

**AGREEMENT FOR THE
COLLECTION OF SOLID
WASTE WITHIN THE CITY
OF WEED**

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AGREEMENT FOR THE COLLECTION OF SOLID WASTE WITHIN THE CITY OF WEED

THIS AGREEMENT is made and entered into this 10th day of November 2022, by and between the City of Weed, a municipal corporation, hereinafter referred to as "City" and Siskiyou County Disposal, LLC, hereinafter referred to as "Contractor" and is based on the following facts:

WHEREAS, Acting pursuant to the provisions of Chapter 8.08 of the Weed Municipal Code, the City Council has determined that it is advisable and necessary in the interest of the public health, safety, and welfare to enter into a contract for the collection of municipal waste generated by residents and businesses within the corporate limits of the City.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS CONTAINED HEREIN, CITY AND CONTRACTOR AGREE:

1. *Contract Effective Date.*

This Contract shall be effective as of December 1, 2022 and shall continue in effect for a period of ten (10) years. This Contract shall include and incorporate by reference the contents of Chapter 8.08 of the Weed Municipal Code.

The Term of this Agreement may be extended, at request of the Contractor, and at the sole discretion of the City, by written agreement of the Parties twice for succeeding terms of five (5) years each, provided that Contractor is in compliance with all terms and conditions of the Agreement. Acting pursuant to the Provisions of Chapter 8.08 of the Weed Municipal Code, City does hereby grant to Contractor the right to collect and remove solid waste, as defined by this Agreement, within the City of Weed and to transport the same to an approved transfer station for transfer to an approved sanitary landfill.

2. *Definitions.*

For purposes of this agreement the following definitions control:

"Approved transfer station" as used in this Agreement means either Black Butte Transfer Station located at 3710 Spring Hill Road, Mount Shasta California, or Yreka-Oberlin Road Transfer and Recycling Station owned by the County of Siskiyou and located at 2420 Oberlin Road, Yreka, California, or such other transfer station as may be designated jointly by the parties.

"Approved sanitary landfill" means such sanitary landfill as is designated as the disposal site for solid waste by the operator of the approved transfer station or such other site designated by City.

"An approved disposal site" shall be either Black Butte Transfer Station 3710 Spring Hill Road, Mount Shasta, California, Yreka Transfer Recycling on 231 Ranch Lane, Yreka, California, or the Yreka-Oberlin Road Transfer and Recycling

Station, 2420 Oberlin Road, Yreka, California, unless the City designates otherwise.

“Customer” means the owner or occupant of a residential or commercial property who receives service from the contractor.

“Designated location” means the point where Contractor instructs the customer to make containers available for collection by Contractor.

“Missed Service” means if any resident, the City, or any other source notified the Contractor that services were missed during the regular schedule.

“Municipal waste” as used in this agreement shall mean garbage, rubbish and waste as defined in Chapter 8.08 of the Weed Municipal Code. “Municipal waste” shall not include “recyclables”, which are defined in this agreement.

“Recycling” means any process by which materials which would otherwise become municipal waste are collected (source-separated, co-mingled, or as mixed waste), separated and/or processed and returned to the economic mainstream in the form of raw materials or products or materials which are otherwise salvaged or recovered for reuse.

“Recyclables” and “Recyclable Materials” means residential, commercial or industrial by- products of some potential economic value, set aside, handled, packaged, or offered for collection in a manner different from municipal waste.

“Solid waste” is defined as both municipal waste and recyclable materials.

3. *Consideration:*

Contractor does hereby undertake and agree that it shall, during the term of this Agreement, collect and gather such solid waste from the producers thereof within the City and transport the same to the approved transfer station according to the terms of this Agreement.

4. *Municipal Waste Collection and Recycling Program.*

A. Municipal Waste Collection. The Contractor agrees that it shall, not less than once each week and more often as may be reasonably required, collect and gather municipal waste from the premises of the producers thereof all municipal waste collected from residences or businesses within the City of Weed and transport the same to the approved transfer station for transfer to an approved sanitary landfill, and, as to producers who require service at less frequent intervals, will provide such service and transportation as and when the same shall be required. All municipal waste collected pursuant to this Agreement shall be transferred for disposal to an approved transfer station on the same day it is collected at Contractor's cost. Contractor shall obey all rules and regulations of the transfer station operator and owner of the transfer station site. Once municipal waste is placed in containers and placed at the designated collection location by the customer, ownership and the right to possession shall transfer directly from the customer to Contractor by operation of this Agreement. Contractor shall bill all Customers directly for all services provided pursuant to this Agreement.

