payment,
5 liquidated damages, and avoided Disposal costs with the exception of Contractor Use Fee and
6 Contractor Capacity Fee payments which are described in Article 11.

7 **12.02 Monthly Payment Due to the City.**

8 **A. Amount Due to City during the PTS Operating Period and CTS Contractor**
9 **Operating Period.** The Contractor shall pay the City monthly the sum of the Waste Processing
10 Fee, Franchise Fee, Transfer Station Lease Payment, liquidated damages, and avoided disposal
11 costs. Calculation of such amount due to City shall be clearly presented to City following
12 procedures described in Sections 12.03 through 12.07, and shall be supported with appropriate
13 documentation.

14 **B. Contractor Remittance Requirements.** The Contractor shall remit to the City monthly
15 via wire transfer all monies due to the City for the previous monthly period as calculated in
16 accordance with this Section. Payments shall be due on or before the last day of each month. In
17 the event the Contractor fails to pay the City in a timely manner, the Contractor will be required
18 to pay a late payment for each day the payment is due in the amount of two tenths percent (0.2%)
19 of the amount due.

20 The remittance shall be accompanied by a monthly report. The monthly report shall itemize the
21 amount due to the City separately for Waste Processing Fees, Franchise Fees, Transfer Station
22 Lease Payment, and liquidated damages, and shall provide supporting documentation to allow
23 the City to verify the validity and accuracy of the fees.

24 **12.03 Waste Processing Fee.** A Waste Processing Fee for each Ton of Permitted Material
25 accepted at the Transfer Station shall be due the City monthly during the PTS Operating Period
26 and CTS Contractor Operating Period. As of the Execution Date, the Waste Processing Fee shall
27 be equal to two dollars and fifty cents (\$2.50) per Ton. The Contractor's monthly remittance
28 report to the City shall document the calculation of the Waste Processing Fees due to the City
29 based on the Tonnage of material Accepted at the Transfer Station from Persons Delivering Solid
30 Waste, Recyclable Materials, and Organic Materials. The City reserves the right to adjust the
31 amount of the Waste Processing Fee during the Term of this Agreement provided that in such
32 event, the City shall give Notice to the Contractor of any change in the Waste Processing Fee no
33 later than thirty (90) calendar days prior to the effective date of the new Waste Processing Fee
34 and shall adjust the PTS Service Fees and CTS Service Fees, if appropriate to reflect a change in
35 the Waste Processing Fee.

36 **12.04 Franchise Fee.** As an alternative to the Waste Processing Fee, the City may, upon not
37 less than ninety (90) days prior written notice to the Contractor, establish a Franchise Fee. The
38 Franchise Fee shall be the amount due the City by the Contractor on all PTS Service Fees or CTS
39 Service Fees collected during the PTS Operating Period and CTS Contractor Operating Period
40 and shall be the basis for an adjustment to the applicable Service Fees to the extent the full

1 amount of the Franchise Fee is greater than the then-existing Waste Processing Fee. As of the
2 Execution Date, the Franchise Fee shall be zero percent (0%) of the PTS Services Fees or CTS
3 Service Fees. The Contractor's monthly remittance report to the City shall document the
4 calculation of the Franchise Fee due to the City. The calculation of the Franchise Fee shall be
5 based on the PTS Services Fees or CTS Service Fees collected during the monthly period. The
6 City reserves the right to change the amount of the Franchise Fee at any time over the Term
7 provided that in such event, the City shall give Notice to the Contractor of any change in the
8 Franchise Fee no later than thirty (90) calendar days prior to the effective date of the new
9 Franchise Fee and shall adjust the PTS Service Fees and CTS Service Fees, if appropriate to
10 reflect a change in the Franchise Fee.

11 **12.05 Transfer Station Lease Payment.** The Contractor shall pay the City monthly the
12 Transfer Station Lease Payment for its use of the Palomar Transfer Station during the PTS
13 Operating Period and for use of the City Transfer Station during the CTS Contractor Operating
14 Period. During the PTS Operating Period, the monthly Transfer Station lease payment shall be
15 equal to one dollar (\$1.00). During the CTS Contractor Operating Period, the monthly Transfer
16 Station lease payment shall be equal to one dollar (\$1.00). In the event the Contractor occupies
17 both the Palomar Transfer Station and the City Transfer Station during the same monthly period,
18 the Transfer Station lease payment shall be the sum of the Palomar Transfer Station lease
19 payment and the City Transfer Station lease payment. In the event the Contractor's lease of
20 either the Palomar Transfer Station or City Transfer Station is in effect for a portion of the
21 monthly period, the Transfer Station lease payment shall be calculated as the monthly lease
22 payment multiplied by the number of days in the monthly period for which the lease is in effect
23 divided by the total days in the monthly period.

24 **12.06 Liquidated Damages.** The Contractor shall submit to the City any liquidated damages
25 assessed pursuant to the Agreement. If the Contractor disputes any amount of liquidated damages
26 pursuant hereto, it shall nevertheless pay the undisputed amount and the disputed amount shall
27 be addressed through the dispute resolution procedure of Section 16.14. The Contractor's
28 monthly remittance report to the City shall clearly identify the number and nature of the
29 liquidated damages assessed during the monthly period and the amount of damages due to the
30 City.

31 **12.07 Avoided Disposal Costs.** The Contractor shall pay the City fifty percent (50%) of any
32 Disposal costs avoided if the monthly Tonnage of City Waste Diverted exceeds ten (10) percent
33 of the monthly Tonnage of City Waste Accepted. The avoided Disposal costs due to the City
34 shall be calculated as follows: Disposal Fee multiplied by one half (0.50) multiplied by monthly
35 Tons of City Waste Diverted minus (one tenth (0.1) multiplied by monthly Tons of City Waste
36 Accepted)). The Contractor's remittance report to the City shall document the calculation of the
37 avoided Disposal costs based on the Tonnage of Solid Waste Accepted at the Transfer Station
38 and Diverted.

39 **ARTICLE 13**
40 **CONTRACTOR RECORD KEEPING AND REPORTING**

41 **13.01 General.** As required in this Section, the Contractor shall be responsible for
42 documenting specific information related to Transfer Station, Transport, and Disposal services

1 If to the Contractor: General Manager
2 Palomar Transfer Station, Inc.
3 8364 Clairemont Mesa Blvd.
4 San Diego, CA 92111

5 **13.03 City Review and Inspection of Records.** Upon twenty-four (24) hours' prior written
6 notice, the City, and its agents, shall have the right, during regular business hours, to conduct on-
7 site inspections of the records and accounting systems of the Contractor and to make copies of
8 documents relevant to this Agreement, provided that upon arrival at the Premises, the City or its
9 designated representative shall immediately contact the Facility/Site manager or his/her
10 designee.

11 The City reserves the right to request an independent review of the Contractor's operational and
12 financial records solely with respect to calculation of Waste Processing Fees or Franchise Fees if
13 applicable, and to verify the Contractor's compliance with Sections 3.30.F (Diversion), 3.31.C
14 (Marketing Records), and 8.07 and 9.06 above (Most Favored Customer), provided that the City
15 or its agents use Reasonable Business Efforts to hold information obtained or reviewed as
16 confidential. The Contractor shall reimburse the City for any expenses incurred in performing
17 the independent review except costs associated with City staff time, unless each such review
18 does not result in an adjustment favorable to the City and/or a reduction in fees paid by City, in
19 each case, equal to or greater than \$10,000.

20 In the event the City submits a written request to the Contractor for certain records, the
21 Contractor shall deliver requested records to the City within fourteen (14) calendar days of
22 receipt of such request. In the event the Contractor discontinues providing services to the City,
23 the Contractor shall provide all records of all services requested to the City within thirty (30)
24 days of discontinuing service. Any and all records provided to the City shall be in a
25 chronological and organized form, and readily and easily interpreted.

26 **13.04 Record Retention.** The Contractor shall maintain records of all Solid Waste, Recyclable
27 Materials and Organic Materials for the Term of this Agreement for each year of the Term and
28 for three (3) years beyond the expiration or termination of this Agreement. At the end of the
29 required retention period, City reserves the right to obtain copies reproduced, at the Contractor's
30 expense, of records including, but not limited to, the following:

31 Records and data required to be maintained that are specifically directed to be retained shall be
32 retrieved by the Contractor and made available to the City.

33 Records and data required to be maintained that are not specifically directed to be retained that
34 are, in the sole opinion of the City, material to the rate review or to a determination of the
35 Contractor's performance under this Agreement, shall be retrieved by the Contractor and made
36 available to the City.

37 Records and data required to be maintained that are not specifically directed to be retained and
38 that are not material to a rate review and/or not required for the determination of Contractor's
39 performance do not need to be retrieved by the Contractor. In such a case, however, the City

1 may make reasonable assumptions regarding what information is contained in such records and
2 data, and such assumption shall be conclusive in whatever action the City takes.

3 **13.05 Quarterly Report Requirements.** The information listed in this Section shall be the
4 minimum information reported by the Contractor to City on a calendar quarterly basis.

5 **A. Transfer Station Services.**

6 1. Solid Waste Accepted at the Transfer Station, in Tons listed by City, Designated Hauler
7 (by type of vehicle), Self Haulers, and other Transfer Station Users.

8 2. Solid Waste Transported and Disposed at Designated Landfill(s) or other disposal
9 facilities, in Tons listed separately for each Designated Landfill or disposal facility.

10 3. Verification of the Contractor's compliance with the "most favored customer" provisions
11 of Sections 8.07 and 9.06 above, as applicable.

12 4. Other information or reports that the City may reasonably request or require not
13 inconsistent with the provisions of Section 13.03 above.

14 **B. Recyclable Materials and Organic Materials Services.**

15 1. Recyclable Materials and Organic Materials (listed separately) Accepted at the Transfer
16 Station, in Tons listed by City, Designated Hauler (by type of vehicle), Self Haulers, and other
17 Transfer Station Users.

18 2. Calculation of the percentage of Recyclable Materials and Organic Materials Diverted
19 from the total quantity of Solid Waste Accepted at the Transfer Station.

20 **C. Other Programs.** For other programs, if any, provide activity-related and narrative
21 reports on goals, milestones, and accomplishments. The Contractor shall describe problems
22 encountered, actions taken and any recommendations to facilitate progress.

23 **13.06 Annual Report Requirements.**

24 **A. Report Submittals.** The Contractor shall submit the following reports annually:

25 1. A summary report in the form of the quarterly reports and shall provide the same type of
26 information as required pursuant to Section 13.05, summarized for the preceding four quarters.

27 2. If the Contractor has at any time during the previous year failed to comply with the
28 Contractor obligations resulting in liquidated damages, the annual report shall also include the
29 amount of any damage calculated pursuant to Section 15.04 and previously paid to the City, or
30 owed by the Contractor to the City.

31 **B. Accounting Records.** The Contractor shall maintain accurate and complete accounting
32 records for purposes of compliance with the requirements of Section 13.03 above. The
33 accounting records shall be prepared in accordance with the Contractor's usual and customary

1 policies and practices for same. The Contractor shall make such information available to the
2 City or its agent to review in accordance with Section 13.03.

3 **13.07 CERCLA Defense Records.** The City views the ability to defend against CERCLA and
4 related litigation as a matter of great importance. For this reason, the City regards the ability to
5 prove where Solid Waste Collected in the City was taken for Transfer or Disposal, as well as
6 where it was not taken, to be matters of significant importance. Therefore, the Contractor shall
7 maintain data retention and preservation systems that can establish where Solid Waste was
8 Transferred and Disposed of (and therefore establish where it was not landfilled). This provision
9 shall survive the expiration of the Term of this Agreement for ten (10) years; such records shall
10 be provided upon request of the City in a chronological and organized form and indexed manner
11 and then turned over to the City ten (10) years after the expiration of the Term of this Agreement
12 or termination of this Agreement.

13 **13.08 Other Records.** In addition to the reports and records required under Sections 13.01
14 through 13.07, at a minimum, the Contractor shall maintain records whose format and content
15 have been approved by the City relating to:

16 Character, weight and volume of Solid Waste, Recyclable Materials (by type) and Organic
17 Materials separately for City, Designated Haulers, Self Haulers, and other Transfer Station Users
18 either through a direct or allocated method approved by the City.

19 A. Facilities, equipment and personnel used;

20 B. Facilities and equipment operations, maintenance and repair performed;

21 C. Processing and Disposal of Solid Waste, Processing and Marketing of Recyclable
22 Materials; and Processing and Marketing of Organic Materials;

23 D. Incidence of accidents involving either employees or patrons of the Facilities;

24 E. Documentation of Hazardous Substance quantities handled and method of disposition and
25 the number and nature of any Hazardous Substance spills; and,

26 F. Customer complaints including the date of complaint, nature of complaint, resolution of
27 complaint.

28 **13.09 Adverse Information.**

29 **A. Reporting Adverse Information.** The Contractor shall provide the City two (2) copies
30 (one to the City Manager, one to the City Attorney) of all reports, pleadings, applications,
31 notifications, Notices of Violation, communications or other material relating specifically to the
32 Contractor's failure to meet the requirements of this Agreement as the same relates to the
33 Contractor's of performance of services pursuant to this Agreement, submitted by the Contractor
34 to, or received by the Contractor from, the United States or California Environmental Protection
35 Agency, the California Integrated Waste Management Board, the Securities and Exchange
36 Commission or any other federal, state or local agency, including any federal or state court. The
37 Contractor shall also notify the City of any criminal charges for violation of any federal or state

1 environmental law or antitrust law or for fraud or similar matters initiated hereafter against any
2 management employee of the Contractor or its Affiliates, that have direct or indirect
3 responsibility for administration of the Contractor's performance of services under this
4 Agreement. Copies shall be submitted to the City simultaneously with the Contractor's filing or
5 submission of such matters with said agencies. The Contractor's routine correspondence to said
6 agencies need not be routinely submitted to the City, but shall be made available to the City
7 promptly upon the City's written request.

8 **B. Failure to Report.** The refusal or unexcused failure of the Contractor to file any
9 required reports, or to provide required information to the City, or the inclusion of any materially
10 false or misleading statement or representation by the Contractor in such report shall be deemed
11 a material breach of this Agreement, and shall subject the Contractor to all remedies available to
12 the City, after sixty (60) days and notification to the Contractor by the City of the selected
13 remedy, under this Agreement or otherwise.

14 **13.10 City's Right to Local Enforcement Agency Reports.** The Parties acknowledge that the
15 Contractor must generate and deliver to the Local Enforcement Agency ("LEA"), periodic
16 reports pertaining to the Recycling, Diversion, and Disposal of Solid Waste related to the
17 Transfer Station operation and Designated Landfill operations and may correspond with the LEA
18 from time to time. The Contractor waives any restrictions, which may prevent the City from
19 obtaining copies of such reports and correspondence directly from the LEA and shall not object
20 to any request by the City to obtain such reports and correspondence. Furthermore, the
21 Contractor shall provide the City with a copy of each report, including any reports of the
22 Contractor's rejection of delivered material, submitted to the LEA at the same time the report is
23 submitted to the LEA.

24 **13.11 Meet and Confer with City.** Beginning on the Effective Date of the Agreement, and
25 then on a quarterly basis thereafter, City may meet with the Contractor to discuss the
26 Contractor's performance of Transfer Station, Transport and Disposal services and any Diversion
27 programs.

28 **ARTICLE 14**
29 **INDEMNITY, INSURANCE AND BOND**

30 **14.01 Indemnification.**

31 **A. General Indemnification.** The Contractor shall defend, with counsel reasonably
32 acceptable to City, indemnify, and hold harmless, at the Contractor's sole cost and expense, the
33 City Parties from and against any Claim arising out of or occasioned in any way by, directly or
34 indirectly, the Contractor's performance of, or its failure to perform, its obligations under the
35 Agreement, including the Contractor's failure to comply with Applicable Law or the
36 Contractor's breach of its representation and warranties in this Agreement. This provision is in
37 addition to all other provisions in this Agreement and is intended to survive early termination or
38 expiration of this Agreement.

39 **B. Hazardous Substance Indemnification.** The Contractor shall defend, with counsel
40 reasonably acceptable to City, indemnify, protect and hold harmless the City from and against all

1 Claims, damages (including but not limited to special, consequential, natural resources and
2 punitive damages), injuries, costs (including without limit any and all response, remediation and
3 removal costs), losses, demands, debts, liens, liabilities, causes of action, suits, legal or
4 administrative proceedings, interest, fines, charges, penalties, and expenses (including without
5 limit attorneys' expert witness fees and costs incurred in connection with defending against any
6 of the foregoing or in enforcing this indemnity), (collectively, "Damages") of any kind
7 whatsoever paid, incurred or suffered by, or asserted against, City Parties arising from or
8 attributable to the acts or omissions of the Contractor, its officers, directors, employees,
9 companies or agents, whether or not negligent or otherwise culpable, in connection with or
10 related to the performance of this Agreement, including without limit damages arising from or
11 attributable to any operations, repair, clean-up or detoxification, or preparation and
12 implementation of any removal, remedial action, response, Closure, Post-Closure or other plan
13 (regardless of whether undertaken due to governmental action) concerning any Hazardous
14 Substance, Hazardous Waste, and/or construction and street debris, or other waste handled under
15 this Agreement. This indemnity afforded a particular City Party, shall only be limited to exclude
16 coverage for intentional wrongful acts and negligence of that City Party, delivery of Solid Waste,
17 Recyclable Materials, or Organic Materials by one or more City Party which does not conform to
18 the descriptions of materials to be provided to the Contractor under this Agreement (unless such
19 non-conforming waste is received in an intentional or negligent manner) and as provided below.
20 The forgoing indemnity is intended to operate as an agreement recognizing the provisions of
21 §107(e) of the Comprehensive Environmental Response, Compensation and Liability Act,
22 CERCLA, 42 USC. §9607(e) and California Health and Safety Code Provisions, and establishing
23 the Contractor's contractual obligations to defend, protect, hold harmless, and indemnify City
24 Parties from Claims, damages and losses. This provision is in addition to all other provisions in
25 this Agreement and is intended to survive the early termination or expiration of this Agreement.
26 Nothing in this paragraph shall prevent the Contractor from seeking indemnification or
27 contribution from persons or entities other than indemnities, for any liabilities incurred by the
28 Contractor, or the City Parties. As appropriate, Guarantor's Guaranty Agreement shall extend to
29 the indemnification obligation hereunder.

30 **14.02 Insurance.**

31 **A. Types and Amounts of Coverage.** The Contractor shall procure from an insurance
32 company or companies, which shall conform to the qualification described in Section 14.02.B,
33 and maintain in force at all time during the Term the following types and amounts of insurance:

34 1. **Workers' Compensation.** The Contractor shall maintain workers' compensation
35 insurance covering its employees in statutory amounts and otherwise in compliance with the
36 laws of the State of California.

37 2. **Employer's Liability.** The Contractor shall maintain employer's liability insurance in an
38 amount not less than one million dollars (\$1,000,000) per accident or disease.

39 3. **Commercial General Liability; Automobile Liability.** The Contractor shall maintain
40 policies of commercial general liability insurance and automobile liability insurance with a
41 combined single limit of not less than ten million dollars (\$10,000,000) per occurrence covering
42 all Claims and all legal liability for personal injury, bodily injury, death and property damage,

1 including the loss of use thereof, arising out of, or occasioned in any way by, directly or
2 indirectly, the Contractor's performance of, or its failure to perform, services under this
3 Agreement.

4 The insurance required by this subsection shall include:

- 5 a. Premises operations;
- 6 b. Independent Contractor's protective;
- 7 c. Products and completed operations;
- 8 d. Broad form blanket contractual with no exclusions for bodily injury, personal
9 injury or property damage;
- 10 e. Broad form property damage, including completed operations.

11 **4. Environmental Impairment Liability.** The Contractor shall maintain environmental
12 impairment liability insurance in the amount of Ten Million Dollars (\$10,000,000) covering
13 bodily injury, property damage and cleanup coverage, on and off-site arising from pollution or
14 contamination or both conditions at, on or emanating from the Transfer Station. Such policy
15 shall be on a site specific form and include non-owned disposal site coverage for the Designated
16 Landfills. Unless such coverage is not provided under other policies required to be maintained
17 by the Contractor under this Article 14, the Contractor shall maintain a policy of Contractor's
18 Pollution Liability, including coverage for bodily injury, property damage and cleanup arising
19 from the transportation of Waste on the Contractor's vehicles. The City shall be named as an
20 additional insured on such policy.

21 **B. Acceptability of Insurers.** The insurance policies required by this Section shall be
22 issued by an insurance company or companies admitted to do business in the State of California
23 subject to the authority of the California Insurance Commission and with a rating in the most
24 recent edition of Best's Insurance Reports of size category VII or larger and a rating
25 classification of A or better.

26 **C. Other Insurance Provisions.** The policies specified below are to contain, or be
27 endorsed to contain, the following provisions:

28 **1. Workers' Compensation and Employer's Liability Coverage.** The insurer shall agree to
29 waive all rights of subrogation against the City, its officials, employees and volunteers for losses
30 arising from work performed by the Contractor for the City.

31 **2. Commercial General Liability; Automobile Liability Coverage.**

32 a. The City, its officers, Directors, employees, volunteers, and agents are to be
33 covered as additional insureds as respects: liability arising out of activities performed by
34 or on behalf of the Contractor; completed operations of the Contractor; premises leased
35 or used by the Contractor; and automobiles owned, leased, hired, or borrowed by the

1 Contractor. The coverage shall contain no special limitations on the scope of protection
2 afforded to the City, its officials, employees, or agents.

3 b. The Contractor's insurance coverage shall be primary insurance as respects;
4 the City, officials, employees, and agents. Any insurance or self-insurance maintained by
5 the City, its officials, employees or volunteers shall be excess of the Contractor's
6 insurance and shall not contribute with it.

7 c. Any failure to comply with the reporting provisions of the policies shall not
8 affect coverage provided to the City, officials, employees and agents.

9 d. Coverage shall state that the Contractor's insurance shall apply separately to
10 each insured against whom Claim is made or suit is brought except with respect to the
11 limits of the insurer's liability.

12 **D. Required Endorsements.** The policies shall contain endorsements in substantially the
13 following form:

14 **1. Workers' Compensation and Employer's Liability:**

15 a. "Thirty (30) days' written notice shall be given to the Assistant City Manager
16 of the City in the event of cancellation."

17 b. "Insurer waives all right of subrogation against the City, and its officials,
18 employees, volunteers, and agents for losses arising from work performed by the
19 Contractor for the City.

20 **2. Commercial General Liability (Including Automobile Liability).**

21 a. "Thirty (30) days' written notice shall be given by certified mail, return
22 receipt requested, to the Assistant City Manager of the City in the event of cancellation,
23 reduction in coverage, or non-renewal of this policy."

24 b. "The City, its officers, employees, volunteers and agents are additional
25 insureds on this policy."

26 c. "This policy shall be considered primary insurance as respects any other valid
27 and collective insurance maintained by the City, including any self-insured retention or
28 program of self-insurance, and any other such insurance shall be considered excess
29 insurance only."

30 d. "Inclusion of the City as an additional insured shall not affect the City's rights
31 as respects any Claim, demand, suit or judgment brought or recovered against the
32 Contractor. This policy shall protect the Contractor and the City in the same manner as
33 though a separate policy had been issued to each, but this policy shall not operate to
34 increase the insurance company's liability as set forth in the policy beyond the amount
35 shown or to which the insurance company would have been liable if only one party had
36 been name as an insured."

1 **E. Delivery of Proof of Coverage.** Prior to the Effective Date, the Contractor shall furnish
2 the City with certificates of each policy of insurance required hereunder. Such certificates shall
3 show the type and amount of coverage, effective dates, and dates of expiration of policies, and
4 shall be accompanied by copies of all required endorsements. The certificates and endorsements
5 for each policy are to be signed by a person authorized by the insurer to bind coverage on its
6 behalf. The Contractor shall periodically furnish renewal certificates to the Assistant City
7 Manager of the City to demonstrate maintenance of the required coverage throughout the Term.

8 **F. Other Insurance Requirements.**

9 1. In the event any services required by this Agreement are delegated to a subcontractor,
10 insurance required by the Contractor in Section 14.02 shall cover all subcontractors or the
11 subcontractors must furnish evidence that its insurance meets the requirements of Section 14.02.

12 2. The Contractor shall comply with all requirements of the insurers policies. The carrying
13 of insurance shall not relieve the Contractor from any obligation under this Agreement, including
14 those imposed by Section 14.01. If any Claim is made by any third party against the Contractor
15 or a subcontractor on account of any occurrence related to this Agreement, the Contractor shall
16 promptly report the facts in writing to the insurance carrier.

17 3. If the Contractor fails to procure and maintain any insurance required by this Agreement,
18 the City may take out and maintain, at the Contractor's expense, such insurance as the Contractor
19 has failed to maintain in accordance with the limits set forth herein. The Contractor shall
20 reimburse the City for the cost of such insurance within thirty (30) days of being invoiced by the
21 City for such costs.

22 4. The Commercial General Liability insurance required by Section 14.02.A.3 shall be
23 written on an occurrence rather than a "Claims made" basis. If it is not obtainable, the
24 Contractor shall notify the City and arrange for "tail coverage" to protect the City from Claims
25 filed during the three (3) years immediately following the expiration or termination of this
26 Agreement relating to incidents that occurred prior to such expiration or termination.

27 **14.03 Faithful Performance Bond.** Subject to Section 14.04 below, the Contractor shall file
28 with the City a bond securing the Contractor's faithful performance of its obligations under this
29 Agreement and shall maintain such bond on an annual basis throughout the Term of this
30 Agreement as evidenced by a continuation certificate. The form of the bond shall be reasonably
31 acceptable to the City. The principal sum of the bond shall be \$2,500,000. The performance
32 bond required by this Section shall be issued by a bonding company or companies authorized to
33 do business in the State of California and with a rating in the most recent edition of Best's
34 Insurance Reports of size category VII or larger and a rating classification of A or better.

35 **14.04 Security Interest in Lieu of Bond.**

36 In lieu of filing the performance bond with the City under Section 14.03 above, the
37 Contractor may grant the City a first-priority security interest in all of the Contractor's accounts,
38 chattel paper, inventory, equipment, instruments (including promissory notes), investment
39 property, documents, deposit accounts, letter-of-credit rights, general intangibles, supporting

1 obligations, and proceeds and products of the foregoing (collectively referred to as "Collateral")
2 to secure performance of the Contractor's obligations under this Agreement.

3 The Contractor authorizes the City to file a financing statement, substantially in the form
4 of the attached Schedule 14.04, with the appropriate government offices describing the
5 Collateral. Prior to this Agreement taking effect, the Contractor will provide the City with a
6 certified report from the Secretary of State of California and the Secretary of State of the State in
7 which the Contractor is incorporated, if different than California, indicating the City's security
8 interest granted hereunder as and when properly filed is senior in priority to all other security
9 interests or other interests in the Collateral as reflected in the report.

10 The Contractor will further assist the City as necessary during the Term of this
11 Agreement in obtaining such control with respect to Collateral consisting of deposit accounts,
12 investment property, letter-of-credit rights and electronic chattel paper as is reasonable required
13 under the California Commercial Code to perfect the City's interest in the Collateral. In
14 addition, the Contractor will not create any chattel paper without placing a legend on the chattel
15 paper acceptable to the City indicating the City has a secured interest in the chattel paper as
16 contemplated under this Agreement.

17 Upon the Contractor's default on any of the terms and conditions of agreement after
18 expiration of applicable cure periods, City has the right, in addition to any other rights and
19 remedies available under the law, to take possession of the Collateral without demand and
20 without legal process and to operate and maintain the City Transfer Station (or engage the
21 services of another Person to operate and maintain it). Upon the City's demand, the Contractor
22 will assemble within the geographical boundaries of the City of Carlsbad and make the Collateral
23 available to the City as the City directs. The Contractor grants the City the right, for this
24 purpose, to enter into or on any Premises where the Collateral may be located. Upon termination
25 or expiration of this Agreement, provided the Contractor has fully performed and satisfied all
26 outstanding obligations owed to the City under this Agreement, the City shall promptly upon
27 request of the Contractor execute and deliver a release of the security interests granted hereunder
28 in a form legally sufficient to remove and relinquish such security interest in the Collateral.

29 **14.05 Extent of Coverage.** The Contractor's indemnification and insurance coverage provided
30 for in this Article shall address all the Contractor's obligations under this Agreement including
31 those obligations related to Transfer Station, Transport and Designated Landfill services.

32 **14.06 Exclusion from Indemnity Obligation.** Notwithstanding anything contained in this
33 Agreement to the contrary (including, but not limited to, this Article 14), in no event shall the
34 Contractor be obligated to indemnify, defend, insure or hold the City or the City Parties harmless
35 for any Claims or other liability to the extent resulting from the sole negligence or intentional
36 misconduct of the City or the City Parties. The exclusions set forth in this Section 14.05 shall
37 apply with equal force to the insurance requirements set forth in Sections 14.02.A and 14.02.C
38 set forth above.

ARTICLE 15
DEFAULT BY CONTRACTOR

15.01 Events of Default. All provisions of this Agreement to be performed by the Contractor are considered material. Notwithstanding anything to the contrary herein, to the extent an event of default under this Agreement arises from the actions of any employee or agent of the Contractor in contravention of stated policies and procedures of the Contractor, the Contractor may cure such default by termination or reassignment of such employee or agent from any duties of performance under this Agreement and provided contractor promptly undertakes, and prosecutes to completion, remediation, to the City's reasonable satisfaction, of all damages arising from such actions of such employees or agents.

A. Fraud or Deceit. The Contractor practices, or attempts to practice, any fraud or deceit upon the City.

B. [Intentionally Omitted]

C. Failure to Maintain Coverage. The Contractor fails to provide or maintain in full force and affect the Workers' Compensation, liability, indemnification coverage or faithful performance bond as required by this Agreement.

D. Violations of Regulation. The Contractor violates any material orders or filings of any regulatory body having authority over the Contractor relative to this Agreement, provided that the Contractor may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no default of the Agreement shall be deemed to have occurred.

E. Failure to Perform. The Contractor ceases to provide Transfer, Transport or Disposal services as required under this Agreement for a period of two (2) consecutive days or more, for any reason within the control of the Contractor, including, but not limited to, labor dispute or labor unrest including strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action; the Contractor fails to complete capital improvement projects in accordance with the capital improvement project schedule; or the Contractor fails to perform any of its obligations in accordance with provisions of this Agreement.

F. Acts or Omissions. Any other act or omission by the Contractor which violates the terms, conditions, or requirements of this Agreement, the California Integrated Waste Management Act, as it may be amended from time to time, or any law, statute, ordinance, order, directive, rule, or regulation issued thereunder and which is not corrected or remedied within thirty (30) calendar days of the written notice of the violation or, if the Contractor cannot reasonably correct or remedy the breach within the time set forth in such notice, if the Contractor should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

G. False or Misleading Statements. Any material representation or disclosure made to the City by the Contractor in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proves to be intentionally false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

1 **H. Failure to Provide City Most Favored Customer Status.** The Contractor charges other
2 Transfer Station Users Service Fees which are less than the PTS Solid Waste Fee for services
3 substantially similar to the City. Upon notice by City, the Contractor shall immediately reduce
4 the City's service fee and shall have thirty (30) days to refund over payment of service fees by
5 City or its Designated Hauler plus interest at the rate of ten (10%) percent.

6 **15.02 Right To Cure.** The Contractor shall be given five (5) Working Days from time of
7 notification by the City to cure any monetary default arising under Section 15.01 and thirty (30)
8 days from the time of notification to cure any non-monetary default under Section 15.01
9 provided, however, that the City shall not be obligated to provide the Contractor with a notice
10 and cure opportunity if the Contractor has committed the same or similar breach within a twenty-
11 four (24) month period. The Contractor shall not be entitled to a cure period for default arising
12 under subsections A or G. The City, at its sole discretion may waive any of the material events
13 of default in section 15.01.

14 **15.03 Right to Terminate Upon Default.** In the event of an event of default following the
15 expiration of all cure periods described above and provided the Contractor has not successfully
16 challenged in an appropriate forum the City's conclusion that such failure or refusal to perform
17 has occurred or constitutes a material breach of this Agreement, the City has the unilateral right
18 to terminate this Agreement. Within ten (10) calendar days' of City's issuance of notice to the
19 Contractor of the Contractor's default if the public health or safety is threatened, or otherwise
20 within thirty (30) calendar days of City's issuance of notice to the Contractor of the Contractor's
21 default, the City will determine if a termination hearing must be held. The termination hearing
22 shall be held before the City Council and shall be open to all Persons. In the event the City
23 decides to terminate this Agreement based on the findings of the termination hearing, the City
24 shall provide notice to the Contractor of the termination date thirty (30) calendar days in advance
25 of such date, and the Contractor shall thereafter be relieved on a going-forward basis of all
26 liabilities and obligations hereunder, provided however, that the provisions of Sections 13.07 and
27 14.01 and the following paragraph shall survive termination. In the event the City exercises its
28 right to terminate this Agreement, the City may, at its option, directly undertake performance of
29 the services described in this Agreement or arrange with other persons to perform the services
30 described within this Agreement with or without a written agreement from other persons. This
31 right of termination is in addition to any other rights of the City upon a failure of the Contractor
32 to perform its obligations under this Agreement.

33 The City's right to terminate this Agreement and to retain possession of the Palomar Transfer
34 Station are not exclusive, and the City's termination of this Agreement shall not constitute an
35 election of remedies. Instead, they shall be in addition to any and all other legal and equitable
36 rights and remedies which the City may have.

37 By virtue of the nature of this Agreement, the urgency of timely continuous and high-quality
38 service, the time required to effect alternative service, and the rights granted by the City to the
39 Contractor, the remedy of damages for a default hereof by the Contractor may be inadequate, and
40 the City may seek injunctive relief.

1 The Contractor agrees to pay (as liquidated damages and not as a penalty) the amounts set forth
2 below which shall be subject to annual adjustment as described in Sections 8.08 and 9.07:

3 **1. Vehicle Turnaround Reliability.** For each Designated Hauler vehicle, which is unable
4 to depart from the Transfer Station within Maximum Vehicle Turnaround Time due to conditions
5 at or within the Transfer Station: \$100.00.

6 **2. Timeliness of Report Submittals to City.** Any report shall be considered late until such
7 time as a correct and complete report is received by the City. For each calendar day a report is
8 late, after the seventh (7th) late day, the daily liquidated damage amount shall be: \$500 per day
9 for annual reports and \$100 per day for quarterly reports or other reports.

10 **3. Diversion Guarantee.** For each month that the Contractor fails to meet the Diversion
11 Guarantee stated in Section 3.30.A for Diversion of City Waste at the Transfer Station: Amount
12 equal to Disposal Fee multiplied by the shortfall of Diverted Tons.

13 **4. Transfer Station Maintenance.** For each month that the Contractor is in violation of
14 standard maintenance requirements under the Operations and Maintenance Manual: \$1,000.

15 **5. Excessive Complaints.** In the event more than fifty (50) complaints were received during
16 a given month from a reasonable number of unrelated Persons: \$150 for each complaint received
17 above fifty (50) complaints.

18 **C. City Determination of Events.** The City Manager may determine the occurrence of
19 events giving rise to liquidated damages through the observation of its own employees or
20 representative or investigation of customer complaints.

21 **D. Notice of Intent.** Prior to assessing liquidated damages, the City shall give the
22 Contractor written notice of its intent to do so. The notice will include a brief description of the
23 incident(s)/non-performance. The Contractor may review (and make copies at its own expense)
24 all information in the possession of the City relating to incident(s)/non-performance. The
25 Contractor may, within ten (10) days after receiving the notice, request a meeting with the City
26 Manager or his/her designee. The Contractor may present evidence in writing and through
27 testimony of its employees and others relevant to the incident(s)/non-performance. The City will
28 provide the Contractor with a written explanation of his or her determination on each
29 incident(s)/non-performance prior to authorizing the assessment of liquidated damages. The
30 decision of the City shall be final but the Contractor may make such payment under protest and
31 reserve its right to contest the City's determination of such assessment pursuant to the dispute
32 resolution provisions of Section 16.14.

33 **E. Amount.** The City may assess liquidated damages for each calendar day or event, as
34 appropriate, that the Contractor is determined to be liable in accordance with this Agreement.

35 **F. Timing of Payment.** The Contractor shall pay any liquidated damages assessed by the
36 City after they are assessed in accordance with the Contractor's monthly remittance process
37 described in Article 13. If the liquidated damages are not paid in accordance with Article 12, the
38 City may proceed to collect monies through the performance bond required by this Agreement,

1 order the termination of this Agreement, or both, the City shall give notice to the Contractor and
2 the Contractor shall have five (5) business days to pay and thereafter,

3 **15.05 Excuse from Performance.** The Parties shall be excused from performing their
4 respective obligations hereunder in the event they are prevented from so performing by reason of
5 floods, earthquakes, other natural disasters, war, terrorist attack, civil insurrection, riots, acts of
6 any government (including judicial action), and other similar catastrophic events which are
7 beyond the control of and not the fault of the party claiming excuse from performance hereunder.
8 Labor unrest, including, but not limited to, strike, work stoppage or slowdown, sick-out,
9 picketing, or other concerted job action conducted by the Contractor's employees or directed at
10 the Contractor is not an excuse from performance and the Contractor shall be obligated to
11 continue to provide service notwithstanding the occurrence of any or all of such events.

12 The Party claiming excuse from performance shall, within two (2) days after such Party has
13 notice of such cause, give the other Party notice of the facts constituting such cause and asserting
14 its Claim to excuse under this Section.

15 The interruption or discontinuance of the Contractor's services caused by one or more of the
16 events excused shall not constitute a default by the Contractor under this Agreement.
17 Notwithstanding the foregoing, however, if the Contractor is excused from performing its
18 obligations to Accept, Transfer, Transport or Dispose City Waste under this Agreement
19 hereunder for any of the causes listed in this Section for a period of ten (10) or more consecutive
20 calendar days, the City shall nevertheless have the right, in its sole discretion, to terminate this
21 Agreement by giving ten (10) days notice, in which case the provisions relative to taking
22 possession of the Transfer Station, equipment and other property and engaging the Contractor's
23 personnel in Section 15.06 will apply, but not any requirement to pay any amounts of
24 reimbursement to the City thereunder.

25 **15.06 Right to Perform.** If this Agreement is suspended and/or terminated due to a Contractor
26 default, the City shall have the right to perform and complete, by contract or otherwise, the
27 services herein or such part thereof as it may deem necessary to procure labor, equipment, and
28 materials and incur all other expenses necessary for completion of the services, including, but not
29 limited to, Transfer, Transport, or Disposal of City Waste and/or Transfer and Transport of
30 Recyclable Materials and Organic Materials at alternate facilities. If such expenses (including,
31 but not limited to, the costs of transportation to alternative facilities and the actual fees charged
32 for Transfer, Transport, and Disposal) exceed the amounts which would have been payable to the
33 Contractor under this Agreement, if it had been fully performed by the Contractor, then the
34 Contractor shall pay the amount of such excess for one (1) year to the City within thirty (30)
35 days of the Contractor's receipt of a Claim for reimbursement, and evidence of costs incurred,
36 from the City. The City's right to perform shall include its ability to operate the Transfer Station
37 and to use the Contractor's labor, supplies, and equipment to conduct the Transfer Station
38 operations and Transport of City Waste to a Disposal facility.

39 **15.07 City's Remedies Cumulative, Specific Performance.** The City's rights to suspend or
40 terminate this Agreement under Section 15.02 or to perform under Section 15.05 are not
41 mutually exclusive, and the City's exercise of one such right shall not constitute a selection of

1 remedies. Instead, they shall be in addition to any and all other legal and equitable rights and
2 remedies which the City may have.

3 **15.08 Default by Designated Hauler.** If the performance or failure to perform of the
4 Designated Hauler results in a breach of any material obligation under this Agreement and such
5 breach remains uncured following thirty (30) days' prior written notice to City and Designated
6 Hauler, then the Contractor may pursue all rights and remedies against the Designated Hauler
7 with respect thereto and the City hereby assigns to the Contractor all rights and remedies
8 accruing to the City for enforcement by the Contractor in connection therewith. City shall take
9 Reasonable Business Efforts to direct Designated Hauler to perform its obligations under this
10 Agreement. City shall make a good faith effort to include in all Solid Waste collection
11 agreements a provision whereby a default of a material obligation of the Designated Hauler
12 under this Agreement will also be a default under the Solid Waste collection agreement.

13 **15.09 Default by City.** If the City breaches any material obligation under this Agreement and
14 such breach remains uncured following thirty (30) days' prior written notice to City, the
15 Contractor shall file a Claim with the City in accordance with the Government Claims Act, Div.
16 3.6, of the California Government Code. Upon final action on the Contractor's Claim by the
17 City, the Contractor shall have the right to take any action at law or in equity it may have to
18 enforce the payment of amounts due from the City (as distinct from the Designated Hauler)
19 and/or the performance of any obligations of the City hereunder.

20 **ARTICLE 16**
21 **OTHER AGREEMENTS OF THE PARTIES**

22 **16.01 Relationship of Parties.** The Parties intend that the Contractor shall perform the
23 services required by this Agreement as an independent Contractor engaged by the City and not as
24 an agent of the City, an officer or employee of the City or as a partner of or joint venturer with
25 the City. No employee or agent of the Contractor shall be or shall be deemed to be an employee
26 or agent of the City. Except as expressly provided herein, the Contractor shall have the exclusive
27 control over the manner and means of conducting the Solid Waste Transfer, Transport, and
28 Disposal services and, if applicable, of conducting Recyclable Materials and Organic Materials
29 Transfer and Transport services performed under this Agreement, and all persons performing
30 such services. The Contractor shall be solely responsible for the acts and omissions of its
31 officers, employees, subcontractors, and agents. Neither the Contractor nor its officers,
32 employees, subcontractors, and agents shall obtain any rights to retirement benefits, survivors
33 compensation benefits, or any other benefits which accrue to the City employees by virtue of
34 their employment with the City.

35 **16.02 Compliance with Law and City Codes.**

36 **A. Compliance with Law.** In providing the services required under this Agreement, the
37 Contractor shall at all times comply with Applicable Law (including, but not limited to, the
38 "Environmental Laws") of the United States, the State of California, the County of San Diego,
39 the City and with all applicable regulations promulgated by federal, state, regional, or local
40 administrative and regulatory agencies, now in force and as they may be enacted, issued, or
41 amended during the Term). In the event of any conflict between this Agreement and Applicable

1 Law, the requirements of the Applicable Law shall govern, and the Contractor shall not be in
2 breach of this Agreement if the Contractor complies with the Applicable Law in contravention of
3 this Agreement, provided that nothing in this Section is intended to limit or enlarge the
4 Contractor's obligations or diminish its right to satisfy its obligation to provide Transfer Station
5 services, Transport, and Disposal Solid Waste and, if applicable, Transfer and Transport
6 Recyclable Materials and Organic Materials by arranging for it to be accepted and disposed of at
7 other facilities.

8 **B. Compliance with City Codes.** The Contractor shall comply with those provisions of the
9 ordinances and municipal codes of the City which are applicable, including, but not limited to,
10 the requirement to obtain business licenses, and with any and all amendments to such applicable
11 provisions during the Term of this Agreement provided; however, that if a change in any such
12 municipal code materially affects the Contractor's annual cost of operations, the Contractor shall
13 be entitled to an interim compensation adjustment.

14 **16.03 Governing Law.** This Agreement shall be governed by, and construed and enforced in
15 accordance with, the laws of the State of California.

16 **16.04 Jurisdiction.** Any lawsuits between the Parties arising out of this Agreement shall be
17 brought and concluded in the courts of the State of California, in North San Diego County or the
18 Federal District court for southern California, which shall have exclusive jurisdiction over such
19 lawsuits. With respect to venue, the Parties agree that this Agreement is made in and will be
20 performed in the County of San Diego, California.

21 **16.05 Assignment by Contractor.**

22 **A. Permitted Assignments.** The Contractor shall have the right to assign this Agreement to
23 any other company which is owned and controlled by Allied Waste Industries, Inc., provided
24 that, (i) such company is qualified to do business in California, and assumes in writing all of the
25 Contractor's obligations under this Agreement prior to or concurrently with such assignment, (ii)
26 such company provides the performance bond required under Section 14.03, and (iii) the
27 Guaranty Agreement remains in full force and effect. The Contractor shall not otherwise assign
28 its rights nor delegate or otherwise transfer its obligations under this Agreement to any other
29 Person.

30 **B. Assignment Defined.** For the purpose of this Section when used in reference to the
31 Contractor, "assignment" shall include, but not be limited to (1) a sale, exchange or other transfer
32 of substantially all of the Contractor's assets dedicated to service under this Agreement to a third
33 party; (ii) a sale, exchange or other transfer of outstanding common stock of the Contractor to a
34 third party provided said sale, exchange or transfer may result in a change of control of
35 contractor; (iii) any dissolution, organization, consolidation, merger, re-capitalization, stock
36 issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or
37 other transaction to which results in a change of Ownership or control of the Contractor; (iv) any
38 assignment by operation of law, including insolvency or bankruptcy, making assignment for the
39 benefit of creditors, writ of attachment for an execution being levied against this Agreement,
40 appointment of a receiver taking possession of the Contractor's property, or transfer occurring in
41 the event of a probate proceeding; and (v) any combination of the foregoing (whether or not in

1 related or contemporaneous transactions) which has the effect of any such transfer or change of
2 Ownership, or change of control of the Contractor.

3 The Contractor acknowledges that this Agreement involves rendering a vital service to the City's
4 residents and business, and that the City has selected the Contractor to perform the services
5 specified herein based on (1) the Contractor's experience, skill and reputation for conducting its
6 operations in a safe, effective and responsible fashion, at all times in keeping with Applicable
7 Law, regulations, and best management practices, and (2) the Contractor's obligations to the City
8 under this Agreement. The City has relied on each of these factors, among others, in choosing
9 the Contractor to perform the services to be rendered by the Contractor under this Agreement.

10 **16.06 Contractor Request for Assignment.** If the Contractor requests the City's consideration
11 of and consent to an assignment, the City may reasonably deny or approve such request. No
12 request by the Contractor for consent to any assignment need be considered by the City unless
13 and until the Contractor has met the following requirements:

14 The Contractor shall pay the City up to \$25,000 (which shall be adjusted annually using the same
15 procedures described in Section 8.04.B above), its expenses necessary to investigate the
16 suitability of any proposed assignee, and to review and finalize any documentation required as a
17 condition for approving any such assignment;

18 The Contractor shall furnish City with audited financial statements of the proposed assignee's
19 operations for the immediately preceding three (3) operating years;

20 The Contractor shall furnish City with satisfactory proof: (i) that the proposed assignee has at
21 least ten (10) years of Solid Waste management experience on a scale equal to or exceeding the
22 scale of operations conducted by the Contractor under this Agreement; (ii) that in the last five (5)
23 years, the proposed assignee has not suffered any significant citations or other censure from any
24 federal, state or local agency having jurisdiction over its Solid Waste management operations
25 due to any significant failure to comply with state, federal or local Applicable Law and that the
26 assignee has provided City with a complete list of such citations and censures; (iii) that the
27 proposed assignee has at all times conducted its operations in an environmentally safe and
28 conscientious fashion; (iv) that the proposed assignee conducts its Solid Waste management
29 practices in accordance with sound Solid Waste management practices in full compliance with
30 all federal, state and local laws regulating the Transfer, Transportation, and Disposal of Solid
31 Waste including Hazardous Substances; (v) that the proposed assignee's financial status, as
32 demonstrated by audited financial statements, is sufficient to perform all the Contractor's
33 obligations, (vi) that the Guaranty Agreement provided by the proposed assignee is satisfactory
34 to the City and is binding and enforceable upon the guarantor, and (vii) of any other information
35 required by City to ensure the proposed assignee can fulfill the terms of this Agreement in a
36 timely, safe and effective manner.

37 Under no circumstances shall the City be obligated to consider any proposed assignment by the
38 Contractor if the Contractor is in default under this Agreement at any time during the period of
39 consideration. In considering the assignment, the City may, if the City has financial concern, it
40 may reconsider the amount of the performance bond requirements as a requirement of the
41 assignment to provide the City additional financial assurances.

1 **16.07 Binding on Successors.** The provisions of this Agreement shall inure to the benefit of
2 and be binding on the successors and permitted assigns of the Parties.

3 **16.08 Parties in Interest.** Nothing in this Agreement, whether expressed or implied, is
4 intended to confer any rights on any Persons other than the Parties to it and their representatives,
5 successors and permitted assigns.

6 **16.09 Waiver.** The waiver by either Party of any breach or violation of any provisions of this
7 Agreement shall not be deemed to be a waiver of any breach or violation of any other provision
8 nor of any subsequent breach or violation of the same or any other provision. The subsequent
9 acceptance by either Party of any monies which become due hereunder shall not be deemed to be
10 a waiver of any pre-existing, concurrent or subsequent breach or violation by the other Party of
11 any provision of this Agreement.

12 **16.10 Notices.** All notices, demands, requests, proposals, approvals, consents, and other
13 communications which this Agreement requires, authorizes or contemplates shall be in writing,
14 except where specifically provided otherwise, and shall be personally delivered to a
15 representative of the Parties at the address below or shall be deposited in the United States mail,
16 first class postage prepaid, (certified or registered mail, return receipt requested) addressed as
17 follows:

18 If to the City: City Manager
19 City of Carlsbad
20 1200 Carlsbad Village Drive
21 Carlsbad, CA 92008

22
23 If to Contractor: General Manager
24 Palomar Transfer Station, Inc.
25 8364 Clairemont Mesa Blvd.
26 San Diego, CA 92111

27
28 Copy to: Palomar Transfer Station, Inc.
29 15880 N Greenway-Hayden Loop, Suite 100
30 Scottsdale, AZ
31 Attention: Corporate Secretary

32 The address to which communications shall be delivered may change from time to time by a
33 notice to either Party given in accordance with this Section. Notices shall be deemed delivered
34 only upon receipt.

35 **16.11 Representatives of the Parties.**

36 **A. Representative of the City.** On or before the Effective Date, the City Council shall
37 delegate, in writing, authority to a City official, and may permit such official, in turn, to delegate
38 in writing some or all of such authority to subordinate officers. The Contractor may rely upon
39 actions taken by such delegates with respect to the City's respective rights and obligations under
40 this Agreement.

1 **B. Representatives of Contractor.** The Contractor shall, on or before the Effective Date,
2 designate in writing a responsible officer who shall serve as the representative of the Contractor
3 in all matters related to this Agreement and shall inform the City in writing of such designation
4 and of any limitations upon his or her authority to bind the Contractor. The City may rely upon
5 action taken by such designated representative as actions of the Contractor unless the actions are
6 outside the scope of authority delegated to him/her by the Contractor as communicated to the
7 City. The Contractor reserves the right to designate at any time a new representative of the
8 Contractor upon at least ten(10) days prior written notice to the City.

9 **16.12 Compilation of Information for State Law Purposes.** The Contractor shall compile
10 information on amounts of Solid Waste, Recyclable Materials, and Organic Materials delivered
11 to the Transfer Station and Designated Landfills and other information, which the City may
12 reasonably request.

13 **16.13 Guaranty of Contractor's Performance.** Pursuant to a Guaranty Agreement in
14 substantially the form attached as Exhibit D, the Guarantor has agreed to guaranty the
15 Contractor's performance of this Agreement including the Contractor's indemnification
16 obligation hereunder. The Guaranty Agreement is being provided concurrently with the
17 Contractor's execution of this Agreement.

18 **16.14 Dispute Resolution.** If a dispute should arise regarding the Contractor's performance of
19 its obligations under this Agreement, the following procedure shall be used to resolve any
20 questions of fact or interpretation not otherwise settled by agreement between the Parties. A
21 representative of aggrieved Party shall prepare a notice of dispute that includes a written
22 description of its dispute and its recommended method of resolution and shall submit such
23 written notice to the other Party. The Party receiving the notice of dispute shall reply to the
24 notice within ten (10) Working Days. If the resolution thus obtained is unsatisfactory to the
25 aggrieved Party, a letter outlining the disputes shall be forwarded to City Council through the
26 Office of the City Manager. The City Council may then opt to consider a directed solution to the
27 problem. In such cases, the action of the City Council shall be the final administrative remedy
28 available to the Parties involved. If the City Council takes no action to direct a solution to
29 problem within (60) days of receipt of the letter by the City Manager, such failure to act shall be
30 deemed the final administrative remedy available to the parties. Although nothing in this
31 procedure shall prohibit the Parties from seeking remedies available to them at law.

