

materials should accumulate in the County to such an extent, in such a manner, or for such a time that the County in its sole discretion should find that such accumulation endangers or menaces the public health, safety, or welfare or upon Contractor default, then the County shall have the right, even if Contractor is not in breach of this Agreement, but not the obligation, upon twenty-four (24) hours prior written notice to Contractor during the period of such emergency as determined by the County, to perform, or cause to be performed, such services itself with its own or other personnel and equipment without liability to Contractor.

#### E. CONTRACTOR'S NOTICE

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Notice of Contractor's failure, refusal, or neglect to Collect, transport, and properly Dispose or process Solid Waste, Recyclables, Green Waste, Christmas trees, Bulky Items, Universal Waste, E-Waste, Used Oil, Used Oil Filters, HHW, and/or C&D Debris may be given verbally by telephone to Contractor at its principal office and shall be effective immediately. Written confirmation of such verbal notification shall be sent to Contractor within twenty-four (24) hours of the verbal notification.

#### F. INTERRUPTION OF COLLECTION SERVICE

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Contractor shall submit to the County for review and approval on or before the effective date of the Agreement, a written Contingency Plan (attached hereto as Exhibit E, and incorporated herein by reference) (the "Contingency Plan") demonstrating Contractor's arrangements to provide vehicles and personnel, to maintain uninterrupted service (to the extent possible), and/or resume service during and after a Force Majeure event. This Contingency Plan shall be specific to the needs of the County and Franchise Area.

In the event of disruption of services due to a Force Majeure event, Contractor and the County shall make every commercially reasonable effort to restart performance hereunder as soon as practicable in accordance with the Contingency Plan, and will take all reasonable steps to overcome the cause of cessation of services.

If a Force Majeure event occurs and disposal services are discontinued for more than seventy-two (72) hours, the County, with the express written consent of Contractor (which consent may be withheld, delayed, or conditioned in Contractor's sole and absolute discretion), may take temporary possession of the facilities and equipment of Contractor necessary to resume disposal services. Under no circumstance shall the County's possession of Contractor's facilities and/or equipment continue for more than thirty (30) days from the date such operations were undertaken. A Force Majeure event shall not relieve a party from its payment obligations under this Agreement.

If Contractor breaches its obligation contained in the Contingency Plan and fails to cure such breach within seventy-two (72) hours of receipt of written notice of such breach from the County, the County shall have the right to terminate this Agreement.

### SECTION 17 - PRIVACY

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#### A. PRIVACY OF CUSTOMER INFORMATION

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Contractor shall use all reasonable efforts to observe and protect the rights of privacy of its employees and customers. Information identifying individual customers, or the composition or contents of a customer's refuse or Recyclables shall not be intentionally revealed to any person, private agency or company, unless upon the request of federal or state law enforcement personnel, 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 Wastestream analyses which may be required by AB 939, or any other reports requested by the County under the Agreement or required or requested by any governmental agency.

**B. MAILING LISTS**

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Contractor shall not market or distribute, outside the normal course of its business, mailing lists with the names and addresses of customers.

**C. VIDEO CAMERA MONITORING**

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*This section is not applicable at the time of Agreement execution; however, in the event that Contractor offers new services or programs within the Franchise Area, the Agreement will be amended to reflect such new services or programs and the required reports or date associated with the new service level.*

**SECTION 18 - RECORDS AND ACCOUNTING**

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**A. FINANCIAL REPORTING**

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Contractor shall maintain a proper set of books and records on an accrual basis, in accordance with generally accepted accounting principles, accurately reflecting the business performed by Tahoe Truckee Sierra Disposal under this Agreement. Contractor shall submit to the County each rate-setting base year its base year rate application including Contractor's revenues and costs of servicing the County franchise area, as per the Solid Waste Rate Setting Policies and Procedures Manual for Unincorporated Areas.

**B. SERVICE RECORDS**

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Contractor shall maintain all records relating to the daily services provided hereunder, including, but not limited to, customer lists, billing records, route maps, AB 939 records, and customer complaints, for a period of five (5) years from the date of the generation of each such record. The County or its agent(s) shall have the right, upon ten (10) business days' advance notice, to inspect all maps, AB 939 records, Contractor's books and records, customer complaints, and other like materials of Contractor which directly relate to Contractor's compliance with the provisions of the Agreement. Such records shall be made available to the County at Contractor's regular place of business. Contractor shall further maintain and make available to the County, records as to number of customers, total and by type, route maps / route listings, service records, and other materials and operating statistics in such manner and with such detail as the County may require. The County shall treat the information required by this paragraph that affects the competitive position of Contractor as confidential information to the extent permitted by law. The County shall not make or retain copies or photocopies containing information set forth in Contractor's confidential financial and business records pertaining to the establishment of rates and



payment of Franchise Fees without executing a confidentiality agreement providing that the County shall hold and keep such copies and photocopies confidential.

C. UNDERPAYMENT OF FRANCHISE FEES

Should any examination or audit of Contractor's records reveal an underpayment of any fee required under this Agreement, the amount of such underpayment shall become due and payable to the County not later than thirty (30) days after written notice of such underpayment is sent to Contractor by the County. Should an underpayment of more than two percent (2%) be discovered, Contractor shall bear the entire cost of the County's audit or examination and said cost shall not be recoverable through rate setting.

D. EXAMINATION OF FINANCIAL RECORDS

- (1) The information required by this section shall pertain to Contractor's operations covered and regulated by this Agreement, and nothing contained herein shall require Contractor to provide the County with information pertaining to Contractor's operations which are not regulated by the County.
- (2) The County shall have the right to inspect or review the payroll tax reports, specific documents or records required expressly or by inference pursuant to this Agreement, or any other similar records or reports of Contractor that is reasonably necessary to evaluate annual reports, compensation applications provided for in this Agreement, and Contractor's performance or other matters directly related to this Agreement. Upon reasonable advance notice, the County, its auditors, and other agents selected by the County, shall have the right, during regular business hours, to conduct on-site inspections and review of the records and accounting systems of Contractor directly related to this Agreement, and to make copies of any of Contractor's documents directly related to this Agreement. Upon request, Contractor shall arrange for records of related party entities to be made available to the County and its official representatives for review, to the extent such records are reasonably necessary to evaluate annual reports, compensation applications, Contractor's performance, or other matters related to this Agreement.
- (3) Information gained from examination of records pertaining to operations not regulated by the County shall be treated by the County and its agents as confidential information in accordance with applicable state law. The County's agents shall prepare a confidential report regarding the results of their examination of Contractor's non-regulated operations and transactions with Affiliates. The County's agent shall issue its report on Contractor's non-regulated operations and Contractor's transactions with Affiliates to the County's counsel, and said report shall remain confidential, except that the dollar amount and general description of any costs that the County's agent recommends be disallowed shall be disclosed to the Board of Supervisors. If Contractor appeals the conclusions of said report to the Board of Supervisors, Contractor shall decide what portions, if any, of said report shall be disclosed to the Board of Supervisors. The Board of Supervisors shall then consider Contractor's appeal but may, in its discretion, deny said appeal if inadequate information has been disclosed to the Board of Supervisors to make an informed decision on the appeal.
- (4) For review of books and other financial records necessary to verify Contractor's income, expenses, assets and liabilities, "Agent" shall mean an independent Certified



Public Accountant or public accountancy firm or other independent agent designated by the County.

#### E. PUBLIC RECORDS

The County acknowledges that certain records and reports of Contractor are proprietary and confidential. Contractor is obligated to permit the County inspection of certain records, as provided herein, on demand and to provide copies to the County as requested. The County will endeavor to maintain the confidentiality of all proprietary information provided and designated as such by Contractor and the County shall not voluntarily disclose such proprietary information. Notwithstanding the foregoing, any documents provided by Contractor to the County that are public records may be disclosed pursuant to Applicable Laws of California. Nothing in this section will prevent the County from allowing public access to the County's records as provided for under the Applicable Laws of California, and in the event any dispute arises as to the public access to information provided by Contractor under the terms of this Agreement, the County shall in its discretion provide public access to said information. Provided by Contractor under the terms of this agreement, the County shall, in its discretion, provide public access to said information according to law or, if necessary, tender the defense of any claims made against the County concerning said information to Contractor. The County shall make a good faith effort to notify Contractor of the intended release.

#### F. THE COUNTY ACCESS TO CUSTOMER LISTS

Upon reasonable notice or as otherwise agreed herein, and at those times designated by the County, Contractor shall supply to the County lists of the names of all customers of Contractor who are provided any service by Contractor within the Franchise Area. At the same or other time, the County may request and Contractor shall provide information specifying each customer's address, type of service provided to that customer, the number and type of authorized Solid Waste containers used by or provided to each customer, whether, and which customers are believed to be violating this Agreement, any mandatory subscription ordinance or any other provision of the law, and any other information that the County determines, in its sound discretion, reasonably required to monitor implementation of this Agreement and/or discharge the County's responsibilities under the law.