B. All service performed by Contractor shall be in accordance with all applicable City, State, and Federal ordinances, laws, requirements, restriction, and licensing provisions as the same now exist or as they may be modified or adopted in the future.

C. When notified of a Missed Service, CONTRACTOR shall collect the Solid Waste, on the same day, if possible, but in no event more than one business day (24 hours) after receipt of notice. CONTRACTOR shall promptly and properly respond to all other complaints and notify CITY when response is completed.

D. Any Solid Waste spilled during the collection process, shall be the responsibility of Contractor and shall be cleaned up promptly.

E. Recycling Program.

In order for the City to accomplish its annual minimum diversion requirements for solid waste pursuant to California law, the Contractor may establish and operate a recycling operation in connection with the franchise, which shall be without charge to participants. Contractor may collect and remove all recyclable materials, as defined hereafter, which shall be segregated from municipal waste and placed in or adjacent to recycling containers at all participating collection locations and from participating single-family residences, multi-residential complexes, commercial locations and industrial locations. Contractor acknowledges and agrees that the City may permit other persons besides Contractor to collect any or all types of the recyclable materials listed in this Agreement without seeking or obtaining approval of the Contractor under this Agreement.

(1) Contingent upon the City receiving annual grant funding for the recycling program, and in exchange for doing the above described Recycling Program free of additional franchise fee, Contractor shall, upon execution of this Agreement, issue to each Customer who volunteers to participate in said recycling operation a suitable Recycling Blue Bag, supplied by the City, at no additional charge, and will collect the recyclables from the Customer's location at no additional charge. The City agrees to pay contractor for these services the amount up to the grant received. Subject to the provisions of this Agreement, Contractor shall have the right to retain any benefit resulting from its right to retain, recycle, process, dispose of, or reuse the Recyclable Materials which it collects. Recyclable Materials, or any part thereof, which is disposed of at the approved disposal site shall become the property of the Owner or operator of the disposal site(s) once deposited there by Contractor. Contractor may establish reasonable rules for participation by customers in this recycling program and, in its sole discretion, may terminate services under this provision to any customer who puts municipal waste into any recycling container provided by Contractor under this Agreement.

(2) Recyclable Material Collection shall be those materials designated exclusively by Contractor

(3) Contractor agrees to cooperate with City in other recycling programs that may be instituted by City, provided, however, nothing herein shall be construed to require Contractor to buy specialized equipment, receptacles or vehicles without further negotiations and contract with the City.

(4) This Agreement is not intended to, and does not, affect or limit the right of any

person to sell any valuable commodity to Contractor or to any other person lawfully doing business within the City at prices agreed upon by the parties to such transaction. This agreement does not constitute any warranty or guarantee on the revenues which Contractor may generate by conducting this operation.

5. *Franchise Fee.*

A. Franchise Fee. In consideration of the right and privilege herein granted by the City to the Contractor, the Contractor promises and agrees to pay and shall pay to the City, for and during the term of this Agreement, and at the times hereinafter specified, a franchise fee equal to the amount set forth hereafter, calculated on the monthly total gross receipts of the Contractor, such gross receipts to be those collected by the Contractor from the producers of garbage within the City, rubbish and refuse for the collection, gathering and transportation of such garbage to the approved disposal site or approved transfer station. As of the date of execution of this Agreement the franchise fee shall be ten percent (10%) of the monthly total gross receipts of the Contractor. The Franchise Fee may be negotiated at the end of the 10-year term. The parties agree that the franchise fee represents the reasonable value of the privilege granted by the City to the Contractor under this Agreement of using the City's right-of-way for placement of its containers used for solid waste pickup on a periodic and regular basis.

B. The Contractor shall file with the City, within thirty (30) calendar days after the expiration of each calendar quarter during which this contract is in force, a statement showing in detail, the total gross receipts for the preceding calendar quarter and concurrently therewith pay to the City the appropriate franchise fee.