32 **16.15 Modifications to Scope of Service.**

33 **A. General.** City may direct the Contractor in writing to perform additional services
34 (including, but not limited to, Acceptance and Transfer of Source Separated Recyclable
35 Materials and performance of additional material Recovery activities) or modify the manner in
36 which the Contractor performs existing services (including, but not limited to, the modifications
37 to or elimination of services). The Contractor's Compensation shall be increased or decreased,
38 as appropriate, to give effect to these adjustments.

39 **B. Proposal for Modification of Services.** Within thirty (30) days of City request for a
40 proposal, the Contractor shall present its proposal to modify existing services. At a minimum,
41 the proposal shall contain a completed description of the following:

- 1 1. Methodology to be employed (changes to equipment, manpower, staffing, etc.).
- 2 2. Equipment to be utilized (equipment number, types, capacity, age, etc.).
- 3 3. Labor requirements (changes in number of employees by classification).
- 4 4. Provision for program publicity/education/marketing (if appropriate).
- 5 5. Estimate of the impact of the service modification (increased diversion tonnage, reduced
- 6 costs, increased public service, etc.).
- 7 6. Five (5) year projection of the financial results of the program's operations in a balance
- 8 sheet and operating statement format including documentation of the key assumption underlying
- 9 the projections and the support for those assumptions, giving full effect to the savings or costs to
- 10 existing services.

11 **C. City's Review.** Within ninety (90) calendar days of receiving the Contractor's proposal,
12 the City shall review and comment on, and approve or disapprove of the modification to the
13 scope of services. The City and the Contractor may mutually agree to extend the time period for
14 review due to the complexity of the scope of service modification under consideration, the time
15 needed for the review or approval, or for other reasonable reasons.

16 The City may request the assistance of an independent third party, reasonably acceptable to the
17 Contractor, to review the proposal. The reasonable costs of such review shall be paid by the
18 Contractor if the modification to the scope of services is initiated by the Contractor or by the
19 City if the modification to the scope of services is initiated by the City. The cost of such review
20 shall be estimated in advance of the work, and provided to the Contractor for comment and
21 agreement to pay. The Contractor's refusal to pay the reasonable cost of review of a Contractor-
22 initiated proposal shall be grounds for City rejection of such proposal.

23 The City may request from the Contractor operating and business records reasonably required to
24 verify the reasonableness and accuracy of the impacts associated with a modification to the scope
25 of services. The Contractor shall fully cooperate with the City's request and provide City and its
26 agent(s) copies of or access to the Contractor's records.

27 **D. Approval of Modification to Scope of Services.** Upon City approval or determination,
28 the City will issue a notice approving the modification to the scope of service and documenting
29 any change to the Contractor's Compensation and Service Fees, and approved change to the
30 Contractor's obligations hereunder. The Parties shall prepare a written amendment to this
31 Agreement documenting any and all changes resulting from the modification to the scope of
32 services. No adjustment in the Contractor's Compensation, change in the Contractor's
33 obligations, or change in scope of services shall become effective absent such City approval or
34 determination.

35 **E. City's Right to Permit Others to Provide Services.** The Contractor acknowledges and
36 agrees that City may permit other Persons besides the Contractor to provide additional services
37 not otherwise contemplated under this Agreement. If the Contractor and City cannot agree on
38 terms and conditions of such services in thirty (30) calendar days from the end of the City's

1 review period described in Section C above, the Contractor acknowledges and agrees that the
2 City may permit Persons other than the Contractor to provide such services.

3 **16.16 Means and Methods of Solid Waste Management Practices.**

4 **A. Initial Means and Methods.** The initial Means and Methods of Solid Waste
5 management practices including, but not limited to, Acceptance, Delivery, Transfer, Transport,
6 Recovery, Diversion and Disposal, are as specified in this Agreement.

7 **B. Alternative Means and Methods.** The Parties recognize that the Means and Methods of
8 Solid Waste management practices including, but not limited to, Acceptance, Delivery, Transfer,
9 Transport, Recovery, Diversion or Disposal may change over the Term. Either Party may
10 request that the other Party consider use of an alternative Means or Method(s) of Solid Waste
11 management practices including, but not limited to, Acceptance, Delivery, Transfer, Transport,
12 Recovery, Diversion or Disposal. Should either Party do so, the terms and conditions governing
13 use of an alternative Means and Methods of Solid Waste management practices including, but
14 not limited to, Acceptance, Delivery, Transfer, Transport, Recovery, Diversion or Disposal shall
15 be considered a change in the Contractor's obligation and shall be addressed as a modification to
16 scope of services in accordance with Section 16.15.

17 **16.17 Maintenance of Separate Accounting Records.** The Contractor shall maintain the
18 accounting records and financial statements required to be provided to the City under this
19 Agreement separately from operations in other locations, as if the Contractor were an
20 independent entity providing service only to the City. For purposes of the Agreement, the costs
21 and revenues associated with providing service to the City shall not be combined, consolidated
22 or in any other way incorporated with those of other operations conducted by the Contractor in
23 other locations, or with those of an Affiliate.

24 **16.18 Subcontracting.** The Contractor may engage subcontractors for Transfer,
25 Transportation, Recovery, Diversion or Disposal of City Waste; however, such subcontracting
26 shall in no way amend the Contractor's obligations to the City including, but not limited to, those
27 described in Articles 14 and 15 of this Agreement.

28 **16.19 Transition to Next Contractor.** If the transition of services to another contractor occurs
29 at the end of the CTS Contractor Operating Period or as a result of expiration of Term, default
30 and termination, or otherwise, the Contractor will take direction from the City and subsequent
31 contractor(s) to assist in an orderly transition. Depending on the Contractor's circumstances at
32 the point of transition, the Contractor at its option may enter into negotiations with the next
33 contractor to sell (in part or all) its vehicles and equipment, as appropriate.

34 **16.20 Contractor's Investigation.** The Contractor has made an independent investigation of
35 the conditions and circumstances surrounding this Agreement and the work to be performed by
36 the Contractor as part of this Agreement. The Contractor's execution of this Agreement
37 constitutes the Contractor's acceptance of the results of such investigation as satisfactory.

38 **16.21 City Free to Negotiate with Third Parties.** The City may at any time investigate all
39 options for the Transfer, Transportation, and Disposal services for City Waste to be implemented
40 after the expiration of the Initial PTS Operating Period, CTS Contractor Operating Period, or

1 Term. Without limiting the generality of the foregoing, the City may solicit proposals from the
2 Contractor and from third parties for the provision of services, and any combination thereof, and
3 may negotiate and execute agreements for such services which will take effect at the end of the
4 Initial PTS Operating Period, subject to the right of the Contractor to operate PTS as provided in
5 Section 2.04, or CTS Contractor Operating Period or upon the expiration or earlier termination
6 of this Agreement under Section 15.03.

7 **16.22 Privacy.** The Contractor shall strictly observe and protect the rights of privacy of
8 customers. Information identifying individual customers or the composition or contents of a
9 customer's waste stream shall not be revealed to any Person, governmental unit, private agency,
10 or the Contractor, unless upon the authority of a court of law, by statute, in response to a valid
11 third party request under the Public Information Act or upon valid authorization of the customer.
12 This provision shall not be construed to preclude the Contractor from preparing, participating in,
13 or assisting in the preparation of waste characterization studies or waste stream analyses, which
14 may be required by the City or California Integrated Waste Management Act.

15 **16.23 City Transfer Station Financing Assumption.** The Parties acknowledge that the City
16 prepared this Agreement assuming that tax-exempt financing would be secured to finance the
17 development of the City Transfer Station. If changes in tax law or the use of an alternative
18 financing mechanism require provisions of this Agreement to be modified, the Parties agree to
19 discuss required modifications and mutually agree on changes. In the event of the City and the
20 Contractor can not agree on modifications to the Agreement, the Parties shall handle the matter
21 in accordance with the dispute resolution procedures in Section 16.14.

22 **16.24 Integrated Contract.** This Agreement represents the full and complete understanding of
23 every kind or nature whatsoever between the Parties hereto, and all preliminary negotiations and
24 agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied
25 covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be
26 effective only by written execution signed by both the City and the Contractor.

27 **16.25 Inserted Provisions.** Each provision and clause required by law to be inserted into this
28 Agreement shall be deemed to be enacted herein, and this Agreement shall be read and enforced
29 as though each were included herein. If through mistake or otherwise, any such provision is not
30 inserted or is not correctly inserted, this Agreement shall be amended to make such insertion on
31 application by either party.

32 **16.26 Agreement in Full Effect.** All provisions of this Agreement shall remain in effect
33 during the Term.

34 **16.27 No Competition.** During the Term, each Party agrees not to compete with the other
35 Party in connection with the provision of Transfer services for Solid Waste. The City shall not
36 use, or allow to be used, the Palomar Transfer Station for purposes of Transferring Solid Waste
37 during the CTS Marketing Period; however, the City reserves the right to use, or allow the use
38 of, the Palomar Transfer Station for other purposes including, but not limited to, the purposes of
39 storage, maintenance and repair, administration and Refuse Collection operations.

1 **16.28 Compliance with Agreement.** In the event requirements of this Agreement conflict with
2 Standard Business Practices or Reasonable Business Efforts, the Contractor shall comply with
3 requirements of this Agreement (except where the Contractor's compliance with Standard
4 Business Practices or Reasonable Business Efforts is expressly provided herein).

5 **16.29 Effect on Conditional Use Permit.** In no event shall this Agreement constitute, vary, or
6 alter the terms of, any conditional use permit required for operation of the Palomar Transfer
7 Station.

8 **ARTICLE 17**
9 **MISCELLANEOUS PROVISIONS**

10 **17.01 Exhibits.** Each of the exhibits, identified as Exhibits A through E, and Schedule 2.04.A
11 attached hereto is incorporated herein and made a part hereof by this reference.

12 **17.02 Section Headings.** The Article headings and Section headings in this Agreement are for
13 convenience of reference only and are not intended to be used in the construction of this
14 Agreement nor to alter or affect any of its provisions.

15 **17.03 Interpretation.** This Agreement, including the exhibits attached hereto, shall be
16 interpreted and construed reasonably and neither for nor against either Party, regardless of the
17 degree to which either Party participated in its drafting. Any conflict between the body of the
18 Agreement and the exhibits shall be resolved in favor of the Agreement.

19 **17.04 Amendment.** This Agreement may not be modified or amended in any respect except in
20 writing signed by the Parties.

21 **17.05 Severability.** If any provision of this Agreement is for any reason deemed to be invalid,
22 and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the
23 remaining provisions of this Agreement which shall be enforced as if such invalid or
24 unenforceable provision had not been contained herein. In the event any material provision of
25 this Agreement is for any reason deemed to be invalid, and unenforceable, the City reserves the
26 right to terminate this Agreement.

27 **17.06 References to Laws.** All references in this Agreement to laws and regulations shall be
28 understood to include such laws and regulations as they may be subsequently amended or
29 recodified, unless otherwise specifically provided in this Agreement. In addition, references to
30 specific governmental agencies shall be understood to include agencies which succeed to or
31 assume the functions they are currently performing.

32 **17.07 Definitions.** Capitalized terms used in this Agreement without definition immediately
33 following use of such term shall have the meanings specified in Article 1, unless the context
34 clearly requires otherwise.

35 **17.08 Counterparts.** This Agreement may be executed in counterparts, each of which shall be
36 deemed to be an original.

37

1 **19.03 Agreement Will Not Cause Breach.** To the best of the City's knowledge, after
2 reasonable investigation, neither the execution or delivery of this Agreement nor the
3 performance of this Agreement: (i) conflicts with, violates, or results in a breach of any
4 Applicable Law; or (ii) conflicts with, violates or results in a breach of any term or condition of
5 any judgment, order or decree of any court, administrative agency or other governmental
6 authority, or any agreement or instrument to which City is a party or by which City or any of its
7 properties or assets are bound, or constitutes a default thereunder.

8 **19.04 No Warranty.** City makes no warranties with respect to waste quantity or
9 characterization data contained in its request for proposal, or subsequently distributed to the
10 Contractor. The City expressly disclaims any warranties, either express or implied, as to the
11 quantity or composition for any particular purpose of Permitted Material Delivered to the
12 Facility.

13 **19.05 No Conflicts.** Neither the Execution or delivery by the City of this Agreement, the
14 performance by the City of City's obligations hereunder, nor the fulfillment by the City of the
15 terms and conditions hereof: (1) conflicts with, violates or results in a breach of Applicable
16 Law; or (2) conflicts with, violates or results in a breach of any term or condition of any
17 judgment, order or decree of any court, administrative agency or other governmental authority,
18 or any agreement or instrument to which the City is a party or by which the City or any of its
19 properties or assets are bound, or constitutes a default thereunder.

20 **19.06 No Approvals.** No approval, authorization, license, permit, order or consent of, or
21 declaration, registration or filing with any governmental or administrative authority, commission,
22 board, agency or instrumentality is required for the valid execution and delivery of this
23 Agreement by the City, except such as have been duly obtained from the City Council.

24 **19.07 No Litigation.** To the best of the City's knowledge, after reasonable investigation, there
25 is no action, suit, proceeding or investigation, at law or in equity, before or by any court or
26 governmental authority, commission, board, agency or instrumentality pending or, to the best of
27 the City's knowledge, threatened, against the City wherein an unfavorable decision, ruling or
28 finding, in any single case or in the aggregate, would materially adversely affect the performance
29 by the City of City's Obligations hereunder or in connection with the transactions contemplated
30 hereby, or which, in any way, would adversely affect the validity of, or the ability to enforce this
31 Agreement or any other agreement or instrument entered into by the City in connection with the
32 transactions contemplated hereby.

33 **19.08 Public Works.** The services provided by the Contractor do not constitute a "public
34 work" and are not subject to any of the provisions of the Public Works law, Labor Code Sections
35 1720-1901, nor of the regulations promulgated thereunder.


36 **IN WITNESS WHEREOF,** the City and the Contractor have executed this Agreement as of the
37 day and year first above written.

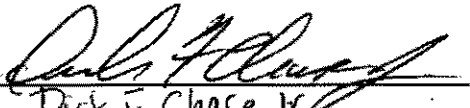
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CONTRACTOR:

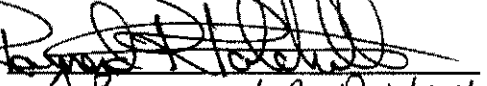
PALOMAR TRANSFER STATION, INC.,
a California corporation

By: 
Name: James T. Ambrose
Title: Vice President

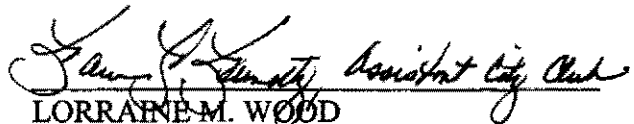
By: 
Name: Dick F. Chase, Jr.
Title: _____

CITY:

CITY OF CARLSBAD, a municipal
corporation of the State of California

By: 
Name: Raymond R. Patchett
Title: City Manager

ATTEST:


LORRAINE M. WOOD
City Clerk

2

3 (Proper notarial acknowledgment of execution by the Contractor must be attached. Chairman,
4 president or vice-president and secretary, assistant secretary, CFO or assistant treasurer must sign
5 for corporations. Otherwise, the corporation must attach a resolution certified by the secretary or
6 assistant secretary under corporate seal empowering the officer(s) signing to bind the
7 corporation.)

8 APPROVED AS TO FORM:

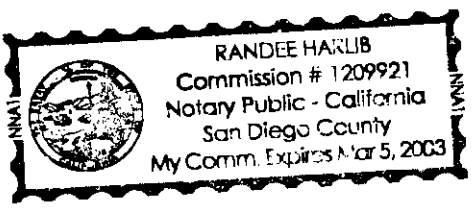
9 RONALD R. BALL, City Attorney

10

11 BY: 
12 Deputy City Attorney 5/22/2002

STATE OF CALIFORNIA)
)
COUNTY OF San Diego) ss.
)

On May 22, 2002, before me, Randee Harlib, Notary Public
a Notary Public in and for the State of California, personally appeared
Raymond R. Fatchett, personally known to me (~~or proved to me on the basis~~
~~of satisfactory evidence~~) to be the person whose name is subscribed to the within instrument, and
acknowledged to me that he ~~or she~~ executed the same in his ~~or her~~ authorized capacity and that,
by his ~~or her~~ signature on the instrument, the person or the entity upon behalf of which he ~~or she~~
acted, executed the instrument.

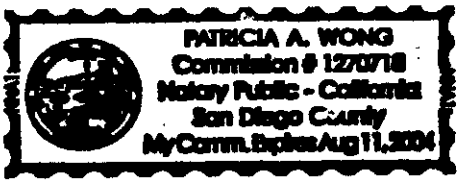


WITNESS my hand and official seal.
Randee Harlib
Notary Public in and for said State

(Notarial Seal)

STATE OF CALIFORNIA)
)
COUNTY OF San Diego) ss.
)

On May 28, 2002, before me, Patricia A. Wong, Notary Public
a Notary Public in and for the State of California, personally appeared
James T. Ambroso, personally known to me (~~or proved to me on the basis~~
~~of satisfactory evidence~~) to be the person whose name is subscribed to the within instrument, and
acknowledged to me that he ~~or she~~ executed the same in his ~~or her~~ authorized capacity and that,
by his ~~or her~~ signature on the instrument, the person or the entity upon behalf of which he ~~or she~~
acted, executed the instrument.



WITNESS my hand and official seal.
Patricia A. Wong
Notary Public in and for said State

(Notarial Seal)

STATE OF CALIFORNIA)
)
COUNTY OF San Diego) ss.

On May 28, 2002, before me, Patricia A. Wong, Notary Public,
a Notary Public in and for the State of California, personally appeared
Dick F. Chase, JR., personally known to me (or proved to me on the basis
of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and
acknowledged to me that he ~~or she~~ executed the same in his ~~or her~~ authorized capacity and that,
by his ~~or her~~ signature on the instrument, the person or the entity upon behalf of which he ~~or she~~
acted, executed the instrument.



(Notarial Seal)

WITNESS my hand and official seal.

Patricia A. Wong
Notary Public in and for said State

ASSIGNMENT OF LEASE

THIS ASSIGNMENT OF LEASE (this "Assignment"), is made as of June 1, 2002, by and between Palomar Transfer Station, Inc., a California corporation ("Assignor"), and the City of Carlsbad, a municipal corporation ("Assignee").

WITNESSETH:

For valuable consideration, receipt of which is acknowledged, Assignor and Assignee agree as follows:

1. Assignment and Assumption.

(a) Effective as of the Effective Date (as defined below), Assignor hereby assigns and transfers to Assignee all right, title and interest of Assignor in, to and under that certain Palomar Transfer Station Lease Agreement, dated as of October 31, 1997, between the County of San Diego, as lessor ("County"), and Assignor, as lessee (the "Lease Agreement"), a full and complete copy of which is attached hereto as Exhibit A.

(b) Effective as of the Effective Date (as defined below), Assignee hereby accepts the foregoing assignment, assumes and agrees to fully and timely perform all of the covenants and agreements in the Lease Agreement to be performed by the lessee thereunder that arise or accrue from and after the Effective Date of this Assignment and shall indemnify, defend and hold Assignor harmless from any breach by Assignee of the terms and provisions of the Lease Agreement except to the extent caused by Assignor.

(c) The effective date of this Assignment shall be June 1, 2002 (the "Effective Date"), provided that the following conditions have been satisfied on or before the Effective Date:

(i) That certain Agreement for Transfer Station Disposal Services of even date herewith between Assignee and Assignor (the "Transfer Station Agreement") shall have been fully and duly executed and authorized on behalf of Assignor and Assignee, respectively, and shall be in full force and effect;

(ii) Assignor and Assignee shall have entered into a certain sublease agreement whereby Assignor shall have subleased for a term of not less than ten (10) years the entirety of the premises leased under the Lease Agreement; and

(iii) County shall have given its written consent to this Assignment.

(d) Following the parties' execution of this Assignment, Assignor shall promptly seek County's consent to this Assignment.

2. Prepaid Rent. Assignor represents that it has prepaid to County the amount of Three Million Eighty-Six Thousand Dollars (\$3,086,000.00) in rent under the Lease Agreement. In the event County shall ever refund, rebate or return any such prepaid amounts for any reason during the term of the Lease Agreement, or upon the expiration or earlier termination of the

Lease Agreement, Assignee shall promptly tender such amounts to Assignor without offset or deduction.

3. Reversion. Assignee's interest in the Lease Agreement shall automatically revert to Assignor in the event of any default by Assignee under the Master Lease, which would give County the right to terminate the Master Lease, except to the extent such default arises from the acts or omissions of Assignor, provided Assignee fails to timely cure such default and Assignor elects to effect such cure.

4. Further Assurances. Assignor and Assignee agree to execute such other documents and perform such other acts as may be reasonably necessary or proper and usual to effect this Assignment, including, without limitation, those agreements described in Section 1(c) above.


5. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of California.

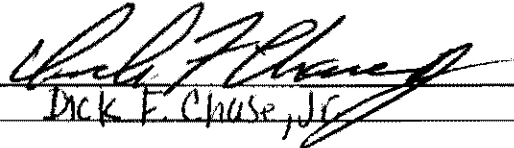
6. Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of Assignor and Assignee and their successors and assigns.

7. Counterparts. This Assignment may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

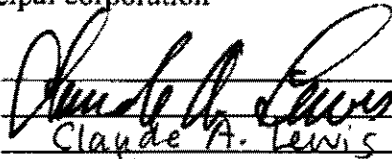
IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment of Lease as of the date first hereinabove written.

Assignor: PALOMAR TRANSFER STATION, INC.,
a California corporation

By: 
Name: James T. Ambroso
Title: Vice President

By: 
Name: Dick F. Chase, Jr.
Title:

Assignee: CITY OF CARLSBAD,
a municipal corporation

By: 
Name: Claude A. Lewis
Title: Mayor

ASSIGNMENT OF LEASE

**COUNTY CONTRACT WITH PALOMAR TRANSFER STATION
APN NO. 97-0085-A1**

For a valuable consideration, receipt of which is hereby acknowledged, Palomar Transfer Station, Inc., a California corporation, as ASSIGNOR, hereby assigns and transfers to City of Carlsbad, a municipal corporation, as ASSIGNEE, all right, title, and interest of the undersigned as Lessee in and under that certain Lease known as the Palomar Transfer Station Lease Agreement, APN # 97-0085-A1 with County of San Diego, Dated October 31, 1997 between the County of San Diego, a political subdivision of the State of California, as Lessor, and Palomar Transfer Station, Inc., a California corporation, as Lessee.

ASSIGNOR: PALOMAR TRANSFER STATION, INC., a California corporation

By: [Signature] Dated: June 1, 2002
Name: James T. Ambrosio
Title: Vice President

By: [Signature] Dated: June 1, 2002
Name: Dick F. Chase, Jr.
Title: Business Development Mgr,
Allied Waste Industries, Inc.

ACCEPTANCE OF ASSIGNMENT

The undersigned Assignee hereby accepts the foregoing assignment and hereby agrees to keep, perform and be bound by all the terms, covenants, and conditions in said Lease on the part of the Lessee therein to be kept and performed as though the undersigned Assignee was the original Lessee thereunder.

ASSIGNEE: CITY OF CARLSBAD, a municipal corporation

By: [Signature] Dated: June 1, 2002
Name: Claude A. Verdiz
Title: Mayor

CONSENT TO ASSIGNMENT
(B/S Auth. 7/30/85 (8))

The COUNTY OF SAN DIEGO does hereby consent to the above assignment. In the event the assignment of this leasehold is not legally consummated within 60 days from the date upon which the COUNTY OF SAN DIEGO took action consenting to the assignment, this consent shall become automatically void and of no further effect.

COUNTY OF SAN DIEGO

By: [Signature] Dated: May 31, 2002
CATHERINE J. TROUT, Director (Acting)
Department of General Services
County Lease Administrator

70018951v1

OFFICER'S CERTIFICATE

PALOMAR TRANSFER STATION, INC.

Pursuant to Section 2.02.A. of that certain Agreement for Transfer Station and Disposal Services dated as of June 1, 2002 (the "Agreement") by and between the City of Carlsbad, a municipal corporation of the State of California, and Palomar Transfer Station, Inc., a California corporation (the "Company"), the undersigned hereby certifies as follows:

1. I am the duly appointed Vice President of the Company.
2. The representations and warranties made by the Company in the Agreement were true and correct as of the date of the Agreement and are true and correct in all material respects on and as of the date hereof as if made on and as of the date hereof.

IN WITNESS WHEREOF, the undersigned has executed this Officer's Certificate as of June 1, 2002.



James Ambroso, Vice President

ESTOPPEL CERTIFICATE RE: ABSENCE OF LITIGATION

City Manager
City of Carlsbad
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Re: Palomar Transfer Station, Carlsbad, California
Our File No. 014279-0000012


Ladies and Gentlemen:

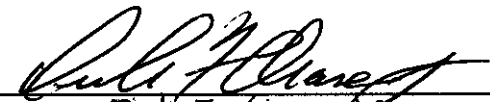
With reference to Section 2.02.B. of that certain Agreement for Transfer Station and Disposal Services dated as of June 1, 2002 (the "Agreement") by and between the City of Carlsbad, a municipal corporation of the State of California, and Palomar Transfer Station, Inc., a California corporation, the undersigned does hereby state, declare, represent and warrant, to the best of its knowledge, to, and for the benefit of, the City of Carlsbad, that there is no litigation pending or threatened in any court which:

1. Challenges the award of the Agreement to the undersigned;
2. Challenges the execution of the Agreement;
3. Challenges the Effective Date (as defined in the Agreement) of the Agreement; or
4. Seeks to restrain or enjoin the performance of the Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Estoppel Certificate as of June 1, 2002.

PALOMAR TRANSFER STATION, INC.,
a California corporation

By: 
Name: James T. Ambroso
Title: Vice President

By: 
Name: Dick F. Chase Jr.
Title: _____

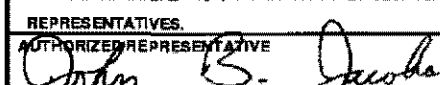
ACORD CERTIFICATE OF LIABILITY INSURANCE		Page 1 of 3	DATE 05/30/2002
PRODUCER Willis North America, Inc. - Regional Cert Center 11201 N. Tatum Boulevard Suite 300 Phoenix, AZ 85028	877-559-6769	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
		INSURERS AFFORDING COVERAGE	
INSURED Allied Waste Industries, Inc. (Named Insd. Cont. Below) 15980 N. Greenway-Hayden Loop, Suite 100 Scottsdale, AZ 85260		INSURER A: American Home Assurance Company 19380-004 INSURER B: Illinois National Ins. Co. 23817-002 INSURER C: National Union Fire Ins. Co. of Pittsburg 19445-001 INSURER D: Ins. Co. of the State of PA 19429-004 INSURER E:	

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	GL6125028	1/1/2002	1/1/2003	EACH OCCURRENCE \$ 2,500,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire) \$ 100,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$
					PERSONAL & ADV INJURY \$ 2,500,000
					GENERAL AGGREGATE \$ 10,000,000
					PRODUCTS - COMPOP AGG \$ 5,000,000
					GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC
A	AUTOMOBILE LIABILITY	CA5348976	1/1/2002	1/1/2003	COMBINED SINGLE LIMIT (Per accident) \$ 5,000,000
	<input checked="" type="checkbox"/> ANY AUTO	CA5348977	1/1/2002	1/1/2003	
	<input type="checkbox"/> ALL OWNED AUTOS	CA5349054	1/1/2002	1/1/2003	BODILY INJURY (Per person) \$
	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS				PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	<input type="checkbox"/> ANY AUTO				OTHER THAN AUTO ONLY: EA ACC \$
					AGG \$
C	EXCESS LIABILITY	BE1392800	1/1/2002	1/1/2003	EACH OCCURRENCE \$ 5,000,000
	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$ 5,000,000
	<input type="checkbox"/> DEDUCTIBLE				\$
	<input type="checkbox"/> RETENTION \$				\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WC5277856	1/1/2002	1/1/2003	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
		WC5277858	1/1/2002	1/1/2003	E.L. EACH ACCIDENT \$ 1,000,000
		WC5274778	1/1/2002	1/1/2003	E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
		WC5277860	1/1/2002	1/1/2003	E.L. DISEASE - POLICY LIMIT \$ 1,000,000
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
THIS VOIDS AND REPLACES PREVIOUSLY ISSUED CERTIFICATE DATED: 5/23/2002 WITH ID: 1827951
 Named Insured - Palomar Transfer Station Inc.

CERTIFICATE HOLDER The City of Carlsbad 1200 Carlsbad Village Drive Carlsbad, CA 92008	ADDITIONAL INSURED: INSURER LETTER:	CANCELLATION <small>Non-Payment Statutory</small> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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Willis		CERTIFICATE OF LIABILITY INSURANCE		Page 2 of 3	DATE 05/30/2002
PRODUCER 877-559-6769 Willis North America, Inc. - Regional Cert Center 11201 N. Tatum Boulevard Suite 300 Phoenix, AZ 85028		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
		INSURERS AFFORDING COVERAGE			
INSURED Allied Waste Industries, Inc. (Named Insd. Cert. Below) 15880 N. Greenway-Hayden Loop, Suite 100 Scottsdale, AZ 85260		INSURERA: American Home Assurance Company		19380-004	
		INSURERB: Illinois National Ins. Co.		23817-002	
		INSURERC: National Union Fire Ins. Co. of Pittsburg		19445-001	
		INSURERD: Ins. Co. of the State of PA		19429-004	
		INSURERE:			

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

Workers Compensation - Additional Policies:

Insurance Company	Policy #	Eff./Exp. Dates
American Home Assurance	WC5277859	01/01/02 - 01/01/03

Employers Liability (Stop Gap) coverage for Monopolistic States is included:
 \$1,000,000 Each Accident
 \$1,000,000 Disease - Policy Limit
 \$1,000,000 Disease - Limit Each Employee

RE: All operations of the Named Insured

The City, its officers, Directors, employees, volunteers, and agents are additional insured, except for Workers' Compensation, if required by written contract.

Waiver of subrogation rights apply if required by written contract.

If required by written contract, the general liability policy will apply as primary insurance and any other insurance to the additional insured shall apply as non-contributory insurance.

Workers' Compensation policy has been endorsed to provide Thirty (30) days' written notice to the Assistant City Manager of the City in the event of cancellation. Ten (10) days' notice for non-payment of premium.

General Liability and Automobile Liability policies have been endorsed to provide Thirty (30) days' written notice by certified mail, return receipt requested, to the Assistant City Manager of the City in event of cancellation, reduction in coverage, or non-renewal of the policies. Ten (10) days' notice for non-payment of premium.

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE Page 1 of 2 DATE 05/23/2002

PRODUCER 877-559-6769
 Willis North America, Inc. - Regional Cert Center
 11201 N. Tatum Boulevard
 Suite 300
 Phoenix, AZ 85028

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED Allied Waste Industries, Inc.
 (Named Insd. Cont. Below)
 15880 N. Greenway-Hayden
 Loop, Suite 100
 Scottsdale, AZ 85260

INSURERS AFFORDING COVERAGE

INSURER A: National Union Fire Ins. Co. of Pittsburg 19445-001
INSURER B:
INSURER C:
INSURER D:
INSURER E:

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS								
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPOP AGG \$								
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALLOWED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$								
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC AGG \$								
	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$								
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				<table border="1"> <tr> <td>WC STATU-TORY LIMITS</td> <td>OTH-ER</td> </tr> <tr> <td>E.L. EACH ACCIDENT</td> <td>\$</td> </tr> <tr> <td>E.L. DISEASE - EA EMPLOYEE</td> <td>\$</td> </tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td> <td>\$</td> </tr> </table>	WC STATU-TORY LIMITS	OTH-ER	E.L. EACH ACCIDENT	\$	E.L. DISEASE - EA EMPLOYEE	\$	E.L. DISEASE - POLICY LIMIT	\$
WC STATU-TORY LIMITS	OTH-ER												
E.L. EACH ACCIDENT	\$												
E.L. DISEASE - EA EMPLOYEE	\$												
E.L. DISEASE - POLICY LIMIT	\$												
A	OTHER Poll Legal Liability All Locations, Operations of Insured for Sudden Non Sudden Gradual Occurrence	8086757	6/1/2002	6/1/2003	\$10,000,000 Each Loss \$10,000,000 Aggregate CLAIMS MADE COVERAGE								

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
 Named Insured - Palomar Transfer Station Inc.

CERTIFICATE HOLDER
 The City of Carlsbad
 1200 Carlsbad Village Drive
 Carlsbad, CA 92008

CANCELLATION Statutory Notice for Non-Pay
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 60 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
 AUTHORIZED REPRESENTATIVE
John S. Jacobs

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



PERFORMANCE BOND

Bond No. 929237572

KNOW ALL MEN BY THESE PRESENTS, That we, Palomar Transfer Station, Inc.
5960 El Camino Real Carlsbad, CA 92008
as Principal, and the National Fire Insurance Company of Hartford
a CT corporation, as Surety, subject to the Conditions, Limitations and Exclusions of this
Performance Bond, are firmly bound unto City of Carlsbad
1200 Carlsbad Village Drive Carlsbad, CA 92008
hereinafter referred to as the Oblige, for such monetary amount as incurred by the Oblige, not to exceed
the penal sum of Two Million Five Hundred Thousand Dollars and 00/100 (\$2,500,000.00),
as may be required to remedy any contractual default by the Principal in the performance of that certain
written contract between Principal and Oblige dated June 1, 2002 for Transfer Station
Operation
hereinafter referred to as the Contract; for the payment hereof, we bind ourselves, our heirs, executors,
administrators and successors, jointly and severally.

CONDITIONS

The obligation of this Performance Bond shall be null and void unless: (1) the above Contract is in writing, and has been fully executed by both the Principal and the Oblige; (2) the Principal is actually in default under the above Contract, and is declared by the Oblige thereafter to be in default; (3) the Oblige has performed all of the obligations of the Oblige under the above Contract; and (4) the Oblige has provided written notice of the default to the Surety as promptly as possible, and in any event, within ten (10) days after such default.

LIMITATIONS AND EXCLUSIONS

The Surety, as the sole election and discretion of the Surety, may take any of the following actions:

- (1) With notice to the Oblige, provide financial assistance to the Principal to remedy any contractual default by the Principal; or,
- (2) Undertake the completion of the above Contract by the Surety, through its agents or through independent contractors; or,
- (3) Determine the amount for which the Surety may be liable to the Oblige, and as soon as a practicable thereafter, tender payment thereof to the Oblige; or,
- (4) Pay the full amount of the above penal sum in complete discharge and exoneration of this Performance Bond, and of all liabilities of the Surety relating thereto.

If the Surety so elects to act, all payments and expenditures by the Surety shall be applied against the above penal sum and in reduction of the limit of liability of the Surety.

Performance Bond

The obligation of this Performance Bond Shall not include liability for loss, cost, damage, fines, penalties or expense (including attorney's fees) from personal injury (including death), or from property damage (including environmental impairment or cleanup), or from any criminal or tortious act arising out of the performance, default or completion of the above Contract, nor shall the Surety obligated to provide or maintain any policy or undertaking of liability insurance

This bond is for a one year term beginning June 1, 2002. In the event of default by the Principal in the performance of the contract during the term of this bond, the Surety shall be liable only for the direct loss to the Obligee due to actual excess costs of performance of the contract up to the termination of this term of this bond. No suit shall be brought on this bond after one year following its termination. Neither non-renewal by the Surety, nor failure or inability of the Principal to file a replacement bond, shall constitute loss of the Obligee recoverable under this bond. The bond may be extended for additional terms at the option of the Surety, by continuation certificate executed by the Surety.

The Obligation of this Performance bond inures solely to the benefit of the obligee. No right of action shall accrue under this Performance Bond to or for the use of any person, firm, corporation, public or private entity other than the obligee. In the event that the Obligee is comprised of more than one person, firm corporation, public or private entity, the conditions, limitations and exclusions of this Performance Bond shall apply jointly and severally to each and all constituents of the Obligee, and the aggregate liability of the Surety to the Obligee shall in no event exceed the above penal sum.

The consent of the Surety shall be required with regard to any changes or alterations in the above Contract including, but not limited to, where the cost thereof, added to prior changes or alterations, causes the aggregate cost of all changes and alterations to exceed 10 percent of the original contract price, or where the completion thereof is extended by more than 90 days.

No right of action shall accrue under this Performance bond unless demand is brought by suit, action or other legal proceeding commenced against the Surety within one year after the day that the Principal last performed labor or supplied material for the above Contract. Any and all claims and causes of action (including warranty requirement or the remedy of latent defects) not so commenced shall be deemed extinguished and forever barred from action under this Performance Bond.

In the event of conflict or inconsistency between the provisions of this Performance Bond and the provisions of the above Contract, the provisions of this Performance Bond shall control, or the obligation of the surety be deemed null and void to the extent of any enlargement or augmentation to the liabilities of the Surety prescribed by this Performance Bond.

Signed, Sealed and Dated this 1st day of June, 2002.

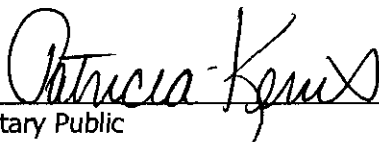
Palomar Transfer Station, Inc.
Principal
By: Laura E. Fish
Laura E. Fish Power of Attorney

National Fire Insurance Company of Hartford
Surety
By: Melissa Newman
Melissa Newman Attorney-in-Fact
3500 Lacey Road, Suite 1050
Downers Grove, IL 60515

NOTARIAL ACKNOWLEDGEMENT-PRINCIPAL

**STATE OF ILLINOIS
COUNTY OF DUPAGE**

On the **1st** day of **June, 2002**, before me, **Patricia Kenis**, a Notary Public of the State and County aforesaid, residing therein, duly commissioned and sworn, personally came **Laura E. Fish**, to me known, who being by me duly sworn according to law, did depose and say that she resides in Illinois; that she is an Attorney-in-Fact for **Allied Waste Industries, Inc. and its subsidiaries**, and that she executed and delivered such instrument on behalf of said corporation as its voluntary act and deed for the uses and purposes therein mentioned.



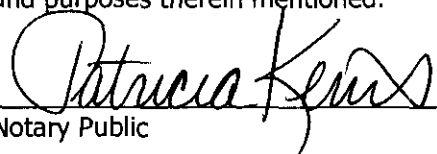
Notary Public



NOTARIAL ACKNOWLEDGMENT - SURETY

**STATE OF ILLINOIS
COUNTY OF DUPAGE**

On this **1st** day of **June , 2002**, before me, **Patricia Kenis**, a Notary Public of the State and County aforesaid, residing therein, duly commissioned and sworn, personally came **Melissa Newman**, to me known, who being by me duly sworn according to law, did depose and say that she resides in Illinois: that she is an Attorney-in-Fact for **National Fire Insurance Company of Hartford**, the corporation described in and which executed the foregoing instrument: that she knows the seal of said corporation: that it was so affixed by order of The Board of Directors of said corporation and that she signed this name thereto by like order: that she executed and delivered such instrument on behalf of said corporation as its voluntary act and deed for the uses and purposes therein mentioned.



Notary Public





ALLIED WASTE INDUSTRIES, INC.

POWER OF ATTORNEY

Allied Waste Industries, Inc., incorporated under the laws of the State of Delaware, and having its chief place of business at 15880 N. Greenway-Hayden Loop, Suite 100, Scottsdale, Arizona, 85260, hereby makes, constitutes and appoints Weible, Cahill & Forker, LLC acting through and by William P. Weible, William F. Cahill, Molly Moran, Esther C. Jimenez, Patricia J. Kenis, Phyllis Boyd, Laura E. Fish, Kimberley K. Libers or Melissa Newman, its true and lawful attorney and affix its corporate seal to and deliver for and on behalf as surety thereon or otherwise, bonds of any of the following classes, to wit:

1. Surety bonds and/or bid bonds to the United States of America or agency thereof, including those required or permitted under the laws or regulations relating to Customs or Internal Revenue; license and permit bonds or other indemnity bonds under the laws, ordinances or regulations of any state, city, town, village, board, other body organization, public or private; bonds to transportation companies; lost instrument bonds; lease bonds, worker's compensation bonds; miscellaneous surety bonds; and bonds on behalf of notaries public; sheriffs, deputy sheriffs and similar public officials.
2. Surety bonds and/or bid bonds on behalf of Allied Waste Industries, Inc. and its subsidiaries, included, but not limited to, Allied Services, LLC, Allied Waste Systems, Inc., Allied Waste Transportation, Inc., American Disposal Services of Missouri, Inc. and BFI Waste Systems of North America, Inc., BFI Waste Services, LLC in connection with bonds, proposals, or contracts.

To sign and seal all bid bonds and surety bonds on behalf of Allied Waste Industries, Inc. and its subsidiaries, relating to the provision of solid waste collection, transportation, recycling, or disposal services by Allied Waste Industries, Inc. and its subsidiaries. Allied Waste Industries, Inc. hereby agrees to ratify and confirm whatsoever Weible, Cahill & Forker, LLC shall lawfully do pursuant to this power of attorney and the procedural guidelines set forth to Weible, Cahill & Company, LLC, and until notice or revocation has been given by Allied Waste Industries, Inc. the acts of the said attorney shall be binding on the undersigned.

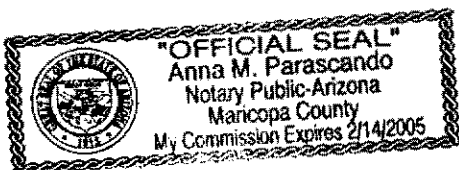
IN WITNESS WHEREOF this POWER OF ATTORNEY has been signed this 26th day of February, on behalf of Allied Waste industries, Inc. by its Vice President, Legal, Mr. Steven M. Helm.

Allied Waste Industries, Inc.

By: 
Steven M. Helm

State of *Arizona*)
) ss.
County of *maricopa*)

Subscribed and sworn before me this 26th day of February, 20 02 by Steve M. Helm.




Notary Public

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That Continental Casualty Company, an Illinois corporation, National Fire Insurance Company of Hartford, a Connecticut corporation, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania corporation (herein called "the CNA Companies"), are duly organized and existing corporations having their principal offices in the City of Chicago, and State of Illinois, and that they do by virtue of the signatures and seals herein affixed hereby make, constitute and appoint

William P. Weible, Molly M. Moran, William Cahill, Kimberly Sawicki, Deborah Buss, Esther C. Jimenez, Amy E. Callahan, Patricia J. Kenis, Phyllis Boyd, Kimberly K. Libers, Melissa Newman, Laura E. Fish, Individually

of West Cbicago, Illinois
their true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on their behalf bonds, undertakings and other obligatory instruments of similar nature
--- In Unlimited Amounts ---

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of their corporations and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Boards of Directors of the corporations.

In Witness Whereof, the CNA Companies have caused these presents to be signed by their Vice President and their corporate seals to be hereto affixed on this 12th day of February, 2002.



Continental Casualty Company
National Fire Insurance Company of Hartford
American Casualty Company of Reading, Pennsylvania

Michael Gengler

Michael Gengler Group Vice President

State of Illinois, County of Cook, ss:

On this 12th day of February, 2002, before me personally came Michael Gengler to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Chicago, State of Illinois; that he is a Group Vice President of Continental Casualty Company, an Illinois corporation, National Fire Insurance Company of Hartford, a Connecticut corporation, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania corporation described in and which executed the above instrument; that he knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed pursuant to authority given by the Boards of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



My Commission Expires September 17, 2005

Diane Faulkner

Diane Faulkner Notary Public

CERTIFICATE

I, Mary A. Ribikawskis, Assistant Secretary of Continental Casualty Company, an Illinois corporation, National Fire Insurance Company of Hartford, a Connecticut corporation, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania corporation do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the corporations printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporations this 1st day of June, 2002.



Continental Casualty Company
National Fire Insurance Company of Hartford
American Casualty Company of Reading, Pennsylvania

Mary A. Ribikawskis

Mary A. Ribikawskis Assistant Secretary

1

EXHIBIT A

2

PALOMAR TRANSFER STATION LEASE AGREEMENT

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF CONTINENTAL CASUALTY COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company.

"Article IX—Execution of Documents

Section 3. Appointment of Attorney-in-fact. The Chairman of the Board of Directors, the President or any Executive, Senior or Group Vice President may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Company in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority, shall have full power to bind the Company by their signature and execution of any such instruments and to attach the seal of the Company thereto. The Chairman of the Board of Directors, the President or any Executive, Senior or Group Vice President or the Board of Directors, may, at any time, revoke all power and authority previously given to any attorney-in-fact."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 17th day of February, 1993.

"Resolved, that the signature of the President or any Executive, Senior or Group Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted pursuant to Section 3 of Article IX of the By-Laws, and the signature of the Secretary or an Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of any such power and any power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company."

ADOPTED BY THE BOARD OF DIRECTORS OF AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company.

"Article VI—Execution of Obligations and Appointment of Attorney-in-Fact

Section 2. Appointment of Attorney-in-fact. The Chairman of the Board of Directors, the President or any Executive, Senior or Group Vice President may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Company in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority, shall have full power to bind the Company by their signature and execution of any such instruments and to attach the seal of the Company thereto. The President or any Executive, Senior or Group Vice President may at any time revoke all power and authority previously given to any attorney-in-fact."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 17th day of February, 1993.

"Resolved, that the signature of the President or any Executive, Senior or Group Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted pursuant to Section 2 of Article VI of the By-Laws, and the signature of the Secretary or an Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of any such power and any power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company."

ADOPTED BY THE BOARD OF DIRECTORS OF NATIONAL FIRE INSURANCE COMPANY OF HARTFORD:

This Power of Attorney is made and executed pursuant to and by authority of the following Resolution duly adopted on February 17, 1993 by the Board of Directors of the Company.

"RESOLVED: That the President, an Executive Vice President, or any Senior or Group Vice President of the Corporation may, from time to time, appoint, by written certificates, Attorneys-in-Fact to act in behalf of the Corporation in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. Such Attorney-in-Fact, subject to the limitations set forth in their respective certificates of authority, shall have full power to bind the Corporation by their signature and execution of any such instrument and to attach the seal of the Corporation thereto. The President, an Executive Vice President, any Senior or Group Vice President or the Board of Directors may at any time revoke all power and authority previously given to any Attorney-in-Fact."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 17th day of February, 1993.

"RESOLVED: That the signature of the President, an Executive Vice President or any Senior or Group Vice President and the seal of the Corporation may be affixed by facsimile on any power of attorney granted pursuant to the Resolution adopted by this Board of Directors on February 17, 1993 and the signature of a Secretary or an Assistant Secretary and the seal of the Corporation may be affixed by facsimile to any certificate of any such power, and any power or certificate bearing such facsimile signature and seal shall be valid and binding on the Corporation. Any such power so executed and sealed and certified by certificate so executed and sealed, shall with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Corporation."

**EXHIBIT A
LEASE AGREEMENT**

[Attached]

PALOMAR TRANSFER STATION LEASE AGREEMENT
MCCLELLAN-PALOMAR AIRPORT
CARLSBAD, CALIFORNIA

LESSOR: THE COUNTY OF SAN DIEGO

LESSEE: PALOMAR TRANSFER STATION, INC.

PARCELS: APN# 97-0085-A1



*Allied
Waste*

COUNTY CONTRACT NO.

Signed Copy

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EXHIBIT F: THE COUNTY OF SAN DIEGO REQUIRED SUBLEASE PROVISIONS

PALOMAR TRANSFER STATION LEASE AGREEMENT

THIS PALOMAR TRANSFER STATION LEASE AGREEMENT ("Lease") is made and entered into effective as of October 31, 1997, by and between the ~~COUNTY OF SAN DIEGO~~, a political subdivision of the State of California (the "County"), and the ~~PALOMAR TRANSFER STATION, INC.~~, a California corporation ("Lessee").

IN CONSIDERATION OF THE RENTS AND COVENANTS set forth in this Lease, the County hereby leases to Lessee, and Lessee hereby leases from the County, the Premises described in Article 1 (SUMMARY OF BASIC LEASE PROVISIONS) below, upon the following terms and conditions:

ARTICLE 1
SUMMARY OF BASIC LEASE PROVISIONS

1.1 Lessor: THE COUNTY OF SAN DIEGO, a political subdivision of the State of California

Address for notice:

Director
Department of General Services
Building 2
5555 Overland Avenue
San Diego, California 92123

with a copy to:

Assistant Deputy Director - Aviation
1960 Joe Crosson Drive
El Cajon, California 92020

1.2 Lessee: Palomar Transfer Station, Inc.

Address for notice:

~~C/o Allied/Leidlaw~~
8364 Clairmont Mesa Boulevard
San Diego, California 92111
Attention: Mr. Jim Ambroso

with a copy to:

Allied Waste Industries, Inc.
15880 N. Greenway-Hayden Loop
Suite 100
Scottsdale, Arizona 85260
Attention: Jo Lynn White, Esq.

1.3 Premises and Property: The Premises means that approximately 10.697 acres described on Exhibit A (DESCRIPTION AND PLAT OF PREMISES) attached hereto and by this reference incorporated in this Lease. The term "Property", as used herein, includes the Premises, all buildings and improvements to the Premises, the parking lots and any parking structures appurtenant to the buildings, and such other facilities, structures and improvements located thereon.

1.4 The County's and Lessee's Lease Administrators: This Lease shall be administered on behalf of the County by the Director, Department of General Services, The County of San Diego, or by such person's duly-authorized designee referred to collectively in this Lease as "The County's Lease Administrator", and on behalf of Lessee by Mr. Jim Ambroso, or by such other person as may be designated in writing by Lessee referred to in this Lease as "Lessee's Lease Administrator".

1.5 Term: The term of this Lease shall be ~~twenty-five (25)~~ years (the "Initial Term"), commencing on the Effective Date and ending on the twenty-fifth (25th) year anniversary of the Effective Date, as the same may be extended pursuant to Section 3.1, "Term; Definitions".

1.6 Effective Date: See Section 3.1, "Term; Definitions".

1.7 Intentionally Omitted.

1.8 Rent: The ~~total base rent~~ for the Initial Term is Three Million Eighty-Six Thousand Dollars (~~\$3,086,000~~) (the "Prepaid Rent"), which amount will be prepaid by Lessee to the County at Closing (as defined in the Purchase Agreement (as defined below)), pursuant to the terms thereof. If Lessee elects to extend the term pursuant to Section 3.1, "Term; Definitions", the Base Rent for each month during the applicable Option Period (as defined below) shall be determined pursuant to Section 4.4, "Rent Adjustment at Commencement of Each Option Period" and Section 4.5, "Cost of Living Adjustments ("COLA") to the Base Monthly Rent During Option Periods" shall be payable on the first calendar day of each month.

1.9 General Description of Lessee's Use of Premises: Lessee shall use the Premises solely for the uses specified in this Lease, generally described as the office operations of a solid waste collection business, a recycling facility, and a trash transfer station, including office, repair and storage facilities for equipment used in collecting and transferring trash.

1.10 Definitions: As used in this Lease, the following terms shall have the meanings attached to them in this Section unless otherwise apparent from their context:

- a. "Airport" means McClellan-Palomar Airport, Carlsbad, California.
- b. "Assistant Deputy Director - Aviation" means the Assistant Deputy Director - Aviation, of the Department of Public Works, the County of San Diego, or upon written notice to Lessee, such other person as shall be designated from time-to-time by the Board.
- c. "Board" means the Board of Supervisors of the County of San Diego.
- d. "FAA" means the Federal Aviation Administration.
- e. "Standards" means the McClellan-Palomar Airport Industrial Areas Development Standards and the McClellan-Palomar Airport Industrial and Aviation Areas Performance Standards attached as Exhibit C and Exhibit D hereto.
- f. "ALP" means the FAA-approved Airport Layout Plan for McClellan-Palomar Airport.

1.11 Exhibits To Lease: The following drawings and special provisions are attached hereto as exhibits and made a part of this Lease:

- EXHIBIT A - Description and Plat of the Premises.
- EXHIBIT B - FAA Requirements.
- EXHIBIT C - McClellan-Palomar Airport Industrial Areas Development Standards.
- EXHIBIT D - McClellan-Palomar Airport Industrial and Aviation Areas Performance Standards.
- EXHIBIT E - Insurance Requirements.
- EXHIBIT F - The County of San Diego Required Sublease Provisions

1.12 Construction of Lease Provisions: The foregoing provisions of this Article summarize for convenience only certain key terms of the Lease delineated more fully in the Articles and Sections referenced in this Article. In the event of a conflict between the provisions of this Article and the balance of the Lease, the latter shall control.

**ARTICLE 2
LEASE OF PREMISES**

2.1 Description. Subject to Article 5 (CONDITIONS PRECEDENT TO EFFECTIVENESS OF LEASE), the County hereby leases to Lessee and Lessee hereby leases from the County, for the rent and upon the covenants and conditions set forth in this Lease, the Premises described in Section 1.3, "Premises and Property" above.