#### G. BILLING AND PAYMENT

Contractor shall bill all customers for all services, whether regular or special. Contractor shall provide customers with accurate and itemized bills showing charges for all classifications and services, including charges for any applicable late payment fees and, where applicable, tipping fees. Contractor shall also collect and remit to the County any AB 939 fees and other surcharges imposed by the County on customers within the Franchise Area. Billings shall be made no less frequently than every quarter and may be mailed at the beginning of the billing period for all services to be provided to residential customers. Commercial customers shall be billed in arrears.

Residential customers will be provided electronic statements and billing per their request. Customer notifications will be provided electronically via e-mail or other electronic notification process to be discussed with the County prior to use.



Upon initiation of service and annually thereafter, Contractor shall send or deliver to its customer, information concerning the conditions of service, including, but not limited to, new programs, rates, fees, charges, service, and Recycling options, payment options, discounts (if any), days of Collections, the amount and manner of refuse to be Collected, and inquiry/complaint procedures, including the name, address, and local telephone number of Contractor. The form and content shall be subject to the review and approval of the County.

## SECTION 19 - REPORTS AND ADVERSE INFORMATION

### A. ANNUAL REPORTS

The following list includes reports or data that may be required on an annual basis to be provided by Contractor to the County:

- (1) Electronic Annual Report: Electronic Annual Report (EAR) is part of a performance measurement system that considers factors such as a jurisdiction's program implementation and its per capita disposal rate in determining compliance with AB 939 and SB 1016. Data required to complete the EAR reporting requirements will be provided by Contractor to the County by March 1 of each year. The report will be prepared in collaboration with the County to ensure all necessary elements are addressed.
- (2) DTSC Form 303: Title 14, California Code of Regulations, section 18751.2 mandates that each public agency responsible for HHW management shall ensure the amount of material collected through their program during the preceding reporting period (July 1 through June 30) is reported to CalRecycle by October 1 each year. Contractor will provide the County with the data necessary to complete DTSC Form 303 by August 1 of each year.
- (3) Base and Interim year rate application. In compliance with the terms and conditions provided in the Solid Waste Rate Setting Policies and Procedures Manual for Unincorporated Areas (Exhibit B).
- (4) Annual Transfer Station Methods Report: The Annual Transfer Station Report summarizes the disposal reporting methods. A copy of the Annual Transfer Station Report will be provided by Contractor to the County by March 15 of each year.
- (5) Solid Waste Management Plan: Upon execution of this contract and thereafter in conjunction with the annual rate applications during the term of this Agreement, Contractor will provide the County with a strategic plan with specific program goals and objectives to increase Diversion rates consistent with the El Dorado County Solid Waste Management Plan. The plan should be based on the results of the prior year's activities and include a discussion of that year's programs, including strengths and weaknesses. The County will present the information to El Dorado Solid Waste Advisory Committee (EDSWAC) as appropriate.
- (6) Processing and Disposal Facility Report:
  - (a) Export Vendors and Locations: Contractor shall submit to the County at least annually in conjunction with their Solid Waste Rate Setting Application (base year and interim years) the names and locations of all vendors receiving exports



from the MRF, including, but not limited to, Recyclable commodities, C&D Debris, Landfill materials, and Green Waste.

- (b) Material Processing Locations: With each rate setting application (base year and interim years), Contractor shall submit to the County a list of all facilities where materials are being Processed.
- (c) Diversion Requirements (AB 341): During the term of this Agreement, Contractor shall submit to the County annually, in conjunction with their Solid Waste Rate Setting Application (base year and interim years), and more often if required, Contractor's plan to implement mandatory commercial Recycling and a comprehensive list of businesses that Recycle in the Franchise Area, along with the businesses that do not Recycle in compliance with AB 341.
- (7) Third Party Contractors: Contractor shall submit to the County at least annually in conjunction with their Solid Waste Rate Setting Application (base year and interim year) the names of any third party subcontractors associated with the PHHWCF.
- (8) Group Collection Area: Contractor shall submit to the County on an annual basis in conjunction with their Solid Waste rate setting application, a list of the Group Collection Areas as provided in Section 6.G. including the following information: location, customer names, and other information requested by the County. Upon execution of this contract, and thereafter in conjunction with the Solid Waste rate setting application, Contractor shall submit to the County upon approval of the contract the list of group areas as provided in Section 6(G). The list will be updated annually and submitted to the County.
- (9) Performance Standards Measurements (Section 14)

#### B. QUARTERLY REPORTS

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The following reports are to be provided by Contractor to the County on a quarterly basis:

- (1) Station Disposal Report (Station Notification): Title 14, California Code of Regulations, section 18809.9 requires an operator who sends Solid Waste to another facility within California shall provide the operator of that facility with the percentage of waste assigned to each jurisdiction. Contractor will provide a copy of the information by the 15<sup>th</sup> day of the month following the end of the quarter.
- (2) A revenue statement setting forth quarterly Franchise Fees, and the basis for the calculation thereof, certified under penalty of perjury by an officer of Contractor.

#### C. MONTHLY REPORTS

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The following reports will be submitted by the 10<sup>th</sup> day of each month by Contractor to the County:

- (1) MRF Operations  
*This section is not applicable at the time of Agreement execution; however, in the event that Contractor offers new services or programs within the Franchise Area, the Agreement will be amended to reflect such new services or programs and the required reports or date associated with the new service level.*



#### D. VENDOR CHANGE NOTIFICATION

Contractor shall notify the County of any vendor changes and/or any changes in material Processing locations as they occur.

#### E. ADVERSE INFORMATION

Contractor shall provide the County with two (2) copies of all reports or other material adversely reflecting on Contractor's performance under this Agreement, submitted by Contractor to the California EPA or U.S. EPA, CalRecycle, or any other federal, state, or County agency. Copies shall be submitted to the County simultaneously with Contractor's filing of such matters with said agencies. Contractor's routine correspondence to said agencies need not be automatically submitted to the County, but shall be made available to the County upon written request, as provided in this section:

- (1) Contractor shall submit to the County copies of all pleadings, applications, notifications, communications, and documents of any kind, submitted by Contractor to, as well as copies of all decisions, correspondence, and actions by, any federal, state, and local courts, regulatory agencies and other governmental bodies relating specifically to all material aspects of Contractor's performance of services pursuant to this Agreement. Any data which Contractor seeks to be excluded from provisions of the California Public Records Act shall be clearly identified as such by Contractor with the basis for such exclusion clearly specified. In the event the County receives a request under the Public Records Act, or by subpoena, the County shall notify Contractor to permit Contractor to object to the release of the information requested or subpoenaed.
- (2) Contractor shall submit to the County such other information or reports in such forms and at such times as the County may reasonably request or require.
- (3) All reports and records required under this or any other section shall be furnished by Contractor and the expense therefore in the gathering and preparation of such information, reports and records shall be included in the rate base.

#### F. FUTURE LEGISLATION

Contractor will comply with all reporting requirements from future local, state, and federal regulations.

Contractor agrees to render all reasonable cooperation and assistance to the County in meeting the requirements of the County's source reduction and Recycling element and non-Disposal facility element and future legislation and regulatory requirements.

### SECTION 20 - REVIEW OF PERFORMANCE AND QUALITY OF SERVICE

#### A. PERFORMANCE REVIEW

From time to time, at its sole discretion, the County may examine Contractor's operation in order to evaluate whether or not Contractor is operating at a satisfactory level of efficiency and customer satisfaction according to industry standards. Contractor agrees to cooperate in any such examination, and shall permit the County's representatives to inspect, at



Contractor's principal place of business, such information pertaining to Contractor's obligations hereunder as the County may require, including, but not limited to, such things as customer inquiry records, Collection routes and equipment records. Access to Contractor's records shall be subject to Section 18.

**B. PUBLIC HEARING**

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At the County's sole option, within ninety (90) days of the first anniversary of the effective date of this Agreement, and each year thereafter throughout the term of the Agreement, the County may hold a public hearing at which Contractor shall be present and shall participate, to review Contractor's performance and quality of service. The reports required by this Agreement regarding customer complaints shall be utilized as the basis for review. In addition, any customer may submit comments or complaints during the review meetings, either orally or in writing, and these shall be considered.

**C. REPORT ON PERFORMANCE**

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Within thirty (30) days after the conclusion of the public hearing, the County shall issue a report with respect to the adequacy of performance and quality of service, using industry standards as a baseline for acceptable performance. If any non-compliance with the franchise is found, the County may direct Contractor to correct the inadequacies or initiate default proceedings in accordance with Section 15.

**D. CUSTOMER SATISFACTION SURVEY**

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At the County's request and at Contractor's expense, Contractor will survey customers in a mutually agreed upon form, content, and manner. The survey results will be directly returned to the County. Contractor will obtain a copy of the results of the survey. Nothing in this paragraph shall limit the right of the County to conduct additional surveys at its own expense. Contractor shall reasonably cooperate with the County in such cases.