C. The Contractor shall pay to the City a late payment penalty in an amount equal to five (5) percent of the amount owing for that month. Contractor shall pay an additional five (5) percent owing on any unpaid balance for each following thirty (30) day period the Fee remains unpaid. The late payment penalty amounts are not intended as interest on debt, but rather are intended as a predetermined penalty for failure to meet an obligation under this Agreement.

6. *Performance Bond*

The Contractor shall supply the City with a Performance Bond in the amount of \$100,000.00 renewed on an annual basis for the full-term agreement, including extensions, if any. The Performance Bond shall be in a form approved by the City Attorney and secure Contractor's performance of its obligations under this Agreement and shall be maintained throughout the Term of this Agreement. If Contractor breaches any obligation under this Agreement, City may serve written notice upon the Contractor and the Surety on its Performance Bond demanding satisfactory compliance with the Agreement.

7. *Inspection of Records.*

The City requires Contractor to maintain records for three years after Agreement ends or is terminated.

A. The City, or City's designee, with a 72-hour notice, has the right to inspect and audit the Contractor's records during regular business hours. The City has the right to copy and inspect such records showing Contractor's gross receipts.(this only includes the records pertaining to garbage service within the City of Weed) The Contractor shall maintain books of account, full,

complete and accurate, and which, when audited by the City, will indicate to the City the condition of the Contractor's business and of the gross proceeds in respect of which Contractor is required to pay the City the percentage aforesaid. This right of inspection shall extend to any company with whom Contractor has a financial relationship with for the provision of services under this Agreement, such as transfer of municipal waste or recycling materials and processing. The City shall have the right, at reasonable times, to audit the books of the Contractor, and the Contractor shall maintain offices within the City limits of the City of Weed wherein such books of account shall be maintained and be available for such audit.

B. Audit and Consequences. Should an audit by City disclose that the Franchise Fees or other fees, if any, payable by Contractor were underpaid or that Customers were overcharged for the period under review, Contractor shall pay to City any underpayment of Franchise Fees and/or refund to Contractor's Customers any overcharges for the entire period. Should an audit disclose that Franchise Fees were overpaid, the City shall refund to Contractor the amount of the overpayment. Any refunds to be made by either party shall be due and payable (30) calendar days following the date of the audit.

C. Maintenance of Records. City views the ability to respond to City customers and to defend against the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and related litigation as matters of great importance. For this reason, City regards the ability to prove where municipal waste collected in the City was taken for disposal, as well as where it was not taken, to be matters of concern. As there is no statute of limitations on environmental liability, the Contractor shall maintain data retention and preservation systems which can establish where solid waste collected in the City was landfilled (and therefore establish where it was not landfilled) and provide to the City in an acceptable electronic format, a copy of such data and information annually, records for Collection and Transport to County of Siskiyou Waste Stream Transfer Stations services provided pursuant to this Agreement. In addition, records shall be maintained by the Contractor, at Contractor's sole discretion, in a manner reasonably acceptable to City, for the City relating to:

- (a) Customer services and billing;
- (b) Routes;
- (c) Facilities, equipment and personnel used;
- (d) Complaints and resolution of complaints;
- (e) Missed pick-ups;
- (f) Number of Refuse and Recycling Carts; and
- (g) Tons collected, processed, diverted, and disposed by type of service (Cart, Bin, Can, or Roll-off Box), Waste stream (Refuse and Recycling) and Customer (Residential and Commercial).

Contractor agrees to notify City at least ninety (90) calendar days before destroying such records. This provision shall survive the expiration of the period during which collection services are to be provided under this Agreement. Contractor shall maintain records of disposal of all solid waste collected in the City for the period of this Agreement and all extensions to this Agreement or successor Agreements. In the event Contractor

discontinues providing solid waste services to the City, Contractor shall provide all records of disposal or processing of all solid waste collected in the City within thirty (30) calendar days of discontinuing service. Records shall be in chronological and organized form and readily and easily interpreted.