2.2 Mineral Rights. Notwithstanding any provision of this Lease to the contrary, the County hereby expressly reserves all rights, title and interest in and to any and all gas, oil, mineral and water deposits located upon or beneath the surface of the Premises. The County shall have the right to enter the Premises at any time during the Term for the purpose of operating or maintaining such drilling or other installations as may be necessary or desirable for the development of any such gas, oil, mineral or water deposits.

2.3 Reservations to the County/Easement Reservations. Lessee accepts the Premises subject to any and all existing easements and encumbrances. The County reserves the right to establish, to grant or to use easements or rights-of-way over, under, along and across the Premises for access, underground sewers, utilities, thoroughfares or such other facilities as it deems necessary for public health, convenience and welfare, whether or not such facilities directly or indirectly benefit the Premises, and to enter the Premises for any such purpose; provided, however, any such grant of rights by the County shall require that the Premises be restored to their preexisting condition; and, provided, further, however, that such grant does not materially interfere with Lessee's continued operation of the Premises.

2.4 Lease Subordinate to Conditions and Restrictions Imposed by Public Agencies on Airport Operations. This Lease shall be subordinate and subject to the terms, conditions, restrictions and other provisions of any existing or future permit, lease and agreement between the County and any federal, state or local agency governing the County's control, operation or maintenance of the Airport, or affecting the expenditure of federal funds for the Airport. Lessee shall be bound by all such terms and conditions, and shall, whenever the County may so demand, execute, acknowledge or consent to any instrument evidencing such terms, conditions, restrictions or provisions. Without limiting the generality of the foregoing, this Lease and Lessee's occupancy of the Premises are expressly made subordinate and subject to the terms, conditions, restrictions and other provisions of those requirements of the Federal Aviation Administration specifically set forth in Exhibit B and Lessee shall be bound by all such requirements.

ARTICLE 3
TERM OF LEASE AND FIRST RIGHT TO ACQUIRE THE PREMISES

3.1 Term; Definitions.

a. Subject to Article 5 (CONDITIONS PRECEDENT TO EFFECTIVENESS OF LEASE), this Lease shall be effective as of the "Effective Date" as defined below and the term ("Term") of this Lease shall commence on the "Effective Date" and shall continue thereafter for the period specified in Article 1 (SUMMARY OF BASIC LEASE PROVISIONS), unless sooner terminated as provided in this Lease. As used in this Lease, the "Effective Date" means thirty (30) business days (or upon such earlier date as may be mutually agreed upon) following the date on which the later of the following occurs (collectively, the "Carlsbad Lease Conditions"): (1) the expiration or earlier termination of that certain Industrial Lease Agreement (Airports) dated as of October 21, 1997, by and between the County and the City of Carlsbad; and (2) the surrender and vacation of the Premises by the City of Carlsbad and Coast Waste Management, Inc. Within fifteen (15) business days following the Effective Date, the County and Lessee shall confirm the actual date of the Effective Date in writing. Except as otherwise specifically stated in this Lease or in any subsequent amendments hereof, the terms and conditions of this Lease shall remain in effect following any extension, renewal or holdover of the original Term.

b. Subject to the terms of this Section, ~~Lessee shall~~ have fourteen (14) successive options (each, an "Option") to extend the Term by five (5) years per Option (each, an "Option Period"); provided, however, that in no event shall the Term exceed ninety-five (95) years in the aggregate. An Option shall be exercisable by Lessee only if Lessee (i) ~~as of the date on~~ which Lessee exercises the Option and as of the commencement date of the Option Period related to such Option, ~~Lessee is in~~ material compliance with the terms of this Lease and the Purchase Agreement (and Lessee agrees that, if Lessee has failed to make any payment required under this Lease, after any applicable notice and cure period provided in this Lease, it shall not be in "material compliance"); (ii) ~~has used the Premises primarily as a~~ solid waste transfer station since the Effective Date; and (iii) is, as of the date on which Lessee exercises an Option and as of the commencement date of the Option Period related to such Option, ~~continuing to use the Premises primarily as a solid waste~~ transfer station. In order to exercise an Option, Lessee must notify the County of its irrevocable election to exercise the Option no more than one year and no less than six (6) months before the expiration of, with respect to the first Option, the Initial Term or, with respect to all other Options, the then applicable Option Period. Upon the proper and timely exercise of an Option by Lessee in accordance with this Section, the Term shall be extended for the applicable Option Period and the terms

condition

and provisions of this Lease shall remain in full force and effect during such Option Period.

3.2 Surrender of the Premises; Quitclaim of Lessee's Interest Upon Termination.

a. Lessee shall surrender possession of the Premises to the County upon expiration of the Term or earlier termination of this Lease. Upon termination of this Lease for any reason, including but not limited to termination because of default by Lessee, Lessee shall execute, acknowledge and deliver to the County, within thirty (30) days following receipt of written demand therefor, a good and sufficient deed whereby Lessee quitclaims all right, title and interest in the Premises to the County. Should Lessee fail or refuse to deliver such quitclaim deed to the County, the County may prepare and record a notice reciting the failure of Lessee to do so, and such notice shall be conclusive evidence of the termination of this Lease and of all right of Lessee or those claiming under Lessee to the Premises.

b. Should the manner or method employed by the County to re-enter or take possession of the Premises following the termination of this Lease give Lessee a cause of action for damages or in forcible entry and detainer, the total amount of damages to which Lessee shall be entitled in any such action shall be One Dollar (\$1.00). This provision may be filed in any action brought by Lessee against the County, and when so filed shall constitute a stipulation by Lessee fixing the total damages to which Lessee is entitled in such an action.

3.3 Early Termination by the County. The County shall not have an early termination right in connection with this Lease; provided, however, that nothing contained herein shall limit the County's rights of condemnation or eminent domain.

3.4 First Right to Acquire the Premises. Subject and subordinate to the first right of refusal granted to the City of Carlsbad, its successors and assigns, pursuant to the Palomar Transfer Station Settlement Agreement (as defined in the Purchase Agreement), if, during the term of this Lease, the County proposes to sell the Premises, or any portion thereof, and provided Lessee is not in default under the terms of this Lease at the time such proposal to sell is made by County and Lessee is not in default at any time during the following negotiation period, ~~County shall give Lessee first right ("First Right") to negotiate with County to acquire the Premises or that portion of the Premises County proposes to sell.~~ In no event shall the First Right survive the expiration or earlier termination of this Lease.

a. Lessee must exercise its First Right within thirty (30) days after Lessee has received written notice from County of County's intent to sell the Premises.

b. If the County receives written notice from Lessee within thirty (30) days after Lessee has received written notice from County of County's intent to sell, County and Lessee shall enter negotiations for sale of the Premises, or that portion of the Premises County intends to sell.

c. If the County and Lessee do not successfully negotiate an agreement on the sale of the Premises to Lessee within forty-five (45) days following the County's receipt from Lessee of Lessee's exercise of its First Right, Lessee's First Right shall terminate and the County may take any action it deems necessary in the sale of the Premises. During said period of negotiations, Lessee and County shall negotiate in good faith.

d. The negotiation of a sale of the Premises from the County to Lessee is subject to approval by the Federal Aviation Administration and without such approval, the terms of this Section 3.4 (FIRST RIGHT TO ACQUIRE THE PREMISES) are null and void.

ARTICLE 4 RENT

4.1 Prepaid Rent. The total prepaid Base Rent for the Initial Term is the Prepaid Rent, which amount will be prepaid by Lessee to the County at Closing (as defined in the Purchase Agreement (as defined below)), pursuant to the terms thereof. \$3 Mill.

4.2 Base Rent for Option Periods. If Lessee elects to extend the term of this Lease pursuant to Section 3.1, "Terms; Definitions", during the applicable Option Period, Lessee shall pay to the County each month in advance, without setoff, deduction, prior notice or demand, the Base Rent, which monthly payment must be made on or before the first calendar day of each calendar month during the applicable Option Period. ~~The Base Rent for each Option Period shall be determined pursuant to Section 4.4, "Rent Adjustment at Commencement of Each Option Period" and Section 4.5, "Cost of Living Adjustments ("COLA") to the Base Monthly Rent During Option Periods."~~ (missed ps. 5)

4.3 Payments of Monthly Base Rent. The Base Rent payable monthly during any Option Period shall be made payable to the County of San Diego and shall be considered paid when delivered to Controller Branch Office - Cashier, 5201 Ruffin Road, Suite H (MS 0654), San Diego, California 92123. The County may, at any time, by written notice to Lessee, designate a different address to which Lessee shall deliver the rent payments.

4.4 Rent Adjustment at Commencement of Each Option Period.

4.4.1 First Option Period. Base Rent payable monthly for the first Option Period shall be adjusted to an amount equal to the fair market rent for the Premises, which

amount shall, subject to the provisions of this Section 4.4.1, "First Option Period", be determined by an appraisal performed by a mutually acceptable appraiser pursuant to mutually acceptable instructions. Such appraisal shall be performed no later than six (6) months prior to the expiration of the then-current Option Period. If the parties are not able to agree on the designation of the appraiser, the instructions to the appraiser or on the appraiser's conclusions, the matter shall be submitted to binding arbitration pursuant to the provisions of the California Code of Civil Procedure, or such successor codes or statutes. Notwithstanding the foregoing provisions of this Section 4.4.1, "First Option Period", in no event shall the Base Rent payable monthly for the first Option Period be less than an amount determined by using the formula described in Section 4.5, "Cost of Living Adjustments ("COLA") to the Base Rent During Option Periods", where (i) "A" equals \$23,000; (ii) "B" equals the monthly Consumer Price Index, as hereinafter defined, for the month of March immediately preceding the commencement of the first Option Period; and (iii) "C" equals the monthly Consumer Price Index, as hereinafter defined, for the month of March immediately preceding the commencement of the Initial Term.

4.4.2 Other Option Periods. Except for the first Option Period, which shall be governed by Section 4.4.1, "First Option Period", at the commencement of each Option Period, the Base Rent shall be adjusted to an amount equal to the fair market rent for the Premises; provided, however, that in no event shall the Base Rent for any Option Period be less than three percent (3%) greater or more than seven percent (7%) percent greater than the Base Rent for the month immediately preceding the commencement of such Option Period (excluding any offset, free rent or credit rights of Lessee). Subject to the preceding sentence, fair market rent shall be determined by an appraisal performed by a mutually acceptable appraiser pursuant to mutually acceptable instructions. Such appraisal shall be performed no later than six (6) months prior to the expiration of the then-current Option Period. If the parties are not able to agree on the designation of the appraiser, the instructions to the appraiser or on the appraiser's conclusions, the matter shall be submitted to binding arbitration pursuant to the provisions of the California Code of Civil Procedure, or such successor codes or statutes.

4.5 Cost of Living Adjustment ("COLA") to the Base Rent Payable Monthly During Option Periods. The Base Rent payable monthly during each Option Period shall be adjusted as of the first (1st) anniversary of the commencement of each Option Period, and thereafter every year on such date for the remainder of the applicable Option Period (each such one-year period is referred to herein as a "COLA Period"), to reflect any increase in purchasing power by use of the following formula:

$$R = A(B/C)$$

wherein:

"R" equals the monthly rent for the COLA Period being calculated; provided, however, in no event shall the monthly rent for any one-year COLA Period be less than three percent (3%) greater or more than seven percent (7%) greater than the monthly rent for the previous one-year COLA Period;

"A" equals the Base Rent as of the commencement of the then-current Option Period;

"B" equals the monthly Consumer Price Index, as hereinafter defined, for the month of March immediately preceding the commencement of the COLA Period for which the rent is being adjusted; and

"C" equals the monthly Consumer Price Index, as hereinafter defined, for the month of March immediately preceding the commencement of the then-current Option Period.

4.6 Consumer Price Index. The consumer price index which shall be used as the source for the Consumer Price Index numbers shall be that published by the United States Department of Labor, entitled United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for the Los Angeles-Anaheim-Riverside Area (1982-84 = 100). If such index is not published for the Los Angeles-Anaheim-Riverside Area, then another comparable index or source of such information generally recognized as authoritative shall be substituted by agreement of the parties. If the parties should not agree, such source of information shall be determined by arbitration pursuant to the provisions of the California Code of Civil Procedure.

ARTICLE 5

CONDITIONS PRECEDENT TO EFFECTIVENESS OF LEASE

5.1 Conditions Precedent to Effectiveness of Lease. The effectiveness of this Lease and the occurrence of the Effective Date is expressly conditioned upon the satisfaction of the following conditions:

- a. Each of the Carlsbad Lease Conditions shall have occurred;
- b. The County shall have determined, in its sole and absolute discretion, that the Premises are not necessary or desirable for the operation of, or uses related to, the McClellan-Palomar Airport (including, without limitation, the development of industrial, business or commercial facilities thereon), which determination shall be made by the County on or before thirty business (30) days following the occurrence of each of the Carlsbad Lease Conditions; provided, however, that in no

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event shall the County be entitled to lease the Premises to another entity for use as a transfer station; and

C. As of the date on which the last of the Carlisbad Lease Conditions occurs, Lessee shall be in material compliance with the terms and provisions of the Purchase Agreement (as defined below) and the documents executed in connection therewith.

5.2 Failure of a Condition. If one or more of the conditions precedent set forth in Section 5.1, "Conditions Precedent to Effectiveness of Lease" are not satisfied or waived by the County in writing, (i) this Lease shall be of no force and effect; (ii) neither the County nor Lessee shall be bound hereby; (iii) Lessee shall have no right or interest in and to the Premises, including, without limitation, the use or occupancy thereof; and (iv) the County shall be free to take any action with respect to the Premises it deems necessary or desirable; provided, however that in Lessee shall be entitled to a refund of the prepaid rent as determined pursuant to the Purchase Agreement.

ARTICLE 6
POSSESSION AND USE

6.1 Permitted Uses. Lessee shall use the Premises solely for the uses permitted and described in Exhibit C (MCCLELLAN - PALOMAR AIRPORT INDUSTRIAL AREAS DEVELOPMENT STANDARDS) attached hereto and for the purposes specified in Section 1.12, "General Description of Lessee's Use of the Premises". No one other than Lessee, its agents and employees, or any sublessee of Lessee approved by the County as provided in Article 15 (ASSIGNMENT, SUBLEASING AND ENCUMBRANCING) is permitted to use the Premises for the purposes described herein, and Lessee shall be fully responsible for the activities of its agents, employees and sublessees, if any, on the Premises. Lessee acknowledges that the County reserves the right to permit others at the Airport to provide one or more of the services to be provided by Lessee on the Premises.

6.2 Duties and Prohibited Conduct. Where Lessee is reasonably in doubt as to the propriety of any particular use, Lessee may request the written determination of the County's Lease Administrator that such use is or is not permitted, and Lessee will not be in breach or default under this Lease if Lessee abides by such determination. Notwithstanding the foregoing, however, Lessee shall not use nor permit the use of the Premises in any manner that will tend to create waste or a nuisance. Lessee shall not use, or permit any person or persons to use, the Premises for the sale or display of any goods or services which, in the sole discretion of the County, are inconsistent with the permitted uses of the Premises pursuant to this Lease. Lessee shall keep the Premises, and every part

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thereof, in a good, safe and sanitary condition, free from any objectionable noises or odors, except as may be typically present for the permitted uses specified above. Lessee shall deposit all trash and rubbish of Lessee only within receptacles provided by Lessee and located in the areas designated by the County. Lessee shall not allow or permit installation of any billboards or advertising signs, or aerials or antennas, upon the Premises without first obtaining, in each instance, the written consent of the County, which consent the County may give or withhold in the County's sole discretion. Any such signs or antenna installed without such written consent shall be subject to removal without notice at any time, at Lessee's expense. Nothing in this Section shall be deemed to preclude Lessee from erecting and maintaining safety, warning or directional signs, of reasonable dimensions, which are not used for advertisement of goods or services; provided, however, all such signs must conform to applicable statutes and ordinances.

6.3 Compliance with Laws.

a. Lessee, at Lessee's sole expense, shall procure, maintain and hold available for the County's inspection any governmental license or permit required for the proper and lawful conduct of Lessee's business. Lessee shall not use the Premises for any use or purpose in violation of the laws of the United States of America, or the laws, ordinances, regulations and requirements of the State of California, the County of San Diego or the city where the Premises are situated, or of other lawful authorities. Lessee shall, at Lessee's expense, comply promptly with all applicable statutes, laws, ordinances, rules, regulations, orders, covenants and restrictions of record, and requirements in effect during the Term, regulating the use by Lessee of the Premises. The final judgment of any court of competent jurisdiction, or the admission of Lessee or any sublessee or permittee in any action or proceeding against them or any of them, whether or not the County is a party to such action or proceeding, that Lessee, or any such sublessee or permittee, has violated any such ordinance, law, statute, regulation, covenant, restriction or requirement pertaining to the use of the Premises, shall be conclusive as to that fact as between the County and Lessee.

b. Notwithstanding any other provision of this Lease to the contrary, Lessee shall be responsible for payment of all costs of complying with the requirements of the Americans with Disabilities Act of 1990 ("ADA") (42 USCS §§ 12101-12213), Title 24 of the California Code of Regulations ("Title 24") and California Civil Code § 54.1 as they may apply to the Premises. Lessee's obligations under this Section shall include, without limitation, all costs of bringing the Premises into compliance, and thereafter maintaining such compliance, with the requirements of Title III of the ADA ("Title III") (42 USCS §§ 12181 - 12189) applicable during the Term to public accommodations and

commercial facilities, irrespective of whether or not the particular requirements of such compliance (i) are specifically required by Lessee's intended use of the Premises, or (ii) may also be required of the County under Title II of the ADA ("Title II") (42 USCS §§ 12131 - 12165).

c. Lessee shall, with regard to the Property, assume all obligations placed on the County pursuant to any existing or future industrial stormwater permit or existing or future construction permit including, but not limited to, preparation of any required Notices of Intent or Stormwater Pollution Prevention Plans for so long as this Lease is in effect.

6.4 Substance Abuse. Lessee and its employees and agents shall not use or knowingly allow the use of the Premises for the purpose of unlawfully driving a motor vehicle or aircraft under the influence of an alcoholic beverage or any drug, or for the purpose of unlawfully selling, serving, using, storing, transporting, keeping, manufacturing or giving away alcoholic beverages or any "controlled substance," precursor or analog specified in Division 10 of the California Health and Safety Code, and violation of this prohibition shall be grounds for immediate termination of this Lease.

6.5 Control of Premises. Failure of Lessee to exercise control of the use of Premises to conform to the provisions of this Article shall constitute a material breach of the Lease and such shall be grounds for termination.

ARTICLE 7 UTILITIES

Lessee shall provide and pay for all initial utility deposits and fees, and for all utilities and services necessary for its use and occupancy of the Premises during the Term, including but not limited to gas, water, electricity, trash, sewer/septic tank charges and telephone; the County shall have no responsibility to either provide or pay for such services. The County will not be liable for any reason for any loss or damage resulting from an interruption of any of these services. The County shall have the right, at no charge from Lessee, to connect to any water, sewer, electrical, gas and communications lines as are now or may hereafter be installed on the Premises, and shall have all necessary rights of access to construct and service such connections; provided, however, Lessee shall have no obligation to pay any additional service fees or charges assessed by any governmental agency, or public or private utility company, for the County's use of such connections; and, provided, further, however, that such connection does not materially interfere with Lessee's continued operation of the Premises.

ARTICLE 8
MECHANICS' LIENS

8.1 Mechanics' Liens. Lessee shall pay, or cause to be paid, all costs for work done by it, or caused to be done by it, on the Premises, and for all materials furnished for or in connection with any such work. If any lien is filed against the Premises, Lessee shall cause the lien to be discharged of record within ten (10) days after it is filed. Lessee shall indemnify, defend and hold the County harmless from any and all liability, loss, damage, costs, attorneys' fees and all other expenses on account of claims of lien of laborers or materialmen or others for work performed or materials or supplies furnished for Lessee or persons claiming under Lessee.

8.2 Contest of Lien. If Lessee shall desire to contest any lien filed against the Premises, it shall furnish the County, within the ten-day period following filing of the lien, security reasonably satisfactory to the County of at least one hundred fifty percent (150%) of the amount of the lien, plus estimated costs and interest, or a bond of a responsible corporate surety in such amount, conditioned on the discharge of the lien. If a final judgment establishing the validity or existence of a lien for any amount is entered, Lessee shall immediately pay and satisfy the same.

8.3 Right to Cure. If Lessee shall be in default in paying any charge for which a mechanics' lien claim and suit to foreclose the lien have been filed, and shall not have given the County security to protect the property and the County from liability for such claim of lien, the County may (but shall not be required to) pay said claim and any costs, and the amount so paid, together with reasonable attorneys' fees incurred in connection therewith, shall be immediately due and owing from Lessee to the County, and Lessee shall pay the same to the County with interest at the rate specified in Section 16.8, "Interest" from the date(s) of the County's payments.

8.4 Notice of Lien. Should any claim of lien be filed against the Premises or any action against the Premises or any action affecting the title to such property be commenced, the party receiving notice of such lien or action shall immediately give the other party written notice thereof.

8.5 Notice of Nonresponsibility. The County or its representatives shall have the right to go upon and inspect the Premises at all reasonable times and shall have the right to post and keep posted thereon notices of nonresponsibility or such other notices which the County may deem to be proper for the protection of The County's interest in the Premises. Lessee shall, before the commencement of any work which might result in any such lien, give to the County written notice of its intention to do so in sufficient time to enable posting of such notices.

**ARTICLE 9
SECURITY**

Lessee shall be responsible for and shall provide for the security of the Premises, and the County shall have no responsibility therefor. Lessee shall construct and maintain fences, gates, walls and/or barriers on the Premises in a manner designed, in the County's judgement, to prevent unauthorized access to the Premises. All plans for such fences, gates, walls and/or barriers must be submitted to and approved by the County prior to construction. In the event the northerly boundary of the Premises is adjusted for the construction of the easterly prolongation of Faraday Road, Lessee shall move, at Lessee's sole expense, said security fencing, gates, walls and/or barriers within thirty (30) days following the completion of Faraday Road along the northerly boundary of the Premises.

**ARTICLE 10
IMPROVEMENTS; PERSONAL PROPERTY;
FIXTURES; MINOR ALTERATIONS**

10.1 Improvements. Lessee may, at Lessee's own expense, from time to time make such nonstructural (whether permanent or temporary) alterations, replacements, additions, changes, or improvements (collectively referred to in this Lease as "Improvements") to the Premises as Lessee may find necessary or convenient for its purposes; provided, however, the value of the Premises is not thereby diminished, and further provided that, with respect to any material and permanent non-structural Improvements, no such Improvements may be made without obtaining the prior written approval of the County, which consent shall not be unreasonably withheld. In no event shall Lessee make or cause to be made any penetration into or through the roof or floor of any structure on the Premises or make any other structural changes in or on the Premises without obtaining the prior written approval therefor of the County, which approval shall not be unreasonably withheld. Lessee shall at all times conduct its construction operations so that such operations do not interfere with the normal operation and use of the Airport by the County, the public and other persons and organizations entitled to use of the same.

10.2 Construction Requirements. All Improvements to be made to the Premises shall be made under the supervision of a competent architect or licensed structural engineer and made in conformity with any present or future ALP and Aviation Area Development Standards which are or may be adopted by the Board and the FAA, and with plans and specifications approved in writing by the County before commencement of any work. In connection therewith, Lessee shall provide a minimum of three (3) sets of working drawings or plans showing the planned Improvements, for the County's approval, prior to commencing work. All work with respect to any Improvements must be done in

a good and workmanlike manner, commenced within ninety (90) days following receipt of approval therefor from the County, and diligently prosecuted to completion to the end that the Premises shall at all times be a complete unit except during the period of work. Upon completion of such work, Lessee shall have recorded in the office of the San Diego the County Recorder a Notice of Completion, as required or permitted by law, and Lessee shall deliver to the County, within ten (10) days after completion of said work, a copy of the Notice of Occupancy and the building permit with respect thereto. Within sixty (60) days following completion of an Improvement, Lessee shall provide the County with two (2) complete sets of "as-built" plans of such Improvement. Upon the expiration or earlier termination of this Lease, such Improvements shall not be removed by Lessee but shall become a part of the Premises. Any such Improvements shall be performed and done strictly in accordance with the laws and ordinances relating thereto.

10.3 The County's Costs; Indemnity. Lessee shall reimburse the County for all actual and documented reasonable out-of-pocket costs and expenses (including, without limitation, any architect or engineer fees) incurred by the County in approving or disapproving Lessee's plans for Improvements. Lessee shall be liable for and shall indemnify and defend the County from any claim, demand, lien, loss, damage or expense, including reasonable attorneys' fees and costs, arising from Lessee's construction or installation of any Improvements permitted under this Article.

10.4 Personal Property. Subject to the provisions of the following Section 10.5, "Fixtures", all of Lessee's trade fixtures, furniture, furnishings' signs and other personal property not permanently affixed to the Premises (collectively referred to as "Personal Property" in this Lease) shall remain the property of Lessee. Lessee shall, at its expense, immediately repair any damage occasioned to the Premises by reason of the removal of any such Personal Property.

10.5 Fixtures. All Improvements constructed by Lessee, or existing on the Premises on the Effective Date, together with all other fixtures, excepting Lessee's trade fixtures, permanently attached to the Premises (collectively referred to in this Lease as "Fixtures") shall become the property of the County upon expiration or earlier termination of this Lease. Notwithstanding the foregoing, the County may require Lessee to remove any Fixtures at Lessee's own expense upon termination of this Lease. Any damage to the Premises occasioned thereby shall be repaired by Lessee in a good and workmanlike manner and the Premises shall be left in as good order and condition as when Lessee took possession thereof, reasonable wear and tear and damage by the elements excepted. In the event Lessee does not remove any Fixtures following direction by the County, the County may remove, sell or destroy the same, and Lessee shall pay to the

County the reasonable cost of such removal, sale or destruction, together with the reasonable cost of repair of damages to the County's property or improvements or to the Premises resulting therefrom.

10.6 Signs and Lighting. Lessee shall not construct nor permit the erection of any signs on the Premises without the prior written approval of the County. Lessee shall submit sketches of proposed signs to the County for approval showing size, materials, colors and location. Such signs must conform to the standards contained in Exhibit C (MCCLELLAN-PALOMAR AIRPORT INDUSTRIAL AREAS DEVELOPMENT STANDARDS) and to any laws or ordinances of governmental agencies having jurisdiction over the Premises. All exterior lighting on the Premises must conform to the standards contained in Exhibit D (MCCLELLAN-PALOMAR AIRPORT INDUSTRIAL AND AVIATION AREAS PERFORMANCE STANDARDS) and to any laws or ordinances of governmental agencies having jurisdiction over the Premises.

10.7 Minor Alterations. Notwithstanding the foregoing provisions of this Article, Lessee may make, without obtaining the prior approval of the County, minor alterations and improvements ("Minor Alteration") to the Premises that do not require a building permit, or which involve only the repair, replacement, or reconfiguration of non-load bearing partition walls or Fixtures, and which do not penetrate into or through the roof or floor of any structure on the Premises, and which do not involve the construction of any new structures on the Premises. The County shall be the sole judge of whether or not any alteration or improvement is a Minor Alteration.

ARTICLE 11 TAXES, ASSESSMENTS AND FEES

11.1 Responsibility for Payment of Taxes and Assessments. The County shall not be obligated to pay any taxes or assessments accruing against Lessee on the Premises or any interest of Lessee therein before, during or after the Term, or any extension thereof; all such payments shall be the sole responsibility of Lessee. In addition, Lessee shall be solely responsible for payment of any taxes or assessments levied upon any Improvements, Fixtures or Personal Property located on the Premises, to the extent that such taxes or assessments result from the business or other activities of Lessee upon, or in connection with, the Premises.

11.2 Definition of "Taxes". As used herein, the term "taxes" means all taxes, governmental bonds, special assessments, Mello-Roos assessments, charges, rent income or transfer taxes, license and transaction fees, including, but not limited to, (i) any state, local, federal, personal or corporate income tax, or any real or personal property tax, (ii) any estate inheritance taxes, (iii) any franchise, succession or transfer taxes,

(iv) interest on taxes or penalties resulting from Lessee's failure to pay taxes, or (v) any increases in taxes attributable to the sale of Lessee's leasehold interest in the Premises.

11.3 Creation of Possessory Interest. Pursuant to the provisions of Revenue and Taxation Code Section 107.6, Lessee is hereby advised that the terms of this Lease may result in the creation of a possessory interest. If such a possessory interest is vested in Lessee, Lessee may be subjected to the payment of real property taxes levied on such interest. Lessee shall be solely responsible for the payment of any such real property taxes. Lessee shall pay all such taxes when due, and shall not allow any such taxes, assessments or fees to become a lien against the Premises or any improvement thereon; provided, however, nothing in this Lease shall be deemed to prevent or prohibit Lessee from contesting the validity of any such tax, assessment or fee in a manner authorized by law.

ARTICLE 12 REPAIRS; MAINTENANCE

12.1 Acceptance of Premises. Lessee acknowledges that Lessee has made a thorough inspection of the Premises prior to the Effective Date of this Lease, and that it accepts the Premises as of the Effective Date in their condition at that time; provided, however, that the foregoing shall not be construed as the acceptance by Lessee of any liabilities for Pre-Closing Leased Facilities Environmental Conditions (as defined in the Purchase Agreement). Lessee further acknowledges that the County has made no oral or written representations or warranties to Lessee regarding the condition of the Premises, and that Lessee is relying solely on its inspection of the Premises with respect thereto.

12.2 Lessee's Repair and Maintenance Obligations. Lessee shall at all times from and after the Effective Date, at its own cost and expense, repair, maintain in good and tenantable condition and replace, as necessary, the Premises and every part thereof, including, without limitation, the following as applicable: the roof; the heating, ventilation and air conditioning system; mechanical and electrical systems; all meters, pipes, conduits, equipment, components and facilities (whether or not within the Premises) that supply the Premises exclusively with utilities (except to the extent the appropriate utility company has assumed these duties); all Fixtures and other equipment installed in the Premises; all exterior and interior glass installed in the Premises; all signs, locking and closing devices; all interior window sashes, casements and frames; doors and door frames (except for the painting of the exterior surfaces thereof); floor coverings; and all such items of repair, maintenance, alteration, improvement or reconstruction as may be required at any time or from time to time by a governmental agency having jurisdiction thereof. Lessee's obligations under

this Article shall apply regardless of whether the repairs, restorations and replacements are ordinary or extraordinary, foreseeable or unforeseeable, capital or noncapital, or the fault or not the fault of Lessee, its agents, employees, invitees, visitors, sublessees or contractors. All replacements made by Lessee in accordance with this Section shall be of like size, kind and quality to the items replaced and shall be subject to prior written approval by the County. Upon surrender of the Premises, Lessee shall deliver the Premises to the County in good order, condition and state of repair, but shall not be responsible for damages resulting from ordinary wear and tear. Lessee shall provide for trash removal, at its expense, and shall maintain all trash receptacles and trash areas in a clean, orderly and first-class condition. The County shall have no responsibility or liability for any of the obligations set forth in this Section.

12.3 Lessee's Failure to Maintain. If Lessee refuses or neglects to repair, replace, or maintain the Premises, or any part thereof, in a manner reasonably satisfactory to the County, the County shall have the right, upon giving Lessee reasonable written notice of its election to do so, to make such repairs or perform such maintenance on behalf of and for the account of Lessee. If the County makes or causes any such repairs to be made or performed, Lessee shall pay the cost thereof to the County promptly upon receipt of an invoice therefor with interest at the rate specified in Section 16.8, "Interest" from the date(s) of the County's payments.

12.4 Right to Enter. Lessee shall permit the County, or its authorized representatives, to enter the Premises at all times during usual business hours to inspect the same, and to perform any work thereon (a) that may be necessary to comply with any laws, ordinances, rules or regulations of any public authority, (b) that the County may deem necessary to prevent waste or deterioration in connection with the Premises if Lessee does not make, or cause to be made, such repairs or perform, or cause to be performed, such work promptly after receipt of written demand from the County, and (c) that the County may deem necessary in connection with the expansion, reduction, remodeling, protection or renovation of any the County-constructed or owned facilities on or off of the Premises, or at the Airport. Nothing contained in this Section shall imply any duty on the part of the County to do any such work which, under any provision of this Lease, Lessee may be required to do, nor shall the County's performance of any repairs on behalf of Lessee constitute a waiver of Lessee's default in failing to do the same. No exercise by the County of any rights reserved to it by this Section shall entitle Lessee to any compensation, damages or abatement of rent from the County for any injury or inconvenience occasioned thereby.

12.5 County Not Obligated to Repair or Maintain; Lessee's Waiver of California Civil Code Section 1942. To the extent that

any remedies specified in this Lease conflict or are inconsistent with any provisions of California Civil Code Section 1942, or any successor statute thereto ("CC §1942"), the provisions of this Lease shall control. Lessee specifically waives any right it may have pursuant to CC §1942 to effect maintenance or repairs to the Premises and to abate the costs thereof from rent due to the County under this Lease.

ARTICLE 13
INDEMNITY AND INSURANCE

13.1 Indemnity by Lessee. Except for indemnification related to Contaminants (as defined in the Purchase Agreement), Leachate (as defined in the Purchase Agreement) and Landfill Gas (as defined in the Purchase Agreement), with respect to which the provisions of the Purchase Agreement shall govern, the County shall not be liable for, and Lessee (and if applicable, each of its general partners) and its successors, assigns and guarantors shall defend, indemnify, protect and hold harmless the County, its employees, representatives, agents, consultants, officers, supervisors, successors and assigns from and against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, losses, damages, expenses, charges or costs of any kind or character, including actual attorneys' fees and court costs (collectively referred to as "Claims"), arising from or in connection with, or caused by, directly or indirectly, (i) any breach or default by Lessee of its obligations under this Lease (excluding therefrom any Retained Liability (as defined in the Purchase Agreement)), (ii) any act, omission or negligence of Lessee or any subtenant of Lessee, or their respective contractors, licensees, invitees, agents, servants or employees, (iii) any use of the Premises, or any accident, injury, death or damage to any person or property occurring in, on or about the Premises, or any part thereof, or any service delivery facilities or any other portions of the Property used by Lessee, and (iv) any labor dispute involving Lessee, its employees, contractors or agents, including, without limitation, Claims caused by the concurrent negligent act or omission, whether active or passive, of the County or its agents; provided, however, Lessee shall have no obligation to defend or indemnify the County from Claims caused solely by the gross negligence or willful or criminal act of the County or its agents.

13.2 Insurance. Without limiting Lessee's indemnification obligations to the County, Lessee shall provide and maintain, during the Term and for such other period as may be required in this Lease, at its sole expense, insurance in the amounts and form specified in Exhibit E (INSURANCE REQUIREMENTS) attached hereto.

13.3 Indemnity by the County. Except for indemnification related to Contaminants (as defined in the Purchase Agreement), Leachate (as defined in the Purchase Agreement) and Landfill Gas

(as defined in the Purchase Agreement), with respect to which the provisions of the Purchase Agreement shall govern, Lessee shall not be liable for, and only to the extent permitted by applicable law, the County shall defend, indemnify, protect and hold harmless Lessee, its employees, representatives, agents, consultants, officers, supervisors, successors and permitted assigns from and against any and all Claims arising from or in connection with, or caused by, directly or indirectly, (i) any breach or default by the County of its obligations under this Lease, excluding therefrom any Assumed Liabilities (as defined in the Purchase Agreement) and any items with respect to which Lessee or Allied (as defined below) is required under the Purchase Agreement to assume or indemnify the County; and (ii) any gross negligence or willful or criminal act of the County or its agents; provided, however, the County shall have no obligation to defend or indemnify Lessee from Claims caused solely by the gross negligence or willful or criminal act of the Lessee or its agents.

**ARTICLE 14
CONTAMINANTS, LEACHATE AND LANDFILL GAS**

14.1 Environmental Laws - Definition. As used in this Section, the term "Environmental Laws" has the meaning set forth in the Purchase Agreement.

14.2 Contaminants, Leachate and Landfill Gas - Definitions. As used in this Section, the terms "Contaminants", "Leachate" and "Landfill Gas" have the meanings set forth in the Purchase Agreement.

14.3 Lessee's Representations and Warranties. Lessee represents and warrants that, during the Term or any extension thereof, or for such longer period as may be specified in this Lease, Lessee shall comply with the following provisions of this Section unless otherwise specifically approved in writing by the County's Lease Administrator:

a. Lessee shall not cause or permit any Contaminants, Leachate or Landfill Gas to be brought, kept or used in or about the Premises by Lessee, its agents, employees, sublessees, assigns, contractors or invitees, except as permitted by Environmental Laws and except as required by Lessee's permitted use of the Premises, as described in Section 6.1 (PERMITTED USES).

b. Any handling, transportation, storage, treatment or usage by Lessee of Contaminants, Leachate or Landfill Gas that is to occur on the Premises following the Effective Date shall be in compliance with all applicable Environmental Laws.

c. Any leaks, spills, release, discharge, emission or disposal of Contaminants, Leachate or Landfill Gas which may

occur on the Premises following the Effective Date shall be promptly and thoroughly cleaned and removed from the Premises by Lessee at its sole expense, and any such discharge shall be promptly reported in writing to the County, and to any other appropriate governmental regulatory authorities;

d. No friable asbestos shall be constructed, placed on, deposited, stored, disposed of, or located by Lessee in the Premises or on the Property;

e. No underground improvements, including but not limited to treatment or storage tanks, or water, gas or oil wells shall be located by Lessee on the Premises or on the Property without the County's prior written consent, which consent shall not be unreasonably withheld;

f. Lessee shall conduct and complete all investigations, studies, sampling, and testing procedures, and all remedial, removal, and other actions necessary to clean up and remove all Contaminants, Leachate and Landfill Gas on, from, or affecting the Premises in accordance with all applicable Environmental Laws and to the satisfaction of the County, except with respect to Pre-Closing Leased Facilities Environmental Conditions;

g. Lessee shall promptly supply the County with copies of all notices, reports, correspondence, and submissions made by Lessee to the United States Environmental Protection Agency, the United Occupational Safety and Health Administration, and any other local, state or federal authority which requires submission of any information concerning environmental matters or hazardous wastes or substances pursuant to applicable Environmental Laws;

h. Lessee shall promptly notify the County of any liens threatened or attached against the Premises pursuant to any Environmental Law. If such a lien is filed against the Premises, then, within the earlier of (i) twenty (20) days following such filing, or (ii) before any governmental authority commences proceedings to sell the Premises pursuant to the lien, Lessee shall either: (a) pay the claim and remove the lien from the Premises, or (b) furnish either (i) a bond or cash deposit reasonably satisfactory to the County in an amount not less than the claim from which the lien arises, or (ii) other security satisfactory to the County in an amount not less than that which is sufficient to discharge the claim from which the lien arises; and

i. At the end of this Lease, Lessee shall surrender the Premises to the County free of any and all Contaminants, Leachate and Landfill Gas and in compliance with all Environmental Laws affecting the Premises, except with respect to Pre-Closing Leased Facilities Environmental Conditions.

14.4 Indemnifications Regarding Contaminants, Leachate and Landfill Gas. The indemnification responsibilities of Lessee and the County relating to Contaminants, Leachate and Landfill Gas shall be as set forth in the Purchase Agreement.

14.5 Remedies Cumulative; Survival. The provisions of this Article shall be in addition to any and all obligations and liabilities Lessee may have to the County at common law, and any remedies and the environmental indemnities provided for in this Article shall survive the expiration or termination of this Lease, the transfer of all or any portion of the Premises or of any interest in this Lease, and shall be governed by the laws of the State of California.

14.6 Inspection. The County and the County's agents, servants, and employees including, without limitation, legal counsel and environmental consultants and engineers retained by the County, may (but without the obligation or duty so to do), at any time and from time to time, on not less than ten (10) business days' notice to Lessee (except in the event of an emergency in which case no notice shall be required), inspect the Premises to determine whether Lessee is complying with Lessee's obligations set forth in this Article, and to perform environmental inspections and samplings, during regular business hours (except in the event of an emergency) or during such other hours as the County and Lessee may agree. If Lessee is not in compliance, the County shall have the right, in addition to the County's other remedies available at law and in equity, to enter upon the Premises immediately and take such action as the County in its sole judgment deems appropriate to remediate any actual or threatened contamination caused by Lessee's failure to comply. The County will use reasonable efforts to minimize interference with Lessee's use of Premises but will not be liable for any interference caused by the County's entry and remediation efforts. Upon completion of any sampling or testing the County will (at Lessee's expense if the County's actions are a result of Lessee's default under this Section) restore the affected area of the Premises from any damage caused by the County's sampling and testing.

ARTICLE 15
ASSIGNMENT, SUBLEASING AND ENCUMBRANCING

15.1 The County's Consent to Transfer Required. Lessee shall not voluntarily or involuntarily assign, sublease, mortgage, encumber, or otherwise transfer (collectively, a "Transfer") all or any portion of the Premises or its interest in this Lease ~~without the County's prior written consent, which consent shall not be unreasonably withheld~~ (provided, however, that Lessee acknowledges and agrees that the County's denial of consent for a reason listed in Section 15.2.2, "Denial of Consent to Transfer" shall conclusively be deemed reasonable). The County may withhold its consent until Lessee has complied with

the provisions of the following Sections of this Article. Any attempted Transfer without the County's consent shall be void and shall constitute a material breach of this Lease. As used herein, the term "Transfer" shall include (i) an arrangement (including without limitation management agreements, concessions, and licenses) that allows the use and occupancy of all or part of the Premises by anyone other than Lessee, and (ii) the transfer of any stock or interest in Lessee as a corporation, partnership or joint powers authority which, in the aggregate, exceeds forty-nine percent (49%) of the total ownership interest in Lessee.

15.2 The County's Election. Lessee's request for consent to any Transfer shall be accompanied by a written statement setting forth the details of the proposed Transfer, including (i) the name, address, business, business history and financial condition of the proposed assignee or sublessee (collectively, "Transferee") sufficient to enable the County to determine the financial responsibility and character of the Transferee, (ii) a copy of the proposed assignment or sublease and the financial details of the proposed Transfer (including the duration, the rent and any security deposit payable under an assignment or sublease), (iii) the Transferee's proposed use of the Premises, and (iv) any other related information which the County may reasonably require. The County shall have the right: (a) to withhold consent to the Transfer, if reasonable; (b) to grant consent; or (c) to terminate this Lease for the portion of the Premises affected by any proposed sublease or assignment, in which event the County may enter into a lease directly with the proposed sublessee or assignee.

15.2.1 Consent to Transfer. The County's consent to an assignment or sublease will not be effective until (i) a fully executed copy of the instrument accomplishing a Transfer ("Transfer Instrument") has been delivered to the County, including, without limitation, a copy of any trust deed encumbering Lessee's leasehold and the note secured thereby, (ii) in the case of a sublease, the County has received from Lessee an original of the executed sublease (which sublease must contain the provisions described in Exhibit F (MCLELLAN-PALOMAR AIRPORT - THE COUNTY OF SAN DIEGO REQUIRED SUBLEASE PROVISIONS)) and, (iii) in the case of an assignment, the County has received a written instrument in which the assignee has assumed and agreed to perform all of Lessee's obligations under this Lease. Any rights acquired by a Transferee pursuant to any Transfer Instrument shall be subject to each and every covenant, condition and restriction set forth in this Lease and to all of the rights and interest of the County in this Lease, except as may be otherwise herein specifically provided in this Article. In the event of any conflict between the provisions of this Lease and the provisions of any Transfer Instrument, the provisions of this Lease shall control.

15.2.2 Denial of Consent to Transfer. If the County denies its consent to a proposed Transfer, and if Lessee shall so request in writing, the County shall provide to Lessee a statement of the basis on which the County denied its consent within a reasonable time after the receipt of Lessee's notice. Lessee shall have the burden of proving that the County's consent to the proposed Transfer was withheld unreasonably; ~~such burden~~ may be satisfied if the County fails to provide a statement of a reasonable basis for withholding its consent within a reasonable time after Lessee's request therefor. Notwithstanding any of the foregoing provisions of this Section to the contrary, the following shall be deemed to be reasonable grounds for the County to withhold consent to a Transfer for purposes of compliance with California Civil Code Section 1951.4:

(a) Lessee or any of its successors, assigns or sublessees are in default as to any term, covenant or condition of this Lease, whether or not notice of default has been given by the County.

(b) The prospective assignee or sublessee has not agreed in writing to keep, perform and be bound by all of the terms, covenants and conditions of this Lease.

(c) The County reasonably objects to the financial condition of the prospective assignee or sublessee.

(d) All of the terms, covenants and conditions of the assignment or sublease, including any consideration therefor, have not been disclosed in writing to the County.

(e) Any construction of improvements commenced by Lessee has not been completed to the satisfaction of the County unless the assignee or sublessee assumes, to the reasonable satisfaction of the County, the obligation to complete such construction.

(f) Nonpayment of the Transfer Fee described below.

If Lessee believes that the County has unreasonably withheld its consent to a Transfer, Lessee's sole remedy will be to seek a declaratory judgment that the County has unreasonably withheld its consent or an order of specific performance or mandatory injunction requiring the County's consent. Lessee will not have any right to recover damages or to terminate this Lease.

15.3 Encumbering the Leasehold Estate with a Mortgage. Any Transfer which consists of the grant of a deed of trust or similar encumbrance (such encumbrances are collectively referred to herein as a "Mortgage") by Lessee to secure the beneficial interest of a lender ("Beneficiary") in the Premises or Lessee's interests under this Lease, shall be subject to all of the

provisions of this Article pertaining to the conclusion and approval of other Transfers, and shall also be subject to the additional terms and conditions set forth below:

(a) No Mortgage granted by Lessee shall encumber the fee title to the Premises at any time;

(b) Immediately following the recordation of any Mortgage affecting the Premises or Lessee's interest in this Lease, Lessee, at Lessee's expense, shall cause to be recorded in the Office of the Recorder, San Diego the County, California, a written request for delivery to the County of a copy of any notice of default and of any notice of sale under such Mortgage, as provided by the statutes of the State of California pertaining thereto.

15.3.1 Curable and Noncurable Defaults Under the Lease; the County's Covenant of Forbearance. Where the County has consented to a Mortgage encumbering Lessee's leasehold as required pursuant to this Article, then the County, notwithstanding anything to the contrary in this Lease, shall not exercise its remedies under this Lease for Lessee's default during the periods specified in this Section so long as the Beneficiary of such Mortgage takes the following actions:

a. If a curable breach of the Lease occurs, a Beneficiary shall have the right to begin foreclosure proceedings and to obtain possession of Lessee's interest in ~~the Premises~~, so long as Beneficiary complies with the conditions set forth below:

(1) Cures Lessee's default within the same time period allotted to Lessee for cure of such default, plus an additional thirty (30) days (except that only ten (10) additional days shall be permitted in the case of a default in the payment of money from Lessee to the County).

(2) Notifies the County, within ten (10) days following receipt of the County's notice of Lessee's default, of its intention to effect this remedy;

(3) Institutes immediate steps or legal proceedings to foreclose on or recover possession of the leasehold, and thereafter prosecutes the remedy or legal proceedings to completion with due diligence and continuity; and

(4) Keeps and performs, during the period until the leasehold shall be either (i) sold upon foreclosure pursuant to the Mortgage, or (ii) released or reconveyed pursuant to the Mortgage (such period being referred to hereinafter as the "Foreclosure Period"), all of the covenants and conditions of this Lease, including, without limitation, payment of all rent, taxes, assessments, utility charges and insurance premiums

required by this Lease to be paid by Lessee and which become due during the Foreclosure Period.

b. If a noncurable breach of the Lease occurs, a Beneficiary shall have the right to begin foreclosure proceedings and to obtain possession of Lessee's interest in the Premises, so long as Beneficiary complies with the conditions set forth below:

(1) Notifies the County, within ten (10) days after receipt of the County's notice of Lessee's default, of its intention to effect this remedy;

(2) Institutes immediate steps or legal proceedings to foreclose on or recover possession of the leasehold, and thereafter prosecutes the remedy or legal proceedings to completion with due diligence and continuity; and

(3) Keeps and performs, during the Foreclosure Period, all of the covenants and conditions of this Lease requiring the payment of money, including, without limitation, payment of all rent, taxes, assessments, utility charges and insurance premiums required by this Lease to be paid by Lessee and which become due during the Foreclosure Period.

c. If Lessee fails to cure any curable default within the time period allowed for such cure in this Lease, no cure by a Beneficiary of any such default in the manner allowed under this Section shall reinstate Lessee in good standing under this Lease. If, following expiration of the cure period, if any, applicable to Lessee, the Beneficiary shall fail or refuse to comply with any or all of the conditions of this Section applicable to Lessee's default, including failing to expeditiously obtain title to Lessee's leasehold, then the County shall be released from its covenant of forbearance hereunder, and may immediately terminate this Lease.

15.3.2 Transfer of Leasehold Estate; the County's Option to Purchase. Any Beneficiary who acquires title to the leasehold estate shall immediately provide the County with written notice of such transfer. Notwithstanding any provision of this Section to the contrary, following transfer of the leasehold estate to a Beneficiary in any manner, the County shall have the option to purchase all right, title and interest in and to the leasehold directly from the Beneficiary. The purchase price shall be equal to the unpaid principal balance due on the note or notes formerly secured by such Mortgage, plus trustee's fees and costs of sale, if any, but excluding (i) any fees, penalties or late charges assessed by Beneficiary against Lessee, and (ii) any rent or other payments made by Beneficiary under the terms of the Lease. The County may exercise such option to purchase by delivering written notification thereof to a Beneficiary at any time within thirty (30) days following the

County's receipt of written notification of the Beneficiary's acquisition of title to the leasehold.

a. Should the County elect to not exercise its option to purchase the leasehold within the period described above, then, subject to the provisions of Sections 15.4, "Transfer fee," 15.5, "No Release of Lessee," and 15.6, "No Merger," below, and so long as the Beneficiary shall have observed all of the conditions of Section 15.3.1, above, the following breaches, if any, relating to the prior lessee shall be deemed cured: (i) attachment, execution of or other judicial levy upon the leasehold estate, (ii) assignment of creditors of Lessee, (iii) judicial appointment of a receiver or similar officer to take possession of the leasehold estate or the Premises or (iv) filing any petition by, for or against Lessee under any chapter of the Federal Bankruptcy Code. Any further transfer of the leasehold estate, however (whether by a Beneficiary or by a third-party bidder acquiring the estate at a foreclosure sale), shall be subject to the following conditions:

(1) The provisions of Sections 15.1, "The County's Consent to Assignment Required," and 15.2, "The County's Election," above, shall apply to such further Transfer, and the County's consent shall be required to such further Transfer; and

(2) By its acceptance of the leasehold estate, the Transferee of such further Transfer assumes this Lease as to the entire leasehold estate and covenants with the County to be bound hereby.

15.3.3 Article Controlling. In the event of any conflict between the provisions of this Article and any other provision of this Lease, this Article shall control.

15.3.4 Failure to Give Notice. Except as expressly set forth in this Article, the County shall have no obligation to any Beneficiary or to give any notice to any Beneficiary, and the County's failure to provide any Beneficiary with any notice of any default hereunder shall not create any right or claim against the County on behalf of Lessee or any Beneficiary.

15.4 Transfer Fee. If the County is requested to consent to a Transfer hereunder, Lessee shall pay all the County's attorneys' fees, plus a nonrefundable fee of \$750 ("Transfer Fee") to reimburse the County or the County's agent for costs and expenses incurred in connection with such request. The Transfer Fee shall be delivered to the County concurrently with Lessee's request for consent.

15.5 No Release of Lessee. No permitted Transfer shall release or change Lessee's primary liability to perform all obligations of Lessee under this Lease, except to the extent the Lease is terminated as described above. The County's consent to

one Transfer shall not be deemed to imply the County's consent to any subsequent Transfer. If Lessee's Transferee defaults under this Lease, the County may proceed directly against Lessee without pursuing remedies against the Transferee. The County may consent to subsequent assignments or modifications of this Lease by Lessee's Transferee, without notifying Lessee or obtaining its consent, and such action shall not relieve Lessee's liability under this Lease.

15.6 No Merger. No merger shall result from a Transfer pursuant to this Article, Lessee's surrender of this Lease, or a mutual cancellation of this Lease in any other manner. In any such event, the County may either terminate any or all subleases or succeed to the interest of Lessee thereunder.