**SECTION 21 - SYSTEM AND SERVICES REVIEW**

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To provide for technological, economic, and regulatory changes in Solid Waste Collection, to facilitate Recycling programs, to promote competition in the Solid Waste industry, and to achieve a continuing, advanced Solid Waste Collection system, the following system, and services review procedures are hereby established.

**A. PUBLIC HEARING**

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At the County's sole option, the County may hold a public hearing on or about the first anniversary date of the Agreement to review Contractor's Collection systems and services. Subsequent system and services review hearings may be scheduled by the County each two (2) years thereafter. It is the County's intent to conduct any system and services review concurrently with any annual review of performance and quality of service as provided for in Section 20, above.

**B. CONTRACTOR'S REPORT**

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Sixty (60) days after receiving notice from the County, Contractor shall submit a report to the County indicating the following:



- (1) All Solid Waste Collection and Recycling services reported in Solid Waste Collection and Recycling industry trade journals that are being commonly provided on an operational basis, excluding tests and demonstrations, to communities in the United States with comparable populations, that are not provided by Contractor to the County;
- (2) Changes recommended to improve the County's ability to meet the goals of AB 939; and
- (3) Any specific plans for provision of such new services by Contractor along with the estimated expenses and adjustments to rates if any are necessary to compensate Contractor for providing such services, or a justification indicating why Contractor believes that such services are not feasible for the Franchise Area. All plans for new services should be made in accordance with the provisions outlined in the Solid Waste Rate Setting Policies and Procedures Manual for Unincorporated Areas.

#### C. SERVICES REVIEW TOPICS

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Topics for discussion and review at the system and services review hearing shall include, but not be limited to, services provided, customer complaints, rights of privacy, amendments to the Agreement, developments in the law, and new initiatives for meeting or exceeding AB 939's goals and regulatory constraints.

#### D. CONTRACTOR COOPERATION

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County and Contractor may each select additional topics for discussion at any system and services review hearing. Contractor agrees to cooperate in any such examination and shall provide for inspection to the County or its designated representatives, at Contractor's principal place of business, such information as the County may require, including, but not limited to, such things as Collection routes and equipment records.

#### E. THE COUNTY'S REPORT

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At the conclusion of each system and services review hearing the County may issue a report. The report shall summarize the systems and services review hearing and address services not being provided to the County that are considered technically and economically feasible by the County. The County may require Contractor to provide such services within a reasonable time, for reasonable rates and compensation.

### SECTION 22 - COMPENSATION

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During the term of this Agreement, Collection rates will be established and adjusted in accordance with the "Solid Waste Rate Setting Policies and Procedures Manual for Unincorporated Areas" effective upon execution of this agreement . A true and correct copy of the Solid Waste Rate Setting Policies and Procedures Manual for Unincorporated Areas is attached hereto as Exhibit B and hereby incorporated by reference as though fully set forth herein.

### SECTION 23 - COLLECTION EQUIPMENT

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#### A. VEHICLE STANDARDS

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All equipment used by Contractor in the performance of services under this Agreement shall be of a high quality. The vehicles shall be designed and operated so as to prevent Collected materials from escaping from the vehicles. Hoppers shall be closed on top and on all sides with screening material to prevent Collected materials from leaking, blowing, or falling from the vehicles. The bodies of any vehicle, or any container, used in Collection or transportation of Solid Waste must have watertight beds of metal or impervious material that can be cleaned.

Contractor warrants that it shall provide an adequate number of vehicles and equipment for the Collection and transportation services for which it is responsible under this Agreement. All vehicles used by Contractor under this Agreement shall be registered with the Department of Motor Vehicles of the State of California, as applicable, shall be kept clean and in good repair. Solid Waste Collection vehicles shall be maintained in a reasonably clean and sanitary condition. Contractor's name, telephone number, and vehicle number shall be visibly displayed on its vehicles. Loads shall be kept completely covered at all times except when material is being loaded or unloaded, or when vehicles are in the process of Collection. Collection vehicles shall be designed and operated while in route in such a manner as to prevent Solid Waste and/or liquids from leaking, escaping or spilling. Any spillage of materials shall be immediately cleaned up by Contractor at Contractor's sole expense.

Notwithstanding the generality of the foregoing, Contractor's equipment shall at all times be in conformance with the regulatory requirements applicable thereto.

#### B. LOW EMISSIONS REQUIREMENT

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If changes in federal, state, or local laws, including, but by no means limited to, the California Air Resources Board Heavy Duty Engine Standards contained in Title 13, California Code of Regulations, section 2020 et seq., and the Federal EPA's Highway Diesel Fuel Sulfur Regulations, mandate that Contractor convert or retrofit its Collection fleet to use the most cost-effective means to reduce air pollutant emissions, Contractor shall take all necessary steps to so comply, and shall be in full compliance with all other local, state, and federal clean air requirements.

#### C. WEIGHT RESTRICTIONS

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Contractor shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local weight restrictions on vehicles. Contractor acknowledges that the County may document compliance with this provision of the Agreement through review of scale tickets and records of the Disposal and Processing facilities.

#### D. EQUIPMENT LIST

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Contractor utilizes equipment (including, but not limited to, trucks and containers) shared in servicing surrounding collection areas (most notably adjacent Placer County Franchise Area 3). The equipment is in general not exclusively dedicated or specific to either area, which would preclude an exact equipment list. The associated costs are pooled so as to maintain efficiencies. Should the opportunity to reduce costs in such a manner change



during the term of the contract, any changes to the underlying cost structure will be reflected in submission of the next base year rate analysis.

## SECTION 24 - PUBLIC ACCESS TO CONTRACTOR

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### A. OFFICE HOURS

Contractor's office hours shall be, at a minimum, 8:00 am to 12:00 pm and 1:00 pm to 4:30 pm Monday through Friday, except holidays. An adequate number of customer service representatives of Contractor shall be available during office hours for communication with the public in person and by telephone at Contractor's principal office in Tahoe City, California. Contractor shall also provide the County with an emergency telephone number for use during other than normal business hours. Contractor shall have a representative or answering service available at said after-hours telephone number during all hours other than normal office hours.

### B. REGULAR MEETINGS WITH THE COUNTY

Contractor shall meet with the County at 2850 Fairlane Court, Placerville, California, 95667 or at Contractor's place of business, at the discretion of the County, to discuss matters of mutual concern, including, but not limited to, problems with Contractor's service, compliance with AB 939 and future planning on a regular schedule determined by the County. The person attending these meetings on behalf of Contractor shall be vested with sufficient authority to make decisions binding on Contractor.

## SECTION 25 - CUSTOMER COMPLAINTS

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### A. SERVICE COMPLAINTS

- (1) All customer complaints shall be directed to Contractor. Contractor shall document all complaints received by mail, e-mail, by telephone, or in person (including date, name, address of complainant, and nature of complaint). Contractor agrees to use its best efforts to resolve all complaints by the close of business of the second regularly scheduled Collection day following the date on which such complaint is received. Service complaints may be investigated by the County. Unless a settlement satisfactory to the complainant and Contractor is reached, the complainant may refer the matter to the County for review.
- (2) Contractor will maintain records listing the date of customer complaints, the customer, the nature of the complaint or request, and when and what action was taken by Contractor to resolve the complaint. All such records shall be maintained for a period of twenty-four (24) months and shall be reported to the County on an annual basis pursuant to Section 19.

### B. COMPLAINT RESOLUTION

Contractor will use its best efforts to resolve all complaints by close of business of the second business day following the date on which the complaint is received. Contractor shall notify customers that service complaints may be reviewed by the County if a satisfactory solution is not reached.



### C. THE COUNTY REVIEW OF COMPLAINTS

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A customer dissatisfied with Contractor's decision regarding a complaint may ask the County to review the complaint. To obtain this review, the customer must request the County to review within thirty (30) days of receipt of Contractor's response to the complaint, or within forty-five (45) days of submitting the complaint to Contractor if Contractor has failed to respond to the complaint. The County may extend the time to request its review for good cause.

### D. REMEDY

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The County shall determine if the customer's complaint is justified, and if so, what remedy, if any, shall be imposed. The remedy under this section shall be limited to a rebate of customer charges related to the period of breach of any of the terms of this Agreement.

### E. NON-COLLECTION TAGS

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When Solid Waste is not Collected from any customer other than due to withholding of service pursuant to Section 26(F), Contractor shall notify its customer as to why that Collection was not made as applicable, and shall attach tags approved by the County to the applicable container which clearly identify the reasons for such non-Collection. The County shall approve in advance Contractor's written procedures for determining when not to Collect Solid Waste, and Contractor shall adhere to these approved written procedures in making such determinations and placing non-Collection tags on a customer's Solid Waste container.