8. *Means of Performance.*

A. Contractor covenants, promises and agrees that collection, loading, transport, transfer and dumping from Contractor's vehicles while in the City and while in transit shall be done in a neat and careful manner and so as to deposit all solid waste at the place designated by this Agreement. Contractor shall maintain its vehicles in a good and clean condition and shall use only vehicles clearly marked with Contractor's business name and telephone number. Contractor shall furnish such qualified drivers, mechanical, supervisory, clerical, management and other personnel as may be necessary to provide the services required by this Agreement in a satisfactory, safe, economical and efficient manner. All drivers shall be trained and qualified in the operation of vehicles they operate and must possess a valid license, of the appropriate class, issued by the California Department of Motor Vehicles.

B. Contractor shall establish and vigorously enforce an educational program which will train its employees in the identification of Hazardous Waste. Contractor's employees shall not knowingly place such Hazardous Waste in Contractor's vehicles, nor knowingly dispose of such Hazardous Wastes at the approved transfer station or approved disposal site. "Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901), all future amendments thereto, and all rules and regulations promulgated thereunder.

C. Contractor shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. If any employee is found to be discourteous or not to be performing services in the manner required by this Agreement, Contractor agrees to take necessary corrective measures. If City has notified Contractor of a complaint related to discourteous or improper behavior, Contractor will consider reassigning the employee to duties not entailing contact with the public while Contractor pursues its investigation and corrective action processes.

D. Contractor shall provide its employees, companies, agents and subcontractors with a means of identification for all individuals who may make personal contact with residents or businesses in the City. Contractor shall provide a list of current employees, companies, agents and subcontractors to the City upon request. Contractor may require its drivers and helpers to wear, at all times during the scope of employment, clean and standardized uniforms which bear Contractor's name.

E. Contractor shall not discriminate in the provision of service or the employment

of Persons engaged in performance of this Agreement on account of race, color, religion, sex, age, physical handicap or medical condition in violation of any applicable federal, state or local law.

9. *Indemnity.*

Contractor shall indemnify and hold harmless City, its City Council, boards, commissions, officers, agents, representatives and employees from any and all actions, claims or damages brought for or on account of alleged injuries to or death of any person or alleged damage to property of all kinds resulting from or arising out of the operations of Contractor, its officers, agents, employees or servants pursuant to this Agreement. The duty of Contractor to indemnify and hold harmless shall include the duty to defend as set forth in California Civil Code Section 2778. This general indemnification provision shall survive the termination of this Agreement. Contractor agrees, at Contractor's expense, to defend any action against the City that falls within the scope of this indemnity upon written notice from the City. The City, at its own option, may elect not to tender such defense and may elect instead to secure its own attorneys to defend any such action. Contractor shall be responsible for the reasonable costs and expenses incurred in defending such action, including attorneys' fees.

In addition to all other relief provided to the City under this Agreement, and subject to Section 40059.1 of the Public Resources Code, Contractor agrees to indemnify and hold harmless the City, their officers, directors, employees, and agents from and against all fines or penalties imposed by the California Integrated Waste Management Board in the event the source reduction and Recycling goals or any other requirement of the Act are not met by the City with respect to the waste stream Collected under this Agreement and such failure is due to the failure of Contractor to meet its obligations under this Agreement or for delays in providing information that prevents the City from submitting reports required by AB 939 in a timely manner.

10. *Insurance Requirements.*

A. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. Contractor shall present proof of insurance annually.

Minimum Scope of Insurance:

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001.)
2. Insurance Services office form number Ca 0001 (Ed. 1/87) covering automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

Minimum Limits of Insurance

Contractor shall maintain limits no less than:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of One Million Dollars (\$1,000,000) per accident.
4. Contractors Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions applicable to the work being performed, with a limit no less than \$2,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year.

If Contractor maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Deductibles and Self-insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured

retentions as respects the City, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provision

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

B. The City, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the contractor; and with respect to liability arising out of performance of this agreement by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General Liability coverage can be provided in the form of an endorsement to the Contractor's insurance, or as a separate owner's policy.

C. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

D. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

E. Coverage authentication. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII.

Verification of Coverage

Contractor shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms or a separate owner's policy, provided those forms or policies are approved by the City and amended to conform to the City's requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

11. Compliance.

Contractor shall and will comply faithfully and fully with each and every term, provision and requirement of Chapter 8.08 of the Weed Municipal Code as now existing and as the same shall hereafter be amended. City specifically reserves to the City the right to amend the Weed Municipal Code and adopt any other lawful ordinance or regulation concerning the collection and disposition of municipal waste within the City.