15.7 Approval of Temporary or Limited Activities by the County. Notwithstanding any provision of this Article to the contrary, the County, may, at his or her sole discretion, and without charging a Transfer Fee, give written authorization for the following activities on the Premises: (i) activities of a temporary nature, not to exceed one hundred twenty (120) calendar days, and (ii) activities of a limited nature which do not exceed ten (10) hours per week. Lessee shall maintain, on an approved the County form, a listing of all such activities approved by the County, stating the nature, duration and other relevant matters regarding such activities, and shall make such form available to the County for inspection upon request. Nothing herein shall relieve Lessee from its responsibilities under this Lease, and Lessee shall be responsible for insuring that any such activity approved by the County complies with all of the provisions of this Lease. Any such temporary or limited activity shall be subject to immediate termination upon delivery of written notification thereof from the County.

ARTICLE 16
DEFAULTS BY LESSEE, THE COUNTY'S REMEDIES

16.1 Events of Default. The occurrence of any of the following shall constitute a default by Lessee and a breach of this Lease:

- (a) Failing or refusing to pay any amount due to the County when due in accordance with the provisions of this Lease;
- (b) Failing or refusing to occupy and operate the Premises in accordance with the provisions of this Lease;
- (c) Failing or refusing to perform fully and promptly any covenant or condition of this Lease, other than those specified in subparagraphs (a) and (b) above, the breach of which Lessee is capable of curing after reasonable notice from the County;

(d) Maintaining, committing or permitting on the Premises waste, a nuisance, or use of the Premises for an unlawful purpose, or assigning or subletting this Lease in a manner contrary to the provisions of this Lease;

(e) The occurrence of any of the events set forth in Section 19.1, "Right of Termination," below.

16.2 Notices. Following the occurrence of any of the defaults specified in the preceding section, the County shall give Lessee a written notice specifying the nature of the default and the provisions of this Lease breached and demanding that Lessee either fully cure each such default within the time period specified in the subparagraphs below or quit the Premises and surrender the same to the County:

(a) For nonpayment of any amount due to the County in accordance with the provisions of this Lease, five (5) working days;

(b) For a curable default, a reasonable period not to exceed ten (10) working days, provided, however, if such default cannot be cured within said time period, Lessee shall be deemed to have cured such default if Lessee so notifies the County in writing, commences cure of the default within said time period, and thereafter diligently and in good faith continues with and actually completes said cure; and

(c) For a noncurable default, the County shall give Lessee a written notice specifying the nature of the default and the provisions of this Lease breached and the County shall have the right to demand in said notice that Lessee, and any subtenant, quit the Premises within five (5) working days.

To the extent permitted by applicable State law, the time periods provided in this Section for cure of Lessee's defaults under this Lease or for surrender of the Premises shall be in lieu of, and not in addition to, any similar time periods described by California law as a condition precedent to the commencement of legal action against Lessee for possession of the Premises.

16.3 The County's Rights and Remedies. Should Lessee fail to cure any such defaults within the time periods specified in the immediately preceding Section, or fail to quit the Premises as required thereby, the County may exercise any of the following rights without further notice or demand of any kind to Lessee or any other person, except as may otherwise be required by applicable California law:

(a) The right of the County to terminate this Lease and Lessee's right to possession of the Premises and to reenter the Premises, take possession thereof and remove all persons

therefrom, following which Lessee shall have no further claim on the Premises under this Lease;

(b) The right of the County without terminating this Lease and Lessee's right to possession of the Premises, to reenter the Premises and occupy the whole or any part thereof for and on account of Lessee and to collect any unpaid rents and other charges, which have become payable, or which may thereafter become payable pursuant to Civil Code Section 1951.4; or

(c) The right of the County, even though it may have reentered the Premises in accordance with the immediately preceding subparagraph (b) of this Section, to elect thereafter to terminate this Lease and Lessee's right to possession of the Premises.

Should the County have reentered the Premises under the provisions of subparagraph (b) of this Section, the County shall not be deemed to have terminated this Lease, the liability of Lessee to pay rent or other charges thereafter accruing, or Lessee's liability for damages under any of the provisions hereof, by any such reentry or by any action, in unlawful detainer or otherwise, to obtain possession of the Premises, unless the County shall have notified Lessee in writing that it has so elected to terminate this Lease and Lessee's right to possession. Lessee further covenants that the service by the County of any notice pursuant to the unlawful detainer statutes of the State of California and the surrender of possession pursuant to such notice shall not (unless the County elects to the contrary at the time of, or at any time subsequent to, the serving of such notice and such election is evidenced by a written notice to Lessee) be deemed to be a termination of this Lease. In the event of any reentry or taking possession of the Premises as aforesaid, the County shall have the right, but not the obligation, at Lessee's expense, to remove therefrom (i) all or any part of the buildings or structures placed on the Premises by Lessee or its agents, and (ii) any or all merchandise, Fixtures or Personal Property located therein and to place the same in storage at a public warehouse at the expense and risk of Lessee. The rights and remedies given to the County in this Section shall be additional and supplemental to all other rights or remedies which the County may have under laws in force when the default occurs.

16.4 The County's Damages. Should the County terminate this Lease and Lessee's right to possession of the Premises pursuant to the provisions of subparagraph (a) or (c) of the immediately preceding Section, the County may recover from Lessee as damages any or all of the following:

(a) The worth at the time of award of any unpaid rent that had been earned at the time of such termination;

(b) The worth at the time of award of the amount by which the unpaid rent that would have been earned after termination until the time of award exceeds the amount of such rent loss Lessee proves could have been reasonably avoided;

(c) The worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rent loss that Lessee proves could be reasonably avoided;

(d) Any other amount necessary to compensate the County for all actual damages suffered by the County as a result of Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, without limitation, any costs or expense incurred by the County in (i) retaking possession of the Premises, including reasonable attorneys' fees therefor, (ii) maintaining or preserving the Premises after such default, (iii) preparing the Premises for reletting to a new tenant, including repairs or alterations to the Premises for such reletting, (iv) leasing commissions, and (v) any other costs necessary or appropriate to relet the Premises; and

(e) At the County's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of California.

As used in subparagraphs (a) and (b) of this Section, the "worth at the time of award" is computed by allowing interest at the maximum rate allowed by California Law. As used in subparagraph c of this Section, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

All rent, other than monthly Base Rent shall, for the purposes of calculating any amount due under the provisions of subparagraph c of this Section, be computed on the basis of the average monthly amount thereof accruing during the immediately preceding sixty (60) month period, except that, if it becomes necessary to compute such rent before such a sixty (60) month period has occurred, then such rent shall be computed on the basis of the average monthly amount hereof accruing during such shorter period.

16.5 Fixtures and Personal Property. In the event of Lessee's default, all of Lessee's merchandise, Fixtures and Personal Property shall remain on the Premises and, continuing during the length of said default, the County shall have the right to take the exclusive possession of same and to use the same free of rent or charge until all defaults have been cured or, at its option, to require Lessee to remove same forthwith.

16.6 The County's Security Interest. To secure Lessee's performance of any and all of Lessee's obligations under this Lease, Lessee hereby grants the County an express first and prior contractual lien and security interest in Lessee's Fixtures and Personal Property located on the Premises, and also upon all proceeds of any insurance that may accrue to Lessee by reason of the destruction or damage such property. Lessee waives the benefit of all exemption laws in favor of this lien and security interest. This lien and security interest is given in addition to the County's statutory lien and is cumulative with it. Upon the occurrence of an event of default, these liens may be foreclosed with or without court proceedings by public or private sale, so long as the County gives Lessee at least fifteen (15) days' notice of the time and place of the sale. The County shall have the right to become the purchaser if it is the highest bidder at the sale. To perfect said security interest, Lessee shall execute and deliver to the County such financing statements required by the applicable Uniform Commercial Code as the County may request.

16.7 Lessee's Waiver. Notwithstanding anything to the contrary contained in this Article, Lessee waives (to the fullest extent permitted under law) any written notice (other than such notice as this Article specifically requires) which any statute or law now or hereafter in force prescribes be given Lessee. Lessee further waives any and all rights of redemption under any existing or future law in the event its eviction from, or dispossession of, the Premises for any reason, or in the event the County reenters and takes possession of the Premises in a lawful manner.

16.8 Interest. Any amounts due from Lessee under the provisions of this Lease which are not paid when due shall bear interest at the rate of four percent (4%) per annum over the discount rate charged from time to time by the Federal Reserve Bank (San Francisco office), but not to exceed the maximum rate which the County is permitted by law to charge.

ARTICLE 17 DEFAULTS BY THE COUNTY, REMEDIES

If the County shall neglect or fail to perform or observe any of the terms, covenants, or conditions contained in this Lease on its part to be performed or observed within thirty (30) days after written notice of default or, when more than thirty (30) days shall be required because of the nature of the default, if the County shall fail to proceed diligently to cure such default after written notice thereof, then the County shall be liable to Lessee for any and all damages sustained by Lessee as a result of the County's breach; provided, however, (a) except with respect to the County's indemnification obligations and except if the County defaults under this Lease by granting any interest in the Premises to another party during the term hereof or by

entering the Premises, in either case in a manner not permitted by this Lease (and in all of the foregoing situations described in this clause (a), the "Net Income" limit described herein shall not apply), any money judgment resulting from any default or other claim arising under this Lease shall be satisfied only out of Prepaid Rent, if during the Initial Term, and, thereafter, out of the Base Rent ("Net Income" for purposes of this Article only), (b) no other real, personal or mixed property of the County, wherever located, shall be subject to levy on any such judgment obtained against the County, (c) if such Net Income is insufficient to satisfy such judgment, Lessee will not institute any further action, suit, claim or demand, in law or in equity, against the County for or on the account of such deficiency, and (d) such neglect or failure shall not constitute consent by the County for Lessee to perform or observe such terms, covenants or conditions at the County's expense. Lessee hereby waives, to the extent permitted under law, any right to satisfy said money judgment against the County except from Net Income and agrees that on any action for damages, Lessee is limited to recovering its actual damages and may not recover any consequential or punitive damages.

ARTICLE 18 ABANDONMENT

Lessee shall not vacate or abandon the Premises at any time during the term of this Lease. If Lessee shall ~~abandon, vacate~~ or surrender the Premises, or be dispossessed by process of law, or otherwise, any Personal Property or Fixtures belonging to Lessee and left on the Premises shall, at the option of the County, be deemed abandoned. In such case, the County may dispose of said Personal Property and Fixtures in any manner provided by California law and is hereby relieved of all liability for doing so. These provisions shall not apply if the Premises should be closed and business temporarily discontinued therein on account of strikes, lockouts, or similar causes beyond the reasonable control of Lessee.

ARTICLE 19 BANKRUPTCY

19.1 Right of Termination. Should any of the following events occur, the County may terminate this Lease and any interest of Lessee therein, effective with the commencement of the event:

a. Proceedings are instituted whereby all, or substantially all, of Lessee's assets are placed in the hands of a receiver, trustee or assignee for the benefit of Lessee's creditors, and such proceedings continue for at least thirty (30) days;

b. Any creditor of Lessee institutes judicial or administrative process to execute on, attach or otherwise seize any of Lessee's merchandise, Fixtures or Personal Property, located on the Premises and Lessee fails to discharge, set aside, exonerate by posting a bond, or otherwise obtain a release of such property within thirty (30) days; or

c. A petition is filed for an order of relief under the Federal Bankruptcy Code or for an order or decree of insolvency or reorganization or rearrangement under any state or federal law, and is not dismissed within thirty (30) days.

Any assignee pursuant to the provisions of any bankruptcy law shall be deemed without further act to have assumed all of the obligations of the Lessee under this Lease arising on or after the date of such assignment. Any such assignee shall upon demand execute and deliver to the County an instrument confirming such assumption.

19.2 Request for Information. Within ten (10) days after the County's request therefor, Lessee shall provide the County and any mortgagee or proposed mortgagee of the County, as the County shall specify, such financial, legal and business information concerning any of the events described in this Article as the County shall request.

ARTICLE 20 DAMAGE OR DESTRUCTION

20.1 Casualty. Should the Fixtures, Personal Property or improvements be damaged by fire, flood or any other peril, Lessee shall restore such Fixtures, Personal Property or improvements to substantially the same condition as they were in immediately preceding such damage or destruction. In the event of a total destruction of the Premises so that the Premises are rendered unusable, either party shall have the right to terminate this Lease.

20.2 Construction Provisions. In the event of any reconstruction of the Premises required of Lessee pursuant to this Article, Lessee shall, to the extent of available insurance proceeds, repair or rebuild such improvements to substantially the same condition they were in immediately preceding such damage or destruction.

20.3 No Abatement of Rent. Lessee shall not be entitled to any compensation or damages from the County for loss of use of the whole or any part of the Premises, Fixtures and Personal Property, or any inconvenience or annoyance occasioned by such damage, reconstruction or replacement. Lessee hereby waives any statutory rights of termination which may arise by reason of any partial or total destruction of the Premises.

**ARTICLE 21
EMINENT DOMAIN**

21.1 Condemnation. If all of the Premises is taken under eminent domain proceedings by a party other than the County, or, if less than all of the Premises is taken under such proceeding and the part taken substantially impairs the ability of Lessee to use the remainder of the Premises for the purposes permitted by this Lease, then either the County or Lessee may terminate this Lease as of the date that the condemning authority takes possession by delivery of written notice of such election within twenty (20) days after such party has been notified of the taking or, in the absence thereof, within twenty (20) days after the condemning authority shall have taken possession.

21.2 Continuation of Lease After Condemnation. If this Lease is not terminated by the County or Lessee, it shall remain in full force and effect as to any portion of the Premises remaining, and:

(a) This Lease will end as of the date possession of the part is taken by the public entity as to the part of the Premises that is taken;

(b) Lessee is not entitled to the return of any prepaid rent; and

(c) At its cost, Lessee shall restore ~~so much of~~ the remaining portion of the Premises as is required to create a site substantially suitable for the purposes for which it was used immediately before the taking.

21.3 Lessee's Award. In connection with any taking, Lessee may prosecute its own claim by separate proceedings against the condemning authority for damages legally due to it (such as the loss of Fixtures that Lessee was entitled to remove and moving expenses) only so long as Lessee's award does not diminish or otherwise adversely affect the County's award.

21.4 Allocation of Condemnation Award for a Total Taking of the Premises. All awards for the total taking of the Premises or proceeds from the sale made under the threat of the exercise of the power of eminent domain shall be the property of the County, whether made as compensation for diminution of value of the leasehold estate, for the taking of the fee, or as severance damage; provided, however, Lessee shall be entitled to any award for (i) the value of Lessee-constructed improvements minus depreciation by that percentage per year which is derived by dividing 100 years by the length of the initial Term, and (ii) loss of or damage to Lessee's trade fixtures, and removable personal property. Notwithstanding the foregoing, any amount of condemnation compensation due to Lessee pursuant hereto shall go first, to the County to satisfy (i) the County's attorneys' fees,

appraisal fees, and other costs incurred in prosecuting the claim for the award, (ii) the value of the reversion as of the ending date, and (iii) any financial obligations of Lessee to the County pursuant to the provisions of this Lease, and second, to any creditors of Lessee to satisfy the remaining balance of any due to such creditor from any the County-approved loan encumbering the Premises.

**ARTICLE 22
SALE OR MORTGAGE BY THE COUNTY**

22.1 Sale or Mortgage. From and after the Effective Date, the County may at any time, without the consent of Lessee, sell, purchase, exchange, transfer, assign, lease, encumber or convey the County's interest in whole or in part, in the Lease, the Premises, the realty underlying the Premises or any portion of or interest in the realty or improvements on the Property (collectively referred to in this Article as a "Sale").

**ARTICLE 23
SUBORDINATION; ATTORNMENT**

23.1 Subordination. Without the necessity of any other document being executed and delivered by Lessee, this Lease is and shall be junior, subject and subordinate to any existing or future permits or approvals issued by the United States of America or any local, State or federal agency affecting the control or operation of the Premises; Lessee shall be bound by the terms and provisions of such permits or approvals. In addition, this Lease is and shall also be subject, subordinate and junior to all ground leases, mortgages, deeds of trust and other security instruments of any kind now covering the Premises, or any portion thereof.

23.2 Attornment. In the event any proceedings are brought for foreclosure, or in the event of the exercise of the power of sale under any mortgage or deed of trust made by the County covering the Premises, Lessee shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as landlord under this Lease.

**ARTICLE 24
COUNTY'S RIGHT OF ACCESS**

24.1 Access. The County, its agents, employees, and contractors may enter the Premises at any time in response to an emergency, and at reasonable hours to (a) inspect the Premises, (b) exhibit the Premises to prospective purchasers or Lessees, (c) determine whether Lessee is complying with its obligations in this Lease (including its obligations with respect to compliance with Environmental Laws), (d) supply cleaning service and any other service that this Lease requires the County to provide, (e) post notices of nonresponsibility or similar notices,

(f) make repairs that this Lease requires the County to make, or make repairs to any adjoining space or utility services, or make repairs, alterations, or improvements to any other portion of the Property, (g) access any property owned or operated by the County that is adjacent to or near the Premises, (h) test, inspect, investigate, remediate or monitor the Premises, and any real property adjacent to or near the Premises, for Contaminants, Leachate or Landfill Gas, and (i) repair, maintain, install, replace, investigate, inspect and test any equipment or machinery relating to Contaminants, Leachate or Landfill Gas remediation, testing or monitoring of the Premises or any real property adjacent to or near the Premises; provided, however, all work will be done as promptly as reasonably possible and so as to cause as little interference to Lessee as reasonably possible.

24.2 Lessee Waivers Regarding County Access. Lessee waives any claim of injury or inconvenience to Lessee's business, interference with Lessee's business, loss of occupancy or quiet enjoyment of the Premises, or any other loss occasioned by such entry. If necessary, Lessee shall provide the County with keys-to unlock all of the doors in the Premises (excluding Lessee's vaults, safes, and similar areas designated in writing by Lessee in advance). The County will have the right to use any means that the County may deem proper to open doors in the Premises and to the Premises in an emergency.

**ARTICLE 25
QUIET ENJOYMENT**

If Lessee is not in breach under the covenants made in this Lease, the County covenants that Lessee shall have peaceful and quiet enjoyment of the Premises without hindrance on the part of the County. The County will defend Lessee in the peaceful and quiet enjoyment of the Premises against claims of all persons claiming through or under the County.

**ARTICLE 26
HOLDING OVER**

If Lessee remains in possession of the Premises, for any reason, after the expiration of the term of this Lease without executing a new Lease, or after the County has declared a forfeiture by reason of a default by Lessee, then such holding over shall be construed as a tenancy from month to month, subject to all the conditions, provisions and obligations of this Lease insofar as they are applicable to a month-to-month tenancy. The Base Rent payable during any period of holding over shall be equal to Two Thousand Five Hundred Dollars (\$2,500) (based upon 1997 dollars) per day, or any portion thereof, as such number is adjusted for inflation.

ARTICLE 27
NOTICES

27.1 Notices. Whenever in this Lease it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall be in writing, mailed or delivered to the other party at the addresses specified in Article 1 (SUMMARY OF BASIC LEASE PROVISIONS). Mailed notices shall be sent by United States Postal Service, certified or registered mail, postage prepaid and shall be deemed to have been given, delivered and received three (3) business days after the date such notice or other communication is posted by the United States Postal Service. All other such notices or other communications shall be deemed given, delivered and received upon actual receipt. Either party may, by written notice delivered pursuant to this provision, at any time designate a different address to which notices shall be sent.

27.2 Default Notices. Notwithstanding anything to the contrary contained within this Article, any notices the County is required or authorized to deliver to Lessee in order to advise Lessee of alleged violations of Lessee's covenants under this Lease must be in writing but shall be deemed to have been duly given or served upon Lessee by the County attempting to deliver at the Premises during normal business hours a copy of such notice to Lessee or its managing employee or by the County mailing a copy of such notice to Lessee in the manner specified in the preceding Section.

ARTICLE 28
NONDISCRIMINATION

Lessee hereby covenants by and for itself, its successors, assigns and all persons claiming under or through it, that this Lease is made and accepted upon and subject to the condition that there shall be no discrimination against, or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises, nor shall Lessee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the Premises.

ARTICLE 29
AFFIRMATIVE ACTION PROGRAM

Lessee, by maintaining a business location within San Diego the County and by being able to use such business location by virtue, in whole or in part, of this Lease, shall comply with the Affirmative Action Program for Vendors as set forth in

Article III (commencing at Section 84) of the San Diego the County Administrative Code, which program is incorporated in this Lease by this reference. A copy of such Affirmative Action Program for Vendors will be furnished to Lessee by the County's Lease Administrator upon request.

**ARTICLE 30
WAIVER OF RELOCATION ASSISTANCE BENEFITS**

30.1 Relocation Assistance Benefits. Lessee is hereby informed and acknowledges the following:

a. By entering into this Lease and becoming a tenant of the County, Lessee may become entitled to receipt of relocation assistance benefits ("Relocation Benefits") pursuant to the Federal Uniform Relocation Assistance Act (42 U.S.C. §§ 4601 et seq.) and the California Relocation Assistance Law (Cal. Gov. Code, §§ 7260 et seq.), or either of them (collectively, the "Relocation Statutes"), should: the County at some time make use of the Premises in such a way as to "displace" Lessee from the Premises. Pursuant to the Relocation Statutes, the County may then become obligated to make such payments to Lessee even where such displacement of Lessee does not otherwise constitute a breach or default by the County of its obligations pursuant to this Lease.

b. Under the Relocation Statutes in effect as of the date hereof, Relocation Benefits may include payment to such a "displaced person" of (i) the actual and reasonable expense of moving himself or herself and a family, business, or farm operation, including personal property, (ii) the actual direct loss of reestablishing a business or farm operation, but not to exceed Ten Thousand Dollars (\$10,000), or (iii) payment in lieu of moving expenses of not less than One Thousand Dollars (\$1,000) or more than Twenty Thousand Dollars (\$20,000).

30.2 Lessee's Waiver and Release of Relocation Benefits. In consideration of the County's agreement to enter into this Lease, Lessee hereby waives any and all rights it may now have, or may hereafter obtain, to Relocation Benefits arising out of the County's assertion or exercise of its contractual rights to terminate this Lease pursuant to its terms, whether or not such rights are contested by Lessee or any other entity, and releases the County from any liability for payment of such Relocation Benefits; provided, however, Lessee does not waive its rights to Relocation Benefits to the extent that Lessee's entitlement thereto may arise out of any condemnation or pre-condemnation actions taken by the County or any other public agency with respect to the Premises. Lessee shall in the future execute any further documentation of the release and waiver provided hereby as the County may reasonably require.

**ARTICLE 31
RECORDS, ACCOUNTS AND AUDITS**

a. Lessee shall, at all times during the term of this Lease, keep or cause to be-kept, true and complete books, records and accounts of all financial transactions in the operation of all business activities, of whatever nature, conducted pursuant to the rights granted in this Lease. Such records shall also include the source and disposition of all trash collected and disposed of by Lessee in the operation of its business. Said records must be supported by reasonable source documents.

b. All Lessee's books or accounts and records shall be kept and made available at one location within the limits of the County of San Diego. The County shall have the right at any reasonable time to examine and perform audits of Lessee's records pertaining to its operations on the Premises. The cost of said audits shall be borne by the County; however, Lessee shall provide to the County at Lessee's expense, necessary data to enable the County to fully comply with each and every requirement of the State of California or by the United States of America for information or reports relating to this Lease and to Lessee's use of the Premises.

**ARTICLE 32
GENERAL PROVISIONS**

32.1 Authority. Lessee represents and warrants that it has full power and authority to execute and fully perform its obligations under this Lease pursuant to its governing instruments, without the need for any further action, and that the person(s) executing this Lease on behalf of Lessee are the duly designated agents of Lessee and are authorized to do so.

32.2 Brokers. Lessee warrants that it has had no dealings with any real estate broker or agent in connection with the negotiation or execution of this Lease. In the event any broker other than the brokers acknowledged in-writing by the County make claim for monies owed, Lessee shall indemnify, defend and hold the County harmless therefrom.

32.3 Captions. The captions, headings and index appearing in this Lease are inserted for convenience only and in no way define, limit, construe, or describe the scope or intent of the provisions of this Lease.

32.4 The County Approval. Except where stated in this Lease to the contrary, the phrases "the County's approval," and "the County's written approval" or such similar phrases shall mean approval of the County's Lease Administrator or said Administrator's representative as authorized by said administrator in writing.

32.5 Cumulative Remedies. In the event of a default under this Lease, each party's remedies shall be limited to those remedies set forth in this Lease; any such remedies are cumulative and not exclusive of any other remedies under this Lease to which the non-defaulting party may be entitled.

32.6 Entire Agreement. This Lease, together with all addenda, exhibits and riders attached hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof, and all prior or contemporaneous agreements, understandings and representations, oral or written, are superseded.

32.7 Estoppel Certificate. Lessee shall at any time during the term of this Lease, within five (5) business days of written notice from the County, execute and deliver to the County a statement in writing certifying that this Lease is unmodified and in full force and effect or, if modified, stating the nature of such modification. Lessee's statement shall include other details requested by the County, such as the date to which rent and other charges are paid, the current ownership and name of Lessee, Lessee's knowledge concerning any outstanding defaults with respect to the County's obligations under this Lease and the nature of such defaults if they are claims. Any such statement may be relied upon conclusively by any prospective purchaser or encumbrancer of the Premises. Lessee's failure to deliver such statements within such time shall be conclusive upon Lessee that this Lease is in full force and effect, except to the extent any modification has been represented by the County, and that there are no uncured defaults in the County's performance, and that not more than one month's rent has been paid in advance.

32.8 Exhibits. All exhibits referred to in this Lease are attached hereto and incorporated by reference.

32.9 Force Majeure. In the event either party is prevented or delayed from performing any act or discharging any obligation under this Lease, except for the payment of rent by Lessee, because of any and all causes beyond either party's reasonable control, including unusual delays in deliveries, abnormal adverse weather conditions, unavoidable casualties, strikes, labor disputes, inability to obtain labor, materials or equipment, acts of God, governmental restrictions, regulations or controls, any hostile government actions, civil commotion and fire or other casualty, legal actions attacking the validity of this Lease or the County's occupancy of the Premises, or any other casualties beyond the reasonable control of either party except casualties resulting from Lessee's negligent operation or maintenance of the Premises ("Force Majeure"), performance of such act shall be excused for the period of such delay, and the period for performance of such act shall be extended for a period equivalent to the period of such delay. Force Majeure shall not

include any bankruptcy, insolvency, or other financial inability on the part of either party hereto.

32.10 Governing Law. This Lease shall be governed, construed and enforced in accordance with the laws of the State of California.

32.11 Interpretation. The parties have each agreed to the use of the particular language of the provisions of this Lease, and any question of doubtful interpretation shall not be resolved by any rule of interpretation providing for interpretation against the parties who cause an uncertainty to exist or against the draftsman.

32.12 Joint and Several Liability. If more than one person or entity executes this Lease as Lessee, each of them is jointly and severally liable for all of the obligations of Lessee under this Lease.

32.13 Lessee's Lease Administration. Lessee confirms that Lessee's Lease Administrator has been given full operational responsibility for compliance with the terms of this Lease. Lessee shall provide the County with a written schedule of its normal hours of business operation on the Premises, and Lessee's Lease Administrator or a representative designated thereby shall be (i) available to the County on a twenty-four (24) hour a day, seven (7) days a week, basis, and (ii) present on the Premises during Lessee's normal business hours, to resolve problems or answer question pertaining to this Lease and Lessee's operations on the Premises.

32.14 Liquidated Damages. Any payments by Lessee to the County under this Lease described as liquidated damages represent the parties' reasonable estimate of the County's actual damages under the described circumstances, such actual damages being uncertain and difficult to ascertain in light of the impossibility of foreseeing the state of the leasing market at the time of the various deadlines set forth herein. The County may, at its election, take any of the liquidated damages assessed in any portion of this Lease as direct monetary payments from Lessee and/or as an increase of rent due from Lessee under this Lease.

32.15 Modification. The provisions of this Lease may not be modified, except by a written instrument signed by both parties.

32.16 Partial Invalidity. If any provision of this Lease is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby. Each provision shall be valid and enforceable to the fullest extent permitted by law.

32.17 Payments. Except as may otherwise be expressly stated, each payment required to be made by Lessee shall be in addition to and not in substitution for other payments to be made by Lessee.

32.18 Successors & Assigns. This Lease shall be binding on an inure to the benefit of the parties and their successors and assigns, except as may otherwise be provided in this Lease.

32.19 Time of Essence. Time is of the essence of each and every provision of this Lease.

32.20 Waiver. No provision of this Lease or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed. The waiver by the County of any breach of any term, covenant or condition contained in this Lease shall not be deemed to be a waiver of such term, covenant or condition of any subsequent breach thereof, or of any other term, covenant or condition contained in this Lease. The County's subsequent acceptance of partial rent or performance by Lessee shall not be deemed to be an accord and satisfaction or a waiver of any preceding breach by Lessee of any term, covenant or condition of this Lease or of any right of the County to a forfeiture of the Lease by reason of such breach, regardless of the County's knowledge of such preceding breach at the time of the County's acceptance. The failure on the part of the County to require exact or full and complete compliance with any of the covenants, conditions of agreements of this Lease shall not be construed as in any manner changing or waiving the terms of this Lease or as estopping the County from enforcing in full the provisions hereof. No custom or practice which may arise or grow up between the parties hereto in the course of administering this Lease shall be construed to waive, estop or in any way lessen the right of the County to insist upon the full performance of, or compliance with, any term, covenant or condition hereof by Lessee, or construed to inhibit or prevent the rights of the County to exercise its rights with respect to any default, dereliction or breach of this Lease by Lessee.

32.21 Purchase Agreement. Nothing contained in this Lease shall limit, modify or reduce the covenants, agreements or obligations of Lessee or Allied, or the County's rights and remedies, under that certain Purchase and Sale Agreement dated as of August 12, 1997 (as amended from time to time, the "Purchase Agreement"), by and between the County, as seller, and Allied Waste Industries, Inc., a Delaware corporation ("Allied"), as purchaser (which Purchase Agreement has been assigned to, and assumed by, Lessee as it relates to, among other things, the Premises), including, without limitation, any Allied or Lessee indemnification obligations and any County disclaimers of representations and warranties set forth therein. In the

event of a conflict between the terms of this Lease and the Purchase Agreement, the Purchase Agreement shall control.

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

32.23 Approvals. All County approvals under this Lease must include the approval of the Assistant Deputy Director - Aviation.

2.
IN WITNESS WHEREOF, the County and Lessee have ~~duly~~ executed this Lease as of the day and year first above written.

THE COUNTY: THE COUNTY OF SAN DIEGO,
a political subdivision of the State of California

By: Lawrence B. Prior III
Lawrence B. Prior III,
Chief Administrative Officer

APPROVED AS TO FORM AND LEGALITY

By: Stiane Bardsley
Chief Deputy County Counsel

LESSEE: PALOMAR TRANSFER STATION, INC.,
a California corporation

By: Steven M. Helm
Steven M. Helm,
Authorized Representative

By: Don Swierenga
Don Swierenga,
President

EXHIBIT A

DESCRIPTION AND PLAT OF THE PREMISES

Parcel No. 97-0085-A1

That portion of McClellan-Palomar Airport, in the City of Carlsbad, County of San Diego, State of California, described in deed to the County of San Diego, recorded January 18, 1974 as File/Page No. 74-014190 in the Office of the County Recorder of said County, described as follows:

BEGINNING at the most Southerly corner of land described in deed to the City of Carlsbad recorded June 30, 1982 at File/Page No. 82-201566 in said County Recorder's Office; thence along the Southerly boundary of said Carlsbad land, North $78^{\circ}42'04''$ West, 635.35 feet to a point on the Easterly line of a 48.00 foot road and utility easement granted to said City of Carlsbad on said 1982 deed; thence along said Easterly line, South $11^{\circ}17'56''$ West, 519.92 feet to the beginning of a tangent 326.00 foot radius curve, concave Easterly; thence Southerly, along the arc of said curve, through a central angle of $54^{\circ}45'22''$, a distance of 311.55 feet; thence tangent to said curve South $43^{\circ}27'26''$ East, 112.20 feet; thence leaving said Easterly line, North $51^{\circ}31'08''$ East, 235.72 feet; thence North $61^{\circ}24'19''$ East, 355.40 feet; thence North $57^{\circ}22'14''$ East, 246.04 feet to the beginning of a tangent 50.00 foot radius curve concave Westerly; thence Northeasterly along the arc of said curve, through a central angle of $88^{\circ}35'04''$, a distance of 77.30 feet; thence tangent to said curve North $31^{\circ}12'50''$ West, 51.72 feet; thence North $53^{\circ}37'13''$ West, 169.04 feet; thence North $4^{\circ}55'29''$ East, 93.29 feet to the POINT OF BEGINNING.

PLAT OF THE PREMISES

[SEE ATTACHED]

PALOMAR

S79°20'37"E

703.35'

PARCEL 97-0085-A1
10.975 ACRES

PARCEL
84-0127-A
5.128 AC.

N10°39'23"E
650.00'

N73°30'37"E
232.43'

S52°51'51"E
239.75'

N70°22'30"E

D=52°51'51"
L=300.79'
R=326'

S36°20'19"E

S10°39'23"W
39.50'

S38°45'17"E
200.00'

S51°14'43"W
427.12'

S38°45'17"E
304.21'

APPROACH

EXHIBIT B

FEDERAL AVIATION ADMINISTRATION REQUIREMENTS

In the event there is any conflict between the provisions in this Exhibit and the other provisions in this Lease, the provisions in this Exhibit shall take precedence.

a. Lessee for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

b. Lessee for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

c. That in the event of breach of any of the above nondiscrimination covenants, the County shall have the right to terminate this Lease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

d. Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not

unjustly discriminatory prices for each unit or service; PROVIDED, THAT Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

e. Non-compliance with Provision d above shall constitute a material breach thereof and in the event of such noncompliance the County shall have the right to terminate this Lease and the estate hereby created without liability therefore or at the election of the County or the United States either or both said Governments shall have the right to judicially enforce said Provisions.

f. Lessee agrees that it shall insert the above five (5) Provisions in any sublease, contract or agreement by which said Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises herein leased.

g. Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Lessee assures that it will require that its covered suborganizations provide assurances to Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

h. The County reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Lessee and without interference or hindrance.

i. The County reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard.

j. This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the County and the United States, relative to the development, operation or maintenance of the Airport.

k. There is hereby reserved to the County, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises herein leased. This public right of

flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Airport.

l. Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the leased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the leased Premises.

m. Lessee, by accepting this, expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder that conflicts with Part 77 of the Federal Aviation Regulations. In the event the aforesaid covenants are breached, the County reserves the right to enter upon the land leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Lessee.

n. Lessee, by accepting this Lease, agrees for itself, its successors and assigns that it will not make use of the leased Premises in any manner which might interfere with the landing and taking off of aircraft from said Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the County reserves the right to enter upon the Premises hereby leased and cause the abatement of such interference at the expense of Lessee.

o. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

p. This Lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

EXHIBIT C

MCCLELLAN-PALOMAR AIRPORT
INDUSTRIAL AREAS
DEVELOPMENT STANDARDS

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MCCLELLAN-PALOMAR AIRPORT
INDUSTRIAL AREAS
DEVELOPMENT STANDARDS

1. LAND USES

a. Accepted Uses. The following primary uses will be acceptable subject to approval of the County and compliance with these development standards and the performance standards specified for McClellan-Palomar Airport:

- (1) Research and development uses.
- (2) Industrial and manufacturing uses.
- (3) Warehousing, storage, and wholesaling.
- (4) Offices, services, sales activity, and other necessary buildings and uses appurtenant to permitted uses specified in 1, 2, and 3 above.
- (5) Signs pertaining only to the use conducted within buildings or signs pertaining to the sale or lease of the premises on which they are located in accordance with standards contained herein.
- (6) Off-street parking and loading, vehicular and pedestrian circulation, and landscaping in accordance with standards specified herein.
- (7) On the same leasehold or building site with a permitted industrial park use, one dwelling unit occupied exclusively by a caretaker or superintendent of such use and his/her family may be permitted upon approval of the County.
- (8) Finance, insurance, real estate and business services, provided such services involve primary emphasis on processing or production, to the exclusion of services rendered to customers on the premises, to which end such offices shall be called process offices.

b. Prohibited Uses. Uses not falling into the above categories are not permitted unless specifically set forth in the Lease.

2. CONDUCT OF USE. All manufacturing operations shall be conducted within an enclosed building. All storage shall be conducted within a totally enclosed building or enclosed by a six (6) foot high or higher, view obscuring fence or wall. This fence shall not encroach into any required exterior yard. No storage shall exceed the height of the wall or fence.

3. BUILDING SETBACKS. No building, structure (except a wall or landscape feature--or fence) shall at any time be erected or maintained on any site within twenty-five (25) feet from any site boundary abutting any street.

4. BUILDING CONSTRUCTION.

a. Coverage. All buildings, including accessory buildings and structures, and all paved areas shall not cover more than ninety percent (90%) of the net lot area.

b. Exterior Walls. Any building erected within the industrial park shall conform to the following:

(1) Exterior walls shall be concrete or masonry except where specific approval is given by the County for architecturally acceptable alternate materials and design.

(2) Exterior walls shall be painted or treated in a manner acceptable to the County.

5. HEIGHT LIMIT. No building or structure shall exceed two stories or 35 feet in height, whichever is the lesser; provided, however, buildings or structures located one hundred (100) feet or more from any property line and exceeding 35 feet in height may be permitted upon approval by the County.

6. MINIMUM DISTANCE BETWEEN BUILDINGS. There shall be a minimum ten (10) feet between all buildings located on the same site.

7. MULTIPLE OCCUPANCY BUILDINGS. Multiple occupancy of buildings is permitted. In case of multiple occupancy, off-street parking, off-street loading, outdoor trash facilities, and on-site vehicular and pedestrian circulation systems must be shared in common; provided that separate such facilities may be permitted by the County where justified and when such provision does not otherwise deviate from the specifics and intent of these development standards.

8. REQUIRED SCREENING.

a. Parking Areas. Where parking space areas are located so as to be visible from a street, there shall be a landscaped screen at least five (5) feet in width, planted with trees, shrubs, ground cover, or combination of landscaping and aggregate materials that will significantly soften the view of such areas. Such landscaping may be credited to the ten percent (10%) requirement of Paragraph 14.

b. Screening Types. Where screening is required herein it shall consist of one, or any combination of the following types, in an aesthetically designed configuration.

(1) **Walls:** A wall shall consist of concrete, stone, brick, tile, or similar type of solid masonry material a minimum of four inches thick.

(2) **Berms:** A berm shall consist of landscaped mounded earth designed in such a way as to provide desired screening effect.

(3) **Fences, solid:** A solid fence shall be constructed of masonry.

(4) **Fences, open:** An open weave or mesh type fence shall be combined with plant materials or view obscuring slats to form an opaque screen.

(5) **Planting:** Plant materials, when used as a screen, shall consist of compact evergreen plants. They shall be of a kind, or used in such a manner, so as to provide screening having a minimum thickness of two (2) feet within eighteen (18) months after initial installation.

c. **Roof Tops.** Roof top equipment such as HVAC units shall be screened from view from both street level and above. To that end, all duct work and electrical conduits are to be run underneath the roof surface. In addition, the equipment should be clustered and roof top color shall be considered during the design of the buildings.

9. HEIGHT OF FENCES, WALLS, AND PLANTED MATERIALS.

a. **Fences and Walls.** No decorative or screening fences or walls shall exceed the following height limits above ground elevation:

(1) Within required front or side yard setback abutting a street: Forty-two (42) inches except within five (5) feet of the intersection of a driveway and a street, a driveway and a walkway, a driveway and parking area circulation aisle, or two (2) driveways in which cases the height limit shall be thirty (30) inches.

(2) All other areas: Eight (8) feet, unless otherwise approved by the County.

b. **Plant Materials.** Except where used as an opaque screen, plant materials may be permitted at any height not constituting a hazard to operation of aircraft based on the judgment of the County.

10. OFF-STREET PARKING AND LOADING SPACE.

a. **Parking.** All parking shall be designed to be provided at the ratio of one (1) off street parking space per three hundred (300) square feet of gross floor area if the proposed

development of the Premises is recognized as a standard warehouse or manufacturing use, paved parking may be provided at the ratio of one space per six hundred (600) square feet. However, the remainder of the land area necessary to provide an ultimate parking ratio of one (1) space per three hundred (300) square feet of gross floor must be available for future parking expansion. This area may be made a part of the landscaped area of the Premises until such time as the additional parking is needed, however it will not be considered as part of the required 10% landscaping coverage outlined in Clause 14. (LANDSCAPING) below.

b. Loading Space. All buildings with a gross floor area greater than one thousand (1,000) square feet shall be served with a loading area with minimum dimension of twenty (20) feet by twenty (20) feet. One (1) additional loading area shall be provided for buildings with a gross floor area exceeding twelve thousand (12,000) square feet. Loading areas shall not be placed in any required yard areas or parking spaces.

c. Dimensions. Each parking space shall be a minimum of nine (9) feet wide and twenty (20) feet deep.

d. Location. All parking and loading spaces shall be on the same leasehold Premises with the building or structures they are to serve.

e. Improvement of Parking Spaces and Parking Areas

(1) All parking spaces or areas, loading berths, approaches, and driveways shall be adequate for anticipated wheel loads, with a structural section designed by a soils engineer and constructed of Portland Cement (concrete over a base course of adequate stability).

(2) All parking spaces abutting the perimeter of the property shall be provided with securely installed concrete wheel barriers or concrete curbs not less than four (4) inches in height.

f. Marking of Parking Spaces. The location of each parking space shall be identified and maintained by permanent surface markings.

g. Parking Restrictions. On street parking within the Industrial Park shall conform with the current City of Carlsbad Code.

11. ON-SITE CIRCULATION.

a. Ingress and Egress.

(1) On-site driveways shall be located so as to serve multiple purposes such as parking and loading areas wherever possible.

(2) On-site driveways shall have an unobstructed paved surface minimum width of not less than fifteen (15) feet per one-way drive, or twenty-four (24) feet for two-way drive.

(3) Parking, loading areas, and driveways shall be arranged to permit vehicular traffic to move into and out of parking and loading areas, driveways, and ramps without the backing of any vehicle onto a street.

(4) Unobstructed and adequate maneuvering aisles or turn-around areas shall be provided as necessary to insure that all vehicles shall enter the street or highway in a forward manner.

(5) Parking areas, driveways, maneuvering aisles, ramps, and turn-around areas shall be kept free and clear of obstructions at all times.

b. Driveway Aprons. All driveway aprons will be installed concurrently with individual site development and shall be commercial driveways of Portland cement concrete, six (6) inches thick from curb to right-of-way line with minimum width of fifteen (15) feet at the curb line for one-way traffic and thirty (30) feet for two-way traffic according to Standard Drawing G-16. Where driveway aprons will serve semi-trailers, they shall be no less than twenty-four (24) feet and thirty-six (36) feet respectively, and may be constructed as alley aprons with appropriate curb returns.

c. Pedestrian Walkways. Easily accessible and adequate pedestrian walkways consisting of concrete, decorative gravel, paving blocks, or other aesthetically pleasing materials shall be provided.

12. SIGNS.

a. Identification. Not more than two (2) signs identifying the name and address of the occupant and the products, activities or facilities located on the Premises are permitted for each Premises except as hereinafter specified.

(1) One (1) such sign may be a single-face sign mounted on and parallel to a wall of the main building. Such sign shall be proportional to the size of the building wall upon which it is mounted but shall not exceed an area of forty-eight (48) square feet. Such a sign may not extend above the top of the parapet wall, the roof line at the wall, the eaves of the building, or portion of the building to which attached, whichever is applicable; nor shall the sign face protrude more than eighteen (

e. Sign Design. Identification signs must be designed so as to provide uniformity of layout, lettering, graphics, size, shape, color, method of installation and construction. The location and design of all identification signs shall be subject to the written approval of the County. No sign of any type shall be installed without the prior written approval of the County.

13. TRASH COLLECTION AREAS. All trash collection areas shall be located outside of areas required to be devoted to landscaping and shall be enclosed by a wall and heavy duty solid gates not less than six (6) feet in height. Portland cement concrete floors and aprons are required in trash collection areas.

14. LANDSCAPING.

a. Required Landscaping Areas. Landscaping plans shall be required and submitted for approval of the County. All exterior yards, except for driveways shall be landscaped and maintained, however, in no event shall the total landscaped area be less than ten percent (10%) of the gross lot area. All areas not in a driveway or sidewalk between street curb and the property line shall be landscaped and maintained by Lessee and may be included in the above mentioned ten percent on-site requirement.

b. Landscaping Design.

(1) Coverage: At least seventy-five percent (75%) of the surface landscaped shall be planted with a compatible combination of trees, shrubs, vines, flowers or ornamental ground cover. The remainder may include features such as pedestrian walkways, rock groupings, sculptures, pools, fountains, outdoor seating areas, decorative paving, and gravel areas, interspersed with planting areas.

(2) Spacing: Plant material spacing shall conform to the following standards: A minimum of twenty-five (25) feet from the back of sidewalk at street intersections to the center of the first tree or the center of the first large shrub ten feet in height or more at maturity.

c. Irrigation. Prior to commencing any use of the property, required landscaped areas shall be planted and a permanent type sprinkler system or similar watering system or device, adequate to provide water necessary to properly maintain the particular plant materials used, shall be constructed and thereafter maintained in good working order.

15. OTHER REGULATIONS. In addition to the provisions of these Development Standards, all development on the Premises shall conform to the standards specified by the applicable Federal Aviation Administration Regulations, laws of the State of California, the Carlsbad Municipal Code and those ordinances and policies promulgated by the Board of Supervisors which regulate

the administration, land use, construction, and development of the County Airports.

In the event there is any conflict between these Development Standards and the regulations, laws, and/or ordinances of the above mentioned agencies, the most restrictive shall apply.

EXHIBIT D

MCCLELLAN-PALOMAR AIRPORT
INDUSTRIAL AND AVIATION AREAS
PERFORMANCE STANDARDS

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MCCLELLAN-PALOMAR AIRPORT
INDUSTRIAL AND AVIATION AREAS
PERFORMANCE STANDARDS

1. NOISE.

a. Standards. At no point on or beyond the boundary of the leasehold Premises shall the maximum sound level resulting from any operation, activity or use exceed $Leq(h) = 70$ dB for continuous noise. If the measured ambient level exceeds the applicable limit noted above, the allowable one hour average sound level shall be the ambient noise level. The ambient noise level shall be measured when the alleged noise violation source is not operating.

b. Method of Measurement. Noise shall be measured with a sound level meter having an A-weighted filter constructed in accordance with specifications of the American National Standards Institute for type S-2A general purpose sound level meters.

(1) Impact noise shall be measured using the fast response of the sound level meter. Impact noises are intermittent sounds such as from a punch press or drop-forge hammer.

(2) Continuous noise shall be measured using the slow response of the sound level meter.

c. Sound Level (Noise Level). Sound level shall mean the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network as specified in American National Standards Institute specifications for sound level meters (ANSI.4-1971, or the latest revision thereof). If the frequency weighting employed is not indicated, the A-weighting is implied.

d. Aircraft Engine Runups. Lessee shall restrict aircraft engine tests and maintenance runups performed on the leasehold Premises to idle power settings. Lessee shall restrict aircraft tests and maintenance runups at greater than power settings to locations on the Airport and during the time of day authorized in writing by the County.

e. Exemptions. The following sources of noise are exempt from the specified maximum sound level:

(1) Transportation vehicles not under the control of Lessee;

(2) Occasionally used safety signals, warning devices, and emergency pressure relief valves; and

Irrespective of the above standards, any electromagnetic disturbance that causes interference with radio transmissions, aircraft instruments, navigational aids, or other electromagnetic receptors essential to aircraft operations shall be modified or abated upon request of the County.

b. Method of Measurement. The level of radiated electromagnetic interference shall be measured by using standard field strength measuring techniques. The maximum value of the tabulation shall be considered as having been exceeded if at any frequency in the section of the spectrum being measured, the measured field strength exceeds the maximum value tabulated for this spectrum section.

4. VIBRATION.

a. Standards. At no point on or beyond the boundary of the leasehold Premises shall the maximum particle velocity resulting from any operation, or activity or use exceed 0.10 inches per second for steady-rate vibrations and 0.20 inches per second for impact vibrations.

b. Method of Measurement. Vibration shall be measured with a seismograph or complement of instruments capable of recording vibration displacement and frequency or particle velocity simultaneously in three mutually perpendicular directions. When particle velocity is computed on the basis of displacement and frequency, the following formula shall be used:

$$P.V. = 6.28 F X D$$

P.V. = Particle velocity, inches per second

F = Vibration frequency, cycles per second

D = Single amplitude displacement of the vibration, inches

The maximum particle velocity shall be the maximum vector sum of the three mutually perpendicular components recorded simultaneously.

(1) Steady-rate vibrations are vibrations which are continuous or vibrations in discrete impulses occurring 100 or more times per minute.

(2) Impact vibrations are vibrations in discrete impulses occurring less than 100 times per minute.

5. TOXIC MATTER.

a. Standards. At no point on or beyond the boundary of the leasehold Premises shall the release of any airborne toxic matter resulting from any operation, activity or use exceed 3.0 percent of the Threshold Limit Value; provided, however, if a

toxic substance does not have an established Threshold Limit Value, Lessee shall satisfy the County Department of Public Health that the proposed levels will be safe to the general population.

b. Method of Measurement. The maximum concentration is given as a fractional amount of the ACGIH Threshold Limit Value which is the maximum concentration permitted an industrial worker for eight hours exposure per day, five days a week, as adopted by the American Conference of Governmental Industrial Hygienists (ACGIH). Toxic matter shall be measured at ground level or habitable elevation using ACGIH or ASTM methods and shall be the average of any 24-hour sampling period.

6. ODOR. At no point on or beyond the boundary of the leasehold Premises shall any odorous gases or other odorous matter resulting from any operation, activity or use be detectable.

7. SMOKE, PARTICULATE MATTER, AND OTHER AIR CONTAMINANTS. All operations, activities, and uses shall be conducted so as to comply with the rules and regulations of the San Diego the County Air Pollution Control District governing smoke, particulate matter, and other air contaminants.

8. LIQUID WASTES.

a. Standards. All operations, activities, and uses shall be conducted so as to comply with the rules and regulations of the State of California Water Quality Control Board - San Diego Region and the County San Diego.

b. Prohibitions. The discharge of any toxic or waste material onto the ground, into any drainage channel, or the discharge of any toxic material into any on-site leaching system shall be prohibited.

9. FIRE AND EXPLOSIVE HAZARDS. All operations, activities, and uses shall be conducted so as to comply with the rules and regulations of the applicable fire protection agency and the Uniform Fire Code governing fire and explosive hazards.

10. OTHER REGULATIONS. In addition to the provisions of these Performance Standards, all operations on the Premises shall conform to the standards specified by the applicable Federal Aviation Administration Regulations, laws of the State of California and the applicable local ordinances which regulate land use and operations. In the event of a conflict between these Performance Standards and various applicable laws, ordinances and regulations, the most restrictive shall apply.

EXHIBIT E
INSURANCE REQUIREMENTS

Without limiting Lessee's indemnification obligations to the County, Lessee shall provide and maintain, during the Term and for such other period as may be required by the provisions of this exhibit ("Insurance Exhibit") or the Lease, at its sole expense, insurance in the amounts and form specified in this Insurance Exhibit.

A. Liability Insurance. Lessee shall procure either Comprehensive General Liability insurance or Commercial General Liability insurance applying to its use and occupancy of the Premises, or any part thereof, or any areas adjacent thereto, and the business operated by Lessee or any other occupant on the Premises, in the amounts and form set forth below:

(1) Comprehensive General Liability Insurance. A policy of Comprehensive General Liability Insurance which provides limits of:

- (a) Combined Single Limit per occurrence: \$5,000,000
- (b) Fire Damage Limit (Any One Fire): \$ 500,000
- (c) Medical Expense (Any One Person): \$ 5,000

OR

(2) Commercial General Liability Insurance. A policy of Commercial General Liability Insurance which provides limits of:

- (a) Per Occurrence: \$5,000,000
- (b) Location Specific Aggregate: \$5,000,000
- (c) Products/Completed Operations: \$5,000,000
- (d) Personal & Advertising Injury limit: \$5,000,000
- (e) Fire Damage Limit (Any One Fire): \$ 500,000
- (f) Medical Expense Limit (Any One Person): \$ 5,000

(3) Required Liability Policy Coverage. Any liability policy provided by Lessee under this Insurance Exhibit shall contain the following coverage:

- (a) Premises and Operations
- (b) Products/Completed Operations
- (c) Contractual Liability expressly including liability assumed under this Lease.
- (d) Personal Injury Liability
- (e) Independent Contractors' Liability
- (f) Pollution liability with no exclusion for operations at the Premises
- (g) Severability of Interest clause providing that the coverage applies separately to each insured, and that an act or omission by one of the named

insureds shall not reduce or avoid coverage to the other named insureds.