## SECTION 26 - SERVICE EXCEPTIONS / HAZARDOUS WASTE NOTIFICATIONS

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### A. COMPLIANCE WITH HAZARDOUS WASTE LAWS

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The parties hereto recognize that federal, state, and local agencies with responsibility for defining Hazardous Waste and for regulating the Collection, hauling, or Disposal of such substances, are continually providing new definitions, tests, and regulations concerning these substances. Under this Agreement, it is Contractor's responsibility to keep current with the regulations and tests on such substances, and to identify such substances, and to comply with all federal, state, and to the extent not inconsistent with this agreement, local regulations concerning such substances. Contractor shall make every reasonable effort to prohibit the Collection and the Disposal of Hazardous Waste in any manner inconsistent with federal and state law. Contractor shall have no duty or responsibility to Collect or manage Hazardous Waste, other than as explicitly set forth in this Agreement.

### B. NOTICE TO AGENCIES REGARDING TOXICS

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Contractor has represented to the County that Contractor will carry out its duties to notify all agencies with jurisdiction, including the DTSC and local emergency response providers, and, if appropriate, the National Response Center, of reportable quantities of Hazardous Waste, found or observed by Contractor in Solid Waste anywhere within the County, including on, in, under, or about the County's property, including streets, easements, right of ways, and the County's waste containers. In addition to other required notifications, if Contractor observes any substances which it or its employees reasonably believe or suspect to contain Hazardous Wastes unlawfully Disposed of or released on the County's property,



including streets, storm drains, or public right of ways, Contractor will also immediately notify the County.

**C. INSPECTION FOR TOXICS**

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Contractor shall conduct a visual inspection, consistent with its normal operating procedures, of all Solid Wastes that it Collects, transports, and/or Disposes pursuant to this Agreement for the purpose of discovering, identifying and refusing to Collect, transport, and dispose of Hazardous Wastes or materials.

**D. NO COLLECTION OR DISPOSAL OF HAZARDOUS WASTE**

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Except as provided in this subsection, Contractor shall not knowingly Collect, handle, Process, transport, arrange for the transport of, or Dispose of Hazardous Waste pursuant to this Agreement.

**E. AMMUNITIONS, EXPLOSIVES, OR OTHER ORDNANCE**

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Contractor shall not knowingly accept, Collect, handle, process, transport, or arrange for the transport of ammunition, explosives, or other ordnance. However, in the event that this type of material is identified Contractor shall appropriately arrange for safe disposal.

**F. HAZARDOUS WASTE PROGRAM**

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Contractor agrees to provide, upon the County's request and with appropriate fee reimbursement if justified and in accordance with the Solid Waste Rate Setting Policies and Procedures Manual for Unincorporated Areas (Exhibit B), a program for residents in Contractor's Franchise Area identifying Hazardous Waste and complying with all federal, state, and to the extent not inconsistent with this Agreement, local statutes and regulations dealing with Hazardous Waste. Subject to permitting, said program shall include, and be expanded to include, curbside Collection of all items listed in Section 1, Definition LL, excluding radioactive material, attached hereto and incorporated into this Agreement, which may be amended from time to time by the County.

**SECTION 27 – INDEMNIFICATION**

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**A. INDEMNIFICATION OF COUNTY**

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Contractor shall protect, defend (with counsel selected by Contractor and reasonably acceptable to the County), indemnify and hold harmless the County, its board members, officers, directors, employees, agents, consultants, successors, and assigns (hereinafter "County Indemnified Parties") from and against any and all claims, suits, losses, damages, and liability for damages of every name, kind, and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including, but not limited to, workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with Contractor's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County Indemnified Parties, except for the sole active negligence of the County, its officers and employees, or as expressly prohibited by statute provided that if a final decision or judgment allocates liability by determining that any portion of damages awarded is attributable to an Indemnified Party, then County shall pay such portion of damages. This duty of Contractor



to indemnify and save the County Indemnified Parties harmless includes the duties to defend set forth in California Civil Code, section 2778.

#### B. HAZARDOUS SUBSTANCE INDEMNIFICATION

Contractor shall protect, defend (with counsel selected by Contractor and reasonably acceptable to the County), indemnify and hold harmless the County Indemnified Parties, from and against all claims for actual damages (including, but not limited to, special and consequential damages), natural resources damages, punitive damages, restitution, injuries, costs, response costs, remediation, and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal, or administrative proceedings, interest, fines, charges, penalties, and expenses (including, but not limited, to attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred, or suffered by, or asserted against, the County Indemnified Parties, arising out of or resulting from any repair, cleanup, detoxification, or preparation and implementation of any removal, remedial, response, closure, corrective action, or other plan (regardless of whether undertaken due to governmental action), concerning the release or threatened release of any hazardous substance, Hazardous Waste, or MSW at any place where Hazardous or Solid Waste is or has been transported, transferred, Processed, stored, Disposed, or has otherwise come to be located by Contractor pursuant to the Agreement, which may result in a release of Hazardous Waste or hazardous substance into the environment. As used herein, the phrases "hazardous substance" and "Hazardous Waste" shall coincide with the broadest definition thereof contained in any present or future federal or state laws. The foregoing indemnity is intended to operate as an agreement pursuant to the Comprehensive Environmental Response and Liability Act ("CERCLA"), section 107(e); Title 42 U.S. Code, section 9607(e); and California Health & Safety Code, section 25364, to defend, protect and hold harmless and indemnify the County Indemnified Parties from liability. This provision shall survive the termination of this Agreement between Contractor and the County. The foregoing indemnity shall not have any dollar limitation. The foregoing indemnity is for the exclusive benefit of the County Indemnified Parties and in no event shall such indemnity inure to the benefit of any third party.

The foregoing indemnity shall not apply with respect to:

- (1) Any Hazardous Waste or hazardous substance generated by the County and delivered by the County to Contractor; or
- (2) The Disposal or release of hazardous substances or Hazardous Waste, which Disposal or release has resulted from the negligence or willful misconduct of the County in Collecting or delivering hazardous substances or Hazardous Waste in the County vehicles to Contractor's facilities. This indemnity shall include and cover any activities of Contractor under the Prior Agreements. Nothing in these exclusions shall be deemed a waiver of any other rights or claims the County may have against Contractor independent of this indemnity.

#### C. AB 939 INDEMNIFICATION

Subject to California Public Resources Code, section 40059.1, Contractor shall defend (with counsel selected by Contractor and reasonably acceptable to County), indemnify and hold the County harmless from any and all fines, penalties, and assessments levied against or



threatened to be levied against the County for the County's failure to meet the requirements of AB 939, its amendments or any successor legislation and/or all rules and regulations promulgated thereunder, but only to the extent such liability is caused by Contractor's failure to comply with Contractor's express obligations under this Agreement and/or Contractor's failure to comply with said laws, rules, or regulations binding on Contractor, including, but not limited to, failing to timely supply the County with information or reports in order to comply with AB 939. Contractor shall not be obligated to indemnify the County for fines or penalties caused by the County's modifications of Contractor's information, by a change by the County in the scope of work hereunder which materially and negatively affects the ability of Contractor to perform Diversion activities which contribute to the County's compliance with AB 939, or by the County's own acts or omissions which result in the County's failure to provide timely reports to the state. In addition, Contractor's duty to indemnify under this section is subject to the following restrictions:

- (1) Contractor's obligation to indemnify the County shall not be enforceable if the penalty imposed by the Board of Supervisors is based solely upon the failure of the County to establish and maintain a source reduction and Recycling element pursuant to California Public Resources Code, sections 41000 et seq.
- (2) No payment required under Contractor's obligation to indemnify the County may exceed that portion of any penalty assessed by the Board of Supervisors against the County that was caused by Contractor's failure to comply with an express obligation or requirement of this Agreement. Further, the Contractor shall not be liable under the indemnity obligation to the extent that the Contractor's failure to comply resulted from the County's action or failure to act, determined as a result of judicial review, hearing, or appeal to CalRecycle.

## SECTION 28 - GENERAL PROVISIONS

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### A. FORCE MAJEURE

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Contractor shall not be in default under this Agreement and shall not be liable for failure to perform under this Agreement if Contractor's performance is temporarily prevented or delayed in the event of Force Majeure. Force Majeure means riots, wars, sabotage, civil disturbances, acts of terrorism, insurrection, explosion, natural disasters such as floods, earthquakes, landslides, and fires, strikes, lockouts, and other labor disturbances, excessive snow, acts of God, or other similar or dissimilar events which are beyond the reasonable control of Contractor. Force Majeure do not include events related to the financial inability of Contractor to perform or the failure of Contractor to obtain any necessary permits or licenses from other governmental agencies, or the right to use the facilities of any public utility where such failure is due to the acts or omissions of Contractor. Notwithstanding anything to contrary herein, in the event a strike and/or similar labor action or a labor disturbance by employees of Contractor or any Affiliate interrupts Collection, transportation, and/or Disposal of Solid Waste by Contractor as required under this Agreement, the County may elect to exercise its rights under Section 16 of this Agreement.

In the event of Force Majeure and Contractor is unable to perform its obligations under this Agreement, the County shall have the right to perform or to contract on a temporary basis with third parties to provide the Collection services that are not being provided by



Contractor during the period of the Force Majeure event and charge Contractor for the reasonable direct and indirect expenses (including administrative and overhead) incurred by the County in this regard. If the Force Majeure event continues for a period of ninety (90) days and Contractor remains unable to perform its obligations under this Agreement, the County shall have the right to terminate this Agreement.