12. Assignment.

This Agreement, or any interest therein, cannot be sold, assigned or transferred by the Contractor without the express written consent of the City first had and obtained, and the City reserves the right to refuse any and all requests for consent to assignment.

13. Rates.

Either CITY or CONTRACTOR may at any time request that the service of other provisions in this Agreement be modified by delivering written notice of its requested modifications to the other party. Within thirty (30) days after receipt of any such request, CITY and CONTRACTOR shall meet and negotiate in good faith on adopting such requested modifications, including, without limitation, any change to Customer rates, cost of business increase, and CONTRACTOR'S compensation necessitated by such modifications, provided that nothing herein shall obligate CITY and CONTRACTOR to agree on any such requested modifications. If CITY and CONTRACTOR agree on any such modifications to this Agreement, they shall execute a written amendment memorializing each such modification.

14. Term.

The agreement shall become effective seven (7) days following the Approval of this Contract by Resolution of the City Council and will terminate on November 30, 2032, unless terminated earlier in accordance with Section 19.

The term of the agreement may be extended by written agreement of City and Contractor twice for successive five (5) year terms under Section 1.

15. Contractor represents and warrants that.

A. Contractor is duly organized, validly existing and in good standing under applicable

laws.

B. Contractor is qualified to transact business in the State of California and has the power to provide services as required by this Agreement.

C. Contractor shall perform the services required by this Agreement as an independent contractor engaged by City and neither as an officer nor employee of City nor as a partner of a or joint venture with City. No employee or agent of Contractor shall be deemed an employee or agent of City. Except as expressly provided herein, Contractor shall have exclusive control over the manner and means of conducting the services performed under this Agreement, and all persons performing such services. Contractor shall be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents. Neither Contractor nor its officers, employees, subcontractors or agents shall obtain any right to retirement benefits, workers' compensation benefits, or any other benefits which accrue to City employees by virtue of employment with City.

D. Contractor is not required to submit any notice, report or other filing to any governmental or regulatory authority required to be obtained by any of the foregoing (other than the City) in connection with the execution or delivery by Contractor of this Agreement or the documents related hereto, or in connection with the consummation of the transactions contemplated hereby.

E. There are no actions, suits, proceedings, arbitrations, investigations or claims pending or, to the knowledge of Contractor after due inquiry, threatened against or affecting Contractor that would have a material adverse effect on the Contractor's performance hereunder, at law or in equity, or before or by any governmental department, commission, board, bureau, agency or instrumentality.

F. The execution, delivery and performance by Contractor of this will not result in or constitute any of the following: (i) a breach of any material term or provision of any agreement or obligation of the Contractor; (ii) a material default or an event that, with notice or lapse of time or both, would be a material default, breach or violation of any lease, license, promissory note, conditional sales contracts, commitment, franchise, permit or indenture or other agreement, instrument or arrangement to which the Contractor is a party or by which Contractor or its assets are bound or materially adversely affected; (iii) an event that would permit any party to terminate any agreement or to accelerate the maturity of any indebtedness or other material obligation of the Contractor; or (iv) any material breach or violation of any law, rule or regulation of any governmental authority, or any order, injunction or decree.

G. None of the representations and warranties made by Contractor contains or will contain any untrue statements of a material fact or omit to state a material fact, necessary to make the statements made, in the light of the circumstances under which they were made, not misleading.

H. Each of Contractor's covenants, representations, and warranties shall

survive the execution and termination of this Agreement, subject to the applicable statutes of limitations.

I. Contractor has the authority to enter into and perform its obligations under this Agreement, and all actions required by law have been done to authorize the execution of this Agreement. The person(s) signing this Agreement on behalf of Contractor have authority to do so.

16. Conflict of Interest.

A. By execution of this Agreement, Contractor covenants and represents that it does not have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by the Agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of this Agreement. Contractor further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.