(4) Additional Insured Endorsement. Any general liability policy provided by Lessee under this Insurance Exhibit shall contain an endorsement which applies its coverage to the County, the members of the Board of Supervisors of the County, and the officers, agents, employees and volunteers of the County, individually and collectively, as additional insureds.

(5) Primary Insurance Endorsement. The coverage afforded by the additional insured endorsement described above shall apply as primary insurance, and any other insurance maintained by the County, the members of the Board of Supervisors of the County, or its officers, agents, employees and volunteers, or any the County self-funded program, shall be excess only and not contributing with such coverage.

(6) Form of Liability Insurance Policies. All liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury and other covered loss, however occasioned, occurring during the policy term, and shall specifically insure the performance by Lessee of that part of the indemnity agreement contained in this Lease relating to liability for injury to or death of persons and damage to property. If the coverage contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any aggregate limit has been paid or reserved, the County may require additional coverage to be purchased by Lessee to restore the required limits. Lessee may combine primary, umbrella and as broad as possible excess liability coverage to achieve the total limits indicated above. Any umbrella or excess liability policy shall include the Additional Insured Endorsement described below.

B. All Risk Fire Insurance. A standard fire policy including all-risk or special form perils, in an amount of ninety percent 90% of the full replacement cost of the Building and Improvements, without deduction for depreciation, including costs of demolition and debris removal. Such policy or policies of insurance shall include coverage for (i) Lessee's merchandise, (ii) fixtures owned by Lessee, (iii) any items identified in this Lease as improvements to the Premises constructed or owned either by the County or Lessee, and (iv) the personal property of Lessee, its agents and employees.

(1) Deductible. The deductible for the required fire insurance policy shall not exceed \$10,000 per occurrence and shall be borne by Lessee.

(2) Proceeds of Insurance. In the event of damage or destruction to the Premises covered by the fire or physical

hazard insurance required of Lessee under this Insurance Exhibit, the proceeds of such insurance shall be allocated as follows:

(a) Proceeds from any or all of said insurance policies shall be payable, first, to the holder of any mortgage or deed of trust permitted under this Lease to the extent required by said mortgage or deed of trust;

(b) Any balance remaining after application of insurance proceeds in the manner indicated in subparagraph (a), above, shall be credited to Lessee. If Lessee, or the County, is required to rebuild or restore the Premises pursuant to the provisions of this Lease, the amount of insurance proceeds credited to Lessee shall be impounded with an independent depository acceptable to the County in accordance with a rider to the insurance policy setting forth this procedure, to be disbursed to pay, to the extent such portion of proceeds may be sufficient, Lessee's obligations to repair and restore the Premises pursuant to the provisions of this Lease;

(c) In the event that, after paying all of the costs and expenses of repair and restoration referenced in subparagraph (b), above, any balance of insurance proceeds remains, it shall be retained by Lessee. Should it be anticipated that the proceeds of insurance to be received by Lessee will be insufficient to repair or restore the Premises as required by this Lease, Lessee shall have the option to either (i) terminate this Lease and turn over all insurance proceeds from the impound account to the County, or (ii) repair or restore the Premises as required under this Lease using the available insurance proceeds, with any shortfall in the amount necessary to repair or restore the Premises being contributed, in cash, by Lessee. (See, Section 20.5 (UNINSURED CASUALTY) under Article 20 (DAMAGE OR DESTRUCTION)).

(d) Notwithstanding any provision of the foregoing to the contrary, upon any termination of this Lease all proceeds from Lessee's insurance, but excluding such proceeds attributable to damages sustained by Lessee's merchandise or personal property, shall be disbursed and paid to the County.

C. Comprehensive Automobile/Aircraft/Watercraft Liability Insurance. Lessee shall procure Comprehensive Automobile/Aircraft/Watercraft Liability Insurance, applying to its use and occupancy of the Premises and the business operated by Lessee or any other occupant on the Premises. Such policy shall be written for bodily injury, including death, and property damage, however occasioned, occurring during the policy term, in the amount of not less than One Million Dollars (\$1,000,000), combined single limit per occurrence, applicable to all owned, non-owned and hired vehicles/aircraft/watercraft. Notwithstanding any provision of the foregoing to the contrary,

however, such coverage may be waived in writing by the County if it determines there is no significant exposure to these risks.

D. Statutory Workers' Compensation and Employer's Liability Insurance. Lessee shall provide the statutory amount of workers' compensation insurance, with a broad form all-states endorsement, and with employer's liability coverage of no less than Three Million Dollars (\$3,000,000) per occurrence for all employees engaged in services or operations under this Lease. Lessee shall also provide U.S. Longshoremens' and Harbor Workers' Act coverage, when applicable.

E. General Provisions.

(1) Certificates of Insurance. Lessee shall, as soon as practicable following the placement of insurance required by this Insurance Exhibit, but in no event later than ten (10) days prior to the Effective Date, deliver to the County certified copies of the actual insurance policies specified by this Insurance Exhibit, or certificates evidencing the same, together with appropriate separate endorsements thereto, evidencing that Lessee has obtained such coverage for the period of the Lease. Thereafter, copies of renewal policies, or certificates and appropriate separate endorsements thereof, shall be delivered to the County within thirty (30) days prior to the expiration of the term of any policy required by this Insurance Exhibit. Lessee shall permit the County at all reasonable times to inspect any policies of insurance of Lessee which Lessee has not delivered to the County.

(2) Claims Made Coverage. If coverage is written on a "claims made" basis, the Certificate of Insurance shall clearly state so. In addition to the coverage requirements specified above, such policy shall provide that:

(a) The policy retroactive date coincides with or precedes Lessee's possession of the Premises (including subsequent policies purchased as renewals or replacements).

(b) Lessee will make every effort to maintain similar insurance during the required extended period of coverage following expiration of the Lease, including the requirement of adding all additional insureds.

(c) If insurance is terminated for any reason, Lessee shall purchase an extended reporting provision of at least two years to report claims arising in connection with the Lease.

(d) The policy allows for reporting of circumstances or incidents that might give rise to future claims.

(3) Failure to Obtain or Maintain Insurance; the County's Remedies. Lessee's failure to procure the insurance specified by

this Insurance Exhibit, or failure to deliver certified copies or appropriate certificates of such insurance, or failure to make the premium payments required by such insurance, shall constitute a material breach of the Lease, and the County may, at its option, terminate the Lease for any-such default by-Lessee.

(4) No Limitation of Obligations. The foregoing requirements as to the types-and limits of insurance coverage to be maintained by Lessee, and any approval of said insurance by the County or its insurance consultant(s), are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Lessee pursuant to the Agreement, including, but not limited to, the provisions concerning indemnification.

(5) Notice of Cancellation or Change of Coverage. All certificates of insurance provided by Lessee must evidence that the insurer providing the policy will give-the County thirty (30) days' written notice, at the address shown in the Section of this Lease entitled "Notices" below, in advance of any cancellation, lapse, reduction or other adverse change respecting such insurance.

(6) Qualifying Insurers. All policies of insurance required hereby shall be issued by companies which have been approved to do business in the State of California by the State Department of Insurance, and which hold a current policy holder's alphabetic and financial size category rating of not less than A, VII according to the current Best's Key Rating Guide, or a company of equal financial stability that is approved in writing by the County's Risk Manager.

(7) Review of Coverage. The County shall retain the right at any time to review the coverage, form and amount of insurance required by this Insurance Exhibit and may require Lessee to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required.

(8) Self-Insurance. Lessee may, with the prior written consent of the County's Risk Manager, fulfill some or all or the insurance requirements contained in this Lease under a plan of self-insurance. Lessee shall only be permitted to utilize such self-insurance, however, if, in the opinion of the County's Risk Manager, Lessee's (i) net worth, and (ii) reserves for payment of claims of liability against Lessee, are sufficient to adequately compensate for the lack of other insurance coverage required by this Lease. Lessee's utilization of self-insurance shall not in any way limit liabilities assumed by Lessee under this Lease.

(9) Sublessees' Insurance. Lessee shall require any sublessee, and any sub-sublessee, of all or any portion of the

Premises to provide the insurance coverage described in this Insurance Exhibit prior to occupancy of the Premises.

(10) Waiver of Subrogation. Lessee and the County waive all rights to recover against each other or against any other tenant or occupant of the building, or against the officers, directors, shareholders, partners, employees, agents or invitees of each other or of any other occupant or tenant of the building, from any Claims (as defined in the Article 12 (INDEMNITY AND INSURANCE)), against either of them and from any damages to the fixtures, personal property, Lessee's improvements, and alterations of either the County or Lessee in or on the Premises, to the extent that the proceeds received from any insurance carried by either the County or Lessee, other than proceeds from any program of self-insurance, covers any such Claim or damage. Included in any policy or policies of insurance provided by Lessee under this Insurance Exhibit shall be a standard waiver of rights of subrogation against the County by the insurance company issuing said policy or policies.

EXHIBIT F

MCCLELLAN-PALOMAR AIRPORT

THE COUNTY OF SAN DIEGO REQUIRED SUBLEASE PROVISIONS

The following paragraphs must appear in each sublease of the Premises. Paragraphs marked with an asterisk (*) must be used exactly as written.

1. Parties. This Sublease is entered into by and between _____, hereinafter called "Sublessor", and _____, hereinafter called "Sublessee", as a Sublease under the Palomar Transfer Station Lease Agreement dated _____, 19__ (the "Master Lease"), also known as the County of San Diego Contract No. _____. Sublessor, under this Sublease, is Lessee and the County of San Diego is Lessor under said Master Lease.

2. Premises. Sublessor leases to Sublessee and Sublessee hires the following described Premises together with the appurtenances, situated in the County of San Diego, State of California: _____

Said Premises are shown on Exhibit A attached hereto.

3. Term. The term of this Sublease Agreement shall be for _____, commencing _____, 19__, and terminating _____, unless sooner terminated as provided herein. (Note: Termination date of Sublease cannot exceed expiration date of Master Lease.)

4. Rental. Sublessee shall pay to Sublessor as rent for the Premises in advance on the first day of each calendar month of the term of this Sublease without deduction, offset, prior notice or demand, in lawful money of the United States, the sum of _____ Dollars and _____ Cents (\$ _____). If the commencement date is not the first day of the month, or if the Sublease termination date is not the last day of the month, a prorated month installment shall be paid at the then current rate for the fractional month during which the Sublease commences and/or terminates. Receipt of \$ _____ is hereby acknowledged for rental for the first month, and the additional amount of \$ _____ as non-interest bearing security for performance under this Sublease. In the event Sublessee has performed all the terms and conditions of this Sublease throughout the term, upon Sublessee vacating the Premises, the amount paid as a security deposit shall be returned to Sublessee after first deducting any sums owing to Sublessor.

5. Use. Sublessee shall use the Premises for uses specified in the Master Lease, generally described as the office operations of a solid waste collection business, a recycling facility, and a trash transfer station, including office, repair and storage facilities for equipment used in collecting and transferring trash, and for no other purposes without prior written consent of Sublessor. Sublessee's business shall be established and conducted throughout the term hereof in a first class manner. Sublessee shall not use the Premises for, or carry on, or permit to be carried on, any offensive, noisy or dangerous trade, business, manufacture or occupation.

*6. Indemnification. Sublessee shall indemnify and save harmless the County of San Diego, its officers, agents, and employees from and against any and all claims, demands, liabilities, or loss of any kind or nature which the County, its officers, agents, or employees may sustain or incur, or which may be imposed upon them or any of them for injury to, or death or, persons or damage to property, as a result of, arising out of, or in any manner connected with this Sublease or with occupancy and use of the Subleased Premises by Sublessee, its officers, agents, employees, licensees, patrons or visitors except as attributable to an act or omission of the County. Sublessee further agrees to pay any and all costs and expenses, including, but not limited to, court costs and reasonable attorneys' fees, incurred by the County on account of any such claims, demands, or liabilities.

*7. Provisions Constituting Sublease. This Sublease is subject to all of the terms and conditions of the Master Lease. Sublessee shall assume and perform the obligations of Sublessor and Lessee in said Master Lease, to the extent said terms and conditions are applicable to the Premises subleased pursuant to this Sublease. Sublessee shall not commit or permit to be committed on the Premises any act or omission which shall violate any term or condition of the Master Lease. In the event of the termination of Sublessor's interest as Lessee under the Master Lease for any reason, then this Sublease shall terminate coincidentally therewith without any liability of Sublessor and the County to Sublessee. Sublessee hereby acknowledges and agrees that Sublessee waives all rights to any form of Relocation Assistance provided for by local, State, or Federal law that Sublessee--may be entitled to by reason of this Sublease.

*8. Federal Aviation Administration Requirements. In the event there is any conflict between the provisions in this Clause and the other provisions in this Sublease, the provisions in this Clause shall take precedence.

a. Sublessee, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said

property described in this Sublease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Sublessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

b. Sublessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that Sublessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

c. That in the event of breach of any of the above nondiscrimination covenants, Sublessor shall have the right to terminate this Sublease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Sublease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

d. Sublessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, THAT Sublessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

e. Non-compliance with Provision d above shall constitute a material breach thereof and in the event of such non-compliance Sublessor shall have the right to terminate this Sublease and the estate hereby created without liability therefore, or at the election of Sublessor, the County or the United States, any or all said entities shall have the right to judicially enforce said Provisions.

f. Sublessee agrees that it shall insert the above five (5) Provisions in any sub-sublease, contract or agreement by which said Sublessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises herein subleased.

g. Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Sublessee assures that it will require that its covered suborganizations provide assurances to Sublessee that they similarly will undertake affirmative action programs and that they will require assurance from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effort.

h. the County reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Sublessee, and without interference or hindrance.

i. the County reserves the right, but shall not be obligated to Sublessee, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Sublessee in this regard.

j. This Sublease shall be subordinate to the provisions and requirements of any existing or future agreement between the County and the United States, relative to the development, operation or maintenance of the Airport.

k. There is hereby reserved to the County, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises herein subleased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Airport.

l. Sublessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the subleased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the subleased Premises.

m. Sublessee by accepting this expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the land subleased hereunder that conflicts with Part 77 of the Federal Aviation Regulations. In the event the aforesaid covenants are breached, the County and/or Sublessor reserve the right to enter upon the land subleased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Sublessee.

n. Sublessee by accepting this Sublease agrees for itself, its successors and assigns that it will not make use of the subleased Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the County and/or Sublessor reserve the right to enter upon the Premises hereby subleased and cause the abatement of such interference at the expense of Sublessee.

o. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

p. This Sublease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

*9. Signs. Sublessee shall not erect nor cause to be erected any sign on the Subleased Premises without the prior written approval of the County. A written request for sign approval must include the size, type, color and location of the proposed sign and said application must be concurred in by Sublessor before submittal to the County.

*10. Substance Abuse. Sublessee and its employees and agents shall not use or knowingly allow the use of the subleased Premises for the purpose of unlawfully driving a motor vehicle or aircraft under the influence of an alcoholic beverage or any drug or for the purpose of unlawfully selling, serving, using, storing, transporting, keeping, manufacturing or giving away alcoholic beverages or any controlled substance, precursor, or analog specified in Division 10 of the California Health and Safety Code, and violation of this prohibition shall be grounds for immediate termination of this Sublease.

This Sublease entered into this _____ day of October 19__.

SUBLESSEE: _____

SUBLESSOR: _____

By _____
(Title)

By _____
(Title)

By _____
(Title)

By _____
(Title)

Address _____

Address _____

EXHIBIT A

DESCRIPTION AND PLAT OF THE PREMISES

Parcel No. 97-0085-A1

That portion of McClellan-Palomar Airport, in the City of Carlsbad, County of San Diego, State of California, described in deed to the County of San Diego, recorded January 18, 1974 as File/Page No. 74-014190 in the Office of the County Recorder of said County, described as follows:

BEGINNING at the most Southerly corner of land described in deed to the City of Carlsbad recorded June 30, 1982 at File/Page No. 82-201566 in said County Recorder's Office; thence along the Southerly boundary of said Carlsbad land, North 78°42'04" West, 635.35 feet to a point on the Easterly line of a 48.00 foot road and utility easement granted to said City of Carlsbad on said 1982 deed; thence along said Easterly line, South 11°17'56" West, 519.92 feet to the beginning of a tangent 326.00 foot radius curve, concave Easterly; thence Southerly, along the arc of said curve, through a central angle of 54°45'22", a distance of 311.55 feet; thence tangent to said curve South 43°27'26" East, 112.20 feet; thence leaving said Easterly line, North 51°31'08" East, 235.72 feet; thence North 61°24'19" East, 355.40 feet; thence North 57°22'14" East, 246.04 feet to the beginning of a tangent 50.00 foot radius curve concave Westerly; thence ~~Northeasterly~~ along the arc of said curve, through a central angle of 88°35'04", a distance of 77.30 feet; thence tangent to said curve North 31°12'50" West, 51.72 feet; thence North 53°37'13" West, 169.04 feet; thence North 4°55'29" East, 93.29 feet to the POINT OF BEGINNING.

PLAT OF THE PREMISES

[SEE ATTACHED]

PALOMAR

S79°20'37"E

703.35'

PARCEL 97-0085-A1
10.975 ACRES

PARCEL
84-0127-A
5.128 AC.

650.00'
S17°39'21"W

S73°30'37"E
232.43'

N78°31'30"E

D=52°51'51"
L=300.79'
R=326'

S73°30'37"E

N10°39'23"E
39.50'

S38°45'17"E
200.00'

S38°45'17"E
304.21'

APPROACH

EXHIBIT B

FEDERAL AVIATION ADMINISTRATION REQUIREMENTS

In the event there is any conflict between the provisions in this Exhibit and the other provisions in this Lease, the provisions in this Exhibit shall take precedence.

a. Lessee for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

b. Lessee for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

c. That in the event of breach of any of the above nondiscrimination covenants, the County shall have the right to terminate this Lease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

d. Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not

unjustly discriminatory prices for each unit or service; PROVIDED, THAT Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

e. Non-compliance with Provision d above shall constitute a material breach thereof and in the event of such noncompliance the County shall have the right to terminate this Lease and the estate hereby created without liability therefore or at the election of the County or the United States either or both said Governments shall have the right to judicially enforce said Provisions.

f. Lessee agrees that it shall insert the above five (5) Provisions in any sublease, contract or agreement by which said Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises herein leased.

g. Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Lessee assures that it will require that its covered suborganizations provide assurances to Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

h. The County reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Lessee and without interference or hindrance.

i. The County reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard.

j. This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the County and the United States, relative to the development, operation or maintenance of the Airport.

k. There is hereby reserved to the County, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises herein leased. This public right of

flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Airport.

l. Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the leased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the leased Premises.

m. Lessee, by accepting this, expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder that conflicts with Part 77 of the Federal Aviation Regulations. In the event the aforesaid covenants are breached, the County reserves the right to enter upon the land leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Lessee.

n. Lessee, by accepting this Lease, agrees for itself, its successors and assigns that it will not make use of the leased Premises in any manner which might interfere with the landing and taking off of aircraft from said Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the County reserves the right to enter upon the Premises hereby leased and cause the abatement of such interference at the expense of Lessee.

o. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

p. This Lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

EXHIBIT C

MCCLELLAN-PALOMAR AIRPORT
INDUSTRIAL AREAS
DEVELOPMENT STANDARDS

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**MCCLELLAN-PALOMAR AIRPORT
INDUSTRIAL AREAS
DEVELOPMENT STANDARDS**

1. LAND USES

a. Accepted Uses. The following primary uses will be acceptable subject to approval of the County and compliance with these development standards and the performance standards specified for McClellan-Palomar Airport:

- (1) Research and development uses.
- (2) Industrial and manufacturing uses.
- (3) Warehousing, storage, and wholesaling.
- (4) Offices, services, sales activity, and other necessary buildings and uses appurtenant to permitted uses specified in 1, 2, and 3 above.
- (5) Signs pertaining only to the use conducted within buildings or signs pertaining to the sale or lease of the premises on which they are located in accordance with standards contained herein.
- (6) Off-street parking and loading, vehicular and pedestrian circulation, and landscaping in accordance with standards specified herein.
- (7) On the same leasehold or building site with a permitted industrial park use, one dwelling unit occupied exclusively by a caretaker or superintendent of such use and his/her family may be permitted upon approval of the County.
- (8) Finance, insurance, real estate and business services, provided such services involve primary emphasis on processing or production, to the exclusion of services rendered to customers on the premises, to which end such offices shall be called process offices.

b. Prohibited Uses. Uses not falling into the above categories are not permitted unless specifically set forth in the Lease.

2. CONDUCT OF USE. All manufacturing operations shall be conducted within an enclosed building. All storage shall be conducted within a totally enclosed building or enclosed by a six (6) foot high or higher, view obscuring fence or wall. This fence shall not encroach into any required exterior yard. No storage shall exceed the height of the wall or fence.

3. BUILDING SETBACKS. No building, structure (except a wall or landscape feature--or fence) shall at any time be erected or maintained on any site within twenty-five (25) feet from any site boundary abutting any street.

4. BUILDING CONSTRUCTION.

a. Coverage. All buildings, including accessory buildings and structures, and all paved areas shall not cover more than ninety percent (90%) of the net lot area.

b. Exterior Walls. Any building erected within the industrial park shall conform to the following:

(1) Exterior walls shall be concrete or masonry except where specific approval is given by the County for architecturally acceptable alternate materials and design,

(2) Exterior walls shall be painted or treated in a manner acceptable to the County.

5. HEIGHT LIMIT. No building or structure shall exceed two stories or 35 feet in height, whichever is the lesser; provided, however, buildings or structures located one hundred (100) feet or more from any property line and exceeding 35 feet in height may be permitted upon approval by the County.

6. MINIMUM DISTANCE BETWEEN BUILDINGS. There shall be a minimum ten (10) feet between all buildings located on the same site.

7. MULTIPLE OCCUPANCY BUILDINGS. Multiple occupancy of buildings is permitted. In case of multiple occupancy, off-street parking, off-street loading, outdoor trash facilities, and on-site vehicular and pedestrian circulation systems must be shared in common; provided that separate such facilities may be permitted by the County where justified and when such provision does not otherwise deviate from the specifics and intent of these development standards.

8. REQUIRED SCREENING.

a. Parking Areas. Where parking space areas are located so as to be visible from a street, there shall be a landscaped screen at least five (5) feet in width, planted with trees, shrubs, ground cover, or combination of landscaping and aggregate materials that will significantly soften the view of such areas. Such landscaping may be credited to the ten percent (10%) requirement of Paragraph 14.

b. Screening Types. Where screening is required herein it shall consist of one, or any combination of the following types, in an aesthetically designed configuration.

(1) Walls: A wall shall consist of concrete, stone, brick, tile, or similar type of solid masonry material a minimum of four inches thick.

(2) Berms: A berm shall consist of landscaped mounded earth designed in such a way as to provide desired screening effect.

(3) Fences, solid: A solid fence shall be constructed of masonry.

(4) Fences, open: An open weave or mesh type fence shall be combined with plant materials or view obscuring slats to form an opaque screen.

(5) Planting: Plant materials, when used as a screen, shall consist of compact evergreen plants. They shall be of a kind, or used in such a manner, so as to provide screening having a minimum thickness of two (2) feet within eighteen (18) months after initial installation.

c. Roof Tops. Roof top equipment such as HVAC units shall be screened from view from both street level and above. To that end, all duct work and electrical conduits are to be run underneath the roof surface. In addition, the equipment should be clustered and roof top color shall be considered during the design of the buildings.

9. HEIGHT OF FENCES, WALLS, AND PLANTED MATERIALS.

a. Fences and Walls. No decorative or screening fences or walls shall exceed the following height limits above ground elevation:

(1) Within required front or side yard setback abutting a street: Forty-two (42) inches except within five (5) feet of the intersection of a driveway and a street, a driveway and a walkway, a driveway and parking area circulation aisle, or two (2) driveways in which cases the height limit shall be thirty (30) inches.

(2) All other areas: Eight (8) feet, unless otherwise approved by the County.

b. Plant Materials. Except where used as an opaque screen, plant materials may be permitted at any height not constituting a hazard to operation of aircraft based on the judgment of the County.

10. OFF-STREET PARKING AND LOADING SPACE.

a. Parking. All parking shall be designed to be provided at the ratio of one (1) off street parking space per three hundred (300) square feet of gross floor area if the proposed

development of the Premises is recognized as a standard warehouse or manufacturing use, paved parking may be provided at the ratio of one space per six hundred (600) square feet. However, the remainder of the land area necessary to provide an ultimate parking ratio of one (1) space per three hundred (300) square feet of gross floor must be available for future parking expansion. This area may be made a part of the landscaped area of the Premises until such time as the additional parking is needed, however it will not be considered as part of the required 10% landscaping coverage outlined in Clause 14. (LANDSCAPING) below.

b. Loading Space. All buildings with a gross floor area greater than one thousand (1,000) square feet shall be served with a loading area with minimum dimension of twenty (20) feet by twenty (20) feet. One (1) additional loading area shall be provided for buildings with a gross floor area exceeding twelve thousand (12,000) square feet. Loading areas shall not be placed in any required yard areas or parking spaces.

c. Dimensions. Each parking space shall be a minimum of nine (9) feet wide and twenty (20) feet deep.

d. Location. All parking and loading spaces shall be on the same leasehold Premises with the building or structures they are to serve.

e. Improvement of Parking Spaces and Parking Areas.

(1) All parking spaces or areas, loading berths, approaches, and driveways shall be adequate for anticipated wheel loads, with a structural section designed by a soils engineer, and constructed of Portland Cement (concrete over a base course of adequate stability).

(2) All parking spaces abutting the perimeter of the property shall be provided with securely installed concrete wheel barriers or concrete curbs not less than four (4) inches in height.

f. Marking of Parking Spaces. The location of each parking space shall be identified and maintained by permanent surface markings.

g. Parking Restrictions. On street parking within the Industrial Park shall conform with the current City of Carlsbad Code.

11. ON-SITE CIRCULATION.

a. Ingress and Egress.

(1) On-site driveways shall be located so as to serve multiple purposes such as parking and loading areas wherever possible.

(2) On-site driveways shall have an unobstructed paved surface minimum width of not less than fifteen (15) feet per one-way drive, or twenty-four (24) feet for two-way drive.

(3) Parking, loading areas, and driveways shall be arranged to permit vehicular traffic to move into and out of parking and loading areas, driveways, and ramps without the backing of any vehicle onto a street.

(4) Unobstructed and adequate maneuvering aisles or turn-around areas shall be provided as necessary to insure that all vehicles shall enter the street or highway in a forward manner.

(5) Parking areas, driveways, maneuvering aisles, ramps, and turn-around areas shall be kept free and clear of obstructions at all times.

b. Driveway Aprons. All driveway aprons will be installed concurrently with individual site development and shall be commercial driveways of Portland cement concrete, six (6) inches thick from curb to right-of-way line with minimum width of fifteen (15) feet at the curb line for one-way traffic and thirty (30) feet for two-way traffic according to Standard Drawing G-16. Where driveway aprons will serve semi-trailers, they shall be no less than twenty-four (24) feet and thirty-six (36) feet respectively, and may be constructed as alley aprons with appropriate curb returns.

c. Pedestrian Walkways. Easily accessible and adequate pedestrian walkways consisting of concrete, decorative gravel, paving blocks, or other aesthetically pleasing materials shall be provided.

12. SIGNS.

a. Identification. Not more than two (2) signs identifying the name and address of the occupant and the products, activities or facilities located on the Premises are permitted for each Premises except as hereinafter specified.

(1) One (1) such sign may be a single-face sign mounted on and parallel to a wall of the main building. Such sign shall be proportional to the size of the building wall upon which it is mounted but shall not exceed an area of forty-eight (48) square feet. Such a sign may not extend above the top of the parapet wall, the roof line at the wall, the eaves of the building, or portion of the building to which attached, whichever is applicable; nor shall the sign face protrude more than eighteen (

18) inches from the face of the wall upon which it is mounted. One such sign may be a single- or double-faced monument or free-standing sign, integrated with a landscape arrangement and located not closer than ten (10) feet to the front property line. The size of such sign shall be proportional to the building site frontage but not exceeding an area of sixty (60) square feet per face nor an overall height of eight (8) feet above the average ground elevation directly beneath the sign.

(2) Roof-mounted and pole signs are not permitted, except that a sloping roof, the slope of which varies no more than forty-five (45) degrees from a vertical plane, shall be considered wall space for the purpose of placement of wall signs.

(3) More than one wall sign may be permitted only under the following circumstances:

(a) Where a building site abuts more than one street, one wall sign may be allowed facing each street, provided the combined area of all such signs shall not exceed seventy-two (72) square feet.

(b) In the case of multiple occupancy of the same Premises consisting of four or fewer establishments, each may have one (1) single- faced wall sign not exceeding an area of thirty (30) square feet; for five (5) or more establishments, each may have one (1) single-faced wall sign not exceeding an area of twenty-five (25) square feet. Said signs shall be in lieu of, not in addition to, the single wall sign per Premise otherwise specified herein.

b. Directional Signs. Directional signs may be single or double face and are limited to informational signs identifying facilities by category and/or function only. They may not exceed eight (8) square feet per face or overall height of eight (8) feet above grade.

c. Safety Signs. Safety signs alert the passersby on the site to potential dangers and include Stop, Slow, Curve, Danger, High Voltage, etc. The shape and color of safety signs shall be of the same size shape and color as contained in the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways as printed by the Bureau of Public Roads, U.S. Department of Commerce.

d. Real Estate Signs. One single or double-faced real estate sign not exceeding twelve (12) square feet per face giving information on the construction, sale or lease of the buildings, property or premises upon which it is displayed shall be permitted. No such sign shall be permitted more than ninety (90) days prior to nor ten (10) days after such space is available for lease or sale.

e. Sign Design. Identification signs must be designed so as to provide uniformity of layout, lettering, graphics, size, shape, color, method of installation and construction. The location and design of all identification signs shall be subject to the written approval of the County. No sign of any type shall be installed without the prior written approval of the County.

13. TRASH COLLECTION AREAS. All trash collection areas shall be located outside of areas required to be devoted to landscaping and shall be enclosed by a wall and heavy duty solid gates not less than six (6) feet in height. Portland cement concrete floors and aprons are required in trash collection areas.

14. LANDSCAPING.

a. Required Landscaping Areas. Landscaping plans shall be required and submitted for approval of the County. All exterior yards, except for driveways shall be landscaped and maintained, however, in no event shall the total landscaped area be less than ten percent (10%) of the gross lot area. All areas not in a driveway or sidewalk between street curb and the property line shall be landscaped and maintained by Lessee and may be included in the above mentioned ten percent on-site requirement.

b. Landscaping Design.

(1) Coverage: At least seventy-five percent (75%) of the surface landscaped shall be planted with a compatible combination of trees, shrubs, vines, flowers or ornamental ground cover. The remainder may include features such as pedestrian walkways, rock groupings, sculptures, pools, fountains, outdoor seating areas, decorative paving, and gravel areas, interspersed with planting areas.

(2) Spacing: Plant material spacing shall conform to the following standards: A minimum of twenty-five (25) feet from the back of sidewalk at street intersections to the center of the first tree or the center of the first large shrub ten feet in height or more at maturity.

c. Irrigation. Prior to commencing any use of the property, required landscaped areas shall be planted and a permanent type sprinkler system or similar watering system or device, adequate to provide water necessary to properly maintain the particular plant materials used, shall be constructed and thereafter maintained in good working order.

15. OTHER REGULATIONS. In addition to the provisions of these Development Standards, all development on the Premises shall conform to the standards specified by the applicable Federal Aviation Administration Regulations, laws of the State of California, the Carlsbad Municipal Code and those ordinances and policies promulgated by the Board of Supervisors which regulate

EXHIBIT D

MCCLELLAN-PALOMAR AIRPORT
INDUSTRIAL AND AVIATION AREAS
PERFORMANCE STANDARDS

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the administration, land use, construction, and development of the County Airports.

In the event there is any conflict between these Development Standards and the regulations, laws, and/or ordinances of the above mentioned agencies, the most restrictive shall apply.

MCCLELLAN-PALOMAR AIRPORT
INDUSTRIAL AND AVIATION AREAS
PERFORMANCE STANDARDS

1. NOISE.

a. Standards. At no point on or beyond the boundary of the leasehold Premises shall the maximum sound level resulting from any operation, activity or use exceed $Leq(h) = 70$ dB for continuous noise. If the measured ambient level exceeds the applicable limit noted above, the allowable one hour average sound level shall be the ambient noise level. The ambient noise level shall be measured when the alleged noise violation source is not operating.

b. Method of Measurement. Noise shall be measured with a sound level meter having an A-weighted filter constructed in accordance with specifications of the American National Standards Institute for type S-2A general purpose sound level meters.

(1) Impact noise shall be measured using the fast response of the sound level meter. Impact noises are intermittent sounds such as from a punch press or drop-forge hammer.

(2) Continuous noise shall be measured using the slow response of the sound level meter.

c. Sound Level (Noise Level). Sound level shall mean the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network as specified in American National Standards Institute specifications for sound level meters (ANSI.4-1971, or the latest revision thereof). If the frequency weighting employed is not indicated, the A-weighting is implied.

d. Aircraft Engine Runups. Lessee shall restrict aircraft engine tests and maintenance runups performed on the leasehold Premises to idle power settings. Lessee shall restrict aircraft tests and maintenance runups at greater than power settings to locations on the Airport and during the time of day authorized in writing by the County.

e. Exemptions. The following sources of noise are exempt from the specified maximum sound level:

(1) Transportation vehicles not under the control of Lessee;

(2) Occasionally used safety signals, warning devices, and emergency pressure relief valves; and

(3) Temporary construction activity between 7:00 a.m. and 7:00 p.m.

2. GLARE.

a. Standards. All light fixtures or light sources shall be installed or used so as to comply with the rules and regulations of the Federal Aviation Administration or any successor agencies and other governmental agencies governing height, type and placement of lights as they may affect the safety of aircraft operations into, from and around the Airport. In addition:

(1) All outdoor lighting installed shall utilize low pressure sodium lamps and be shielded from above in such a manner that the edge of the shield shall be level with or below the center of the light source.

(2) All light fixtures shall be designed and adjusted so as to reflect light downward, away from any other premises.

(3) Any operation, activity, or use producing intense glare shall be conducted within an enclosed or screened area in such a manner that the glare emitted will not be discernible at any point on or beyond the boundary of the leasehold Premises.

b. Prohibitions. The use of floodlights on vertical or horizontal surfaces, searchlights, and red, blue, or green lights shall be prohibited; provided, however, red, green and blue lights are permitted where required by FAA regulations as necessary for the safety of aircraft operations.

3. ELECTROMAGNETIC INTERFERENCE.

a. Standards. At no point on or beyond the boundary of the leasehold Premises shall the electromagnetic interference resulting from any operation, activity or use of equipment not licensed by the Federal Communications Commission for communications or navigational purposes exceed the maximum permitted values tabulated below:

Section of Electromagnetic Spectrum from-to		Maximum Field Strength at Edge of Premises Containing Interference Source
10 - 100	Kilocycles	500 Microvolt/Meter
100 - 535	Kilocycles	300 Microvolt/Meter
535 - 1605	Kilocycles	200 Microvolt/Meter
1605 Kc.- 44	Megacycles	200 Microvolt/Meter
44 - 88	Megacycles	150 Microvolt/Meter
88 - 174	Megacycles	200 Microvolt/Meter
174 - 216	Megacycles	150 Microvolt/Meter
216 - 580	Megacycles	250 Microvolt/Meter
580 - 920	Megacycles	300 Microvolt/Meter

Irrespective of the above standards, any electromagnetic disturbance that causes interference with radio transmissions, aircraft instruments, navigational aids, or other electromagnetic receptors essential to aircraft operations shall be modified or abated upon request of the County.

b. Method of Measurement. The level of radiated electromagnetic interference shall be measured by using standard field strength measuring techniques. The maximum value of the tabulation shall be considered as having been exceeded if at any frequency in the section of the spectrum being measured, the measured field strength exceeds the maximum value tabulated for this spectrum section.

4. VIBRATION.

a. Standards. At no point on or beyond the boundary of the leasehold Premises shall the maximum particle velocity resulting from any operation, or activity or use exceed 0.10 inches per second for steady-rate vibrations and 0.20 inches per second for impact vibrations.

b. Method of Measurement. Vibration shall be measured with a seismograph or complement of instruments capable of recording vibration displacement and frequency or particle velocity simultaneously in three mutually perpendicular directions. When particle velocity is computed on the basis of displacement and frequency, the following formula shall be used:

$$P.V. = 6.28 F X D$$

P.V. = Particle velocity, inches per second

F = Vibration frequency, cycles per second

D = Single amplitude displacement of the vibration, inches

The maximum particle velocity shall be the maximum vector sum of the three mutually perpendicular components recorded simultaneously.

(1) Steady-rate vibrations are vibrations which are continuous or vibrations in discrete impulses occurring 100 or more times per minute.

(2) Impact vibrations are vibrations in discrete impulses occurring less than 100 times per minute.

5. TOXIC MATTER.

a. Standards. At no point on or beyond the boundary of the leasehold Premises shall the release of any airborne toxic matter resulting from any operation, activity or use exceed 3.0 percent of the Threshold Limit Value; provided, however, if a

toxic substance does not have an established Threshold Limit Value, Lessee shall satisfy the County Department of Public Health that the proposed levels will be safe to the general population.

b. Method of Measurement. The maximum concentration is given as a fractional amount of the ACGIH Threshold Limit Value which is the maximum concentration permitted an industrial worker for eight hours exposure per day, five days a week, as adopted by the American Conference of Governmental Industrial Hygienists (ACGIH). Toxic matter shall be measured at ground level or habitable elevation using ACGIH or ASTM methods and shall be the average of any 24-hour sampling period.

6. ODOR. At no point on or beyond the boundary of the leasehold Premises shall any odorous gases or other odorous matter resulting from any operation, activity or use be detectable.

7. SMOKE, PARTICULATE MATTER, AND OTHER AIR CONTAMINANTS. All operations, activities, and uses shall be conducted so as to comply with the rules and regulations of the San Diego the County Air Pollution Control District governing smoke, particulate matter, and other air contaminants.

8. LIQUID WASTES.

a. Standards. All operations, activities, and uses shall be conducted so as to comply with the rules and regulations of the State of California Water Quality Control Board - San Diego Region and the County San Diego.

b. Prohibitions. The discharge of any toxic or waste material onto the ground, into any drainage channel, or the discharge of any toxic material into any on-site leaching system shall be prohibited.

9. FIRE AND EXPLOSIVE HAZARDS. All operations, activities, and uses shall be conducted so as to comply with the rules and regulations of the applicable fire protection agency and the Uniform Fire Code governing fire and explosive hazards.

10. OTHER REGULATIONS. In addition to the provisions of these Performance Standards, all operations on the Premises shall conform to the standards specified by the applicable Federal Aviation Administration Regulations, laws of the State of California and the applicable local ordinances which regulate land use and operations. In the event of a conflict between these Performance Standards and various applicable laws, ordinances and regulations, the most restrictive shall apply.

EXHIBIT E
INSURANCE REQUIREMENTS

Without limiting Lessee's indemnification obligations to the County, Lessee shall provide and maintain, during the Term and for such other period as may be required by the provisions of this exhibit ("Insurance Exhibit") or the Lease, at its sole expense, insurance in the amounts and form specified in this Insurance Exhibit.

A. Liability Insurance. Lessee shall procure either Comprehensive General Liability insurance or Commercial General Liability insurance applying to its use and occupancy of the Premises, or any part thereof, or any areas adjacent thereto, and the business operated by Lessee or any other occupant on the Premises, in the amounts and form set forth below:

(1) **Comprehensive General Liability Insurance.** A policy of Comprehensive General Liability Insurance which provides limits of:

- (a) Combined Single Limit per occurrence: \$5,000,000
- (b) Fire Damage Limit (Any One Fire): \$ 500,000
- (c) Medical Expense (Any One Person): \$ 5,000

OR

(2) **Commercial General Liability Insurance.** A policy of Commercial General Liability Insurance which provides limits of:

- (a) Per Occurrence: \$5,000,000
- (b) Location Specific Aggregate: \$5,000,000
- (c) Products/Completed Operations: \$5,000,000
- (d) Personal & Advertising Injury limit: \$5,000,000
- (e) Fire Damage Limit (Any One Fire): \$ 500,000
- (f) Medical Expense Limit (Any One Person): \$ 5,000

(3) **Required Liability Policy Coverage.** Any liability policy provided by Lessee under this Insurance Exhibit shall contain the following coverage:

- (a) Premises and Operations
- (b) Products/Completed Operations
- (c) Contractual Liability expressly including liability assumed under this Lease.
- (d) Personal Injury Liability
- (e) Independent Contractors' Liability
- (f) Pollution liability with no exclusion for operations at the Premises
- (g) Severability of Interest clause providing that the coverage applies separately to each insured, and that an act or omission by one of the named

insureds shall not reduce or avoid coverage to the other named insureds.

(4) Additional Insured Endorsement. Any general liability policy provided by Lessee under this Insurance Exhibit shall contain an endorsement which applies its coverage to the County, the members of the Board of Supervisors of the County, and the officers, agents, employees and volunteers of the County, individually and collectively, as additional insureds.

(5) Primary Insurance Endorsement. The coverage afforded by the additional insured endorsement described above shall apply as primary insurance, and any other insurance maintained by the County, the members of the Board of Supervisors of the County, or its officers, agents, employees and volunteers, or any the County self-funded program, shall be excess only and not contributing with such coverage.

(6) Form of Liability Insurance Policies. All liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury and other covered loss, however occasioned, occurring during the policy term, and shall specifically insure the performance by Lessee of that part of the indemnity agreement contained in this Lease relating to liability for injury to or death of persons and damage to property. If the coverage contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any aggregate limit has been paid or reserved, the County may require additional coverage to be purchased by Lessee to restore the required limits. Lessee may combine primary, umbrella and as broad as possible excess liability coverage to achieve the total limits indicated above. Any umbrella or excess liability policy shall include the Additional Insured Endorsement described below.

B. All Risk Fire Insurance. A standard fire policy including all-risk or special form perils, in an amount of ninety percent 90% of the full replacement cost of the Building and Improvements, without deduction for depreciation, including costs of demolition and debris removal. Such policy or policies of insurance shall include coverage for (i) Lessee's merchandise, (ii) fixtures owned by Lessee, (iii) any items identified in this Lease as improvements to the Premises constructed or owned either by the County or Lessee, and (iv) the personal property of Lessee, its agents and employees.

(1) Deductible. The deductible for the required fire insurance policy shall not exceed \$10,000 per occurrence and shall be borne by Lessee.

(2) Proceeds of Insurance. In the event of damage or destruction to the Premises covered by the fire or physical

hazard insurance required of Lessee under this Insurance Exhibit, the proceeds of such insurance shall be allocated as follows:

(a) Proceeds from any or all of said insurance policies shall be payable, first, to the holder of any mortgage or deed of trust permitted under this Lease to the extent required by said mortgage or deed of trust;

(b) Any balance remaining after application of insurance proceeds in the manner indicated in subparagraph (a), above, shall be credited to Lessee. If Lessee, or the County, is required to rebuild or restore the Premises pursuant to the provisions of this Lease, the amount of insurance proceeds credited to Lessee shall be impounded with an independent depository acceptable to the County in accordance with a rider to the insurance policy setting forth this procedure, to be disbursed to pay, to the extent such portion of proceeds may be sufficient, Lessee's obligations to repair and restore the Premises pursuant to the provisions of this Lease;

(c) In the event that, after paying all of the costs and expenses of repair and restoration referenced in subparagraph (b), above, any balance of insurance proceeds remains, it shall be retained by Lessee. Should it be anticipated that the proceeds of insurance to be received by Lessee will be insufficient to repair or restore the Premises as required by this Lease, Lessee shall have the option to either (i) terminate this Lease and turn over all insurance proceeds from the impound account to the County, or (ii) repair or restore the Premises as required under this Lease using the available insurance proceeds, with any shortfall in the amount necessary to repair or restore the Premises being contributed, in cash, by Lessee. (See, Section 20.5 (UNINSURED CASUALTY) under Article 20 (DAMAGE OR DESTRUCTION)).

(d) Notwithstanding any provision of the foregoing to the contrary, upon any termination of this Lease all proceeds from Lessee's insurance, but excluding such proceeds attributable to damages sustained by Lessee's merchandise or personal property, shall be disbursed and paid to the County.

C. Comprehensive Automobile/Aircraft/Watercraft Liability Insurance. Lessee shall procure Comprehensive Automobile/Aircraft/Watercraft Liability Insurance, applying to its use and occupancy of the Premises and the business operated by Lessee or any other occupant on the Premises. Such policy shall be written for bodily injury, including death, and property damage, however occasioned, occurring during the policy term, in the amount of not less than One Million Dollars (\$1,000,000), combined single limit per occurrence, applicable to all owned, non-owned and hired vehicles/aircraft/watercraft. Notwithstanding any provision of the foregoing to the contrary,

however, such coverage may be waived in writing by the County if it determines there is no significant exposure to these risks.

D. Statutory Workers' Compensation and Employer's Liability Insurance. Lessee shall provide the statutory amount of workers' compensation insurance, with a broad form all-states endorsement, and with employer's liability coverage of no less than Three Million Dollars (\$3,000,000) per occurrence for all employees engaged in services or operations under this Lease. Lessee shall also provide U.S. Longshoremens' and Harbor Workers' Act coverage, when applicable.

E. General Provisions.

(1) **Certificates of Insurance.** Lessee shall, as soon as practicable following the placement of insurance required by this Insurance Exhibit, but in no event later than ten (10) days prior to the Effective Date, deliver to the County certified copies of the actual insurance policies specified by this Insurance Exhibit, or certificates evidencing the same, together with appropriate separate endorsements thereto, evidencing that Lessee has obtained such coverage for the period of the Lease. Thereafter, copies of renewal policies, or certificates and appropriate separate endorsements thereof, shall be delivered to the County within thirty (30) days prior to the expiration of the term of any policy required by this Insurance Exhibit. Lessee shall permit the County at all reasonable times to inspect any policies of insurance of Lessee which Lessee has not delivered to the County.

(2) **Claims Made Coverage.** If coverage is written on a "claims made" basis, the Certificate of Insurance shall clearly state so. In addition to the coverage requirements specified above, such policy shall provide that:

(a) The policy retroactive date coincides with or precedes Lessee's possession of the Premises (including subsequent policies purchased as renewals or replacements).

(b) Lessee will make every effort to maintain similar insurance during the required extended period of coverage following expiration of the Lease, including the requirement of adding all additional insureds.

(c) If insurance is terminated for any reason, Lessee shall purchase an extended reporting provision of at least two years to report claims arising in connection with the Lease.

(d) The policy allows for reporting of circumstances or incidents that might give rise to future claims.

(3) **Failure to Obtain or Maintain Insurance: the County's Remedies.** Lessee's failure to procure the insurance specified by

this Insurance Exhibit, or failure to deliver certified copies or appropriate certificates of such insurance, or failure to make the premium payments required by such insurance, shall constitute a material breach of the Lease, and the County may, at its option, terminate the Lease for any such default by Lessee.

(4) No Limitation of Obligations. The foregoing requirements as to the types and limits of insurance coverage to be maintained by Lessee, and any approval of said insurance by the County or its insurance consultant(s), are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Lessee pursuant to the Agreement, including, but not limited to, the provisions concerning indemnification.

(5) Notice of Cancellation or Change of Coverage. All certificates of insurance provided by Lessee must evidence that the insurer providing the policy will give the County thirty (30) days' written notice, at the address shown in the Section of this Lease entitled "Notices" below, in advance of any cancellation, lapse, reduction or other adverse change respecting such insurance.

(6) Qualifying Insurers. All policies of insurance required hereby shall be issued by companies which have been approved to do business in the State of California by the State Department of Insurance, and which hold a current policy holder's alphabetic and financial size category rating of not less than A, VII according to the current Best's Key Rating Guide, or a company of equal financial stability that is approved in writing by the County's Risk Manager.

(7) Review of Coverage. The County shall retain the right at any time to review the coverage, form and amount of insurance required by this Insurance Exhibit and may require Lessee to obtain insurance reasonably sufficient in coverage, form and amount to provide adequate protection against the kind and extent of risk which exists at the time a change in insurance is required.

(8) Self-Insurance. Lessee may, with the prior written consent of the County's Risk Manager, fulfill some or all or the insurance requirements contained in this Lease under a plan of self-insurance. Lessee shall only be permitted to utilize such self-insurance, however, if, in the opinion of the County's Risk Manager, Lessee's (i) net worth, and (ii) reserves for payment of claims of liability against Lessee, are sufficient to adequately compensate for the lack of other insurance coverage required by this Lease. Lessee's utilization of self-insurance shall not in any way limit liabilities assumed by Lessee under this Lease.

(9) Sublessees' Insurance. Lessee shall require any sublessee, and any sub-sublessee, of all or any portion of the

Premises to provide the insurance coverage described in this Insurance Exhibit prior to occupancy of the Premises.

(10) Waiver of Subrogation. Lessee and the County waive all rights to recover against each other or against any other tenant or occupant of the building, or against the officers, directors, shareholders, partners, employees, agents or invitees of each other or of any other occupant or tenant of the building, from any Claims (as defined in the Article 12 (INDEMNITY AND INSURANCE)), against either of them and from any damages to the fixtures, personal property, Lessee's improvements, and alterations of either the County or Lessee in or on the Premises, to the extent that the proceeds received from any insurance carried by either the County or Lessee, other than proceeds from any program of self-insurance, covers any such Claim or damage. Included in any policy or policies of insurance provided by Lessee under this Insurance Exhibit shall be a standard waiver of rights of subrogation against the County by the insurance company issuing said policy or policies.

EXHIBIT F

MCCLELLAN-PALOMAR AIRPORT

THE COUNTY OF SAN DIEGO REQUIRED SUBLEASE PROVISIONS

The following paragraphs must appear in each sublease of the Premises. Paragraphs marked with an asterisk (*) must be used exactly as written.

1. Parties. This Sublease is entered into by and between _____, hereinafter called "Sublessor", and _____, hereinafter called "Sublessee", as a Sublease under the Palomar Transfer Station Lease Agreement dated _____, 19__ (the "Master Lease"), also known as the County of San Diego Contract No. _____. Sublessor, under this Sublease, is Lessee and the County of San Diego is Lessor under said Master Lease.

2. Premises. Sublessor leases to Sublessee and Sublessee hires the following described Premises together with the appurtenances, situated in the County of San Diego, State of California: _____

Said Premises are shown on Exhibit A attached hereto.

3. Term. The term of this Sublease Agreement shall be for _____, commencing _____, 19__, and terminating _____, unless sooner terminated as provided herein. (Note: Termination date of Sublease cannot exceed expiration date of Master Lease.)

4. Rental. Sublessee shall pay to Sublessor as rent for the Premises in advance on the first day of each calendar month of the term of this Sublease without deduction, offset, prior notice or demand, in lawful money of the United States, the sum of _____ Dollars and _____ Cents (\$_____). If the commencement date is not the first day of the month, or if the Sublease termination date is not the last day of the month, a prorated month installment shall be paid at the then current rate for the fractional month during which the Sublease commences and/or terminates. Receipt of \$_____ is hereby acknowledged for rental for the first month, and the additional amount of \$_____ as non-interest bearing security for performance under this Sublease. In the event Sublessee has performed all the terms and conditions of this Sublease throughout the term, upon Sublessee vacating the Premises, the amount paid as a security deposit shall be returned to Sublessee after first deducting any sums owing to Sublessor.

5. Use. Sublessee shall use the Premises for uses specified in the Master Lease, generally described as the office operations of a solid waste collection business, a recycling facility, and a trash transfer station, including office, repair and storage facilities for equipment used in collecting and transferring trash, and for no other purposes without prior written consent of Sublessor. Sublessee's business shall be established and conducted throughout the term hereof in a first class manner. Sublessee shall not use the Premises for, or carry on, or permit to be carried on, any offensive, noisy or dangerous trade, business, manufacture or occupation.

*6. Indemnification. Sublessee shall indemnify and save harmless the County of San Diego, its officers, agents, and employees from and against any and all claims, demands, liabilities, or loss of any kind or nature which the County, its officers, agents, or employees may sustain or incur, or which may be imposed upon them or any of them for injury to, or death or, persons or damage to property, as a result of, arising out of, or in any manner connected with this Sublease or with occupancy and use of the Subleased Premises by Sublessee, its officers, agents, employees, licensees, patrons or visitors except as attributable to an act or omission of the County. Sublessee further agrees to pay any and all costs and expenses, including, but not limited to, court costs and reasonable attorneys' fees, incurred by the County on account of any such claims, demands, or liabilities.