#### B. STRIKES OR SIMILAR LABOR ACTION

In the event of a strike and/or similar labor action, but not including a lockout as set forth below, whereby employees of Contractor refuse to perform work for Contractor at normally anticipated levels or efficiency (a "strike and/or similar labor action") which affects the ability of Contractor to provide Collection services within the Franchise Area in accordance with this Agreement, the following guidelines shall apply:

- (1) In conjunction with the execution of this Agreement, Contractor has discussed with the County a strike (and/or similar labor action) Contingency Plan. From time to time during the term of this Agreement, Contractor and the County shall meet to discuss changes to the strike Contingency Plan.
- (2) Within twelve (12) hours of notification to Contractor by labor that it has authorized a strike and/or similar labor action, Contractor shall notify Contract Administrator, by phone and e-mail.
- (3) Within three (3) work days of a strike and/or similar labor action, if Contractor is not providing Collection services in accordance with normal scheduled pickups, Contractor shall meet with the County to develop a strike and/or similar labor action implementation plan.
- (4) Within five (5) work days of a strike and/or similar labor action, if Contractor is not providing Collection services in accordance with the normal schedules and volumes set forth in this Agreement or the schedules and volumes in the agreed upon strike implementation plan, if such plan has been agreed to by the County, the County shall have the right, but not the obligation, to bring in outside forces to provide Collection services which are not being provided by Contractor and charge Contractor for the reasonable direct and indirect expenses (including administrative and overhead) incurred by the County in this regard.
- (5) Within ten (10) work days of a strike and/or similar labor action, Contractor is to use commercially reasonable efforts to bring in alternate work forces and provide Collection services in accordance with the normal schedules and volumes set forth in this Agreement, or the schedules and volumes in the agreed-upon strike implementation plan, if such plan has been agreed to by the County.

In the event Contractor's alternate work force is unable to provide Collection services in accordance with the normal schedules, volumes, and routing set forth in this Agreement (except for some reasonable delays resulting from such event of Force Majeure), or the schedules, volumes, and routing in the agreed-upon strike (and/or similar labor action) implementation plan, if such plan has been agreed to by the County, the County shall have the right, but not the obligation, to bring in outside forces to provide Collection services which are not being provided by Contractor and charge Contractor for the reasonable direct and indirect expenses (including administrative and overhead) incurred by the County in this regard.



In the event the County elects to retain its own work force, the County shall discuss the alternatives with Contractor before retaining such work force. Once the County retains its own work force, the County shall periodically, but not more often than weekly, invoice Contractor for the reasonable direct and indirect expenses of retaining such outside services and Contractor shall reimburse the County for such expenses within ten (10) work days of invoice. The County shall have the right to charge Contractor interest on invoices which are unpaid after ten (10) work days at the rate of one and one half percent (1.5%) per month (not compounded).

Notwithstanding the provisions of this Section 28 (B), the occurrence of strike and/or similar action shall be deemed an event of Force Majeure (as provided for in Section 28 (A)) and shall not be considered an event of default by Contractor, and shall not entitle the County to any type of liquidated damages resulting from such strike or similar action.

#### C. INDEPENDENT CONTRACTOR

Contractor is an independent contractor, and not an officer, agent, servant, or employee of the County. Contractor is solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Nothing in this Agreement shall be construed as creating a partnership or joint venture between the County and Contractor. Neither Contractor, nor its officers, employees, agents, or subcontractors shall obtain any rights to retirement or other benefits, which accrue, to the County's employees.

#### D. RIGHT OF ENTRY

Contractor shall have the right, until written notice revoking permission to pass is delivered to Contractor, to enter or drive on any private street, court, place, easement, or other private property for the purpose of Collecting or transporting Solid Waste pursuant to this Agreement.

#### E. LAW TO GOVERN / VENUE

The law of the State of California shall govern this Agreement. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Eastern District of California.

#### F. FEES AND GRATUITIES

Contractor shall not, nor shall it permit any agent, employee or subcontractor employed by it, to request, solicit, demand, or accept, either directly or indirectly, any compensation or gratuity for the Collection of Solid Waste otherwise required to be Collected under this Agreement.

#### G. PRIOR AGREEMENTS AND AMENDMENTS

No amendment of this Agreement shall be valid unless in writing duly executed by the parties. This Agreement contains the entire agreement between the parties, and no promises, representations, warranty, or covenant not included in this Agreement have been or are relied upon by either party. This Agreement is intended to supersede and replace all prior agreements between the parties, except as otherwise specifically provided in this Agreement.



#### H. COMPLIANCE WITH AGREEMENT

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Contractor shall comply with those provisions of the El Dorado County Solid Waste Ordinance, as it now exists and may be amended from time to time, which are applicable, and with any and all amendments to such applicable provisions during the term of this Agreement, provided that such provisions are not inconsistent with the terms of this Agreement.

#### I. NOTICES

---

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered or sent by United States certified mail, postage prepaid, return receipt requested, addressed as follows:

To County:                   Greg Stanton  
                                  County of El Dorado  
                                  Community Development Agency  
                                  Environmental Management Division Director  
                                  2850 Fairlane Court  
                                  Placerville, CA 95667

To Contractor:             Tahoe Truckee Sierra Disposal  
                                  David Achiro  
                                  PO Box 135  
                                  645 West Lake Blvd  
                                  Tahoe City, CA 96145

or to such other address as either party may from time to time designate by notice to the other given in accordance with this section. Notice shall be deemed effective on the date personally served or received via United States certified mail.

#### J. SAVINGS CLAUSE AND ENTIRETY

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If any non-material provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the validity and enforceability of any of the remaining provisions of this Agreement.

#### K. ENTIRE AGREEMENT / INCORPORATION OF EXHIBITS

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This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties understand and agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained or referred to in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or unreferenced agreements, whether verbal or written. This Agreement and Exhibits A - E, attached hereto and incorporated by this reference as though fully set forth herein represent the entire agreement of the County and Contractor with respect to the services to be provided under this Agreement. No prior written or verbal statement or proposal shall alter any term or provision of this Agreement.

#### L. JOINT DRAFTING

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This Agreement started with a template provided by the County and reviewed with input thereafter by both parties.

**M. JUDICIAL REVIEW**

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Nothing in this Agreement shall be construed to prevent either party from seeking redress to the courts for the purposes of legal review of administrative proceedings in regard to rate setting or the County's actions taken pursuant to this Agreement, or for the purpose of interpreting or enforcing the provisions contained in this Agreement.

**N. POLICE POWERS**

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Nothing in this Agreement is intended to or may limit the County's authority pursuant to its police power.

**O. SUCCESSORS AND ASSIGNS**

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Subject to the other terms and conditions herein, this Agreement shall be binding upon and inure to the benefit of the respective successors, permitted assigns, administrators, and trustees of the County and Contractor.

**P. SURVIVAL**

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All confidentiality and indemnification provisions of this Agreement shall survive this Agreement.

**Q. ADMINISTRATOR**

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The County Officer or employee with responsibility for administering this Agreement is Gerri Silva, Environmental Management Division Director, or her successor.

**R. NO USE OF THE COUNTY NAME**

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Contractor will not do business as or use a corporate, partnership, venture or other formal name, containing the name of the County or implying government ownership.

**S. PARTIES IN INTEREST**

---

Nothing in this Agreement, whether express or implied, is intended to confer any rights on any persons other than the parties and their representatives, successors, and permitted assigns.

**T. WAIVER**

---

Waiver of any term or condition contained in this Agreement by any party to this Agreement shall be in writing and shall not be construed as a waiver of a subsequent breach or failure of the same term or condition or a waiver of any other term or condition contained in this Agreement. The subsequent acceptance by the County of any fee, tax, or any other monies which become due from Contractor to the County shall not be deemed to be a waiver by the County of any breach or violation of any term, covenant, or condition of this Agreement.



IN WITNESS THEREOF, the County and Contractor have executed this Agreement this 29th day of September, 2015.