B. Contractor covenants and represents it is not a designated employee with the meaning of the Political Reform Act because Contractor

1. Does not make or participate in:

- a. The making of any governmental decisions regarding approval of a rate, rule, or regulation, the adoption or enforcement of laws;
- b. The issuance, denial, suspension, or revocation of permits, licenses, applications, certificates, approvals, orders, or similar authorization or entitlement;
- c. Authorizing the City to enter into, modify, or renew a contract;
- d. Granting City approval to a contract that requires City approval and to which the City is a party, or to the specifications for such a contract;
- e. Granting City approval to a plan, design, report, study or similar item;

C. Adopting or granting City approval of, policies, procedures, standards, or guidelines for the City or for any subdivision thereof.

ii. Does not serve in a staff capacity with the City and in the capacity participate in making a governmental decision or otherwise perform the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Conflict of Interest Code under Government Code Section 87302.

111. In the event the City officially determines that Contractor must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Contractor shall file the subject Form 700 with the City Clerk's office pursuant to the written instructions provided by the office of the City Clerk. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability.

D. **Solicitation.** Contractor represents and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability.

17. *Notices.*

All letters, papers, reports, notices and other correspondence regarding this Agreement shall be sent as follows:

If to City:

City Manager
City of Weed 550
Main Street
Weed, California 96094

If to

Contractor: Siskiyou County Disposal, LLC
P.O Box 207
Weed, CA 96094

18. Reopen Provision.

Either Party may request that the other Party renegotiate the terms of Paragraph 13 of this Agreement if, and only if: (1) there is a significant change that directly or indirectly relates to the Party's expectations under this agreement; and, (2) that change materially impacts that Party.

Such changes may include, but are not limited to: spiking fuel costs; catastrophic increase in business operations costs beyond Contractor's control; a change in state or federal law relating to solid waste disposal, including any regulation or incentives for recycling programs; a change in state law or in the state's manner of doing business that increases the costs and responsibilities of the City; a change in operations of a Transfer Station resulting in an increase of gate fees. A request to renegotiate will be made in writing, delivered to the other Party. The request will specify the basis for the request. If the request is determined to meet the requirements for renegotiations pursuant to this section, the Party will commence to renegotiate in good faith. However, except for the obligations to renegotiate as is set forth in this section, neither Party is obligated to agree to a new Agreement or to any new terms or conditions as a result of the renegotiations process. In the event the parties are unable to reach an agreement both parties will agree to mediation.

19. Events of Default.

Each of the following shall constitute an event of default:

- A. A material breach of this Agreement.
- B. If Contractor practices or attempts to practice any fraud or deceit upon the City.
- C. If Contractor becomes insolvent, unable, or unwilling to pay its debts, files a bankruptcy petition or takes steps to liquidate its assets.
- D. If Contractor fails to provide or maintain in full force and effect the Workers' Compensation, liability, or indemnification coverage as required by this Agreement.
- E. If Contractor violates any orders or filings of any regulatory body having jurisdiction over Contractor or the City relative to this Agreement that materially affects this Agreement or Contractor's ability to perform on this Agreement.
- F. If Contractor fails to make any payments required under this Agreement and/or refuses to provide City, within ten (10) calendar days of the demand therefore, with required information, reports, and/or records in a timely manner as provided for in the Agreement.
- G. There is a seizure of, attachment of, or levy on, the operating equipment of Contractor, including without limits, its equipment, maintenance or office facilities, or any part thereof, such that Contractor cannot perform on this Agreement.
- H. If Contractor fails to provide reasonable assurances of performance as required under this Agreement.
 - I. In the event of default in services or breach of contract, the CONTRACTOR shall pay liquidated damages to CITY in the amount of \$100,000.00 plus full value of performance bond (Paragraph 6)

20. Termination of Agreement.

In the event Contractor terminates the Agreement for any reason, Contractor shall provide City with sixty (60) days prior written notice. In the event of default or the failure of the Contractor to perform the services contemplated and provided for by this Agreement, and to make the payments, and to comply with the terms, covenants, and conditions of this Agreement the City shall have right to terminate all rights of the Contractor under this Agreement, to make demand upon the surety, and to have the services contemplated herein to be performed by another contractor, and hold the Contractor liable for all costs and expenses incurred in and about the performance thereof. In the event of termination, the franchise fee for the balance due for the billing period during which termination occurs shall be paid to City within thirty (30) business days of the termination date. The City's right to terminate this Agreement is not exclusive, and the City's termination of this Agreement shall not constitute an election of remedies. Instead, they shall be in addition to any and all other legal and equitable rights and remedies which the City may have.