*7. Provisions Constituting Sublease. ~~This Sublease is~~ subject to all of the terms and conditions of the Master Lease. Sublessee shall assume and perform the obligations of Sublessor and Lessee in said Master Lease, to the extent said terms and conditions are applicable to the Premises subleased pursuant to this Sublease. Sublessee shall not commit or permit to be committed on the Premises any act or omission which shall violate any term or condition of the Master Lease. In the event of the termination of Sublessor's interest as Lessee under the Master Lease for any reason, then this Sublease shall terminate coincidentally therewith without any liability of Sublessor and the County to Sublessee. Sublessee hereby acknowledges and agrees that Sublessee waives all rights to any form of Relocation Assistance provided for by local, State, or Federal law that Sublessee--may be entitled to by reason of this Sublease.

*8. Federal Aviation Administration Requirements. In the event there is any conflict between the provisions in this Clause and the other provisions in this Sublease, the provisions in this Clause shall take precedence.

a. Sublessee, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said

property described in this Sublease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Sublessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

b. Sublessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that Sublessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

c. That in the event of breach of any of the above nondiscrimination covenants, Sublessor shall have the right to terminate this Sublease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Sublease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

d. Sublessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, THAT Sublessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

e. Non-compliance with Provision d above shall constitute a material breach thereof and in the event of such non-compliance Sublessor shall have the right to terminate this Sublease and the estate hereby created without liability therefore, or at the election of Sublessor, the County or the United States, any or all said entities shall have the right to judicially enforce said Provisions.

f. Sublessee agrees that it shall insert the above five (5) Provisions in any sub-sublease, contract or agreement by which said Sublessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises herein subleased.

g. Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Sublessee assures that it will require that its covered suborganizations provide assurances to Sublessee that they similarly will undertake affirmative action programs and that they will require assurance from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effort.

h. the County reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Sublessee, and without interference or hindrance.

i. the County reserves the right, but shall not be obligated to Sublessee, to maintain and ~~keep in repair~~ the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Sublessee in this regard.

j. This Sublease shall be subordinate to the provisions and requirements of any existing or future agreement between the County and the United States, relative to the development, operation or maintenance of the Airport.

k. There is hereby reserved to the County, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises herein subleased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Airport.

l. Sublessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the subleased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the subleased Premises.

m. Sublessee by accepting this expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the land subleased hereunder that conflicts with Part 77 of the Federal Aviation Regulations. In the event the aforesaid covenants are breached, the County and/or Sublessor reserve the right to enter upon the land subleased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Sublessee.

n. Sublessee by accepting this Sublease agrees for itself, its successors and assigns that it will not make use of the subleased Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the County and/or Sublessor reserve the right to enter upon the Premises hereby subleased and cause the abatement of such interference at the expense of Sublessee.

o. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

p. This Sublease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

*9. Signs. Sublessee shall not erect nor cause to be erected any sign on the Subleased Premises without the prior written approval of the County. A written request for sign approval must include the size, type, color and location of the proposed sign and said application must be concurred in by Sublessor before submittal to the County.

*10. Substance Abuse. Sublessee and its employees and agents shall not use or knowingly allow the use of the subleased Premises for the purpose of unlawfully driving a motor vehicle or aircraft under the influence of an alcoholic beverage or any drug or for the purpose of unlawfully selling, serving, using, storing, transporting, keeping, manufacturing or giving away alcoholic beverages or any controlled substance, precursor, or analog specified in Division 10 of the California Health and Safety Code, and violation of this prohibition shall be grounds for immediate termination of this Sublease.

This Sublease entered into this _____ day of October 19__.

SUBLESSEE: _____

SUBLESSOR: _____

By _____
(Title)

By _____
(Title)

By _____
(Title)

By _____
(Title)

Address _____

Address _____

EXHIBIT B

1

2

**SUBLEASE AND DISPOSAL AGREEMENT BETWEEN ALLIED WASTE
INDUSTRIES, INC. AND WASTE MANAGEMENT, INC.**

3

(the "Term"); provided, however, that the parties may, upon mutual agreement on the terms and conditions applicable to such renewal period, extend the Term for an additional 5-year period. Upon expiration of the Term, the obligations of Sublessor to sublease the Premises to Sublessee and the obligations of Sublessee to sublease the Premises from Sublessor and the obligations of WMI and Allied to deliver and accept, respectively, Acceptable Waste (as defined in Section 3) shall terminate; provided, however, that all other rights and obligations of the parties hereunder shall survive the termination of this Agreement and continue until the same are fully satisfied or waived.

2. SUBLEASE PROVISION

2.1 Sublease. Sublessor shall sublease to Sublessee and Sublessee shall sublease from Sublessor the Premises. The parties acknowledge, however, that the sublease is made subject to and is subordinate to all the terms and conditions of the Lease, and that the parties will negotiate in good faith and enter into a separate sublease that incorporates, to the extent permissible under the Lease, the following terms and conditions and that also incorporates the terms of Exhibit F to the Lease (McClellan-Palomar Airport: The County of San Diego Required Sublease Provisions). The parties further acknowledge that the sublease is subject to Landlord's prior written consent.

2.2 Rent. Sublessee shall pay to Sublessor as rent for the Premises the sum of \$15,000 per month, in advance, on the first day of each month during the Term. In the event Sublessee fails to make payment when due, any amount remaining unpaid shall bear interest at the lesser of the rate of 1% per month or the highest rate of interest allowed under Applicable Laws, from such time to the actual date of payment. The obligations of Sublessee to pay rent hereunder shall not be subject to any set-off, abatement, counterclaim, existence of a dispute or any reason, known, or unknown, foreseeable or unforeseeable, which might otherwise constitute a legal or equitable defense or discharge of the liabilities of Sublessee hereunder or limit recourse to Sublessee.

2.3 Taxes and Utilities. Sublessor shall maintain all necessary electric, gas and water and sewer service for the operation of the Palomar Facility, and shall provide same to WMI with respect to the Premises. Sublessee shall reimburse Sublessor one-half (1/2) of Sublessor's utility costs, payable upon receipt by Sublessee of a copy of the utility invoice and evidence of payment by Sublessor. Sublessor shall pay all property taxes relating to the Palomar Facility. WMI shall reimburse Sublessor one-half (1/2) of all property taxes paid, except for any new or increased property taxes assessed solely with respect to the Transfer Station, payable upon receipt of the tax bill and evidence of payment by Sublessor. Sublessee shall be solely responsible for any personal property taxes imposed with respect to its trade fixtures, furnishings and equipment located on the Premises.

2.4 Assignment and Subletting. Sublessee shall not voluntarily or by operation of law assign, transfer, sublet, mortgage or otherwise transfer or encumber the Premises without Sublessor's prior written consent, which shall not be withheld unreasonably, provided however, that WMI may assign this Sublease to an affiliate without the consent of Sublessor or Allied.

2.5 Lease is Incorporated. Except as herein modified, the terms of the attached Lease shall govern this sublease.

2.6 Permitted Uses. Sublessee may utilize the Premises for parking of vehicles, maintenance, office facilities, and ancillary uses related to the operation of a solid waste and recyclable materials collection truck terminal (collectively, the "Permitted Uses").

2.7 Covenant of Quiet Enjoyment. Provided that Sublessee is in material compliance with the terms and conditions of this Section 2 and the Lease, Sublessor covenants that it will take no action that will interfere with Sublessee's quiet and peaceable enjoyment of the Premises for the Permitted Uses.

2.8 Encumbrances. Sublessor shall not pledge or encumber this Agreement, or any right or interest in the Premises or any of the improvements thereon, in any manner that would interfere with Sublessee's quiet and peaceable enjoyment thereof during the term of this Sublease, and any pledge or encumbrance of any kind or nature shall be made expressly subject to Sublessee's right of possession of the premises during the term of this Sublease.

2.9 Improvements. If and to the extent permitted by the Lease, Sublessee shall have the right to make improvements to the Premises upon the written consent of Sublessor, which shall not be unreasonably withheld nor required in the event of improvements of less than \$25,000 in cost.

2.10 Eminent Domain. If all or any portion of the Premises is taken in fee by a governmental entity and such taking interferes with the conduct of Sublessee's Permitted Uses, WMI shall have the right to terminate this Agreement without penalty upon 60 days written notice to Sublessor.

J. WMI's OBLIGATIONS

3.1 Exclusivity.

(a) During the Term hereof, WMI shall deliver to Allied and Allied agrees to accept at the Transfer Station all Acceptable Waste collected by WMI pursuant to its solid waste collection franchise agreement with the City of Carlsbad (the "Carlsbad Agreement") from and in the City of Carlsbad, California (the "Carlsbad Acceptable Waste") on an exclusive basis. WMI estimates the amount of Acceptable Waste to be delivered, based on a 5.5-day work week, to be approximately 350 tons per day. Notwithstanding the above, WMI's obligation to deliver the Carlsbad Acceptable Waste exclusively to the Transfer Station shall terminate (i) concurrently with the termination or expiration of the Carlsbad Agreement, however brought about, or (ii) should the City of Carlsbad refuse to approve of the disposal facility selected by Allied, or exercise its "flow control" rights to direct the Carlsbad Acceptable Waste to a facility other than the Transfer Station or to a disposal facility other than a disposal facility selected by Allied. WMI may also deliver additional amounts of Acceptable Waste, other than the Carlsbad Acceptable Waste, from time to time, in amounts to be determined by WMI. For handling, transporting and disposing of such Acceptable Waste, WMI shall pay Allied the fee set forth in

Section 5.1, subject to adjustment as provided in Section 5. No action by the City of Carlsbad which prevents or limits the delivery of Carlsbad Acceptable Waste to the Transfer Station or a disposal facility selected by Allied shall constitute a breach of this Agreement on the part of WMI, limit the term of this Agreement, or affect any of the terms and conditions of the Sublease provided in Section 2.

(b) WMI shall arrange, be responsible for, and bear the costs of delivering Acceptable Waste to Allied at the Transfer Station. WMI shall ensure that all waste it delivers to Allied is Acceptable Waste. WMI shall deliver the Acceptable Waste during the Transfer Station's normal hours of operation.

(c) Allied shall at all times maintain permitted capacity and operate the Transfer Station in a manner so as to allow the prompt receipt of the Carlsbad Acceptable Waste when and as delivered by WMI. With respect to all Acceptable Waste delivered by WMI, Allied shall operate the Transfer Station in a manner such that the truck turnaround times shall be minimized, and in no event exceed fifteen (15) minutes.

(d) WMI shall defend, indemnify and hold harmless Allied with respect to any notices of violation or other citations related to WMI's occupancy and operation of the transfer station, and will take reasonable corrective action in response thereto prior to the transfer of occupancy to Allied.

3.2 Composition of Waste. As used in this Agreement, "Acceptable Waste" means all garbage, refuse, rubbish and other materials and substances discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection and which are normally disposed of, or collected from residential (single family or multi-family), commercial, industrial, governmental and institutional establishments, and which are acceptable for disposal at Class III landfills in California.

3.3 Definition of Unacceptable Waste. Waste shall be considered "Unacceptable Waste" if:

(a) it fails to comply with the requirements of Section 3.2;

(b) it can now or hereafter be defined by any applicable federal, state or local statute, law, ordinance, code, rule, regulation, order, judgment, permit or license relating to the operation, maintenance and construction of the Transfer Station or the transportation, receipt, acceptance or disposal of waste materials ("Applicable Law") as a hazardous waste, a hazardous substance or hazardous material, or if it is determined by any governmental agency or unit having or claiming appropriate jurisdiction to be harmful, toxic or dangerous, or otherwise ineligible for disposal at Allied's disposal facility, provided, however, that Acceptable Waste may include de minimis amounts of hazardous substances commonly found in waste generated from residences and commercial premises that may be disposed of in Class III landfills in California.

(c) It is agricultural waste, explosive materials, corrosive materials, pathological waste, biological waste, offal (entrails, etc., of butchered animals), radioactive materials, ashes, foundry sand, mining waste, sewage sludge, cesspool and other human waste, human and animal remains, motor vehicles, major motor vehicle parts (including transmissions, rear ends, springs, fenders, batteries, battery cables, exhaust systems and gasoline tank), agricultural and farm machinery and equipment and major parts thereof, marine vessels and major parts thereof, any other large type of machinery or equipment, including thick walled or solid metallic objects such as castings, forgings, gas cylinders, 55 gallon drums, asbestos insulation, closed metal containers, barrels, buckets, or large motors, solid blocks of rubber or plastic, large rolls of carpet or fencing over 12 inches in diameter, steel or nylon rope, chains, cables or slings, logs larger than usually accepted according to Allied's normal operating procedure at its disposal facilities, tree stumps, more than an incidental amount of tires, white goods such as refrigerators, stoves and washing machines that have not been properly evacuated, liquid waste, including liquid chemical wastes, sewage and other highly diluted water-carried materials or substances and those in gaseous form, or special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended;

(d) it is construction materials and/or demolition debris which is not permitted under then applicable laws to be disposed of at Class III landfills in California; or

(e) it is any other material which may present a substantial endangerment to public health or safety, would cause applicable air quality or water effluent standards to be violated by the normal operation of Allied's disposal facilities or because of its size, durability or composition cannot be disposed of at Allied's disposal facilities or has a reasonable possibility of otherwise adversely affecting the operation or useful life of Allied's disposal facilities outside the normal usage expected for such facilities.

3.5 Rejection of Waste. This Agreement creates no obligation on Allied to accept or dispose of any Unacceptable Waste. Allied shall have the right in its reasonable discretion to reject delivery of any waste offered for acceptance by WMI which does not constitute Acceptable Waste. Allied may reject, in whole or in part, any load containing Unacceptable Waste. WMI's delivery vehicle in question shall immediately remove any Unacceptable Waste rejected by Allied and transport it to another lawful place of disposition.

3.6 Delivery Vehicles. Acceptable Waste shall be delivered by WMI, at its expense, to Allied at the Transfer Station in enclosed container vehicles or enclosed compactor vehicles which shall include, but not be limited to, properly covered roll-offs, complying with all Applicable Laws. Such vehicles shall be enclosed and self-unloading and shall comply with the identification procedures at the Transfer Station.

3.7 Weighing of Acceptable Waste. Allied shall operate and maintain, or cause to be operated and maintained, a scale facility at the Transfer Station. Upon arrival of an WMI delivery vehicle at a Transfer Station, Allied shall weigh each load of Acceptable Waste delivered to Allied for transportation and disposal. Allied shall keep daily records of the weight of each load of Acceptable Waste, and shall deliver a report of weights to WMI by electronic or other approved means prior to the close of business on the day the loads are delivered. WMI

reserves the right to use its own or other scales to verify the weight of each load, and to dispute the weight of, and payment of fees on, any load whose weight is materially different from that indicated on Allied's report.

3.8 Access to Premises. Allied shall grant or cause to be granted to WMI, its agents and employees, during the Term of this Agreement, access to the Transfer Station for purposes of fulfilling its obligations under this Agreement.

3.9 Permits and Licenses. WMI shall at all times maintain in full force and effect all permits, licenses and approvals necessary to deliver waste to Allied. WMI shall collect and deliver waste in compliance with all Applicable Laws.

4. **ALLIED'S OBLIGATIONS**

4.1 Transfer Station Premises. Allied or its designee shall be responsible for the construction, operation and maintenance of all improvements at the Transfer Station. As of June 1, 2002 Allied accepts the transfer of the right to occupy the Transfer Station.

4.2 Transportation. Allied shall provide suitable transportation equipment to transport Acceptable Waste tendered by WMI to Allied's disposal sites. Subject to Sections 3.1 and 3.5, Allied agrees to accept all Acceptable Waste tendered to it by WMI under this Agreement and to transport such Acceptable Waste to a permitted landfill capable of accepting the Acceptable Waste.

4.3 Disposal. Subject to Sections 3.1 and 3.5, Allied agrees to dispose of all Acceptable Waste tendered by WMI at a permitted landfill capable of accepting the Acceptable Waste. Allied shall be solely responsible for determining the appropriate disposal sites, times, techniques and methods for disposal of the Acceptable Waste; except that Allied shall comply with any orders or directives from a local governmental entity regarding the disposal site utilized made pursuant to contract or through the exercise of that entity's "flow control" powers.

4.4 Permits and Licenses. Allied shall at all times maintain in full force and effect all permits, licenses and approvals necessary to operate the Transfer Station and transport and dispose of Acceptable Waste delivered to Allied at the Transfer Station. Allied shall operate the Transfer Station and transport and dispose of Acceptable Waste in material compliance with all Applicable Laws.

5. **COMPENSATION FOR DISPOSAL SERVICES**

5.1 Fee. Subject to adjustment as set forth in this Agreement, WMI shall pay to Allied a fee per ton of Acceptable Waste delivered to Allied at the Transfer Station for transportation and disposal under this Agreement (the "Disposal Fee") equal to the lesser of (a) \$36.00 per ton or (b) the lowest then current per ton rate charged by Allied to any customer other than WMI that is not an affiliate of Allied. The above fee shall include all taxes, charges or fees imposed upon the handling, transportation and disposal of Acceptable Waste in effect on the Effective Date.

5.2 Right to Audit. Subject to reaching mutually agreeable provisions regarding confidentiality, WMI or its representatives shall have the right from time to time to review other agreements entered into by Allied for the handling, transportation and disposal of Acceptable Waste delivered to the Transfer Station, or other related business records, to verify Allied's compliance with the requirements of 5.1(b) above.

5.3 CPI and Other Adjustments. Subject to Section 5.5, the Disposal Fee shall be adjusted once annually during the Term hereof commencing on the Effective Date, and on that same date for subsequent year during the Term of this Agreement, by 100% of the percentage increase, if any, in the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor, All Items, for urban wage earners and clerical workers, 1982-84 = 100 (the "Consumer Price Index") during the prior year. In the event that the Consumer Price Index ceases to be available, the parties shall use the most closely comparable index then available. In addition to the foregoing, Allied shall have the right to increase the Disposal Fee from time to time and at any time to enable it to pass through the cost of any increase in its operating expenses, capital costs or taxes caused by a change in any Applicable Laws occurring on or after the Effective Date.

5.4 Taxes. Subject to Section 5.5, WMI shall reimburse Allied for any taxes, tariffs, fees, surcharges or other charges imposed by legislation or regulations enacted or promulgated after the Effective Date of this Agreement (collectively, "Taxes") and levied upon the transportation and disposal of the Acceptable Waste upon 90 days written notice of such change in legislation and upon submission by Allied of evidence that such Taxes have been levied or paid; provided, however, that WMI shall have no obligation to reimburse Allied with respect to any increase in host fees. Any sales, use, or other taxes imposed by any federal, state or local law on any goods and/or services required to be procured or furnished by a party under this Agreement shall be duly paid by such party. Each party shall pay, at its own expense, all payroll taxes or contributions, unemployment insurance or other similar taxes, assessments or charges, as now or hereinafter may be in effect which are to be paid relating to any employee or agent of the party.

5.5 Exceptions to Adjustments. Notwithstanding the provisions of Section 5.3 and 5.4, in the event WMI is unable to pass through any rate adjustment related to a change in Applicable Laws or new or increased taxes or fees to the City of Carlsbad pursuant to the Carlsbad Agreement, and provided that WMI has made a good faith effort to obtain such pass through, the rate adjustment requested or imposed by Allied shall be of no further force and effect and the rate for services shall be the same as if such adjustment had not been requested or imposed.

5.6 Payment. Allied shall transmit an itemized invoice to WMI of all disposal charges hereunder on a monthly basis. WMI shall pay all invoices within 30 days after receipt. In the event WMI fails to make payment when due, any amount remaining unpaid shall bear interest at a rate of the lesser of 1% per month or the highest rate of interest allowed under Applicable Laws from such time to the actual date of payment.

5.7 No Rights of Set-off. The obligations of WMI to make payments hereunder shall not be subject to any set-off abatement, counterclaim, existence of a dispute or any reason, known or unknown, foreseeable or unforeseeable, which might otherwise constitute a legal or equitable defense or discharge of the liabilities of WMI hereunder or limit recourse to WMI.

6. TITLE AND RISK OF LOSS

6.1 Acceptable Waste. In the case of Acceptable Waste delivered to Allied at the Transfer Station, all title, risk of loss and all other incidents of ownership of Acceptable Waste shall transfer from WMI and vest in Allied upon the Acceptable Waste being accepted by Allied at the Transfer Station.

6.2 Unacceptable Waste. Title, risk of loss and all other incidents of ownership of Unacceptable Waste and any rejected Acceptable Waste shall at no time be transferred to Allied, and shall at all time remain in WMI.

7. REPRESENTATIONS, WARRANTIES AND COVENANTS

7.1 Allied Representations and Warranties. Allied represents and warrants to WMI that:

(a) it has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder;

(b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary action on the part of Allied;

(c) it is, or will be prior to providing service under this Agreement, in material compliance with all Applicable Laws affecting the services to be provided by it, and that it will perform such services using industry accepted practices; and

(d) it will observe and comply, in all material respects, with all Applicable Laws.

7.2 WMI's Representations and Warranties. WMI represents and warrants to Allied that:

(a) it has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder;

(b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary action on the part of WMI;

(c) it is, or will be prior to performing its obligations under this Agreement, in material compliance with all Applicable Laws affecting the services to be provided by it, and that it will perform such services using industry accepted practices;

(d) it will observe and comply, in all material respects, with all Applicable Laws; and

(e) is under no restraint which prohibits the transfer of possession or title to such Acceptable Waste to Allied.

7.3 Additional Covenants of WMI. WMI shall promptly report to Allied any information that the Acceptable Waste tendered to Allied, or some constituents or components thereof, present or may present a threat to human health or the environment which was not disclosed prior to loading of the Acceptable Waste on Allied trailers or containers for transportation and disposal.

8. INDEMNIFICATION

8.1 Indemnification by WMI. WMI agrees to indemnify and hold harmless Allied and its subsidiaries and affiliates, and their respective directors, officers, agents and employees (the "Allied Indemnified Parties") from and against any and all liabilities, losses, damages, costs, expenses and disbursements, including reasonable legal fees and expenses, arising out of any claim or loss of or damage to property and injuries to or death of any persons, including any Allied Indemnified Parties, caused (i) by the breach of any term, covenant, agreement or undertaking herein of WMI (other than a breach caused by Allied's breach of its obligations hereunder) or (ii) by the negligence or willful misconduct of WMI

8.2 Indemnification by Allied. Allied agrees to indemnify and hold harmless WMI and its subsidiaries and affiliates, and their respective directors, officers, agents and employees (the "WMI Indemnified Parties") from and against any and all liabilities, losses, damages, costs, expenses and disbursements, including reasonable legal fees and expenses, arising out of any claim or loss of or damage to property and injuries to or death of any persons, including any WMI Indemnified Parties, caused (i) by the breach of any term, covenant, agreement or undertaking herein of Allied (other than a breach caused by WMI's breach of its obligations hereunder) or (ii) by the negligence or willful misconduct of Allied.

9. TERMINATION AND REMEDIES

9.1 Default

(a) Events of Default of Allied. Each of the following shall be an event of default by Allied under this Agreement.

(i) Allied fails to observe and perform any material term, covenant or agreement contained in this Agreement on its part to be performed and continuance of such failure for a period of 30 days after written notice to Allied specifying the nature of such failure and requesting that it be remedied; or

(ii) Allied makes a general assignment for the benefit of creditors, files a petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for any custodian, receiver or trustee for it or any substantial part of its property, commences any proceeding relating to it under bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereinafter in effect, or if there shall have been filed any such proceeding, in which an order for relief is entered or which remains undismissed for a period of 60 days or more or if by any act indicates its consent to, approval of or acquiescence in any such petition, application or proceeding or order for relief or the appointment of any custodian, receiver or any trustee for it or any substantial part of its property or suffers such custodianship, receivership or trusteeship to continue undismissed for a period of 60 days or more.

(b) Events of Default WMI. Each of the following shall be an event of default by WMI under this Agreement:

(i) WMI fails to pay any amounts, including without limitation any rent or Disposal Fee, which become due hereunder, within 30 days notice of delinquency from Allied;

(ii) WMI fails to observe and perform any other material term, covenant or agreement contained in this Agreement on its part to be performed and continuance of such failure for a period of 30 days after written notice to WMI specifying the nature of such failure and requesting that it be remedied; or

(iii) WMI makes a general assignment for the benefit of creditors, files a petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for any custodian, receiver or trustee for it or any substantial part of its property, commences any proceedings relating to it under bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereinafter in effect, or if there shall have been filed any such proceeding, in which an order for relief is entered or which remains undismissed for a period of 60 days or more or if by any act indicates its consent to, approval of or acquiescence in any such petition, application or proceeding or order for relief or the appointment of any custodian, receiver or any trustee for it or any substantial part of its property or suffers such custodianship, receivership or trusteeship to continue undismissed for a period of 60 days or more.

(c) Remedies on Default. Whenever any event of default shall have occurred and be continuing, the nondefaulting party shall have the following rights and remedies:

(i) Upon 30 days written notice to Allied, if Allied is then in default, WMI shall have the option to terminate this Agreement unless the event of default is cured prior to the expiration of such 30-day period or unless during such period Allied has taken remedial steps the effect of which would be to enable Allied to cure such event of default within a reasonable period of time;

(ii) Upon 30 days written notice to WMI, if WMI is then in default, Allied shall have the option to terminate this Agreement unless the event of default is cured prior to the expiration of such 30-day period or unless during such period WMI has taken remedial steps the effect of which would be to enable WMI to cure such event of default within a reasonable period of time; and

(iii) In the event Allied is in default of its obligation to handle, transport or dispose of Acceptable Waste delivered by WMI to the Transfer Station pursuant to Sections 3.1 (c) and 4.3, except where arising as a result of an event of Force Majeure, and following notice and opportunity to cure of not more than one (1) business day, WMI, in addition to any other rights and remedies provided herein, shall have the right to deliver Acceptable Waste directly to a disposal facility selected by WMI and to have reimbursed from Allied any and all additional handling, transportation, or disposal costs.

10. MISCELLANEOUS

10.1 Force Majeure. Except for WMI's obligation to pay for rent and services rendered, any party's obligations under this Agreement may be suspended by a party in the event of: (i) an occurrence beyond the reasonable control of that party which adversely affects the ability of the party to perform its obligations hereunder or to comply with the requirements of any governmental order, permit or other approval; (ii) acts of God, landslides, lightning, earthquakes, hurricanes, tornadoes, severe weather, fires, explosions, floods, acts of public enemy, war, blockades, insurrections, riots or civil disturbances; or (iii) orders and/or judgments of any federal, state or local court, administrative agency or governmental body, or other entity, if not the result of willful or negligent action of the party relying thereon or failure to act in accordance with this Agreement (provided, however, that the contesting in good faith by such party of any such order and/or judgment shall not constitute or be construed to constitute a willful or negligent action or inaction of such party).

10.2 No Opposition by WMI. WMI shall not take any action, or omit to take any action, that would oppose Allied's efforts to re-negotiate the City of Carlsbad host fees, to re-permit the Transfer Station or expand the conditional use permit relating thereto; provided, however, that WMI shall have all rights under Applicable Laws to comment on any application, Environmental Impact Report, or other related filing.

10.3 Assignment Binding Effect. Neither party shall assign this Agreement without the consent of the other, which shall not be withheld unreasonably nor required in the event of an assignment to an affiliate; provided, however, that no assignment by Allied shall interfere with WMI's use of the subleased Premises during the term of this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

10.4 Entire Agreement. This Agreement (including the Lease) supersedes all prior agreements, written or oral, with respect to the subject matter of this Agreement. This Agreement may be changed only by a written instrument signed by both parties hereto.

10.5 Severability. In the event that any one or more of the provisions contained in this Agreement is, for any reason, held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and all other provisions shall remain in full force and effect.

10.6 Waiver. No delay or omission by a party in exercising any right under this Agreement will operate as a waiver of that or any other right. A waiver or consent given by a party on any occasion is effective only in that instance and will not be construed as a bar to or waiver of any right on any other occasion.

10.7 Notice. Any notice, request, information or other document to be given hereunder to one of the parties by the other party shall be in writing and shall be given by hand delivery, facsimile, certified or registered U.S. mail or a private courier service which provides evidence of receipt as part of the service, as follows:

If to Allied:

Allied Waste Industries, Inc.
15880 N. Greenway-Hayden Loop, Suite 100
Scottsdale, Arizona 85260
Attention: Vice President - Legal
Facsimile: (602) 637-2703

With copy to:

Karen McConnell, Esq.
Fennemore Craig, P.C.
3003 N. Central Avenue, Suite 2600
Phoenix, Arizona 85012
Facsimile: (602) 916-5507

If to WMI:

Waste Management, Inc.
1001 Fannin Street, Suite 4000
Houston, Texas 77002
Attention: General Counsel
Facsimile: (713) 209-9711

With copy to:

Waste Management - Desert Region
7373 N. Scottsdale Road, Suite B-169
Scottsdale, Arizona 85253
Attention: Region Vice President
Facsimile: (480) 596-9418

10.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

10.9 Insurance.

(a) Both parties agree to furnish to the other, upon execution, certificates attesting to the existence of the following insurance, to maintain the following insurance during the term of this Agreement:

<u>Coverages</u>	<u>Limits of Liability</u>
Workmen's Compensation	Statutory
Employer's Liability	\$1,000,000 Each Occurrence
General Liability, Including Bodily Injury, Property Damage And Contractual Liability	\$5,000,000 Combined Single Limit, Each Occurrence
Automobile Liability, Including Bodily Injury and Property Damage	\$5,000,000 Combined Single Limit, Each Occurrence

(b) Each such certificate shall contain a statement of the insurer's obligation to notify the party to whom the certificate is addressed at least thirty (30) days prior to cancellation of any policy covered thereunder. The policy shall also contain a waiver of subrogation.

[SIGNATURES APPEAR ON NEXT PAGE]

08/02/2000 14:30 FAX 212 909 6838

DEBEVOISE & PLIMPTON

018

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

ALLIED:

Allied Waste Industries, Inc.

By _____
Its _____


SUBLESSOR:

Palomar Transfer Station, Inc.

By _____
Its _____


WMI:

Waste Management Inc.

By 
Its _____
Robert L. Blankfield
Vice President & Assistant Secretary

SUBLESSEE:

Coast Waste Management, Inc.

By 
Its _____
Bryan J. Blankfield
Vice President & Secretary

1
2
3

EXHIBIT C
SUBLEASE AGREEMENT FOR PALOMAR TRANSFER STATION
BETWEEN THE CITY AND THE CONTRACTOR

SUBLEASE AGREEMENT

FOR PALOMAR TRANSFER STATION

1. Parties. This Sublease Agreement ("**Sublease**" or "**Agreement**") is entered into as of June 1, 2002 by and between The City of Carlsbad, a municipal corporation of the State of California ("**Sublessor**"), and Palomar Transfer Station, Inc., a California corporation ("**Sublessee**,"") as a sublease under a certain Palomar Transfer Station Lease Agreement, APN # 97-0085-A1, with County of San Diego, dated October 31, 1997 (the "**Master Lease**"). Sublessor (as successor-in-interest by assignment of the Master Lease from Sublessee) is Lessee and the County of San Diego is Lessor under said Master Lease (hereinafter "**Master Lessor**" or the "**County**"). Capitalized terms not otherwise defined herein shall have the meanings given in the Transfer Station Agreement (defined below).

2. Premises.

a. Lease of Premises. Sublessor leases to Sublessee and Sublessee hires the following described premises (the "**Premises**") together with all appurtenances thereto, situated in the County of San Diego, State of California and more particularly described as follows:

The real property commonly known as San Diego County Assessor's Parcel Number 97-0085A1 as more particularly described and depicted on the attached Exhibit A, comprising the entirety of the premises subject to the Master Lease.

b. Condition of Premises. Sublessor shall assign to Sublessee all of Sublessor's rights and remedies against and with respect to any prior tenant, subtenant or occupant (collectively, a "**Prior Tenant**") of the Premises, to the extent such Prior Tenant is, or may be, liable or otherwise responsible for, by act or omission, (i) any failure of the Premises to comply with applicable law or regulation, including, without limitation, any conditional use permit applicable to the use of the Premises as a refuse and waste transfer station, or (ii) any material defect, latent or patent, in the Premises, in each case as of the commencement of the term of this Sublease. Sublessor shall execute and deliver to Sublessee such additional instruments and documentation, including assignments of claims and rights, as may be reasonably required by Sublessee in order to effect the assignment of rights and remedies contemplated hereunder.

3. Term. The term of this Sublease shall commence on June 1, 2002 for a period of time equal to the PTS Operating Period, provided the CTS Operating Period has not commenced, as each such term is defined in, and subject to all the terms and provisions of, that certain Agreement for Transfer and Disposal Services, of even date herewith, by and between Sublessor and Sublessee (the "**Transfer Station Agreement**"); provided, however, for avoidance of doubt, the term of this Sublease shall continue for such period of time as Sublessee is permitted to occupy the Premises as contemplated under the Transfer Station Agreement and shall be for a term of not less than ten (10) years; provided further, that the term of this Sublease shall in no event exceed the expiration of the Master Lease.

4. Rental. Sublessee shall pay to Sublessor as monthly rent for the Premises, in advance on the first day of each calendar month of the term of this Sublease without deduction, offset, prior notice or demand, in lawful money of the United States, the sum of One Dollar (\$1.00). If the commencement date is not the first day of the month, or if the Sublease termination date is not the last day of the month, a prorated month installment shall be paid at the then current rate for the fractional month during which the Sublease commences and/or terminates. Receipt of \$1.00 is hereby acknowledged for rental for the first month.

5. Use. Sublessee shall use the Premises for operation of a refuse and waste transfer station and any other uses permitted under the Master Lease, and, if applicable, in compliance with the terms and conditions of the conditional use permit issued by Sublessor for the Premises, and for no other purposes without the prior written consent of Sublessor. Sublessee's business shall be established and conducted throughout the term hereof in a first class manner.

6. Indemnification. Sublessee shall indemnify and save harmless the County and Sublessor, as applicable, and their respective officers, agents, and employees from and against any and all claims, demands, liabilities, or loss of any kind or nature which the County and Sublessor, as applicable, and their respective officers, agents, or employees may sustain or incur, or which may be imposed upon them or any of them for injury to, or death or, persons or damage to property, as a result of, arising out of, or in any manner connected with this Sublease or with occupancy and use of the Premises by Sublessee, its officers, agents, employees, licensees, patrons or visitors except as attributable to an act or omission of the County or Sublessor, as applicable. Sublessee further agrees to pay any and all costs and expenses, including, but not limited to, court costs and reasonable attorneys' fees, incurred by the County or Sublessor, as applicable, on account of any such claims, demands, or liabilities.

7. Provisions Constituting Sublease. This Sublease is subject to all of the terms and conditions of the Master Lease. Sublessee shall assume and perform the obligations of Sublessor and Lessee in said Master Lease, to the extent said terms and conditions are applicable to the Premises subleased pursuant to this Sublease. Sublessee shall not commit or permit to be committed on the Premises any act or omission which shall violate any term or condition of the Master Lease. In the event of the termination of Sublessor's interest as Lessee under the Master Lease for any reason, then, except as otherwise consented to by the County, this Sublease shall terminate concurrently therewith without any liability of Sublessor (except to the extent such termination is due to Sublessor's default under the Master Lease not arising from Sublessee's failure to perform under this Sublease) and the County to Sublessee. Sublessee hereby acknowledges and agrees that Sublessee waives all rights to any form of relocation assistance provided for by local, State, or Federal law that Sublessee may be entitled to by reason of this Sublease.

8. Federal Aviation Administration Requirements. In the event there is any conflict between the provisions in this clause and the other provisions in this Sublease, the provisions in this clause shall take precedence.

a. Sublessee, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or

otherwise operated on the said property described in this Sublease for a purpose for which a DOT (Department of Transportation) program or activity is extended or for another purpose involving the provision of similar services or benefits, Sublessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

b. Sublessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination, (3) that Sublessee shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

c. That in the event of breach of any of the above nondiscrimination covenants, Sublessor shall have the right to terminate this Sublease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Sublease had never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed including expiration of appeal rights.

d. Sublessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, THAT Sublessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers.

e. Non-compliance with provision (d) above shall constitute a material breach thereof and in the event of such non-compliance Sublessor shall have the right to terminate this Sublease and the estate hereby created without liability therefore, or at the election of Sublessor, the County or the United States, any or all said entities shall have the right to judicially enforce said provisions.

f. Sublessee agrees that it shall insert the above five (5) provisions in any sub-sublease, contract or agreement by which said Sublessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises herein subleased.

g. Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race,

creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Sublessee assures that it will require that its covered suborganizations provide assurances to Sublessee that they similarly will undertake affirmative action programs and that they will require assurance from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effort.

h. The County reserves the right to further develop or improve the landing area of the Airport (as defined in the Master Lease) as it sees fit, regardless of the desires or view of Sublessee, and without interference or hindrance.

i. The County reserves the right, but shall not be obligated to Sublessee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Sublessee in this regard.

j. This Sublease shall be subordinate to the provisions and requirements of any existing or future agreement between the County and the United States, relative to the development, operation or maintenance of the Airport.

k. There is hereby reserved to the County, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises herein subleased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Airport.

l. Sublessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the subleased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the subleased Premises.

m. Sublessee by accepting this expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the land subleased hereunder that conflicts with Part 77 of the Federal Aviation Regulations. In the event the aforesaid covenants are breached, the County and/or Sublessor reserve the right to enter upon the land subleased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Sublessee.

n. Sublessee by accepting this Sublease agrees for itself, its successors and assigns that it will not make use of the subleased Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the County and/or Sublessor reserve the right to enter upon the Premises hereby subleased and cause the abatement of such interference at the expense of Sublessee.

o. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

p. This Sublease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

9. Signs. Sublessee shall not erect nor cause to be erected any sign on the Premises without the prior written approval of the County. A written request for sign approval must include the size, type, color and location of the proposed sign and said application must be concurred in by Sublessor before submittal to the County.

10. Substance Abuse. Sublessee and its employees and agents shall not use or knowingly allow the use of the subleased Premises for the purpose of unlawfully driving a motor vehicle or aircraft under the influence of an alcoholic beverage or any drug or for the purpose of unlawfully selling, serving, using, storing, transporting, keeping, manufacturing or giving away alcoholic beverages or any controlled substance, precursor, or analog specified in Division 10 of the California Health and Safety Code, and violation of this prohibition shall be grounds for immediate termination of this Sublease.

11. Prime Lease. Sublessor, as Lessee under the Master Lease represents and warrants to Sublessee that, to Sublessor's knowledge as of the date of the commencement of the term of this Sublease: (a) Sublessor has delivered to Sublessee full and complete copies of the Master Lease and all other related agreements between Sublessor and Master Lessor; (b) the Master Lease is in full force and effect; and (c) no event of default has occurred under the Master Lease on the part of Sublessor or Master Lessor and, to Sublessor's knowledge, no event has occurred and is continuing which would constitute an event of default but for the requirement of the giving of notice and/or the expiration of the period of time to cure under, or with respect to, any of such agreements.

12. Quiet Enjoyment. Sublessor has full power and authority to enter into this Sublease, subject to the consent of Master Lessor. So long as Sublessee is not in default in the performance of its covenants and agreements in this Sublease, Sublessee's quiet and peaceable enjoyment of the Premises shall not be disturbed or interfered with by Sublessor, or by any person claiming by, through, or under Sublessor.

13. Further Provisions Regarding Sublease. Sublessee agrees that it will provide and maintain the insurance coverage required of Sublessor pursuant to the Master Lease with respect to the Premises. Each party agrees that it will not, by its act or omission to act, cause a default under the Master Lease. In furtherance of the foregoing, the parties hereby confirm and agree, each to the other, that it is not practical in this Sublease to enumerate all of the rights and obligations of the various parties under the Master Lease and specifically to allocate those rights and obligations in this Sublease. Accordingly, in order to afford to Sublessee the benefits of this Sublease and of those provisions of the Master Lease which by their nature are intended to benefit the party in possession of the Premises, and in order to protect Sublessor against a default

by Sublessee which might cause a default or event of default by Sublessor under the Master Lease:

a. Except as otherwise expressly provided herein, Sublessor shall perform its covenants and obligations under the Master Lease which do not require for their performance possession of the Premises and which are (i) not reasonably anticipated to be performed by Sublessee or (ii) not otherwise to be performed hereunder by Sublessee on behalf of Sublessor.

b. Except as otherwise expressly provided herein, Sublessee shall perform all affirmative covenants and shall refrain from performing any act which is prohibited by the negative covenants of the Master Lease; where the obligation to perform or refrain from performing is by its nature imposed upon the party in possession of the Premises.

c. Sublessor shall not agree to an amendment to the Master Lease which might have an adverse effect on Sublessee's use or occupancy of the Premises, increase Sublessee's costs under this Sublease or have an adverse effect on the use of the Premises for their intended purpose, unless Sublessor shall first obtain Sublessee's prior written approval thereof, which approval by Sublessee shall not be unreasonably withheld or delayed.

14. Reversion to Sublessee of Sublessor's Interest in Master Lease. If this Sublease is ever terminated or expires other than as a result of default by Sublessee, all right, title and interest in the Master Lease shall revert to Sublessee; provided, however, that Sublessor shall cure any defaults and indemnify Sublessee for any liabilities arising during the period prior to such reversion, other than such defaults and liabilities caused by Sublessee's own breach or failure to perform.

15. Additional Provisions.

a. Governing Law. This Sublease shall be governed by and construed in accordance with the laws of the State of California.


b. Waivers. No waiver or breach of any covenant or provision shall be deemed a waiver of any other consent or provision, and no waiver shall be valid unless in writing and executed by the waiving party.

c. Construction. Headings are used solely for the parties' convenience, are not a part of this Sublease, and shall not be used to interpret this Sublease. This Sublease shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it.

This Sublease Agreement is entered as of the date first set forth above.

SUBLESSEE:

PALOMAR TRANSFER STATION, INC.

By: 
Title: Vice President

By: 
Title: _____

Address: 8364 Claremont Mesa Blvd.
San Diego, CA 92111
Attn: General Manager

SUBLESSOR:

CITY OF CARLSBAD, a municipal corporation

By: _____
Title: _____

By: _____
Title: _____

Address: 1200 Carlsbad Village Drive
Carlsbad, CA 92008
Attn: City Manager

EXHIBIT A

DESCRIPTION AND PLAT OF THE PREMISES

Parcel No. 97-0085-A1

That portion of McClellan-Palomar Airport, in the City of Carlsbad, County of San Diego, State of California, described in deed to the County of San Diego, recorded January 18, 1974 as File/Page No. 74-014190 in the Office of the County Recorder of said County, described as follows:

BEGINNING at the most Southerly corner of land described in deed to the City of Carlsbad recorded June 30, 1982 at File/Page No. 82-201566 in said County Recorder's Office; thence along the Southerly boundary of said Carlsbad land, North 78°42'04" West, 635.35 feet to a point on the Easterly line of a 48.00 foot road and utility easement granted to said City of Carlsbad on said 1982 deed; thence along said Easterly line, South 11°17'56" West, 519.92 feet to the beginning of a tangent 326.00 foot radius curve, concave Easterly; thence Southerly, along the arc of said curve, through a central angle of 54°45'22", a distance of 311.55 feet; thence tangent to said curve South 43°27'26" East, 112.20 feet; thence leaving said Easterly line, North 51°31'08" East, 235.72 feet; thence North 61°24'19" East, 355.40 feet; thence North 57°22'14" East, 246.04 feet to the beginning of a tangent 50.00 foot radius curve concave Westerly; thence Northeasterly along the arc of said curve, through a central angle of 88°35'04", a distance of 77.30 feet; thence tangent to said curve North 31°12'50" West, 51.72 feet; thence North 53°37'13" West, 169.04 feet; thence North 4°55'29" East, 93.29 feet to the POINT OF BEGINNING.

PLAT OF THE PREMISES

[SEE ATTACHED]

PALOMAR

S79°25'37"E

703.35'

PARCEL 97-0085-A1
10.975 ACRES

PARCEL
84-0127-A
3.128 AC.

N10°30'21"E 850.00'

S 73°50'37" E
232.63'

N 70°32'28" E

D=52°51'31"
L=300.79'
R=326'

S 38°45'17" E

S 10°39'23" W
39.50'

S 38°45'17" E
200.00'

S 38°45'17" E
304.21'

APPROACH

1

EXHIBIT D

2

GUARANTY AGREEMENT

GUARANTEE

THIS GUARANTEE (this "Guarantee") is made and entered into as of June 1, 2002, by ALLIED WASTE NORTH AMERICA, INC., a Delaware corporation ("Guarantor") in favor of the City of Carlsbad, a municipal corporation of the State of California (the "Guaranteed Party").

Recitals

A. Palomar Transfer Station, Inc. ("PTS" or the "Contractor"), a wholly-owned subsidiary of Guarantor, and the Guaranteed Party are parties to an Agreement for Transfer Station and Disposal Services, dated as of June 1, 2002 (the "Agreement").

B. The guarantee by Guarantor of the performance by PTS of its obligations under the Agreement is a requirement under the Agreement and a condition to the entering into the Agreement by the Guaranteed Party, and Guarantor has agreed to unconditionally guarantee the performance of PTS's Obligations under the Agreement.

In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Agreement

1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Agreement.

2. Guarantee. Guarantor irrevocably and unconditionally guarantees to the Guaranteed Party the complete and timely performance of, satisfaction of and payment of each and every financial obligation (the "Obligations") of PTS contained in the Agreement in accordance with its terms and conditions. Guarantor agrees that if PTS shall fail to perform any of its Obligations under the Agreement when due in accordance with the terms thereof, it shall, upon demand made by the Guaranteed Party, immediately and fully perform, or cause to be performed, each Obligation under the Agreement. Guarantor agrees that its Obligations under this Guarantee shall remain unaffected and Guarantor shall perform PTS's Obligations as if it were primarily liable for such performance notwithstanding that the Obligations of PTS under the Agreement are void, voidable or unenforceable for any reason.

3. Absolute Nature of Guarantor's Obligations. The Obligations of the Guarantor hereunder are direct, immediate, absolute, continuing, unconditional and unlimited, and with respect to any Obligation of PTS under the Agreement, shall constitute a guarantee of payment and not a collection, and are not conditioned upon the genuineness, validity, regularity or enforceability of the Agreement. Guarantor further agrees that the Obligations of Guarantor pursuant to this Guarantee shall remain in full force and effect without regard to, and shall not be released, discharged or affected in any way by any circumstance or condition (whether or not Guarantor shall have any knowledge thereof), including without limitation:

- (a) any lack of validity or enforceability of the Agreement;

(b) any termination, amendment, modification or other change in the Agreement;

(c) any failure, omission or delay on the part of PTS, Guarantor, or the Guaranteed Party to conform or comply with any material term of the Agreement or any failure of the Guaranteed Party to give notice of any event of default by PTS under the Agreement;

(d) any waiver, compromise, release, settlement or extension of time of performance or observance of any of the Obligations or agreements contained in the Agreement;

(e) any action or inaction by the Guaranteed Party under or in respect of the Agreement, any failure, lack of diligence, omission or delay on the part of the Guaranteed Party to enforce, assert or exercise any right, power or remedy conferred on it in the Agreement, or any other action or inaction by the Guaranteed Party;

(f) any change in the ownership of the capital stock of PTS or Guarantor or any change in the relationship between PTS and Guarantor or any termination of any such relationship;

(g) any release or discharge by operation of law of PTS or Guarantor from any obligation or agreement contained in the Agreement or any agreement executed in connection therewith;

(h) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, moratorium, arrangement, composition with creditors or readjustment of, or other similar proceedings against PTS or Guarantor, or any of the property of either of them, or any allegation or contest of the validity of this Guarantee in any such proceeding (it is specifically understood, consented and agreed to that, to the extent permitted by law, this Guarantee shall remain and continue in full force and effect as if any such proceeding had not been instituted), it being the intent and purpose of this Guarantee that Guarantor shall and does hereby waive all rights and defenses to the Guarantee which might accrue to it by reason of any such proceeding;

(i) any other occurrence, circumstance, happening or event, whether similar or dissimilar to the foregoing and whether foreseen or unforeseen, which otherwise might constitute a legal or equitable defense or discharge of the liabilities of a guarantor or surety or which otherwise might limit recourse against PTS or Guarantor.

Should any money due or owing under this Guarantee not be recoverable from Guarantor due to any of the matters specified in Section 2 above, then, in any such case, such money, together with all additional sums due hereunder, shall nevertheless be recoverable from Guarantor as though Guarantor were principal obligor in place of PTS pursuant to the terms of the Agreement and not merely a guarantor and shall be paid by Guarantor forthwith subject to the terms of this Guarantee.

4. Representations and Warranties. Guarantor represents and warrants to the Guaranteed Party that this Guarantee has been duly executed and delivered by Guarantor and

constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms.

5. Waivers by Guarantor. Guarantor hereby unconditionally and irrevocably waives:

- (a) notice from the City of its acceptance of this Guarantee;
- (b) notice of any of the events referred to in Section 2 hereof except to the extent that notice is required to be given as a condition to the enforcement of the Obligations;
- (c) to the fullest extent lawfully possible, all notices which may be required by statute, rule of law or otherwise to preserve intact any rights against Guarantor, except any notice to PTS required pursuant to the Agreement or applicable law as a condition to the performance of any Obligation;
- (d) to the fullest extent lawfully possible, any statute of limitations defense based on a statute of limitations period which may be applicable to guarantors (or parties in similar relationships) which would be shorter than the applicable statute of limitations period for the underlying claim, provided in no event shall this Guarantee extend more than four (4) years beyond the term of the Agreement, or the earlier termination thereof;
- (e) any right to require a proceeding first against PTS;
- (f) any requirement that PTS be joined as a party to any proceeding for the enforcement of any term of the Agreement;
- (g) the requirement of, or the notice of, the filing of claims by the City in the event of the receivership or bankruptcy of PTS;
- (h) all demands upon PTS or any other person and all other formalities the omission of any of which, or delay in performance of which, might, but for the provisions of this Section 4, by rule of law or otherwise, constitute grounds for relieving or discharging Guarantor in whole or in part from its absolute, present, irrevocable, unconditional and continuing Obligations hereunder;
- (i) the right to terminate this Guarantee or to be released, relieved, exonerated or discharged from its Obligations under this Guarantee for any reason whatsoever, including, without limitation: (a) the insolvency, bankruptcy, reorganization or cessation of existence of the Contractor; (b) the actual or purported rejection by a trustee in bankruptcy of the Agreement, or any limitation on any claim in bankruptcy resulting from the actual or purported termination of the Agreement; (c) any waiver with respect to any of the Obligations of the Agreement guaranteed hereunder or the impairment or suspension of any of the Guaranteed Party's rights or remedies against the Contractor; or (d) any merger or consolidation of the Contractor with any other corporation, or any sale, lease or transfer of any or all the assets of the Contractor. Without limiting the generality of the foregoing, Guarantor hereby waives the rights and benefits under California Civil Code Section 2810;

(j) any and all benefits and defenses under California Civil Code Sections 2846, 2849 and 2850 as may be amended from time to time, including without limitation, the right to require the Guaranteed Party to (a) proceed against the Contractor, (b) proceed against or exhaust any security or collateral the Guaranteed Party may hold now or hereafter hold, or (c) pursue any other right or remedy for Guarantor's benefit, and agrees that the Guaranteed Party may proceed against Guarantor for the obligations guaranteed herein without taking any action against the Contractor or any other guarantor or pledgor and without proceeding against or exhausting any security or collateral the City may hold now or hereafter hold. The Guaranteed Party may unqualifiedly exercise in its sole discretion any or all rights and remedies available to it against the Contractor or any other guarantor or pledgor without impairing the Guaranteed Party's rights and remedies in enforcing this Guarantee;

(k) to the extent permitted by applicable law, any and all rights which the Guarantor may have or which at any time hereafter may be conferred upon it, by statute, regulation or otherwise, to avoid any of its Obligations under or to terminate, cancel, quit or surrender this Guarantee. Without limiting the generality of the foregoing, it is agreed that if any of the following events occurs, such occurrence shall not affect the liability of the Guarantor hereunder: (a) at any time or from time to time, without notice to Guarantor, performance hereunder or compliance herewith is waived; (b) any security for the Contractor's obligations under the Agreement is released or exchanged in whole or in part or otherwise dealt with; or (c) any assignment of the Agreement is effected which does not require the Guaranteed Party's approval; and

(l) diligence, presentment, demand for payment or performance, protest and all notices whatsoever, including, but not limited to, notices of non-payment or non-performance, notices of protest, notices of any breach or default, and notices of acceptance of this Guarantee. If all or any portion of the Obligations guaranteed hereunder are paid or performed, Guarantor's Obligations hereunder shall continue and remain in full force and effect in the event that all or any part of such payment or performance is avoided or recovered directly or indirectly from the City as a preference, fraudulent transfer or otherwise, irrespective of (a) any notice of revocation given by Guarantor or the Contractor prior to such avoidance or recovery, and (b) payment in full of any Obligations then outstanding.