THE COUNTY OF EL DORADO

By \_\_\_\_\_  
Chair  
Board of Supervisors  
The County of El Dorado

ATTEST:

By: \_\_\_\_\_  
Clerk of the Board of Supervisors

CONTRACTOR

COUNTY

By: \_\_\_\_\_  
Its: President

By: \_\_\_\_\_  
Greg Stanton, Director  
Environmental Management Division  
Community Development Agency

By: \_\_\_\_\_  
Its: Secretary



## EXHIBIT LIST

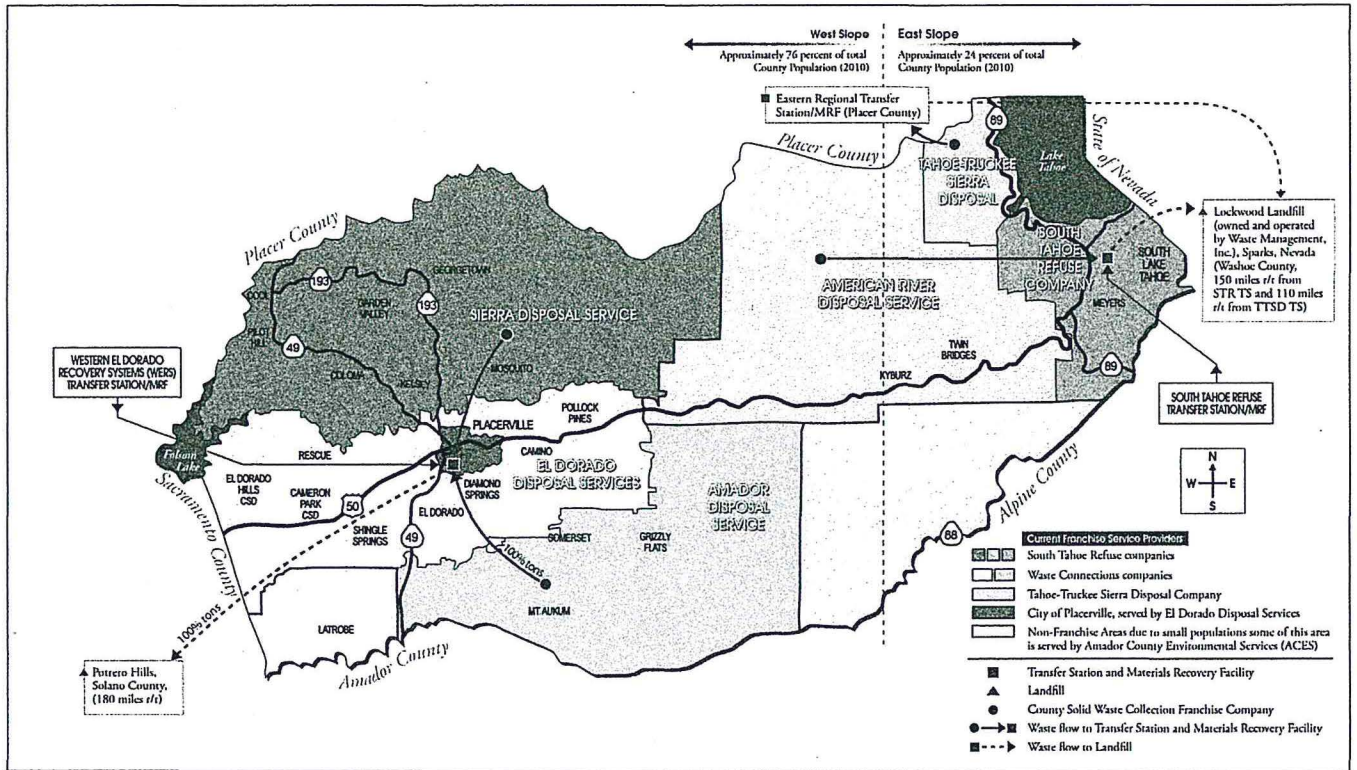
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- A. FRANCHISE AREA
  - B. SOLID WASTE RATE SETTING POLICIES AND PROCEDURES  
MANUAL FOR UNINCORPORATED AREAS
  - C. RATES EFFECTIVE JULY 1, 2015
  - D. FRANCHISE AGREEMENT NEGOTIATIONS LETTER DATED APRIL  
24, 2015
  - E. CONTINGENCY PLAN
-



EXHIBIT A

Exhibit 2-1  
Areas Served by Six County Solid Waste Collection Franchise Companies

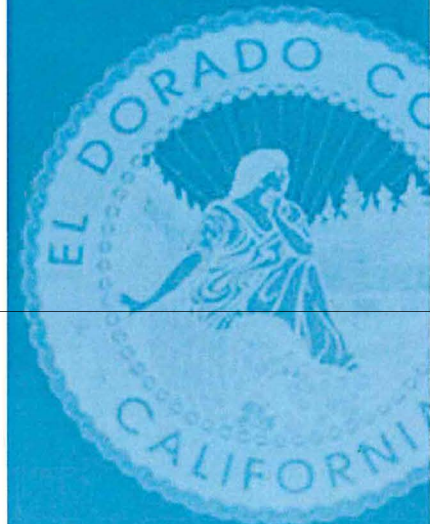


<sup>1</sup> This landfill location may change. In the past five years, County waste also has been disposed of at the Forward Landfill in Maricopa and Kiefer Landfill in Sacramento.



**EXHIBIT A**  
**EL DORADO COUNTY**  
**TAHOE TRUCKEE-SIERRA DISPOSAL CO., INC.**  
**FRANCHISE AREA DESCRIPTION**

BEGINNING at the Southwest corner of Section 34, Township 13, North, Range 16 East, M.D.M.; thence East along the South section line of Sections 34, 35 and 36, Township 13 North, Range 16 East, M.D.M., to the Southeast corner of Section 36, Township 13 North, Range 16 East, M.D.M.; thence South to the Southwest corner of Section 31, Township 13 North, Range 17 East, M.D.M.; thence East along the South line of Township 13 North, Range 17 East, M.D.M., to the Southeast corner of Section 32, Township 13 North, Range 17 East, M.D.M.; thence North along the East line of Section 32, Township 13 North, Range 17 East, M.D.M. East to the Northeast corner of said Section 32; thence Northeast to the Southwest corner of Section 22, Township 13 North, Range 17 East; thence Northeast to the Northeast corner of Section 22, Township 13 North, Range 17 East, M.D.M., said point being on the West Shore of Lake Tahoe; thence Northerly along the West shore line of Lake Tahoe to intersection with El Dorado/Placer County line; thence southwesterly along the said county line to the Northwest corner of Section 27, Township 14 North, Range 16 East, M.D.M.; thence south along the West line of Sections 27 and 34 to the Northwest corner of Section 3, Township 13 North, Range 16 East, M.D.M.; thence continuing South along the West line of Sections 3, 10, 15, 22, 27 and 34, Township 13 North, Range 16 East, M.D.M., to the point of beginning.

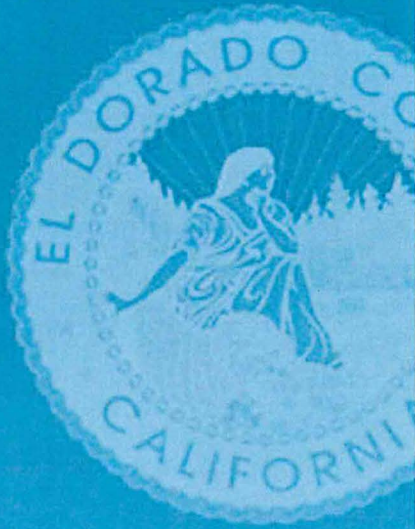


**Solid Waste Rate Setting  
Policies and Procedures Manual  
for Unincorporated Areas**

**(Tahoe Truckee Sierra Disposal Areas)**

**March 30, 2015**





**Solid Waste Rate Setting  
Policies and Procedures Manual  
for Unincorporated Areas**

**(Tahoe Truckee Sierra Disposal Areas)**

**March 30, 2015**



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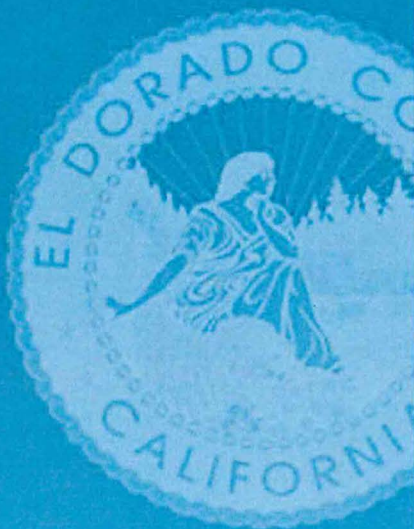


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## Definitions





# Definitions

For purposes of this Rate Manual, the terms identified in **Table DF-1**, below, shall have the respective definitions shown in Table DF-1.

**Table DF-1**  
Definitions for Key Rate Manual Terms

Term	Definition
Allowable Costs	When a cost is said to be “allowable,” that cost, plus a profit component associated with that cost, is included in rates charged to the ratepayers. Allowable costs are often those costs that are integral to the hauler’s operation and/or are associated with actual activity performed by the hauler.
Base Year	A rate year occurring every three (3) years. As part of the Base Year rate review, the franchise hauler shall submit a <i>Base Year Rate Application</i> .
Board	El Dorado County Board of Supervisors
Consumer Price Index (CPI)	For purposes of this Rate Manual, the applicable CPI used in Interim Year calculations is the U.S. City Average, Garbage and Trash Collection, Consumer Price Index, published by the U.S. Bureau of Labor Statistics.
Interim Year	The two rate years between Base Years. As part of the Interim Year rate review, the franchise hauler may submit an <i>Interim Year Rate Application</i> .
Non Allowable Costs	Non-allowable costs are not allowed in rates charged to ratepayers. These costs are disallowed because (1) they may not be associated with the business under the franchise agreement, (2) they may be included implicitly in the profit level allowed by the County, or (3) they may unnecessarily complicate rate regulation (e.g., income taxes).
Operating Ratio (OR)	The method for determining profit to the hauler. The operating ratio is defined as follows: $\text{Operating ratio} = \frac{\text{Allowable operating costs}}{\text{Allowable operating costs} + \text{Profit}}$
Pass-Through Costs	Pass through costs are costs included in rates charged to customers, however these costs do not have an associated profit component. Pass through costs generally are transactional in nature and often are costs not associated with any significant effort performed by the franchise hauler.