21. *Other contracts:*

Other contracts for the collection of garbage may be entered into by the City with other persons, firms or corporations, but no such contract shall be on terms more favorable to another contractor than the terms hereof as long as this contract remains in effect.

22. *Compliance with Law.*

In providing the services required under this Agreement, Contractor shall comply with all applicable laws, codes, ordinances, resolutions and regulations of the United States, the State of California, the County of Siskiyou and the City, now in force and as they may be enacted, issued or amended during the Term of this Agreement. Contractor agrees that, in the performance of this Agreement, it will comply with all immigration laws.

23. *Subcontracting.*

Contractor shall not engage any companies or subcontractors for Collection, transfer, processing, Recycling or Disposal of Solid Waste without the prior written consent of City.

24. *Customer Privacy.*

Contractor shall strictly observe and protect the rights of privacy of Customers pursuant to the FACT Act of 2003. Information identifying individual Customers, or the composition or contents of a Customer's waste stream shall not be revealed to any person, governmental unit, private agency, or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the Customer. This provision shall not be construed to preclude Contractor from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by AB 939. This provision shall not apply to reports or records provided to the City pursuant to this Agreement.

25. *Proprietary Information, Public Records.*

City acknowledges that a number of the records and reports of Contractor may be proprietary and confidential. Regular monthly, quarterly, and annual reports are not proprietary. City will endeavor to maintain the confidentiality of all proprietary information provided by Contractor. Notwithstanding the foregoing, any documents

provided by Contractor to the City that are public records may be disclosed pursuant to a proper public records request.

26. *Waiver.*

The waiver by either party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach or violation of the same or any other provision. The subsequent acceptance by either party of any moneys which become due hereunder shall not be deemed to be a waiver of any pre-existing or concurrent breach or violation by the other party of any provision of this Agreement.

27. *Binding on Assigns.*

The provisions of this Agreement shall inure to the benefit of and be binding on the permitted assigns of the Parties.

28. *Governing Law, Jurisdiction and Venue.*

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Any lawsuits between the parties arising out of this Agreement shall be brought and concluded in the courts of the County of Siskiyou, the State of California, which shall have exclusive jurisdiction over such lawsuits.

29. *Entire Agreement, Amendment.*

This Agreement represents the full and entire Agreement between the parties with respect to the matters covered herein. No verbal agreement or conversation with any office, agent, officer, official or employee of the City, either before, during, or after the execution of this Agreement, shall affect or modify any of the terms or obligations herein contained, nor shall such verbal agreement or conversation entitle Contractor to any additional rights whatsoever under the terms of this Agreement. Any amendment to this Contract shall be of no force and effect unless it is in writing and signed by the parties and approved by the City pursuant to the provisions contained in Chapter 8.08 of the Weed Municipal Code.

30. *Section Headings.*

The article headings and section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

31. *Interpretation.*

This Agreement shall be interpreted and construed reasonably and neither for nor against either party, regardless of the degree to which either party participated in its drafting.

32. *Severability.*

If any provision of this Agreement is for any reason deemed to be invalid and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

IN WITNESS WHEREOF, these presents are executed the day and year first above written.

CITY OF Weed, a Municipal Corporation

By:


Tim Rundel, City Manager

Attest:

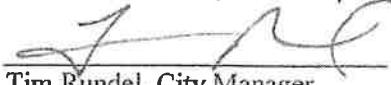

Sandra Duchi, City Clerk

By: _____
Contractor

By: _____
Contractor

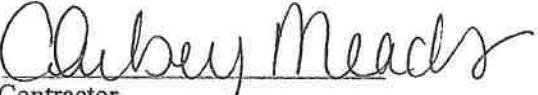
IN WITNESS WHEREOF, these presents are executed the day and year first above written.

CITY OF Weed, a Municipal Corporation

By: 
Tim Rundel, City Manager

Attest: 
Sandra Duchi, City Clerk

By: 
Contractor

By: 
Aubrey Meads
Contractor