6. Maintenance of Corporate Existence.

(a) Consolidation, Merger, Sale or Transfer. Guarantor covenants that during the term of this Guarantee it will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it unless the successor is Guarantor; provided, however, that Guarantor may consolidate with or merge into another entity, or permit one or more other entities to consolidate with or merge into it, or sell or otherwise transfer to another entity all or substantially all of its assets as an entirety and thereafter dissolve if the successor entity (if other than Guarantor) (x) assumes in writing all the Obligations of Guarantor hereunder and, if required by law, is duly qualified to do business in the State of California, and (y) delivers to the City an opinion of counsel to the effect that its Obligations under this Guarantee are legal, valid, binding and enforceable subject to applicable bankruptcy and similar insolvency or moratorium laws, and (z) the net worth of the successor

entity upon such consolidation, merger, sale or other transfer calculated in accordance with generally accepted accounting principles, is not less than the net worth of Guarantor immediately prior to such consolidation, merger, sale or other transfer.

(b) Continuance of Obligations. If a consolidation, merger or sale or other transfer is made as permitted by Subsection (a), the provisions of Subsection (a) shall continue in full force and effect and no further consolidation, merger or sale or other transfer shall be made except in compliance with the provisions of Subsection (a). No such consolidation, merger or sale or other transfer shall have the effect of releasing the initial Guarantor from its liability hereunder unless a successor has assumed responsibility for this Guarantee as provided in Subsection (a).

(c) Payment of Costs and Expenses. Guarantor agrees to pay the Guaranteed Party on demand all reasonable costs and expenses, legal or otherwise (including counsel fees), to the extent incurred by or on behalf of the Guaranteed Party in successfully enforcing by a legal proceeding observance of the covenants, agreements and Obligations contained in this Guarantee against Guarantor, other than the costs and expenses that the Guaranteed Party incurs in performing any of its Obligations under the Agreement.

(d) Term. This Guarantee is not limited to any period of time, but shall continue in full force and effect until all of the terms and conditions of the Agreement have been fully performed or otherwise discharged and Guarantor shall remain fully responsible under this Guarantee without regard to the acceptance by the Guaranteed Party of any performance bond or other collateral to assure the performance of the Contractor's Obligations under the Agreement. Guarantor shall not be released of its Obligations hereunder so long as there is any claim by the Guaranteed Party against PTS arising out of the Agreement based on PTS's failure to perform which has not been settled or discharged.

(e) No Waivers. No delay on the part of the Guaranteed Party in exercising any rights under this Guarantee or failure to exercise such rights shall operate as a waiver of such rights. No notice or demand on Guarantor shall be a waiver of any Obligation of Guarantor or right of the Guaranteed Party to take other or further action without notice or demand. No modification or waiver of any of the provisions of this Guarantee shall be effective unless it is in writing and signed by the Guaranteed Party and by Guarantor, nor shall any waiver be effective except in the specific instance or matter for which it is given.

(f) Attorney's Fees. In addition to the amounts guaranteed under this Guarantee, Guarantor agrees in the event of a breach of its Obligations to pay reasonable attorney's fees and all other reasonable costs and expenses incurred by the Guaranteed Party in enforcing this Guarantee or in any action or proceeding arising out of or relating to this Guarantee, including any action instituted to determine the respective rights and obligations of the parties thereunder.

7. Miscellaneous.

(a) Consent to Jurisdiction. Guarantor irrevocably: (1) agrees that any legal proceeding arising out of this Guarantee shall be brought in the state or federal courts in San

Diego County, California having appropriate jurisdiction; (2) consents to the jurisdiction of such court in any such legal proceeding; (3) waives any objection which it may have to the laying of the jurisdiction of any such legal proceeding in any of such courts; and (4) waives its right to a trial by jury in any legal proceeding in any of such courts.

(b) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to the choice of law principles thereof; and any legal action, suit or proceeding arising out of or relating to this Guarantee shall be instituted exclusively in the state or federal courts of the State of California.

(c) No Third Party Beneficiaries. Nothing in this Guarantee is intended, and it shall not be construed, to confer any rights or benefits upon any person other than the Guaranteed Party and no other third party shall have any rights or remedies hereunder.

(d) Authority; Counterparts. Guarantor represents and warrants that it has the requisite corporate power and authority to enter into this Guarantee, that its execution of this Guarantee has been authorized by all necessary corporate action, and that the person signing this Guarantee on its behalf is authorized to do so. This Guarantee may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same binding agreement.

(e) Severability. If any provision of this Guarantee is held to be illegal, invalid or unenforceable in whole or in part, the validity and enforceability of the remaining provisions, or portions thereof, will not be affected and will continue in full force and effect.

(f) Notices. All notices and other communications to Guarantor hereunder shall be sufficiently given for all purposes hereunder if in writing and: (i) delivered personally; (ii) sent by documented overnight delivery service; or (iii) sent by telecopier (with confirmation of receipt), in each case, to the following:

Palomar Transfer Station, Inc.
8364 Clairemont Mesa Boulevard
San Diego, CA 92111
Attn: Mr. James Ambroso
Fax: (858) 278-7528

and:

Allied Waste Industries, Inc.
15880 N. Greenway-Hayden Loop, Suite 100
Scottsdale, AZ 85260
Attn: Corporate Secretary
Fax: (602) 423-9424

with a copy to:

Eric A. Kremer, Esq.
Pillsbury Winthrop LLP
101 W. Broadway, Suite 1800
San Diego, CA 92101
Fax: (619) 236-1995

or to such other address and/or to the attention of such other person as Guarantor may designate by written notice to the Guaranteed Party.

(g) Binding Effect; Assignment. This Guarantee shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that no party hereto may assign its rights or delegate its Obligations under this Guarantee without the express written consent of the other party hereto.

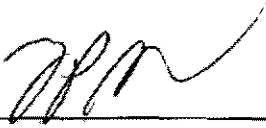
(h) Headings. The headings contained in this Guarantee are inserted for convenience only and will not affect the meaning or interpretation of this Guarantee.

(i) Amendment; No Waiver. This Guarantee may not be modified or amended except by an instrument in writing signed by the party against whom enforcement of any such modification or amendment is sought. Any party hereto may, only by an instrument in writing, waive compliance by the other party hereto with any term or provision of this Guarantee. The waiver by any party hereto of a breach of any term or provision of this Guarantee shall not be construed as a waiver of any subsequent breach.

(j) No Modification of Agreement. Nothing herein shall in any event amend, or in any other respect modify, the rights and obligation of the Guaranteed Party, on the one hand, and PTS, on the other, under the Agreement or any other agreements executed between the parties hereto.

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

ALLIED WASTE NORTH AMERICA,
INC.,
a Delaware corporation

By: 
Name: _____
Its: **THOMAS P. MARTIN**
TREASURER

CITY OF CARLSBAD, a municipal
corporation of the State of California

CLAUDE A. "BUD" LEWIS, Mayor

ATTEST:

LORRAINE WOOD, City Clerk

APPROVED AS TO FORM:

RONALD R. BALL, City Attorney

(Proper notarial acknowledgment of execution by Guarantor must be attached.)

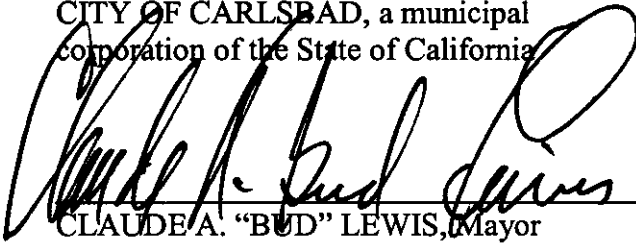
(Chairman, president *or* vice-president **and** secretary, assistant secretary CFO *or* assistant treasurer must sign for corporations. Otherwise, the corporation must attach a resolution certified by the secretary or assistant secretary under corporate seal empowering that officer(s) signing to bind the corporation.)

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

ALLIED WASTE NORTH AMERICA,
INC.,
a Delaware corporation

By: _____
Name: _____
Its: _____

CITY OF CARLSBAD, a municipal
corporation of the State of California



CLAUDE A. "BUD" LEWIS, Mayor

ATTEST:



LORRAINE WOOD, City Clerk

APPROVED AS TO FORM:



RONALD R. BALL, City Attorney

(Proper notarial acknowledgment of execution by Guarantor must be attached.)

(Chairman, president or vice-president and secretary, assistant secretary CFO or assistant treasurer must sign for corporations. Otherwise, the corporation must attach a resolution certified by the secretary or assistant secretary under corporate seal empowering that officer(s) signing to bind the corporation.)

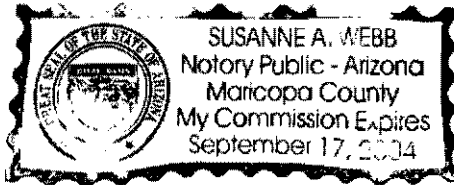
STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

I, Susanne A. Webb, a Notary Public in and for said County in said State, hereby certify that Thomas P. Martin, whose name as Treasurer of Allied Waste North America, Inc., a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, that he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal, this 28th day of May, 2002.

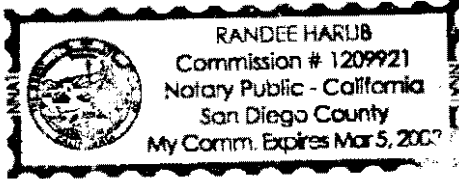
Susanne A. Webb
NOTARY PUBLIC

(SEAL)



STATE OF CALIFORNIA)
COUNTY OF San Diego) ss.

On 5/24, 2002, before me, Randee Harlib,
a Notary Public in and for the State of California, personally appeared
CLAUDE A. BUD LEWIS, personally known to me (~~or proved to me on the basis~~
~~of satisfactory evidence~~) to be the person whose name is subscribed to the within instrument, and
acknowledged to me that he ~~or she~~ executed the same in his ~~or her~~ authorized capacity and that,
by his ~~or her~~ signature on the instrument, the person or the entity upon behalf of which he ~~or she~~
acted, executed the instrument.



WITNESS my hand and official seal.

Randee Harlib
Notary Public in and for said State

(Notarial Seal)

STATE OF CALIFORNIA)
COUNTY OF _____) ss.

On _____, 200__, before me, _____,
a Notary Public in and for the State of California, personally appeared
_____, personally known to me (or proved to me on the basis
of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and
acknowledged to me that he or she executed the same in his or her authorized capacity and that,
by his or her signature on the instrument, the person or the entity upon behalf of which he or she
acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public in and for said State

(Notarial Seal)

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EXHIBIT E

CAPITAL IMPROVEMENT PROJECTS AND COMPLETION SCHEDULE FOR PALOMAR TRANSFER STATION

No.	Project Name	Description of Project	Estimated Costs
1.	Exterior Improvements	Paint exteriors of facility	\$50,000.
2.	Correction of structural problem	Repair Wall at eastern end of facility	\$324,000.
3.	Facility Entry	Roadways	\$400,000.
4.	Shed Roof	Construct 8,000 square foot shed roof at eastern end of facility.	\$288,000.
5.	Top Loading Addition	Load Out Chute	\$138,000.

- Estimated Total Costs: \$1.2 Million
- Completion date for all projects listed is expected to be 24 months after all permits and necessary approvals are received.

1 **SCHEDULE 2.04**

2 **CTS DEVELOPMENT MILESTONES**

3

4 **Milestone 1:**

5 City delivery of notice as described in, and in accordance with, the provisions of Section 2.04.A.

6 **Milestone 2:**

7 The City Council's, or other entity responsible therefor, selection of a CTS site and entry into a
8 purchase agreement or option agreement for acquisition thereof, and the award of the bid for
9 design of the CTS, the foregoing to have occurred not later than the tenth (10th) anniversary of
10 the Effective Date.

11 **Milestone 3:**

12 The City Council, or other entity responsible therefor, to have awarded the bid for construction
13 of the CTS not later than the eleventh (11th) anniversary of the Effective Date.

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SCHEDULE 14.04
FORM OF UCC FINANCING STATEMENT

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)	
B. SEND ACKNOWLEDGEMENT TO: (Name and Address)	
[PILLSBURY WINTHROP LLP] [11682 El Camino Real, Suite 200] [San Diego, CA 92130]	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME					
PALOMAR TRANSFER STATION, INC.					
OR	1b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
1c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY
15880 N. Greenway-Hayden Loop, Suite 100		Scottsdale	AZ	85260	USA
1d. TAX I.D.#:	SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION	1g. ORGANIZATIONAL I.D.#, if any
			Corporation		<input type="checkbox"/> NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME					
OR	2b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY
2d. TAX I.D.#:	SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL I.D.#, if any
					<input type="checkbox"/> NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

CITY OF CARLSBAD					
OR	3b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
3c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY
1200 Carlsbad Village Drive		Carlsbad	CA	92008	USA

4. This FINANCING STATEMENT covers the following collateral:

All of Debtor's accounts, chattel paper, inventory, equipment, instruments (including promissory notes), investment property, documents, deposit accounts, letter-of-credit rights, general intangibles, supporting obligations, and proceeds and products of the foregoing to secure performance of Debtor's obligations under a certain Agreement for Transfer Station and Disposal Services dated as of June 1, 2002 between Debtor and Secured Party.

5. ALTERNATIVE DESIGNATION (if applicable): LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BAILOR SELLER/BUYER AG. LIEN NON-UCC FILING

6. This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional]: All Debtors Debtor 1 Debtor 2

8. OPTIONAL FILER REFERENCE DATA



ORIGINAL TO CITY
CLERK.
COPY TO CITY MAN.

11682 EL CAMINO REAL SUITE 200 SAN DIEGO, CA 92130-2593 619.234.5000 F: 858.509.4010

June 3, 2002

Carmela D. Nicholas
Phone: 858.509.4058
cnicholas@pillsburywinthrop.com

VIA OVERNITE EXPRESS

Ronald Ball, Esq.
City of Carlsbad
1200 Carlsbad Village Drive
Carlsbad, CA 92008



Re: Palomar Transfer Station, Carlsbad, CA
Our File No.: 014279-0000012

Dear Ron:

With reference to that certain Agreement for Transfer Station and Disposal Services dated as of June 1, 2002 by and between the City of Carlsbad (the "City") and Palomar Transfer Station, Inc. ("PTS"), enclosed for the records of the City is an original executed Certificate of the Secretary of PTS dated May 23, 2002 which certifies as to the accuracy of the resolutions adopted by the Board of Directors of PTS attached thereto as Schedule A.

Thank you for your continued courtesy and cooperation. Please give me a call if you have any questions.

Very truly yours,

Carmela D. Nicholas

Enclosures

- | | |
|----------------------------------|--|
| cc: Mr. Frank Mannen (w/o encl.) | Mr. Dick "Bud" F. Chase, Jr. (w/o encl.) |
| Jo Lynn White, Esq. (w/o encl.) | Ms. Cathy Childress (w/o encl.) |
| Mr. James Ambroso (w/o encl.) | Eric A. Kremer, Esq. (w/encl.) |

CERTIFICATE

The undersigned certifies that she is the duly elected, qualified and acting Secretary of PALOMAR TRANSFER STATION, INC., a California corporation (the "Corporation") and that attached hereto as Schedule A is a true and correct copy of resolutions duly adopted by the Board of Directors of the Corporation, and that such resolutions have not been amended or rescinded and are in full force and effect on the date hereof.

Dated: May 23, 2002.

A handwritten signature in cursive script, appearing to read "J. White", written over a horizontal line.

Jo Lynn White
Secretary

SCHEDULE A

**UNANIMOUS WRITTEN CONSENT TO ACTION
OF BOARD OF DIRECTORS OF THE CORPORATION**

UNANIMOUS WRITTEN CONSENT TO ACTION
OF BOARD OF DIRECTORS OF
PALOMAR TRANSFER STATION, INC.
TAKEN WITHOUT A MEETING

Pursuant to Section 307(b) of the California Corporations Code and the Bylaws of Palomar Transfer Station, Inc., a California corporation (the "Company"), the undersigned, constituting all of the members of the Board of Directors of the Company (the "Board"), hereby adopt the following recitals and resolutions:

Palomar Transfer Station, Carlsbad, California

WHEREAS, the Board believes it is in the best interests of the Company to enter into certain transactions (collectively, the "Transaction") whereby the Company would (i) assign to the City of Carlsbad, California ("City") all rights, title and interests of the Company in a certain lease with the County of San Diego, California, whereby the Company will lease a transfer station commonly known as the Palomar Transfer Station, located in Carlsbad, California, and (ii) sublease said transfer station from the City and operate same pursuant to a separate agreement between the Company and the City;

WHEREAS, the Board has reviewed proposed drafts of, or otherwise been provided with detailed information with respect to, the following documents to be entered into or delivered as part of the Transaction (all such documents, together with the Transfer Station Agreement, being collectively referred to herein as the "Transaction Documents"):

- (i) Agreement for Transfer Station and Disposal Services between the Company and the City;
- (ii) Sublease Agreement by and between the Company and the City;
- (iii) Assignment of Lease by between the Company and the City; and
- (iv) Assignment of Lease - County Contract with Palomar Transfer Station, APN No. 97-0085, by and between the Company and the City with Consent to Assignment executed by the County.

70019370v2


NOW, THEREFORE, BE IT RESOLVED, that the Transaction and the Transaction Documents, in the forms presented to the Board, are each hereby approved, and James Ambroso, Vice President of the Company, and Dick F. "Bud" Chase, Jr., Business Development Manager of Allied Waste Industries, Inc., an affiliate of the Company, are authorized and instructed, for and in the name of the Company, to execute and deliver the Transaction Documents in substantially the forms that were presented to the Board, with such changes in such Transaction Documents as the person executing the same shall approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Omnibus

RESOLVED, that the officers of the Company are, and each acting alone is, hereby authorized, empowered and directed, for and on behalf of the Company, to take or cause to be taken any and all actions, including, without limitation, the execution, acknowledgment, filing, amendment and delivery of any and all papers, agreements, documents, instruments and certificates, and the payment of such sums, as such officers may deem necessary or advisable to carry out and perform the obligations of the Company under the foregoing resolutions and to consummate the transactions contemplated therein and otherwise carry out the purposes and intent of the foregoing resolutions; and the performance of any such acts and the execution, acknowledgment, filing and delivery by such officers of any such papers, agreements, documents, instruments and certificates shall conclusively evidence their authority therefor.

This Unanimous Written Consent to Action may be executed in counterparts and shall be effective for all purposes as of May 24, 2001.


James E. Gray, Director


Thomas P. Martin, Director


Donald W. Slager, Director



**PALOMAR TRANSFER
STATION
CARLSBAD, CALIFORNIA**

Transfer Station

OPERATIONS MANUAL

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Facility Rules

Each Facility Manager shall prepare a list of policies and site specific information for distribution to its customers. Each facility shall post policies and site specific information at the scale office or customer service office and make copies available for anyone who uses the facility. Review the sample facility information sheet on the next page and make site-specific changes applicable to your facility (i.e., #1. Operating Hours, #19. EPA). Rules marked with a star (*) on the sample facility information sheet are mandatory.

SAMPLE

FACILITY LETTERHEAD

Dear Customer:

As a valued customer of our facility, your safety is of the utmost concern to all of us.

To provide the safest environment possible, our facility will adhere to some basic operational guidelines and safety precautions. Attached is a copy of our Facility Rules. Review them carefully and be prepared to follow them when using our facility. These rules are effective immediately.

If you have any questions, please contact us at {Phone Number} and we will be happy to answer them. Your cooperation in this matter is greatly appreciated.

Sincerely,

Facility Manager

These rules are designed to improve facility safety and operating efficiency. The rules are to be followed and enforced by management. The District Manager or Facility Manager is responsible for ensuring that all facility employees read and understand these policies and take an active role in educating those who are on the site and enforcing the rules if they are not followed. Employees must adhere to posted policies to set an example and to maintain credibility with customers.

When you prepare and implement your Facility Rules for the first time, a cover letter and copy of the Facility Rules must be sent to all account customers.

SAMPLE OF FACILITY/SITE RULES: *This is an example. Use it to develop site specific rules for each facility. All items marked with an asterisk (*) are mandatory and must be included.*

SAMPLE

FACILITY/SITE NAME
Site Phone No: (555) 555-5555

All persons entering this facility, including employees, customers, and visitors, must follow these rules. These rules have been implemented for your safety and the safety of others.

OPERATING HOURS

6:30 am - 5:00 pm Monday - Friday / Last Truck 4:45 pm
6:30 am - 12:00 pm Saturday / Last Truck 11:45 am

- 1.* Gates will not be opened until 6:30 a.m. No one except facility personnel will be allowed in the gate until 6:30 a.m.
- 2. Do not park on roads in front of or around the facility. Anyone parked on the road will lose facility privileges.
- 3. Trucks arriving first thing in the morning must travel at least two truck lengths apart.
- 4.* Do not exceed the posted speed limits. Only one warning will be given to speed limit violators.
- 5. Upon entry into the facility, proceed up the scale ramp. Pull onto the scale, go into the scalehouse and tell the scale personnel your name, truck number, and company. If your empty truck weight is on file, you will receive your load ticket. If it is not on file, you must weigh back in after dumping your load in order to receive your ticket. After checking or weighing in, proceed as directed by facility personnel.
- 6.* Only one person per vehicle is allowed in the active dumping area. Any person leaving a vehicle must wear a hardhat and hard-soled shoes.
- 7. On windy days roll back your tarp after you get to the tipping face area before you back in. Do not roll back tarps on the scale or on the scale road. *(Describe your facility's procedures)*
- 8.* Personal Protective Equipment: Hardhats must be worn at all times on facility property. Regular customers should bring their own hardhats. A few loaner hats will be kept at the scale office. Any person leaving their vehicle must wear hard-soled shoes. No tennis shoes, open-toed shoes, sandals, or bare feet will be allowed.
- 9.* All drivers must latch roll-off doors OPEN before beginning dumping procedures.
- 10. All open-top trucks and open-top trailers must be swept out at the tipping area before leaving the facility.
- 11.* Come to a COMPLETE STOP before exiting the facility.
- 12. All loads must be tarped. Drivers with bad tarps will be given one warning only. Unacceptable tarps may result in suspension of facility privileges.
- 13.* Facility personnel will periodically inspect the contents of trucks and trailers. All drivers are expected to cooperate with the site inspector so as not to delay operations in the work area. Any part of a load that is rejected will be reloaded into the vehicle that brought it in and transported off facility property.
- 14.* No Special or Regulated Wastes, including but not limited to: car batteries, liquids, or drummed wastes of any kind (steel or fiber) are allowed. These wastes will be reloaded into the vehicle that brought them and transported off the facility.
- 15.* Customer is responsible for his equipment while on site. Company assumes no responsibility for damage to customers' equipment while using the facility.
- 16.* At no time will scavenging be permitted.
- 17.* Smoking is not permitted, except in the designated smoking area.

Facility Sign Requirements

Entrance Signs

At a minimum, the following items must appear at the entrance of each Company facility:

1. Permit number, if applicable.
2. Hours of operation.
3. Name, address, phone number, and emergency phone number of the company operating the transfer station or MRF.
4. Text reading: Disposal of Hazardous Waste Prohibited.
5. Text reading: Scavenging Prohibited.
6. An emergency number should be available to allow for appropriate communication when the facility is closed. A 24-hour, live answering service is one option. The service should be provided with a list of contacts in the event of possible fire, accident, trespassing, vandalism, unauthorized dumping, or general information requests.

Geographic areas with a significant Spanish-speaking customer base should post signs in English and Spanish. It will be required in these areas: San Diego, Texas, Arizona, Chicago, Boston, and Detroit. All others should be reviewed and implemented as needed.

Additional Signs

The following or similar signs must appear at the appropriate locations within the facility:

1. Speed limit (not greater than 15 mph) should be posted at least twice going in and out of the facility.
2. Text reading: Hardhat Required.
3. Text reading: Eye Protection Required.
4. Stop sign (at exit).
5. Direction signs to the disposal area.
6. Visitor parking.
7. As part of the security of the site, all-weather "no trespassing" signs should be posted at a minimum of every 150 feet to 200 feet around the entire perimeter of the facility.

Remember: check local and state regulations for additional signage requirements.

Facility Aesthetics

Landscaping

It is the desire of the Company to have all of their facilities designed, constructed and operated with a landscaping program that, to the fullest extent possible, enables each facility to project a professional and appealing appearance to the general public. Due to the varying size and nature of individual facilities, the type of landscaping that can be effectively instituted will be the responsibility of District management. Special emphasis should be given to the public entrance of each facility to portray a professional image. It is the responsibility of facility management, regardless of District management's decision on landscaping, to ensure that every facility is maintained in a clean and orderly manner. In general, it is highly recommended that each facility use fencing, berms and/or vegetation to screen all areas of operation from public view.

Odor and Dust Control

Facility management is responsible for managing dust and odor to prevent them from becoming a health risk, safety risk or nuisance to customers, employees or the general public. Depending on the size and type of facility involved, the procedures to accomplish this will vary. The following is a list of applications that can be used at facilities. If the following examples are not applicable in your situation, contact your District Manager or your Regional Engineer for guidance and assistance.

a) Transfer Station or MRF Dust Control

Dust typically becomes a concern when there is extended dry weather. This, combined with any type of wind, will cause dust to become airborne and become a nuisance as well as reduce visibility and possibly create a health hazard.

The most common method of dust control is to spray water on the affected areas. The amount of water and the type of vehicle needed to do this will depend on your facility's size and the facility's equipment traffic pattern. For small applications, a small agricultural tank can be mounted on the back of a site pickup or other type of truck and gravity sprayed through a spreader bar. The use of tanks mounted on agricultural trailers and pulled by farm or industrial tractors with gravity fed spreader bars is also acceptable. If gravity spreading is not providing adequate distribution, a small two or three inch pump can be mounted between the control valve of the tank and the spreader bar to provide pressure to better distribute the water. For larger facilities, tank mounted straight trucks or water wagon scraper-type vehicles may need to be employed. Before beginning any water distribution, check with your Regional or consulting engineer for any regulatory or permit requirements that may exist.

Facilities accepting Construction and Demolition debris should consider using a permanently mounted spray system to wet C&D material when on the tipping floor to control dust.

b) Street Sweeper, Mechanical or Manual Brooms

Facility management may contract with a service or acquire a mechanical broom that can be mounted in front of or behind a tractor or street sweeper to clean access and exit roads in and around the facility. This equipment should have a triangular "SLOW MOVING VEHICLE" emblem on the rear of the vehicle as well as an amber strobe light mounted on top of the vehicle. If, due to size, mechanical brooms and/or street sweepers are not feasible, facility management will be required to use facility personnel or temporary service workers to use hand brooms and hand scrapers to clean the respective access or exit roads. Facility management must ensure that cleaning personnel wear florescent reflective vests while performing this task. Portable "MEN WORKING/CAUTION" signs are also encouraged to be positioned one-quarter mile in each direction on the stretch of road that is being worked on. Any signs should meet local state requirements and should be sandbagged at the base to prevent them from being blown over by passing vehicles.

c) Transfer Station and MRF Odor Control

The proper staging and a "first-in/first-out" procedure of material handling should greatly minimize odor at transfer stations and MRF facilities. Facility management will be responsible to ensure that recyclables or refuse are staged and processed in order to eliminate the possibility of refuse or recyclables sitting on the tipping floors or the processing areas for extended periods of time. Facility management should use all efforts to clear the facility of recyclables or refuse that have been in the facility the longest.

Some site permits require daily or regular clearing of refuse. It is recommended, if feasible, to clear and wash down tipping floors a minimum of weekly. This will significantly reduce odor problems. Waste may also build up behind push walls and should be addressed in regular housekeeping procedures. Consult with your Regional Engineer and District Safety Coordinator for the commercial odor control system best suited or required by permit for your facility.

d) Litter Control and High Wind Operations

Company policy requires that facility management make every effort to clean the entire site, access and entrance roads as well as the geographic area around the site, of any windblown litter by sundown of each operating day. If this is not possible, litter pickup should begin immediately the following day and continue until the geographic area and the facility have been completely cleared of litter. Always make sure plastic bags that are filled with litter are picked up and properly disposed of at the end of the day. Do not allow bags of litter to sit on or around the facility overnight.

Facility management may contract with a temporary service company to provide litter pickers if additional workers are ever needed to address a high wind situation. When selecting a temporary service company, review their entire contract but pay particular attention to insurance coverage for the temporary personnel. Make sure any personnel provided are covered under the temporary service company's policy. All temporary personnel must be hired through a temporary service agency.

Temporary service workers should be managed and directed by facility personnel. Always keep temporary service workers far away from the active tipping floor and high traffic areas. Never let temporary workers operate Company equipment (even pickup trucks). Work the temporary service workers in one section of the facility at a time. When that section has been adequately cleaned, move them to a second section. Do not disburse temporary service workers across the facility on their own.

Remember: We should always be looking for better ways to control these problems and communicate to each other the newest and most innovative measures of control.

Customers and Visitors

Site Access

It is mandatory that facility management use locked gates, fences, berms or ditches to prevent access to the facility during non-operating hours. Under no circumstances should non-facility personnel be allowed on the facility during non-operating hours unless Company personnel accompany them. Prior to opening or after closing, gates should be locked. It is also strongly suggested that only one entrance and exit be used by the facility.

Under no circumstances should non-Company personnel be issued keys to an operating facility.

Under no circumstances should customers be allowed to access the site prior to or after normal operating hours unless it is an emergency situation. Emergency situations will be the determination of District management. If emergency situations become frequent, District management and the Director of Compliance will determine procedures and policies.

As part of the security of the site, all-weather "no trespassing" signs must be posted at a minimum of every 150 feet to 200 feet around the entire perimeter of the facility.

Visitor Registration

All non-customers must sign in and out on a visitor's register. These registers are available at most office supply or stationery stores and should be in a bound book form. Loose-leaf visitor sheets are not permitted. The visitor register should be kept at the entrance of the facility (i.e. scale or ticket house).

At a minimum, each visitor should provide the following information:

- The date.
- The person's name.
- The company or agency the person is representing.
- The reason for the person's visit. The time the person arrives and leaves (i.e. the person must sign in and sign out).

It is strongly suggested that non-company personnel and non-customers not be allowed on the facility unless accompanied by a Company representative.

Facility Tours

Any time a transfer station or materials recycling facility conduct tours, certain releases must be signed. For school age children, a *Visitor Access Agreement* must be signed by each child's parent or guardian and filed with site management. In addition, a representative of the school or group must complete and sign a corresponding agreement. Non-company owned vehicles are not allowed beyond the designated parking area without a Certificate of Insurance showing the site as an Additional Insured. All paperwork needs to be received before any group goes on company property. It is recommended that management allow two weeks lead time prior to any planned tour to complete this process. Following are samples of *Visitor Access Agreements*.

<p>FACILITY NAME Visitor Access Agreement (to be executed by parent or legal guardian)</p> <p>The undersigned understand that admission to the facility located at [insert address] (hereafter "the premises") has been allowed by [subsidiary name] only on condition that:</p> <p>Visitors agree to accept all risk and agree to hold harmless [subsidiary name] and its parent(s), and release the Company from any and all liability for injuries or damages of any kind sustained while on the premises. Visitors release and forever discharge the Company, its owners and operators as well as its shareholders, directors, officers, employees, agents, heirs, successors and assigns, and all other persons, firms, and corporations having any ownership interest in equipment at the facility, from all claims demands, actions and causes of action relating to any injury or loss which visitors may sustain while on the premises.</p> <p>Visitors agree that the Company is not responsible for the personal property of visitors while on the premises.</p> <p>[Optional:] Visitors agree that no photographs or other record of facility operations will be taken.</p> <p>The undersigned fully understand the meaning and effect of this agreement and release and have freely agreed to be bound by its terms.</p> <p>_____ (PRINT NAME OF STUDENT) _____ (SIGNATURE OF PARENT OR LEGAL GUARDIAN) _____ (DATE)</p>

<p>FACILITY NAME Visitor Access Agreement (to be executed by legal representative of school or civic group)</p> <p>The undersigned understand that admission to the facility located at [insert address] (hereafter "the premises") has been allowed by [subsidiary name] only on condition that:</p> <p>Visitors agree to accept all risk and agree to hold harmless [subsidiary name] and its parent(s), and release the Company from any and all liability for injuries or damages of any kind sustained while on the premises. Visitors release and forever discharge the Company, its owners and operators as well as its shareholders, directors, officers, employees, agents, heirs, successors and assigns, and all other persons, firms, and corporations having any ownership interest in equipment at the facility, from all claims demands, actions and causes of action relating to any injury or loss which visitors may sustain while on the premises.</p> <p>Visitors agree that the Company is not responsible for the personal property of visitors while on the premises.</p> <p>To the extent the undersigned allows a visitor who has not provided a release similar to this release to visit the premises, the undersigned's decision to allow such a visitor access to the premises shall be deemed an acknowledgment that such person has been informed of the contents of this release and such person's assent to its terms.</p> <p>[Optional:] Visitors agree that no photographs or other record of facility operations will be taken.</p> <p>The undersigned fully understand the meaning and effect of this agreement and release and have freely agreed to be bound by its terms.</p> <p>_____ (SIGNATURE) _____ (ON BEHALF OF) _____ (TITLE) _____ (DATE)</p>

Community Drop Off Areas

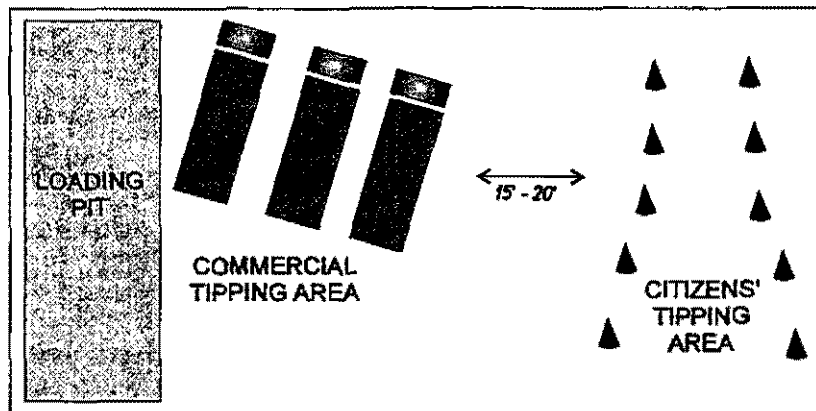
a) *Community Bin Areas*

Community drop-off areas may be utilized to accommodate the general public. The drop-off bins should be located away from the main traffic flow, be well maintained, and clearly marked and defined. Where feasible the Company prefers a Citizens' Disposal Area constructed near the scale house or gatehouse to allow monitoring of customers.

Under all designs and permits, Company policy requires daily maintenance of these areas. All refuse must be dumped out prior to closing at night or the box tarped prior to closing. Tipping areas around citizen drop off areas must be maintained. Litter should be removed, at a minimum, by the close of each operating day.

b) *Alternate Citizens' Tipping Face Area*

If the facility does not have a separate community bin area, citizens' access to the tipping floor may be controlled by use of a designated tipping area for non-commercial vehicles. Cones or markers should be utilized to clearly identify the area. Fifteen to twenty feet should be allowed between commercial and citizen unloading areas. See diagram below.



c) *Access to Tipping Floor*

It is mandatory that facility management limit personnel on the tipping floor. Under no circumstances should any person or vehicle be allowed on or at the tipping floor unless Company personnel are present. Never leave the tipping face unmanned by Company personnel during operating hours.

Only the driver of the vehicle and an authorized helper (an authorized helper is a person who accompanies the driver for the specific purpose of unloading the vehicle and is wearing all required personal protective equipment) are allowed on the tipping floor or past the scale house or ticket office. No one under the age of eighteen will be allowed out of the vehicle. Passengers in customer vehicles must remain in the vehicle while loads are being discharged. The only

exception to this rule is a passenger accompanying the driver for training purposes. If this is the case, the customer must give two days prior notice to the Company. In addition, the customer must inform Company tipping face personnel of the presence of an authorized passenger prior to arrival at the tipping face.

Vehicle Fires and Hot Loads

Truck fires related to solid waste collection and disposal are not uncommon. Drivers and designated facility employees must be prepared and trained to respond appropriately to a hot load situation. A site-specific plan including emergency procedures, designated hot load area, and notification protocols must be prepared for all locations. Vehicle fires must be reported in writing to the Regional HR/Safety Manager and Director of Safety and Loss Control.

In the event a fire is detected in an incoming vehicle, all effort must be made to safeguard human life, protect company property, and contain the fire in an area away from access roads and the working face. A vehicle containing a hot load should be directed to a predetermined location to dump its load.

If it can be done without risk of personal injury, the battery disconnect switch should be turned to the off position. Dirt can be used to build a berm around the load to prevent the fire from spreading. If the fire is small enough, it may be possible to put it out with a fire extinguisher or by shoveling dirt on the source. A water truck can also be used to put out small fires, if there is no danger to anyone involved. If you intend to use a water truck for fire-fighting purposes it must be equipped with properly mounted hoses designed for that purpose. Only employees trained in emergency fire procedures should attempt to extinguish a fire. If there is any doubt a fire can be controlled safely, the fire department must be called to handle the situation.

Public Relations and Inquiries

Facility management should limit the number of employees who deal with the public on a daily basis, including such tasks as answering the phone. Personnel who are permitted to deal with the public on a daily basis should limit their response to any type of inquiry.

As a general rule, unless specifically trained to deal with an issue, personnel should be permitted to give only the following information to the general public in person, in writing or over the telephone or facsimile:

- The operating hours of the facility.
- The gate rate of the facility.

Due to the factors in industry competition as well as an industry opposition, any other information requests should be directed to the facility management. Facility management can then determine the proper response to the request. Facility management shall be the only personnel authorized to provide site-specific or Company information to the public or other company personnel.

Under no circumstances should facility management respond to any request for information on Allied Waste Industries, Inc. without first consulting the Regional Vice President or the Legal

Department at the corporate office. Under no circumstances should facility management respond to any regulatory agency or the media, either verbally or in writing, without first consulting the Director of Compliance and Landfill Development.

Use of Corporate Name

Under no circumstances is a subsidiary permitted to use the Corporate name (Allied Waste Industries, Inc.) on its equipment, letterhead or any other type of advertising. If a subsidiary wishes to use the corporate name for identification purposes, it should use the following example: "Duckett's Disposal, Inc., an Allied Waste Company." Call Corporate Communications in Scottsdale regarding the proper procedures for use of logos.

Third party vendors or brokers (such as truckers for hired transportation) are not permitted to use the Corporate name or the subsidiary name on their equipment or vehicles. Third party truck brokers should not even have "leased to ..." or "contracted to ..." on their equipment or vehicles.

External Consultants and Construction

Before contacting an outside consultant to prepare documents for the Company, a proposed scope of service must be defined. Consultants must provide proposals, including a detailed scope of work and cost estimate(s). Draft documents prepared by the consultant must be provided to the Regional Engineer or Environmental Manager for review and approval. The staff engineers will be actively involved with all phases of the permit applications. In most cases they will be providing direction as to how the outside consultants are to proceed in the best interest of the company.

If problems are encountered during the facility construction that may affect the integrity of the facility, the Regional Engineer or Environmental Manager and the Director of Engineering must be notified. Notification must be made within 24 hours after the problem is discovered or incurred. In all cases, the Director of Compliance and Landfill Development or the Director of Engineering must be contacted prior to any notification to a regulatory agency, unless the District Manager has determined it is an emergency situation.

Site Recordkeeping

Site recordkeeping must be maintained as required by any zoning or operating permits.

Recordkeeping requirements may include:

- Daily Waste Records
- Regulatory Inspections
- DOT/OSHA Training Documentation
- Pest Control Records
- Monitoring or Other Analytical Data
- National Pollutant Discharge Elimination Permits (NPDES)
- Stormwater Pollution Prevention Plan (SWPPP)
- Spill Prevention Control and Countermeasures Plan (SPCC)
- Any Appropriate Permits or Licenses

- Daily Equipment Reports

Daily Log

It is mandatory that every facility keeps a daily log on site. This log can be a simple dated journal, available at any stationery or office supply store, where at a minimum the following information should be kept:

- Hours of operation for the operating day.
- Weather for the operating day. (i.e. temperature, wind speed, precipitation, sun up, sun down, etc.)
- Number of tons or yards received for disposal or processing for the operating day.
- Any citizen or customer complaints, comments or compliments which were received by the facility for the operating day. Who made them, what time they came in, the nature of the complaints, comment or compliment and the facility's response to the complaint, comment or compliment.
- Any unusual circumstances that took place that day. (i.e. accidents, incidents, occurrences in construction, production or operation of the facility.)

This log should be filled out every day and kept on file at the facility for the life of the facility. Upon closure of any facility, all daily logs should be forwarded to the District office. This log and documentation, although very simple, is very important for several different operational and liability reasons. This log should be kept confidential, secure and only viewed and prepared by Company management. Entries should include concise, factual data only, and avoid any personal opinions or evaluations.

Daily Inspections

The manager or designated person must inspect the property each morning using the Daily Checklist found at the end of this section to document site conditions. The inspector will initial, date and time each report. This log must be kept at the landfill for its entire operating life. Items to be inspected are discussed below.

a) AST's Inspected

All above ground tanks must be visually inspected for signs of spills, leaks, and corrosion. Any deficiencies must be addressed and corrected immediately to prevent employee exposure or environmental impact. Standing water inside of the containment structure should be inspected for an oily sheen, indicating fuel or oil contamination. The oil must be removed before the water is removed from the containment. Ensure that the drain valve, if so equipped, is in the closed position.

b) Litter Picked Up

Wind scattered litter must be picked up from facility grounds and from all neighboring property as soon as possible. Major cleanups due to high winds will require additional paper pickers (temporary work service) to collect wind blown litter. Cleanup must begin the day the problem begins.

c) Safety

The safety of our customers and employees is of utmost importance. In our materials recycling facilities the daily work environment includes equipment such as scales, balers, compactors, and conveyors, machinery such as pallet jacks and forklifts, and of course regular traffic from recycling trucks, rollofs, and in some locations non-commercial customer's pickup trucks and personal vehicles. It is important that we protect them from potential hazards inherent to the MRF environment.

One of the easiest ways to assist our customers and employees is with our directions to them. Signs are useful tools for directing and protecting our customers. A clear flow of traffic must be established. Signs should indicate directions of travel. The entrance and exit must be clearly marked. Speed limit signs (5 mph) should be posted. If the public must actually drive into the facility entrance, exit and direction of travel must be very clear.

If the customer must walk inside of the facility, signs can be used to direct them. Consider using painted yellow lines on the floor or roped/chained off areas. Customers must be kept clear of moving equipment, pits, stacked material, conveyor belts, and balers.

Areas you should pay particular attention to are:

- **Housekeeping**
 - Make sure all aisles are clean and free of debris.
 - Ensure waste is removed from behind push walls.
 - Minimum width for aisleways must be 36 inches.
 - Store material properly and in an orderly fashion.
 - Dispose of waste properly.
 - Ensure washrooms are well stocked and clean.
 - Pedestrian traffic areas (when applicable) must be well-defined and free of debris.
 - Keep the floor clean to prevent slips, trips, and falls.

- **Fire Prevention**
 - Fire extinguishers must be accessible and well marked.
 - All exits must be marked.
 - Smoking restrictions should be posted and enforced.
 - Evacuation routes should be posted.
 - Ensure the building or facility meets all federal, state, and local building regulations.

- **Material Handling Equipment (forklifts, etc.)**

- Daily vehicle inspections should be performed.
 - Seatbelts must be worn.
 - Must have properly working backup alarms.
 - Must have properly working brakes.
 - Must have properly working horn.
 - Should be parked when not in use with forks at the down position.
 - Operators must be trained and certified to operate a forklift, bobcat, skid loader, etc.
- **Balers, Grinders, and Conveyor Belts**
 - Pre-operation equipment checks should be prepared daily.
 - Must have all protective guards in place and working properly.
 - Must have a written lockout/tagout plan on site. Lockout/tagout procedures must always be used when performing tasks such as clearing jammed equipment, maintenance or other operations requiring temporary removal of guards or safety devices, and during maintenance or equipment adjustment.
 - Balers, conveyors, and other equipment common to MRFs have moving parts that could cause injury. Do not climb on, in, over, stand under, or allow non-authorized employees or customers around any operating piece of equipment at your facility.
 - Clearly mark where it is safe to walk.
- **Personal Protective Equipment**
 - Eye protection is required in all MRFs.
 - Hearing protection may be required if the equipment or machinery noise exceeds OSHA permissible limits for exposure.
 - Hardhats are necessary if there are elevated working levels that people can walk or work beneath.
 - Gloves are required for any sorting, picking, or other type of manual materials handling.
 - Dust masks are usually optional, but should be offered all employees in areas where airborne particulate may be present.
 - Warning signs should be posted at all entrances to the working floor designating it as a hearing protection, eye protection, foot protection and hardhat zone.
- **Ergonomics**
 - Work processes should be developed and ergonomically correct procedures should be implemented for all job tasks requiring lifting, sorting, bending, stretching, etc.
- **Yard and Parking Areas**
 - Roads and parking areas should be free of holes and broken pavement.
 - Parking and no parking areas must be well defined and posted.
 - Speed limit signs must be clearly posted.
- **Shipping**

Bales should be square and solid. They should be able to be moved with a forklift without falling apart. There should be the correct number of ties on each bale, and should all be of uniform size.

Bales should meet proper density standards for the materials being baled. If the bales are not heavy enough or fall apart easily, it will be difficult to get enough weight in a shipping trailer or rail car, and the mill (who normally pays the freight) will charge you a penalty for light loading or difficult handling. Chock trailer wheels before loading or unloading. Secure and anchor dock plates. Drive in and out of trailers slowly.

If you ship in Gaylord boxes, the boxes should be clean, solid, filled to the correct level and closed with an undamaged lid or top. They should be banded and sealed as appropriate. Each bale and box should be clearly marked with a local shipping label. It should indicate the net material weight, the date the bale or box was made, and what the commodity is. Bales should use wire tie labels, and boxes should have glue-on labels.

Equipment Daily Report

Before starting any piece of equipment, Company personnel must perform a routine inspection and start a Daily Report for that particular machine. (See Forms Section)

Any unusual noises, changes in the way the equipment performs (i.e., hard to turn, brake clutches have to be pushed farther than previously, hydraulics slow), fluid leaks, or fuel/oil added must be noted on the report.

At the end of the day, the ending hours on the hour meter and the finish time (real time), fuels or oils added, and the operator's signature must be noted on the report.

The site mechanic or facility manager should review the reports for completeness and any repairs needed for the machine. A maintenance record must be kept for each piece of equipment, including all rental machines.

Daily reports and records must be maintained for all Balers, Compactors, Loaders, Sweepers, Tractors, Water Pumps, Generators, Forklifts, and Watering Trucks.

Equipment Operators Evaluation

The Facility Manager will periodically (at least annually) evaluate each equipment operator's performance in the areas of Pre-inspection, Operation, Speeds, General Work Habits, and Post Use Inspection.

The evaluations are designed to increase the manager's awareness of his employees' skills, areas in need of development, and evaluation for training on other equipment. The majority of this evaluation is an observation of the employee's performance and should be completed by the site manager without the employee being aware of the evaluation. After filling out the form as completely as possible, inform the operator you are conducting an evaluation, and have the operator perform the required procedures to demonstrate their knowledge and ability. After

completing the evaluation, review it with the operator, correcting any areas not found satisfactory. This is an instructional as well as an employee evaluation tool.

The evaluation forms should be completed for all equipment operators and kept in their personnel file.

Guidelines for Heavy Equipment Safety

All equipment must be checked and operational BEFORE any employee uses the machine.

As a manager for a transfer station or MRF, you may receive or inherit mobile equipment for your operations. The guidelines below contain the items that must be checked prior to the equipment being used. Machinery in this category include haul trucks, loaders, skid steers, and forklifts.

- Seat belts - must be installed in all equipment and be operable.
- Roll over protection structure (ROPS) - required on all equipment except street sweepers.
- Back up alarm (on all equipment except pickup trucks) - a minimum 85-dB alarm must sound whenever the machine is in reverse.
- Horn must be working.
- Gages and alarms - for oil, hydraulic, air pressure and coolant temperature must be functioning and accurate.
- Hand holds, ladder or steps intact - operator must be able to ascend into the cab or check fluid levels and be able to maintain three points of contact at all times (i.e. two hand holds and one foot hold); missing steps, ladder rungs, or platforms must be repaired/replaced.
- Walking surfaces free of slipping hazards - smooth steps or walking surfaces must be made slip resistant. This may mean using extruded metal steps where appropriate or placing adhesive safety treads on walk areas.
- Portable fire extinguishers must be charged and certified - all equipment will have a 10-lb. ABC extinguisher at a minimum. It is also recommended that an additional 20-lb. extinguisher be mounted on the machine where it is accessible from ground level.
- Work lights on front and rear - two lights front and rear are highly recommended.
- CB or two-way radio working.
- Window glass in good condition - cracked glass should be replaced as soon as possible. Window glass that has been broken leaving an exposed jagged edge must be removed from the machine immediately.
- Windshield wipers working properly.

- Equipment Daily Report - a pre-operational inspection must be done each shift, any fuel or oil added must be noted, any problem/strange noises reported. See the Operations Section of this manual section for more details.
- Brakes - service brakes on all vehicles must be in working order. If there is any malfunction, the unit must be removed from service and repaired before it is used again.
- Emergency Brakes - must be operational and adjusted as needed.
- Amber strobe - the strobe light is required on all equipment used inside a transfer station or MRF and also on street sweepers. The light must be on whenever the machine is operating.

Scavenging

It is Company policy that any material or waste stream arriving at any of the Company's MRF's or transfer stations is the property of the Company. Therefore, the removal of any material from these facilities without written approval from the Director of Compliance and Landfill Development (with three weeks notice) is considered theft. Facility management should instruct their personnel and make known to their customers that scavenging absolutely is not permitted without facility management permission. Facility managers must submit a request, in writing, to the Director of Compliance and Landfill Development and get an approval in writing prior to any scavenging at any of the Company's facilities.

Third Party Disposal Sites

It is the policy of the Company not to utilize solid waste disposal facilities that expose the Company to higher than necessary risk of remedial liabilities. The following procedures and controls will be followed for non-AWI facility use.

Initial Evaluation

Thirty days before any non-AWI solid waste disposal facility is utilized for the first time, the Director of Engineering in Scottsdale shall be contacted in writing using the *Third Party Disposal Request Form* found in the Forms Section of this manual. The Engineering and Compliance Department shall determine if use of the proposed disposal facility will expose the company to higher than normal risk of remedial liabilities. If the assessed risk is within normal expectations, then the requesting operation will be informed in writing that utilization is authorized. If the assessed risk is high, then the disposal facility shall not be utilized unless approval in writing is received from the Vice President of Operations.

Re-Evaluation

Every two years, any AWI operation utilizing non-AWI disposal facilities shall contact the Director of Engineering to request reauthorization for use of the non-AWI disposal facility. If the assessed risk continues to be within normal expectations, the AWI operation will be informed that

utilization is acceptable. If the assessed risk is high, then the disposal facility shall no longer be utilized unless approval is received in writing from the Vice President of Operations.

Evaluation Process

The Director of Engineering shall investigate State and Federal published listings to determine if the disposal facility is identified as requiring remedial investigation. If merited, the Environmental Department shall visit the disposal facility to perform an environmental audit. From this information the department shall define an opinion on the level of risk of remediation and AWT's potential liability.

Environmental Monitoring

Environmental monitoring activities are based on site-specific conditions such as the geology, hydrogeology, operating permit requirements, etc. Each facility will have a site-specific environmental monitoring plan.

Radiation (Transfer Stations)

To monitor waste vehicles for radioactive materials, a radioactive material detection system should be installed at each facility in the area of vehicle check-in or at the scale house. Detectors should be checked daily to assure they are functioning properly and re-calibrated no less than yearly. At least one individual per shift should be trained in the operation of the equipment and the procedures for responding to an alarm.

Site specific procedures should be posted at transfer stations with radioactive material detection systems and should include the telephone numbers for the state radiation control office, the US nuclear Regulatory Commission regional office, and the local or state police. If a vehicle passing the detector triggers the alarm, the following alarm response procedures are recommended:

- Reset the monitor and survey the vehicle or container a second time to verify radioactive material detection.
- If the alarm is triggered a second time, move the vehicle from the monitoring zone to a location where the vehicle may be kept indefinitely. No materials are to be removed from the vehicle nor should any employee sort through any waste until trained personnel arrive. No truck trailers or roll-off containers are to be dropped from the power unit that transported it to the facility. The vehicle that brought the load in must remain in tact until given authority to detach from the load or leave the property by a State or Federal agency.
- The driver should then be monitored separately by the detection system to verify that he/she has not caused the alarm to sound. This may be the case if the driver has received radioactive pharmaceuticals as part of prescribed medical treatment.