**Table DF-1**  
**Definitions for Key Rate Manual Terms** *(continued)*

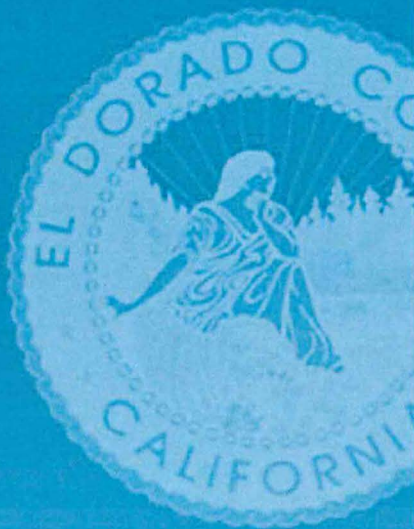
Term	Definition
Revenue Requirement	<p>The total amount of revenue projected for recovery in the base year. The revenue requirement equals the sum of:</p> <ul style="list-style-type: none"> <li>(1) Allowable operating costs</li> <li>(2) Allowable profits</li> <li>(3) Pass-through costs.</li> </ul> <p>As part of the base year process, new rates should be set to cover the projected County-approved revenue requirement. Whether rates ultimately cover the franchise hauler's revenue requirement in a base year is not however guaranteed as there is no balancing account for differences between the projected and actual revenue requirement.</p>
Unforeseen Circumstances	<p>Circumstances beyond a franchise hauler's control. Examples include changes in laws or regulations, newly required County-approved solid waste management programs, <i>Force Majeure</i> events, or other economic events that could not be reasonably avoided.</p>





## Section 1

# Rate Setting Goals and Objectives



# 1. Rate Setting Goals and Objectives

This section of the Solid Waste Rate Setting Policies and Procedures Manual for West Slope Service Areas (Manual) provides an overview of the rate setting process, goals, and objectives. The section includes five (5) subsections:

- A. Introduction
- B. Rate Setting Goals
- C. Rate Setting Policies
- D. Rate Application Process
- E. Allowable and Non-Allowable Costs.

## A. Introduction

This Manual is a step-by-step guide for El Dorado County (County), and its franchise haulers serving unincorporated areas of El Dorado County, with the exception of the franchise area served by South Tahoe Refuse Company, to prepare and approve changes to solid waste collection rates. The Manual establishes rate change policies, provides application forms, specifies reporting formats, identifies required supporting documentation, and describes the procedure for requesting, reviewing, and adopting rate changes.

The County has six (6) franchise haulers as shown in **Table 1-1**, below. A total of five (5) of the six (6) franchise haulers represent the current franchised companies covered by this Manual.

**Table 1-1**  
El Dorado County Franchise Haulers

Region	Parent Company	Franchise Hauler	Covered by Manual
West Slope	A. Waste Connections of California	A.1 Amador Disposal Service	Yes
		A.2 El Dorado Disposal Services (including Western El Dorado Recovery Systems (WERS))	Yes
	B. South Tahoe Refuse Company	B.3 Sierra Disposal Service	Yes
		B.4 American River Disposal Service	Yes
East Slope	B. South Tahoe Refuse Company	B.5 South Tahoe Refuse Company	No <sup>1</sup>
	C. Tahoe-Truckee Sierra Disposal	C.6 Tahoe-Truckee Sierra Disposal	Yes

<sup>1</sup> Rates for South Tahoe Refuse Company on the East Slope of the County are set by the South Lake Tahoe Basin Waste Management Authority using a similar rate setting manual titled "Solid Waste Rate Setting Policies and Procedures Manual."



This Manual covers County rate setting for all unincorporated County franchise areas with the exception of the East Slope areas served by South Tahoe Refuse Company (STR). Rate setting for the STR franchise is covered by the South Lake Tahoe Basin Waste Management Authority's Solid Waste Rate Setting Policies and Procedures Manual, dated March 30, 2012.<sup>2</sup>

In 1997, the County developed a "Solid Waste Rate Setting Policies and Procedures Manual" (1997 Manual) for El Dorado Disposal Services and the Western El Dorado Recovery Systems (WERS) Transfer Station/Materials Recovery Facility (MRF). However, this rate setting methodology is no longer in use by the County and franchise hauler. Historically, the County has not used a formal rate setting process and methodology for Amador Disposal Service, American River Disposal Service, Sierra Disposal Service, and Tahoe Truckee Sierra Disposal. This Manual represents the first, uniform rate setting policies and procedures manual intended for County unincorporated service areas.<sup>3</sup> The Manual applies to all of the work performed by the franchise hauler under its franchise agreement with the County.

This Manual is meant as a guide for setting rates for unincorporated County service areas, separately. The County will be responsible for reviewing a separate rate application submitted by each franchise hauler. The County Board of Supervisors (Board) will have the ultimate authority to approve rate change recommendations for each service area. This Manual may be amended as necessary to reflect changes in objectives or modifications to the franchise agreements.

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<sup>2</sup> The City of Placerville, Cameron Park Community Services District, El Dorado Hills Community Services District also separately regulate refuse collection rates for their service areas.

<sup>3</sup> Recent rate setting practices and outcomes were based on CPI increases and/or fuel cost increases.

## B. Rate Setting Goals

The primary goal of the rate setting process and methodology is to determine solid waste collection rates which are fair to customers and which provide a fair return to the franchise haulers. A total of six (6) rate setting process goals were considered in developing this rate setting methodology:

1. The County and franchise haulers shall start with a **strong and committed cooperative relationship**. The County and franchise haulers should view the franchise as a cooperative relationship where both parties commit to use the formal rate setting methodology, and plan continuous communication on rate setting throughout the franchise term.
2. Rates requested by a franchise hauler must be **justifiable and supportable**. A formal request to change rates, submitted by the franchise hauler, shall provide the basis for all rate changes, include only allowable and necessary costs, and provide accountability for expenditures. In determining rates, the County should consider both the need for fairness to ratepayers and the need to compensate the franchise hauler fairly and consistently with the methodology.
3. The estimated costs of service, and resulting solid waste rates, shall be **reasonable**. Revenues generated shall be adequate to fully meet reasonable costs of service.
4. The process shall be kept as **simple** as possible, while ensuring that any rate request is justifiable and reasonable. The process also shall minimize administrative efforts of the County.
5. The rate setting process shall **provide mechanisms for ongoing rate review and rate stability**. A periodic, formal, and thorough County review (every three years) of financial and operating data will set be performed for the protection of the ratepayers. These reviews shall be conducted consistently and in accordance with set schedules in the Manual. The process is intended to prevent large, unexpected

fluctuations in rates due to changes in costs or from the need to fund a broadening scope of waste management services.

6. The County and franchise haulers shall strive to **maximize opportunities to improve performance and service quality** while maintaining cost competitiveness in the marketplace. Ideally, the County, and a hauler, should set rates in a base year, and the hauler shall attempt to reduce its costs in subsequent years.

### C. Rate Setting Policies

The County will use the following six (6) policies when setting rates:

1. **Use the Operating Ratio Method to Determine Profit** – The County will use the Operating Ratio (OR) method to establish revenue requirements for setting rates. The Operating Ratio is a method of determining the profit allowed to the franchise hauler based on allowable operating costs.
2. **Do Not Allow Retroactive Rate Adjustments** – There will be no allowance for retroactive adjustments in rates, except by special agreement, or by party default by the County. Retroactive reimbursements can move rates out of alignment with the actual costs of providing service. This Manual codifies strict rate review timelines and responsibilities. If the County and franchise haulers adhere to these timelines for submission and rate change approval, and no party defaults on these timelines, future rates shall be established such that there is no need for retroactive rate adjustments. The franchise hauler shall not be entitled to receive a rate increase if the franchise hauler defaults on the timelines and responsibilities specified in this Manual.
3. **Do Not Allow Balancing Accounts** – This rate setting process is based on projecting results during base years. Thus, actual base year results likely will differ from base year

projections. In some regulatory environments, these differences are “balanced” in subsequent years by using a balancing account.

Balancing accounts are occasionally used in the waste industry as an accounting-based approach to true up a previous year’s projections to actual financial results. A balancing account can then be used to address differences between actual and projected results. A balancing account requires substantial administration, reporting, and control measures which determine how funds in the account are invested and managed.

When a balancing account is established, terms and conditions related to these accounts are clearly documented as part of a rate setting process and methodology manual. Also, terms and conditions are specifically incorporated by reference into contractual agreements between the respective parties.