- If the radioactive material is traced to the waste, the waste cannot be accepted by the facility. Notification to the proper authorities should proceed in the following order
 1. Regional Engineer- the engineer will then contact their Regional Vice President
 2. District Manager
 3. Director of Engineering, who will then contact the Director of Landfill Development
 4. Director of Safety
- The site manager will notify the appropriate state radiation control office. (Appendix B of this section) The State will be the coordinator for storing and final disposal of the waste.

Leachate Management

Leachate collection systems shall be managed and maintained in accordance with all local, State, and Federal regulations, permits and agreements. The Site Manager is responsible for maintaining the leachate collection systems. Leachate management includes removal and proper disposal. Storage systems must be designed according to applicable regulations. Should a spill or leak occur, the procedures outlined in the Spill Prevention, Control and Countermeasures Plan should be utilized.

All local, state and federal permits, approvals, and agreements must be obtained prior to utilizing a treatment facility or method. Each facility should have both a primary and secondary (backup) facility permitted. Any company vehicles or third party haulers should have all applicable and up-to-date permits for hauling of leachate. Leachate discharged to sanitary sewer systems must be in accordance with facility sewer permits and periodic testing requirements must be maintained.

Any and all quantities of leachate removed for disposal shall be logged on the day of disposal. The Site Manager must be on site at the time of leachate removal. The Site Manager must sign the leachate disposal log when the leachate is removed to document that the manager has approved the disposal method. If an employee is assigned by the Site Manager to perform any of the disposal tasks, the employee must also sign the log sheet. Copies of the daily log sheets shall be maintained on file at the site and reports sent to the state agency as required. Leachate analysis should be performed in accordance with permits and agreements.

Contact your District Engineer or, where appropriate your consulting engineer for assistance with leachate management practices and design features.

Storm Water Management

If applicable, a Storm Water Pollution Prevention Plan should be written and on file at each facility. Associated storm water discharge permits should be applied for and obtained. One-time or periodic sampling shall be conducted in accordance with local, state and federal permits.

Contact your Regional Engineer for assistance with storm water management.

Surface Water Diversion

Surface water or storm water run-off should be diverted away from the tipping area and loading bays. Contact your Regional Engineer for assistance with surface water diversion.

Wash Water Management

Truck and equipment wash water shall be collected or discharged so as not to impact the surrounding environment and storm water. Solids and residues that result from washing shall be collected and disposed of properly.

On-site washing shall be conducted on a wash pad and wash water collected to prevent direct off-site discharge. Washing should be done utilizing a high pressure and low volume wash unit.

Wash water shall be managed by one of the following methods:

- Discharged to an on-site recirculation / recycling system.
- Discharged to an on-site waste water treatment system (does not include septic system unless allowed by permit and design).
- Discharged to a sanitary sewer or directly hauled to an off-site treatment facility.
- Discharged through sedimentation pond or catch basin / grease trap.
- Collected in holding pond or tank for evaporation.
- Other method approved by the Compliance Department.

All local, state and federal permits shall be obtained prior to implementation. Each method is subject to applicable regulations and is site specific. Contact your Regional Engineer for assistance.

Regulatory Inspections, Meetings and Correspondence

Any time a regulatory agency inspection occurs at the facility, a brief memo must be transmitted to the Director of Compliance and Landfill Development with a copy to the Director of Engineering no later than 5:00 PM the following day. When your office receives the regulatory report, it should be faxed to the Director of Compliance and Landfill Development and the Director of Engineering the same day. If a written response is necessary, all written responses must be approved by the Compliance Department no less than five days prior to the response due date.

A copy of written correspondence from an agency must be sent to the Compliance Department the day of receipt. Any correspondence to an agency that discusses any type of permit violation etc. must be reviewed by the Compliance Department prior to mailing.

The Director of Engineering must be notified as soon as possible of a scheduled meeting or conference call with regulatory officials to discuss permitting or compliance related issues. After discussion with the District Manager or his appointed personnel, the Company will decide what role, if any, the Compliance Department will play in the meeting.

The following table defines the distribution requirements and approval procedures regarding regulatory inspections, communications, and meetings.

REGULATORY INSPECTIONS

Whenever a facility undergoes an inspection by any regulatory agency, a brief memo should be prepared and distributed. The memo should include the following: a) type of inspection, i.e. inspecting agency, b) date of inspection, c) name of inspector, d) reason for the inspection, and e) a summary of the outcome

Type of Inspection	Distribution
EPA (state, county, or federal)	Memo to Director of Safety CC: Director of Engineering, Regional Engineer, District Safety Manager, District Manager, and any others at District Manager's discretion
OSHA, MSHA	Same as EPA, plus corporate Director of Human Resources and Director of Safety and Loss Control
DOT	Director of Safety and Loss Control, Regional HR/Safety Manager, District Safety Coordinator, District Manager
County or Municipal Health Dept.	Same as EPA

REGULATORY CORRESPONDENCE

Depending on the type of correspondence, the following copies will be required:

Type of Correspondence	Distribution
Normal Permitting/Daily Operations	CC: Director of Engineering, Regional Engineer, District Manager
Special Waste (including notification of special waste legislation or changes in special waste legislation)	CC: Regional Engineer, Special Waste Coordinator
Notice of Violations All drafts of responses to NOV's will be reviewed by Jim VanWeelden and Doug Borro. Concerns and revisions will be returned	On day received, fax copy of the violation to: Director of Safety, Director of Engineering, and your Regional Engineer

in writing. The final draft will be faxed back and marked "Approved". If no written correspondence for revision is received please call Maria Beele two days before the submission due date to verify approval.	Fax the proposed response at least 5 days prior to its due date: Director of Safety Director of Engineering
OSHA, MSHA, DOT	CC: Director Safety & Audits, Region HR/Safety

REGULATORY MEETINGS

Notification of any meetings or conference calls with regulatory officials involving permitting, compliance-related issues or notices of violations will be communicated as soon as the meeting is contemplated or scheduled. After consulting with the respective Regional Vice Presidents and District Managers or their appointee, the subject matter of the meeting will determine the level of involvement by the Compliance and Landfill Development Department. In many cases, District personnel will handle the meeting exclusively.

Communication Required	Distribution
Initial notification of meeting	Fax immediately to: Director of Safety Director of Engineering
Within two days following the conference call or meeting the Regional Engineer or attending Senior Manager should prepare a brief memo summarizing the results of the meeting or call.	Copies to: Director of Safety Director of Engineering District Manager Regional Vice President (if meeting involves landfill development include a copy to Director of Landfill Development)

EXPANSION AND DEVELOPMENT

It is necessary to keep us apprised of all meetings with landowners, consulting engineers, attorneys, political officials, public meetings, or public hearings regarding siting of new facilities or expansions of existing facilities. As in the case of other regulatory meetings, the District personnel will handle their own siting and expansion. History has proven that local relationships are the key to landfill development.

Communication Required	Distribution
Prior to meeting send a brief memo explaining the reason for and content of the meeting.	To: Director of Landfill Development CC: Director of Safety, Director of Engineering or Senior Engineer
Following the meeting send a brief memo highlighting any pertinent outcomes or key	To: Director of Landfill Development CC: Director of Safety, Director of Engineering or

points.	Senior Engineer
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PERMIT APPLICATIONS/MODIFICATIONS, CONSTRUCTION CONCERNS OR PROBLEMS AND ENVIRONMENTAL SERVICES

Any construction contracts (i.e. dirt, liner, etc.), consulting engineering contracts or environmental service contracts must be approved in writing prior to entering into said contracts.

Communication Required	Distribution
Prior to entering into a contract.	Submit proposed contract to Director of Engineering or Senior Engineer for approval

OCCUPATIONAL ILLNESS, SERIOUS INJURY AND FATALITIES

Information regarding occupational illnesses (i.e. needle sticks, exposure to toxic fumes/gases), serious injuries or fatalities must be communicated immediately.

Communication Required	Distribution
Immediate notification by telephone.	To: Director Safety & Loss Control, Director Human Resources, your District Manager and District Safety Coordinator, Regional HR/Safety Manager
Accident or injury report as soon as it is available.	Fax: Director Safety & Loss Control, Director Human Resources, District Manager, District Safety Coordinator, Regional HR/Safety Manager

Load Checking Program

Purpose

State and Federal law requires that owners and operators of all solid waste management facilities implement a program for detecting and preventing the acceptance or disposal of regulated hazardous wastes and TSCA regulated polychlorinated biphenyl (PCB) wastes. In part, this program is aimed at addressing commercial or industrial sources of PCB wastes, such as:

- Mineral oil and dielectric fluids containing PCBs.
- Contaminated soil, dredged material, sewage sludge, and other debris from a release of PCBs.
- Transformers and other electrical equipment containing dielectric fluids.
- Hydraulic machines.

Other unacceptable wastes include asbestos containing material (unless pre-approved and permitted), liquid waste, prohibited vegetative wastes, and those wastes prohibited and otherwise recycled. Suspicious wastes may be indicated by hazardous placards or markings, powder or dusts, sludge, bright or unusual colors, drums or commercial size containers, chemical odors; red bagged material and potentially infectious medical waste.

General

A designated inspector will inspect at least five random loads (or more if required by permit) of solid waste delivered to the facility on a random day each week. Typically, two of the five loads will be bulk loads and the other three will be packer trucks. The Inspector will fill out a Waste Inspection Report and Load Checking Log Sheet entry for each load. (See Forms Section) All forms must be filled out completely and kept in the facility Operating Record. Loads that are rejected will be documented on the "Rejected Load" form.

The inspector may be the chief operator, site manager, foreman, equipment operator, or the gate attendant. Employees who perform load inspections and all operators who work at the tipping face will receive training to identify unacceptable, hazardous, and PCB wastes within 30 days of being assigned to work in a tipping area. Handling of hazardous and PCB wastes are described in the written program found at the end of this document. Training must be documented and placed in the Operating Record.

Warning Signs

Signs posted that read: "No Hazardous Waste Accepted" and "Non-Hazardous Special Waste (Drums, Sludge, and Liquids) Must Be Accompanied By A Waste Manifest".

Training

The on-site personnel assigned as load checkers or inspectors will be trained to identify potentially regulated hazardous waste and PCB wastes. Training will include safety meetings, guidance documents and on the job training. The training emphasizes methods to identify containers and labels typical for hazardous wastes and PCB wastes. It shall address hazardous waste handling procedures, safety precautions, and recordkeeping requirements.

The local operations manager will assure that properly trained contractors will only perform any hazardous waste sampling or handling. At a minimum, contractors must have received certification for the 40-Hour Hazardous Waste Operators (HAZWOPER) training course.

Documentation of training for all employees and contractors who sample and handle hazardous wastes will be placed into the Operating Record.

Inspection Process

Inspection priority will be given to commercial, industrial or medical sources, haulers with unknown service areas, to loads brought to the facility in vehicles not typically used for municipal solid waste, and to loads transported by previous would-be offenders.

Vehicles will enter the site and stop at the gatehouse next to the scale. The gate attendant will collect the appropriate tipping fee and provide an unloading ticket to the transporter. The vehicle will then travel to the front of the transfer station and back up to the tipping floor area. The inspector will inform the driver that his vehicle has been selected for an inspection, and that the process will only take few additional minutes to complete. The inspector will record the transporters name, drivers name, license plate number, truck unit number, date and time. The loader operator (load inspector) will visually scan the load as it discharges from the truck and as it is spread on the tip floor. The driver is to remain present during the inspection. Once all the waste has been deposited and spread out, the inspector will document whether or not unacceptable waste was encountered. If none was found, the driver of the truck will be allowed to leave the tipping area. The form is considered to be part of the Operating Record for the facility and is to be kept on site for one year.

Notification of Authorities

If regulated amounts of hazardous waste or PCB wastes are detected, site personnel are to contact the general manager, District Manager and or the Regional Engineer immediately. If the wastes are confirmed hazardous by the management, the General Manager will notify the appropriate agencies and assure that the waste is handled properly. The appropriate agencies will be notified the first business day after a holiday or weekend period if such wastes are found after regular business hours. Agency phone numbers and contacts are listed at the end of this section.

Management of Hazardous or PCB Wastes

It is the responsibility of the transporter to contact a hazardous waste contractor to handle and manage hazardous or PCB waste found during normal operations or during a detailed random inspection.

If the site manager is unable to identify the transporter who brought the hazardous waste, the manager will ensure that the waste is managed in accordance with all applicable Federal and State regulations. Management shall retain a qualified contractor to handle hazardous wastes inadvertently received by the facility.

Hazardous waste will not be stored at the facility on a regular basis. If hazardous waste must be temporarily stored at the facility the following procedures will be followed:

- The waste is placed in tanks or containers.
- The date of receipt of the waste is clearly marked and visible on each container.
- An employee is designated as the emergency coordinator, who is responsible for coordinating all emergency response measures.
- The name and telephone number of the emergency coordinator, hazardous waste contractor, and the number of the fire department will be posted next to the facility phone.

The following procedures are to be followed if the Company contracts to have any hazardous wastes transported off site:

- The contractor must have an EPA identification number.
- Package the waste in accordance with Department of Transportation (DOT) regulations under 49 CFR Parts 173, 178 and 179. (The container must be labeled, marked, and display a placard in accordance with DOT regulations on hazardous wastes under 49 CFR Part 172.)
- Properly manifest the waste, designating a permitted facility to treat, store, or dispose of the hazardous waste.

The following procedures are to be followed if the facility contracts to dispose of PCB wastes:

- The contractor must have an EPA PCB identification number.
- The PCB waste must be properly stored.
- The containers or items must be clearly marked with the words "Caution - Contains PCB's".
- Manifest the PCB waste for shipment to a permitted incinerator, chemical waste landfill, or high efficiency boiler (depending on the nature of the PCB waste) for proper disposal.

Disposal of Dead Animals

Accepting Dead Animals

No transfer station will accept dead animals unless the proper certification is received prior to disposal. Diseased animals *will never be accepted* at any company owned or operated transfer station. Under no circumstances shall a live animal be brought into the transfer station and subsequently euthanized or "put down." The transfer station can only accept a dead animal accompanied by the appropriate RCRA certification.

In most instances, the disposal of dead animals is acceptable as a solid waste. It will be necessary to complete the "Animal Carcass Waste Certification" form for each load or partial load of dead animals. This certification must be signed by the generator and kept on file at the transfer station as part of the facility recordkeeping.

Dead animals should be contained in plastic bags to control vectors. They may be bagged individually or in groups depending on the size and type of carcasses. The manager shall notify operations personnel as soon as possible so that disposal can be handled properly. Operations personnel will assure the carcasses are put on the first available transport from the transfer station. If large quantities are received at one time, special handling may be necessary as determined by site management.

Large animals, i.e. horse, cows, etc. may be too big for bagging. However, the animal shall be covered with a tarp to reduce public visibility. To avoid difficulty unloading larger animals, a rope, harness, or other means to aid in extracting the carcass from the customer's vehicle should be employed prior to arrival at the transfer station.

Disposal Alternatives

Sending large animals to a rendering plant is an alternative to landfill disposal. Most cities and towns have one or more animal by-product processors listed in the local yellow pages.

If a diseased animal carcass is brought to the facility, the County Health Department or appropriate regulatory agency shall be notified immediately. The vehicle containing the carcass shall be directed to a location so as not to interrupt traffic or impede operations. Facility management shall insure that the Health Department finds an alternate disposal method. Information regarding the rejected load shall be entered into the daily log. The appropriate disposal method is incineration or mass burial with approved infection controls. Incineration or mass burial of diseased animals is not to be performed at any company owned or operated landfill.

Personnel Orientation and Training

The Manager will conduct an orientation program to familiarize employees with the organization and to train employees for their new position.

The Manager is responsible for the overall development and coordination of the orientation program and for implementing the portions of it that cover policies, benefits, and new employee

files and documentation. Each supervisor is responsible for orientation as it applies to introducing the new employee to the job and the department and may select a coworker to serve as a sponsor to facilitate the new employee's transition.

The Manager will maintain records of all training programs completed by each employee.

**Refer to the following
for specific OSHA and company training requirements.**

Facility Safety and Training Manual

Special Waste Manual

Training Curriculum – MRFs and Transfer Stations

TRAINING CURRICULUM MRF'S AND TRANSFER STATIONS

TYPE OF JOB	SITE SAFETY ORIENTATION	BASIC HAZCOM	WALKING WORKING SURFACE	SPILL RESPONSE	BLOODBORNE PATHOGENS	ENERGY CONTROL	CONFINED SPACE	ERGONOMICS	HEAT/COLD	PPE	HEARING CONSERVATION	TRAFFIC CONTROL	PROCESS EQUIPMENT	POWERED INDUSTRIAL TRUCKS	ELECTRICAL SAFETY PRACTICES	EMERGENCY MANAGEMENT TRAINING
SCALEHOUSE OPERATOR	X	X	X	R	R	AA	AA	X	AA	X	AA	X	AA	AA	AA	AA
SORTER	X	X	X	X	X	AA	AA	X	AA	X	AA	AA	X	AA	AA	AA
SPOTTER	X	X	X	R	R	AA	AA	X	AA	X	AA	X	AA	AA	AA	AA
POWERED INDUSTRIAL EQUIPMENT OPERATORS	X	X	X	R	R	X	AA	X	AA	X	AA	X	X	X	AA	AA
BALER/COMPACTOR PROCESS OPERATORS	X	X	X	R	X	X	X	X	AA	X	AA	AA	X	AA	AA	AA
SUPERVISOR	X	X	X	R	X	X	X	X	AA	X	AA	X	X	X	X	X
MAINTENANCE/SERVICE	X	X	X	R	AA	X	X	X	AA	X	AA	AA	X	X	X	AA
HOUSEKEEPING	X	X	X	R	R	R	R	X	AA	X	AA	AA	AA	AA	AA	AA
DRIVERS/TRUCK	X	X	X	R	X	X	X	X	AA	X	AA	X	AA	AA	AA	AA
SPECIFIC TASKS/OTHER																
INCIPIENT FIRE RESPONDER	X	X	X	R	X	X	X	AA	X	X	AA	X	AA	AA	AA	X
CONFINED SPACE ENTRY TEAM	X	X	X	R	R	X	X	AA	X	X	AA	AA	AA	AA	AA	X
SPILL RESPONSE TEAM	X	X	X	R	X	X	X	AA	X	X	AA	AA	AA	AA	AA	X
OFFICE PERSONNEL ENTERING PROCESSING FLOOR	X	X	X	R	R	R	R	AA	AA	X	AA	AA	AA	AA	AA	AA
CONTRACTORS	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
FIRST AID PROVIDER	X	X	X	R	X	AA	AA	AA	X	X	AA	AA	AA	AA	AA	AA

LEGEND: X = MANDATORY TRAINING AA = AS APPROPRIATE TO SPECIFIC JOB/TASK CATEGORY R = RECOGNITION/AWARENESS TRAINING ONLY

PERSONAL PROTECTIVE EQUIPMENT MRF'S AND TRANSFER STATIONS

TYPE OF JOB	WORK BOOTS	EYE/FACE PROTECTION	HEARING PROTECTION	HEAD PROTECTION	DUST MASK	RESPIRATOR	TRAFFIC SAFETY VEST	HAND PROTECTION
SCALEHOUSE OPERATOR	AA	AA	AA	AA	AA	AA	AA	AA
SORTER	X	X	AA	AA	AA	AA	AA	X
SPOTTER EQUIPMENT	X	X	AA	X	AA	AA	X	AA
OPERATORS/INCLUDE FORK LIFT/BOBCAT	X	X	AA	AA	AA	AA	AA	AA
BALER/COMPACTOR/ PROCESS OPERATOR	X	X	AA	X	AA	AA	AA	X
SUPERVISOR	X	X	AA	AA	AA	AA	AA	AA
MAINTENANCE/SERVICE	X	X	AA	AA	AA	AA	AA	AA
HOUSEKEEPING	X	X	AA	AA	AA	AA	AA	AA
DRIVERS (TRUCK)	X	X	AA	AA	AA	AA	AA	AA
INCIPIENT FIRE RESPONDERS	X	X	AA	AA	AA	AA	AA	AA
SPILL RESPONSE TEAM	X	X	AA	AA		X	AA	X
OFFICE PERSONNEL ENTERING PROCESSING FLOOR	(2)	X	AA	AA	AA	AA	AA	AA
CONTRACTORS	(2)	X	AA	AA	AA	AA	AA	AA
FIRST AID PROVIDER	X	AA	AA	AA	AA	AA	AA	X
CUSTOMERS	(2)	NONE	NONE	X	NONE	NONE	NONE	NONE

LEGEND: X = MANDATORY EQUIPMENT AA = AS APPROPRIATE (2) CLOSED TOE, HARD SOLED SHOE

Personal Protective Equipment

The following list of safety equipment should be used as appropriate for Company personnel, Company subcontractors, and Company customers:

Hardhats

Any person, including customers, personnel, and subcontractors who are on Transfer Station or MRF property that is owned by the Company or its subsidiary must wear an approved hardhat (approved hardhats must meet the ANSI Z86 9.1 1986 Standard for Industrial Protective Helmets) when they are not in the confines of their equipment, a building or vehicle.

At a minimum, six (6) clean hardhats should be kept at the facility office for visitors or customers who do not have their own hardhats. Customers who are issued Company hardhats during their visits to the facilities should sign them out and in and leave their drivers license at the office facility to ensure the return of the hardhat.

Letters should be mailed to all regular customers or subcontractors explaining the hardhat rules and other safety or facility rules or procedures that the facility plans to enforce prior to instituting said rules. The mailing of these letters should be documented in each customer or subcontractor file so no question exists as to when and where facility rules were mailed.

In addition, several copies of site-specific facility rules should be kept at the office and be given to any non-regular customers to read prior to letting the customer enter the facility. In geographic areas where Spanish Americans are common, these safety or facility rules should also be printed in Spanish. If facility management decides against handing out rule sheets to non-regular customers, they may choose to have the rules written on a billboard-type sign and posted in the area of the scale house or ticket gate.

Maintenance Facilities. As the scope of work will vary considerably depending on the requirements of the respective job tasks at these facilities, it will be the responsibility of District Management and District Compliance personnel to delineate when and where hardhats should be used.

Safety Glasses

Safety glasses should be at all times when the risk of eye injury exists. District Management and District Compliance Personnel will decide on this application, except for the following situations where safety glasses will be mandatory:

- Anyone on the tipping floor of the transfer station.
- Anyone in the sorting, baling, compacting or tipping areas of a MRF.
- Any maintenance personnel working in, on, or around equipment or when using tools or machinery requiring eye protection.

Respirators

The use of respirators is required anytime Company personnel are exposed to any waste streams that have a tendency to contain high concentrations of particles which can become airborne (i.e. fly ash, blast furnace residue, etc.) when disposal operations are in progress.

Gloves

As the scope of work where gloves are required will vary, it will be the decision of District management and District compliance personnel when gloves will be necessary for Company personnel. Any employee sorting or handling recyclables must wear gloves.

Florescent Vests

The use of florescent vests will be mandatory anytime Company personnel are used in any of the following capacities:

- Spotters
- Paper or litter pickers.

Hearing Protection

Disposable earplugs will be made available to all employees. A wall dispenser containing individually wrapped earplugs will be mounted in each shop for employee use. Regional HR/Safety and District Safety Personnel will work with facility management to determine whether or not hearing protection is mandatory or optional. Consult the Facility and Safety Training Manual for specific guidelines regarding Hearing Protection.



ALLIED WASTE INDUSTRIES, INC.

15580 N. GREENWAY-HAYDEN LOOP, SUITE 100•SCOTTSDALE, AZ 85260•TEL: (480) 627-2700 FAX: (480) 627-2707

DISTRIBUTION REFERENCE

CONTACT	ADDRESS	TELEPHONE / FAX
Doug Borro Director of Engineering	15880 N. Greenway-Hayden Loop Suite 100 Scottsdale, AZ 85260	Tel: 480-627-2787 Fax: 480-627-2707
Becky Stein Special Waste Coordinator	15880 N. Greenway-Hayden Loop Suite 100 Scottsdale, AZ 85260	Tel: 480-627-2700 x217 Fax: 480-627-8703
Cheryl Anderson Director of Human Resources	15880 N. Greenway-Hayden Loop Suite 100 Scottsdale, AZ 85260	Tel: 480-627-2700 x515 Fax: 480-627-2718
Garry Mosier Director of Safety	15880 N. Greenway-Hayden Loop Suite 100 Scottsdale, AZ 85260	Tel: 480-627-2744 Fax: 480-627-2707
Don Haufe Director of Risk Management	15880 N. Greenway-Hayden Loop Suite 100 Scottsdale, AZ 85260	Tel: 480-627-2716 Fax: 480-627-2707
Mark Johnson Auditor Manager	15880 N. Greenway-Hayden Loop Suite 100 Scottsdale, AZ 85260	Tel: 480-627-2731 Fax: 480-627-2707
Dave Hildreth Director of Landfill Development	7797 Confederate Park Road Fort Worth, TX 76108	Tel: 817-237-4178 x19 Fax: 817-238-9676
Shawn McCash Senior Engineer	15880 N. Greenway-Hayden Loop Suite 100 Scottsdale, AZ 85260	Tel: 480-627-7081 Fax: 413-828-8562
Eric Ballenger Hydrogeologist	26 W. 580 Schick Road Hanover Park, IL 60103	Tel: 630-894-9095 Fax: 630-894-3089
Victoria Warren Senior Hydrogeologist	6711 W. 1000 North McCordsville, IN 46055	Tel: 317-355-9550 Fax: 317-335-9899

APPENDIX B State Agencies

Alabama

Department of Environmental Management
Land Division
PO Box 301463
Montgomery, Alabama 36130-1463
334/271-7700

Alaska

Department of Environmental Conservation
Division of Environmental Health
Solid Waste Section
555 Cordova Street
Anchorage, Alaska 99501
907/269-7500

Arizona

Department of Environmental Quality
Waste Programs Division
3033 N. Central Avenue
Phoenix, Arizona 85012
602/207-2381

Arkansas

Department of Pollution Control and Ecology
Hazardous Waste Division
PO Box 8913
Little Rock, Arkansas 72219-8913
501/570-2872

California

California Integrated Waste Management Board
8800 Cal Center Drive
Sacramento, California 95826
916/255-2182 (x2200)

Colorado

Department of Public Health and Environment
Hazardous Materials and Waste Management
Division
4300 Cherry Creek Drive S.
Denver, Colorado 80222-1530
303/692-3300

Connecticut

Department of Environmental Protection
Bureau of Waste Management
79 Elm Street
Hartford, Connecticut 06106-5127
203/424-3021

Delaware

Department of Natural Resources and
Environmental Control
Division of Air and Waste Management
Hazardous Waste Branch
89 Kings Highway
PO Box 1401
Dover, Delaware 19903
302/739-3689

Delaware Solid Waste Authority
PO Box 455
Dover, Delaware 19903-0455
302/739-5361

District of Columbia

Solid Waste Management Administration
2750 South Capitol St., SE
Washington, District of Columbia 20032
202/645-7044

Florida

Department of Environmental Protection
Waste Management Division, Twin Towers Bldg.
2600 Blairstone Road
Tallahassee, Florida 32399-2400
904/487-3299

Georgia

Department of Natural Resources
Environmental Protection Division
Land Protection Branch
4244 International Parkway, Suite 104
Atlanta, Georgia 30354
404/362-2537

Hawaii

Department of Health
Solid and Hazardous Waste Branch
919 Ala Moana Boulevard
Room 212
Honolulu, Hawaii 96814
808/586-4225

Idaho

Department of Health and Welfare
Division of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706
208/334-5860

Illinois

Environmental Protection Agency
Land Pollution Control Division
Solid Waste Management
PO Box 19276
Springfield, Illinois 62794-9276
217/782-6761

Indiana

Department of Environmental Management
Office of Solid and Hazardous Waste
Room 1154
100 N. Senate, POB 6015
317/232-3210

Iowa

Department of Natural Resources
Waste Management Authority
Wallace State Office Building
502 E. 9th Street
Des Moines, Iowa 50319-0034
515/281-8941

Kansas

Bureau of Waste Management
Building 740, Forbes Field
Topeka, Kansas 66620
913/296-1600

Kentucky

Department for Environmental Protection
Division of Waste Management
Ft. Boone Plaza
14 Reilly Road
Frankfort, Kentucky 40601
502/564-6716

Louisiana

Department of Environmental Quality
Solid and Hazardous Waste
PO Box 82178
Baton Rouge, Louisiana 70884-2178
504/765-0249

Maine

Department of Environmental Protection
Bureau of Remediation and Waste Management
State House, Station 17
Augusta, Maine 04333-0017
207/287-2651

Maryland

Department of the Environment
Waste Management Administration
2500 Broening Highway
Baltimore, Maryland 21224
410/631-3304

Massachusetts

Department of Environmental Protection
Bureau of Resource Protection
Solid and Hazardous Waste Section
1 Winter Street
Boston, Massachusetts 02108
617/292-5960

Michigan

Department of Natural Resources
Waste Management Division
106 W. Allegan
Lansing, Michigan 48909-7741
517/373-2730

Minnesota

Minnesota Pollution Control Agency
Ground Water and Solid Waste Division
520 Lafayette Road
St. Paul, Minnesota 55155-4194
612/296-7333

Mississippi

Department of Environmental Quality
Office of Pollution Control
Solid Waste Management Branch
2380 Highway 80 West
Jackson, Mississippi 39204
601/961-5171

Missouri

Department of Natural Resources
Division of Environmental Quality
Hazardous Waste Program
PO Box 176
Jefferson City, Missouri 65102
573/751-5401

Montana

Department of Environmental Quality
Waste Management Division
PO Box 200901
Helena, Montana 59620-0901
406/444-1430

Nebraska

Department of Environmental Quality
1200 N Street, Suite 400
Lincoln, Nebraska 68508
402/471-2186

Nevada

Department of Conservation
and Natural Resources
Division of Environmental Protection
333 W. Nye Lane
Carson City, Nevada 89710
702/687-4670

New Hampshire

Department of Environmental Services
Waste Management Division
6 Hazen Drive
Concord, New Hampshire 03301
603/271-2925

New Jersey

Department of Environmental Protection
Division of Solid and Hazardous Waste
120 South Stockton Street, CN 421
Trenton, New Jersey 08625

New Mexico

Environmental Department
PO Box 26110
Santa Fe, New Mexico 87502
505/827-0169

New York

Department of Environmental Conservation
Division of Solid Waste
50 Wolf Road
Albany, New York 12233-4010
518/457-6603

North Carolina

Department of Environmental,
Health and Natural Resources
Waste Management Division
PO Box 27687
Raleigh, North Carolina 27611
919/733-4996

North Dakota

Department of Health and
Consolidated Laboratories
Waste Management Division
PO Box 5520
Bismarck, North Dakota 58506-5520
701/328-5166

Ohio

Ohio Environmental Protection Agency
Division of Solid and Infectious Waste Management
PO Box 1049
Columbus, Ohio 43228-1049
614/644-2621

Oklahoma

Department of Environmental Quality
Solid Waste Management
1000 NE 10th Street
Oklahoma City, Oklahoma 73117-1212
405/745-7100

Oregon

Department of Environmental Quality
Division of Hazardous and Solid Waste
811 SW 6th Avenue
Portland, Oregon 97204
503/229-5913

Pennsylvania

Department of Environmental Protection
Bureau of Waste Management
Rachel Carson State Office Building
400 Market Street
Harrisburg, Pennsylvania 17101-2063
717/787-9870

Puerto Rico

Environmental Quality Board
PO Box 11488
Santurce, Puerto Rico 00910
809/725-5140

Rhode Island

Department of Environmental Management
Division of Waste Management
235 Promenade Street
Providence, Rhode Island 02908
401/277-2797

South Carolina

Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201
803/740-1590

South Dakota

Department of Environmental and Natural Resources
Environmental Regulation Division
Waste Management Program
523 East Capitol Avenue
Pierre, South Dakota 57501-3181
605/773-3153

Tennessee

Department of Environment and Conservation
Solid Waste Management Division
401 Church Street
5th Floor, L&C Tower
Nashville, Tennessee 37243-1535
615/532-0780

Texas

TNRCC
12100 Park 35 Circle
Austin, Texas 78711
512/239-1000

Utah

Department of Environmental Quality
Division of Solid and Hazardous Waste
PO Box 144880
Salt Lake City, Utah 84114-4880
801/538-6170

Vermont

Agency of Natural Resources
Solid Waste Management Division
103 South Main Street
Laundry Building
Waterbury, Vermont 05671-0404
802/241-3444

Virginia

Department of Environmental Quality
629 E. Main Street
Richmond, Virginia 23219
804/698-4000

Washington

Department of Ecology
Hazardous Waste and Toxics Reduction Program
PO Box 47600
Olympia, Washington 98504-7600
360/407-6702

West Virginia

Division of Environmental Protection
Office of Waste Management
1356 Hansford Street
Charleston, West Virginia 25301
304/558-5935

Wisconsin

Department of Natural Resources
Bureau of Waste Management - WA/3
PO Box 7921
Madison, Wisconsin 53707
608/266-1327

Wyoming

Department of Environmental Quality
Solid and Hazardous Waste Management Division
122 West 25th Street
Cheyenne, Wyoming 82002
307/777-7752

APPENDIX C
Examples
Inherently Radioactive Scrap

<p>POSSIBLE ORIGINS</p>	<p>US Department of Energy (DOE) facilities Nuclear reactor/electricity generating facility Research laboratories using an accelerator Radiopharmaceutical facilities using an accelerator Fabricators using thoriated tungsten welding wire Specialty glass manufacturers Aircraft manufacturers Military munitions manufacturers</p>
<p>POSSIBLE SCRAP FORMS</p>	<p>Aircraft engine parts Concrete Counterweights (aircraft, missiles, projectiles) Electronics Gas mantle, incandescent Glassware, glass enamel, glass brick, glass enamel frit Piezo ceramic Lamps (electrical, germicidal, sun) Lens, finished optical Metal foil Metal liners Military armor plating Munitions Tools Welding rods Wire</p>
<p>POSSIBLE SCRAP METAL</p>	<p>Aluminum Copper Ferrous metal Glass Lead Magnesium Mixed metal turnings Nickel Stainless steel Thorium alloys Zinc</p>

**APPENDIX D
STATE AGENCIES**

ARIZONA	
RADIATION CONTROL	PUBLIC SAFETY
<i>Radiation Regulatory Agency</i> 4814 South 40 Street Phoenix, AZ 85040 Tel: (602) 255-4845 Fax: (602) 437-0705	<i>Department of Public Safety Highway Patrol Bureau -Motor Control Hazmat Response</i> PO Box 6638 Phoenix, AZ 85005 Tel: (602) 223-2212 Fax: (602) 223-2508
CALIFORNIA	
<i>County of San Diego Department of Occupational Radiological Health</i> 9325 Hazard Way San Diego, CA 92123 Tel: (619) 694-2169	<i>California Highway Patrol</i> PO Box 942898 Sacramento, CA 94298-0001 Tel: (916) 445-2211 Fax: (916) 446-4870
COLORADO	
<i>Department of Health Radiation Control Division</i> 4300 Cherry Creek Drive South Tel: (303) 692-3030 Fax: (303) 782-5083	<i>Colorado State Patrol Operational Services Branch</i> 700 Kipling Street Denver, CO 80215 Tel: (303) 239-4546 Fax: (303) 239-4577
GEORGIA	
<i>Department of Natural Resources Radioactive Materials Program</i> 4244 International Pkwy Ste 114 Atlanta, GA 30354 Tel: (404) 362-2675 Fax: (404) 362-2653	<i>Department of Public Safety State Patrol Division</i> PO Box 1456 Tel: (706) 535-5428 Fax:
ILLINOIS	
<i>Department of Nuclear Safety</i> 1035 Outer Park Drive Springfield, IL 62704 Tel: (217) 785-0600 Fax: (217) 786-7223	<i>Illinois State Police Hazardous Materials Section</i> PO Box 19461 Springfield, IL 62794-9461 Tel: (217) 782-7762 Fax: (217) 524-2391
INDIANA	
<i>State Board of Health Radiological Health Section</i> PO Box 19641330 W. Michigan Street Indianapolis, IN 46206-1964 Tel: (317) 633-0150 Fax: (317) 633-0154	<i>Indiana State Police Government Center North</i> 100 N. Senate Avenue Indianapolis, IN 46204 Tel: (317) 232-8248 Fax: (317) 232-0652

MASSACHUSETTS	
RADIATION CONTROL	PUBLIC SAFETY
<i>Department of Public Health Radiation Control Program 305 South Street Jamaica Plain, MA 02130 Tel: (617) 727-9710 Fax: (617) 727-2098</i>	<i>Massachusetts State Police 906 Elm Street Concord, MA 01742 Tel: (617) 566-4500 Fax: (508) 727-1808</i>
MICHIGAN	
<i>Department of Public Health Division of Radiological Health 3423 N. Logan Street Lansing, MI 48909 Tel: (517) 335-8200 Fax: (517) 335-8706</i>	<i>Department of State Police 714 S. Harrison Road E. Lansing, MI 48823 Tel: (517) 336-6100 Fax: (517) 336-6257</i>
MISSOURI	
<i>Department of Health Bureau of Radiological Health 1730 E. Elm Street Jefferson City, MO 65102 Tel: (314) 751-6160 Fax: (314) 751-6010</i>	<i>Missouri Highway Patrol PO Box 568 Jefferson City, MO 65102 Tel: (314) 751-3313 Fax: (314) 751-9419</i>
NEBRASKA	
<i>Department of Health Division of Radiological Health 301 Centennial Mall S Lincoln, NE 68509 Tel: (402) 471-2168 Fax: (402) 471-0169</i>	<i>Nebraska State Police PO Box 94907 Lincoln, NE 68509-4907 Tel: (402) 471-0105 Fax: (402) 471-3295</i>
NEW YORK	
<i>Department of Environmental Conservation Bureau of Radiation 50 Wolf Road, Room 442 Albany, NY 12233-7255 Tel: (518) 457-2200 NY City (718) 643-7967 Fax: (518) 458-6434 NY City (718) 643-4616</i>	<i>New York State Police State Office Campus Public Security Building #22 Albany, NY Tel: (518) 457-6811 Fax: (518) 457-9620</i>
NORTH CAROLINA	
	<i>North Carolina Highway Patrol PO Box 27687 Raleigh, NC 27611-7687 Tel: (919) 733-3861 Fax: (919) 733-6593</i>

OHIO	
RADIATION CONTROL	PUBLIC SAFETY
<i>Department of Health Bureau of Radiological Health 35 E. Chestnut Street Columbus, OH 43266-0118 Tel: (614) 644-2727 Fax: (614) 644-1909</i>	<i>Department of Highway Safety Division of State Highway Patrol 660 E. Main Street Columbus, OH 43266-0562 Tel: (614) 466-2660 Fax: (614) 752-3040</i>
OKLAHOMA	
<i>Department of Environmental Quality Radiation Management Section 1000 Northeast 10th Street Oklahoma City, OK 73117-1212 Tel: (800) 522-0206 Fax: (405) 271-8425</i>	<i>Department of Public Safety PO Box 11415 Oklahoma City, OK 73136 Tel: (405) 425-2043 Fax: (405) 521-6227</i>
SOUTH CAROLINA	
<i>Department of Health and Environmental Control Bureau of Radiological Health 2500 Bull Street Columbia, SC 29201 Tel: (803) 734-4629 Fax: (803) 734-4590</i>	<i>Department of Public Safety State Highway Patrol 5420 Broad River Road Columbia, SC 29210 Tel: (803) 737-1030 Fax: (803) 737-1785</i>
TEXAS	
<i>Department of Health Bureau of Radiation Control 1100 W. 49th Street Austin, TX 78756-3189 Tel: (512) 458-7460 Fax: (512) 834-6690</i>	<i>Texas State Police 5805 N. Lamar Blvd. Austin, TX 78752 Tel: (512) 465-2116 Fax: (512) 465-2176</i>
UTAH	
<i>Department of Environmental Quality Division of Radiation Control 168 North 1950 West Salt Lake City, UT 84114-4850 Tel: (801) 536-4123 Fax: (801) 533-4097</i>	<i>Utah Highway Patrol 4501 S. 2700 W. Salt Lake City, UT 84119 Tel: (801) 965-4505 Fax: (801) 965-4716</i>
VIRGINIA	
<i>Department of Health Bureau of Radiological Health Main Street Station 1500 E. Main Room 104A Richmond, VA 23219 Tel: (804) 674-2400 Fax: (804) 786-6979</i>	<i>Virginia State Police - Motor Carrier Safety and Hazmat Enforcement PO Box 27472 Richmond, VA 23261-7472 Tel: (804) 674-2000 Fax: (804) 674-2267</i>

APPENDIX E
UNITED STATES NUCLEAR REGULATORY COMMISSION

OPERATIONS CENTER (24 HOURS)	Bethesda, Maryland Tel: (301) 816-5100 Fax: (301) 492-8187
REGION I Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont	475 Allendale Road King of Prussia, PA 19406-1415 Tel: (215) 337-5000 Fax: (215) 337-5324
REGION II Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virginia, Virgin Islands, West Virginia	101 Marietta Street, NW Ste 2900 Atlanta, GA 30323 Tel: (404) 331-4503 Fax: (404) 331-4479
REGION III Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Wisconsin	799 Roosevelt Road Glen Ellyn, IL 60137 Tel: (708) 790-5500 Fax: (708) 790-5665
REGION IV Arkansas, Colorado, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming	Parkway Central Plaza Building 611 Ryan Plaza Drive Ste 400 Arlington, TX 76011-8064 Tel: (817) 860-8100 Fax: (817) 860-8210
REGION V Alaska, Arizona, California, Hawaii, Nevada, Oregon, Washington, and US territories and possessions in the Pacific	1450 Maria Lane Walnut Creek, CA 94596-0200 Tel: (510) 975-0200 Fax: (510) 975-0350

ADDITIONAL INFORMATION

POSTER: "Hazardous Scrap Beware"
 US Nuclear Regulatory Commission
 US Government Printing Office
 Tel: (202) 512-2249
 Order Number: NUREG/BR-0108, August 1986

BOOKLET: "Caution! It Could Be Radioactive Scrap"
 Institute of Scrap Recycling Industries
 Washington, DC
 Tel: (202) 737-1770
 Order Number: RADIOA

DIRECTORY: State Agencies Involved with the Transportation of Radioactive Material
 (updated annually) Conference of Radiation Control Program Directors
 Tel: (502) 227-4543
 Order Number: CRCPD Publication 91-4

**APPENDIX F
RADIOACTIVE WASTE DISPOSAL SERVICES¹**

BROKERS	CITY STATE	TELEPHONE	FAX	NEUTRON SOURCES	WILL HANDLE CONTAMINATED EQUIPMENT	DIFFUSE NORM ²
A.B. Gamma, Inc.	IL	(815) 485-8996		yes	yes	no
ADCO Services	IL	(800) 282-2326	(708) 429-9659	yes	yes	yes
Alaron Corp.	PE	(412) 772-0266	(412) 772-0268	no	yes	yes
Allied Ecology	CA	(510) 463-9280	(510) 463-9283	yes	yes	yes
Applied Health Physics	PE	(412) 835-9555	(412) 835-9559	yes	yes	yes
Chem Nuclear Sys	SC	(803) 256-0450	(803) 799-4470	yes	yes	yes
Environcare of Utah	UT	(801) 532-1330	(801) 537-7345	no	no	yes
Natural Radiation Specialists	IL	(815) 485-4433	(815) 485-4433	no	no	yes
NDL Organization	NY	(914) 737-7200	(914) 737-9244	no	yes	yes
NSSI	TX	(713) 641-0391	(713) 641-6153	yes	yes	yes
Quadrex Corp	TN	(615) 482-5532	(615) 482-5605	no	yes	no
RA Services	TX	(915) 563-4127	(915) 563-9224	some	yes	no
RADIAC Research Co.	NY	(718) 963-2233	(718) 388-5107	some	some	yes
RAMP Industries Inc.	CO	(303) 480-1509	(303) 458-7458	yes	yes	yes
RSO, Inc.	MD	(301) 953-2482	(301) 498-3017	yes	yes	yes
Scientific Ecology Group	TN	(615) 481-0222	(615) 376-8481	yes	yes	yes
Teledynelotopes	NJ	(201) 664-7070	(201) 664-5586	no	yes	yes
Thomas Grey Assoc.	CA	(714) 997-8090	(714) 997-3561	yes	yes	no
US Ecology	KY	(502) 426-7160		yes	yes	yes
Los Alamos Nat'l Lab	NM	(505) 665-2712	(505) 667-1139	Pu239	yes	no

¹ Information provided by Conference of Radiation Control Program Directors, June 1992

² Examples of Diffuse Norm: Pipe Scale, Contaminated Soil

FORMS

TRANSFER STATION/MATERIALS RECYCLING FACILITY

DAILY CHECKLIST – Page One

FACILITY NAME:		LOCATION:	
<p>The items below will be monitored and evaluated daily. This report will be kept on hand. Discrepancies noted on the daily checklist will be reported to the appropriate authority/supervisor for resolution and a record of that report will be maintained with the checklist.</p>			
INDICATE WHETHER CONDITION IS SATISFACTORY OR UNSATISFACTORY (S OR U)	DATE		
Gate and Perimeter Fence			
Doors & Windows			
Building Conditions			
Walls			
Roof			
Water System			
Wash Down System			
Plumbing			
Lights			
Electrical Wiring			
Safety Rails			
Stairs and Rails			
Fire Extinguishers			
Grounds			
Roads Swept or Wet Down			
Blown Trash Picked Up			
Orderly			
Safety Equipment			
Dust Mask			
Goggles/Safety Glasses			
Gloves			
Coveralls			
Hardhats			
Hard Soled/Steel Toed Boots			
Odor/Vector Control			
Floor Free of Waste			
Floor Sanitized			
Floor Washed Down			
Trailer Area Picked Up/Cleaned			
Wastes Trapped Behind Push Walls Removed			
<p>Daily comments on operation and maintenance needs are to be listed on the reverse side of this form in the space provided.</p>			
Inspected by (Print Name)	Signature	Date	

WASTE INSPECTION REPORT

LOAD INSPECTION DESCRIPTION			
Date of Inspection:		Time of Inspection:	Type of Inspection: Daily <input type="checkbox"/> Random <input type="checkbox"/>
Name of Inspector:			
Name of Hauling Company:			
Driver's Name:			
Vehicle License Plate Number:		Vehicle Identification Number:	
SOURCE IDENTIFICATION			
LOW RISK SOURCES	MEDIUM RISK SOURCES	HIGH RISK SOURCES	
<input type="checkbox"/> Residential	<input type="checkbox"/> Dry Cleaners	<input type="checkbox"/> Large Manufacturing	
<input type="checkbox"/> Office Buildings	<input type="checkbox"/> Auto Body Repair	<input type="checkbox"/> Doctor's Office	
<input type="checkbox"/> Schools	<input type="checkbox"/> Small Manufacturing	<input type="checkbox"/> Hospitals	
<input type="checkbox"/> Farms	<input type="checkbox"/> Nursing Homes	<input type="checkbox"/> Paint Manufacturers	
<input type="checkbox"/> Apartments	<input type="checkbox"/> Other	<input type="checkbox"/> Print Shops	
<input type="checkbox"/> Restaurants		<input type="checkbox"/> Waste Brokers	
<input type="checkbox"/> Department Stores		<input type="checkbox"/> POTW's	
<input type="checkbox"/> Other		<input type="checkbox"/> Other	
LOAD CONTENTS			
Household Wastes	Yes <input type="checkbox"/> No <input type="checkbox"/>	Transformers/Capacitors	Yes <input type="checkbox"/> No <input type="checkbox"/>
Wood	Yes <input type="checkbox"/> No <input type="checkbox"/>	Labeled Hazardous Waste	Yes <input type="checkbox"/> No <input type="checkbox"/>
Metal	Yes <input type="checkbox"/> No <input type="checkbox"/>	Batteries	Yes <input type="checkbox"/> No <input type="checkbox"/>
Paper, Cardboard	Yes <input type="checkbox"/> No <input type="checkbox"/>	Oil	Yes <input type="checkbox"/> No <input type="checkbox"/>
Yard Waste, Brush, Stumps	Yes <input type="checkbox"/> No <input type="checkbox"/>	Medical	Yes <input type="checkbox"/> No <input type="checkbox"/>
Containers	Yes <input type="checkbox"/> No <input type="checkbox"/>	Radioactive	Yes <input type="checkbox"/> No <input type="checkbox"/>
Bulk Liquids	Yes <input type="checkbox"/> No <input type="checkbox"/>	Soil	Yes <input type="checkbox"/> No <input type="checkbox"/>
Powders, Dusts	Yes <input type="checkbox"/> No <input type="checkbox"/>	Other	Yes <input type="checkbox"/> No <input type="checkbox"/>
DOES WASTE MATCH THE HAULER'S DESCRIPTION?			Yes <input type="checkbox"/> No <input type="checkbox"/>
Unusual Odors?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Unusual Colors?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Heat, Excessive Smoke?	Yes <input type="checkbox"/> No <input type="checkbox"/>		
INSPECTOR VERIFICATION			
The load was discharged within a separate area of the facility and unloading of the contents was observed.			Yes <input type="checkbox"/> No <input type="checkbox"/>
There is no evidence of regulated hazardous wastes (i.e. drums containing hazardous waste labels, PCB wastes, sludges, other industrial process wastes) or evidence of other unacceptable materials, i.e. asbestos.			Yes <input type="checkbox"/> No <input type="checkbox"/>
There is no evidence of Potentially Infectious Medical Waste (i.e., red bagged material, syringes, etc.)			Yes <input type="checkbox"/> No <input type="checkbox"/>
<i>NOTE: If there is NO evidence of unacceptable waste materials within the load, file this form. If unacceptable waste is found, prepare Load Rejection Form, contact Site Manager, and document action taken below.</i>			
ADDITIONAL ACTION TAKEN			
Signature of Inspector:		Signature of Driver:	

REJECTED LOAD FORM

- 1. Waste Authorization Number: _____
- 2. Waste Name: _____
- 3. Generator Name: _____
- 4. Generator Address: _____

- 5. Transporter Name: _____
- 6. Vehicle License No: _____
- 7. Driver's Name: _____
- 8. Reason(s) for Rejection:

ATTACH A COPY OF ANY ON-SITE TEST RESULTS (IF APPLICABLE) AND A COPY OF THE NON-HAZARDOUS SPECIAL WASTE MANIFEST.

Signature of Site Inspector

Date

Print Name of Site Inspector

ANIMAL CARCASS WASTE CERTIFICATION

GENERAL INFORMATION

1. Source Name: _____
2. Source Address: _____ County: _____
City: _____ State: _____ Zip: _____
3. Contact Name: _____
4. Contact Telephone Number: _____

TRANSPORTER INFORMATION

1. Transporter Name: _____
2. Transporter Telephone Number: _____
3. Contact Name: _____

I hereby certify under penalty of law that the animal carcasses are not infectious and that the transporter and source listed above will not deliver for disposal or attempt to deliver for disposal any infectious carcasses defined by the Resource Conservation and Recovery Act and State and local regulations. To the best of my knowledge and belief the information contained herein is true and accurate.

Authorized Representative Signature

Date

Authorized Representative Name (Type or Print)

Title

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID JB
MRBUL-1

DATE (MM/DD/YYYY)
04/25/03

PRODUCER
McClure & Associates
Brian D. McClure
1440 Maple Ave. Ste. 6B
Lisle IL 60532-4138
Phone: 630-241-4220 Fax: 630-241-4258

INSURED

Mr. Bult's, Inc. (MBI)
2631 East 139th Street
Burnham IL 60633

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Alea London	
INSURER B: Crum & Forster	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
B	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC	5410296207	11/01/02	11/01/03	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> TRUCKERS	1380320712	11/01/02	11/01/03	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
B	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE \$ RETENTION \$	5315001264	11/01/02	11/01/03	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	4060286316	11/01/02	11/01/03	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Property Section	ALMP00148	11/01/02	11/01/03	BUILD/ PP BLANKET 5,500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

The holder is also an additional insured to the extent as their interests may lie.

CERTIFICATE HOLDER

CANCELLATION

PACIFIL
Pacific Waste Services /
Allied Waste
Bud Chase
8364 Clairemont Mesa Blvd.
San Diego CA 92111

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
John L. Brown