The problem with balancing accounts is that by funding surpluses and deficits using rate revenues, rates charged to customers ultimately do not reflect the true cost of providing service to customers because they include retroactive components. Over time, current ratepayers can end up ultimately subsidizing, or benefiting from, prior generations of ratepayers. For example, if rates are raised to pay off a balancing account, then current ratepayers bear the responsibility of what previous ratepayers should have paid for initially.

Municipal finance principles generally require a strong nexus between (1) cost-of-service and benefits and (2) cost-of-service and rates. Use of a balancing account generally breaks down this nexus and results in rate inequalities.

A balancing account also frequently is less useful when a long-term franchise exists. With a long-term franchise agreement, there is less need to recover variances between actual and projected results on a year-to-year basis. These variances can often be absorbed over the course of a long



term franchise, such as is the case between the County and franchise haulers.

Balancing accounts are not designed to account for differences between “rates asked for” and “rates received.” They also are not designed to account for differences between “rates received” and “a fair rate of return.” Balancing accounts, by their very nature, result in retroactive rates, which do not reflect cost-of-service based rates.

4. **Do Not Allow Fuel Surcharges** – There will be no separate “fuel surcharges” added to rates to account for changes in fuel costs. Fuel surcharges create accounting problems (e.g., which fuel index to use, over what time period to use the index, and determining what portion of the rate that fuel costs represent). Fuel surcharges require separate accounting from allowable rate changes which may already reflect compensation to franchise hauler for changes in fuel costs (e.g., as part of a CPI-based rate change during interim years). Fuel surcharges lag actual changes in fuel prices (by as much as one year), so changes in the fuel surcharge are disconnected from current changes in fuel prices. Fuel costs typically represent a relatively small portion of the overall rate charged (less than ten (10) percent), minimizing the impact of fluctuating fuel prices on overall rates. Finally, once established, fuel surcharges can linger within rates during periods when fuel prices are stable and when a fuel surcharge is not necessary.

5. **Analyze Related Party Transactions** – The franchise haulers have certain related-party transactions with affiliates. The franchise haulers must disclose all related party transactions as part of the rate setting process. Related parties for STR and Waste Connections companies are identified in **Tables 1-2** and **1-3**, on the next page.

The County will allow only those transactions with these related parties which are “market based.” The County will assess

whether related party transactions are conducted on an “arm’s length” basis, equivalent to terms as with an unrelated party in the conditions of a competitive, free market, environment. The County will allow “market based” transactions in order to ensure reasonable rates for County ratepayers.

During its review of the franchised hauler’s base year rate application, the County may request that a franchise hauler provide specific information in support of related party transactions. The County will consider the following factors in determining whether the related party transaction is an allowable cost and is charged at a reasonable amount:

- Allocation methods used, if applicable
- Nature, extent, and magnitude of the relationship
- Terms of the related party transaction (e.g., timing of payments, term length)
- Historical information (e.g., ownership)
- Date of acquisition (if applicable)
- Purchase price of item (if applicable)
- Financing terms for item (if applicable)
- Subject to signing confidentiality statements (if required), access to the financial statements and accounting records of the related party.

For related party company leases, the County may require a franchise hauler to identify financing charges, or profit components, within these lease rates. The franchise hauler shall be prepared to support the business purpose for each related party transaction.

The County will examine how related party transactions are treated for rate setting purposes in the *Base Year Rate Application*. The County will assess whether related party transactions already have a profit component on them, and if so, treat these related party transactions as

**Table 1-2**  
Related Parties and Transactions for STR  
Companies

Related Company	Relationship/Transaction
<b>Douglas Disposal, Inc. (DDI)</b>	<ul style="list-style-type: none"> <li>■ Owned by same ownership group as STR</li> <li>■ STR leases facility space to DDI</li> <li>■ STR leases office space to DDI</li> <li>■ STR leases computers to DDI</li> <li>■ STR loans money to DDI</li> </ul>
<b>Tahoe Basin Container Service (TBC)</b>	<ul style="list-style-type: none"> <li>■ Owned by same ownership group as STR</li> <li>■ STR leases facility space and equipment to TBC</li> <li>■ STR leases office space to TBC</li> <li>■ STR rents computers to TBC</li> <li>■ STR loans money to TBC</li> </ul>
<b>American River Disposal (ARD)</b>	<ul style="list-style-type: none"> <li>■ Owned by same ownership group as STR</li> <li>■ STR leases office space to ARD</li> <li>■ STR leases computers to ARD</li> <li>■ STR provides office contract labor to ARD</li> </ul>
<b>Sierra Disposal Service (SDS)</b>	<ul style="list-style-type: none"> <li>■ Owned by same ownership group as STR</li> <li>■ STR leases office space to SDS</li> <li>■ STR leases computers to SDS</li> </ul>

**Table 1-3**  
Related Parties and Transactions for Waste  
Connections (WCNX) Companies

Related Company	Relationship/Transaction
<b>Amador Disposal Service (ADS)</b>	<ul style="list-style-type: none"> <li>■ Owned by same corporation group as EDDS</li> </ul>
<b>El Dorado Disposal Service (EDDS)</b>	<ul style="list-style-type: none"> <li>■ Owned by same corporation group as ADS</li> </ul>
<b>Potrero Hills Landfill</b>	<ul style="list-style-type: none"> <li>■ Owned by same corporation group as EDDS and ADS</li> <li>■ EDDS landfills County refuse at Potrero Hills Landfill</li> </ul>

pass-through costs (without a profit component) to avoid a “double counting” of profit.

6. **Unforeseen Circumstances** – The County should consider a proposed revision in a franchise hauler’s rates whenever the franchise hauler can establish to the satisfaction of the County that Unforeseen Circumstances have arisen that have or will materially affect the franchise hauler’s revenues or costs under this Manual.

## D. Rate Application Process

### 1. Base Year Process

The County requires that each franchise hauler submit a *Base Year Rate Application* once every three (3) years. With the *Base Year Rate Application*, the franchise hauler provides detailed financial and operating information, for business done under the franchise agreement, which is carefully reviewed and analyzed by the County. These detailed reviews are referred to as “base year reviews” in the methodology.

With the *Base Year Rate Application*, the franchise hauler submits audited financial statements, for business done under the franchise agreement, for the previously completed fiscal year. These statements serve as the base documents for the application. The franchise hauler shall reconcile financial information contained in the *Base Year Rate Application* with the audited financial statements, for business done under the franchise agreement, to provide assurance that all of the hauler’s activities are accounted for.

The *Base Year Rate Application* requires three (3) years of data, including a year of actual data (based on audited information), a year of estimated data (based on year-to-date information available at the time the application is submitted), and the projection, or base year.



## 2. Interim Year Process

If the franchise hauler chooses to request a rate adjustment in an “interim year” between “base” years, the County requires that the franchise hauler submit an *Interim Year Rate Application* for an interim year rate change. The scope and content of the *Interim Year Rate Application* is much more limited than a base year request. The franchise hauler is not obligated to request an adjustment to rates and can instead request to leave rates unchanged. In each interim year, the franchise hauler must complete the top portion of the *Interim Year Rate Application*, indicating whether or not the franchise hauler is requesting a rate change for that interim year.

During the interim years, a franchise hauler shall be entitled to adjust its rates based upon the following formula:

One plus eighty-five (85) percent of the annual percentage change in the most recent actual, not forecasted, change in the Consumer Price Index, All Urban Consumers, U.S. City Average - Garbage and Trash Collection (December 1983=100, series CUUR0000SEHG02) (“CPI”) multiplied by the current rate

Interim year rate adjustments are subject to a “floor” and a “cap.” During interim years, rate adjustments shall not be greater than six (6) percent nor less than one (1) percent, regardless of the rate adjustment calculated using the interim year formula.

## E. Allowable and Non-Allowable Costs

Rates are established for each Base Year based on a franchise hauler’s projected Revenue Requirement in the Base Year. For purposes of

computing the Revenue Requirement, it is necessary to determine which of the franchise hauler’s costs are: (1) Allowable Costs, (2) Pass-Through Costs, and (3) Non-Allowable Costs.

### Cost Allocations and Methodologies

The franchise hauler shall provide supporting documentation and rationale for the allocation of expenses (1) between the franchised areas covered by this Manual and non-County areas serviced by the franchise hauler, and (2) between the franchised operations covered by this Manual and non-franchised operations. Examples of the types of expenses which may require allocations include:

- Disposal costs
- Equipment costs (trucks, bins, debris boxes)
- General and administrative costs (corporate and regional)
- Labor costs
- Loans to or from affiliates
- Loans to or from officers
- Management fees
- MRF processing costs
- Other staffing costs
- Sludge operations.

As each franchise hauler has slightly different circumstances, the specific timing and application requirements for each franchise hauler are provided in an appendix, organized as follows:

- B. Amador Disposal Service*
- C. American River Disposal Service*
- D. El Dorado Disposal Services*
- E. Sierra Disposal Service*
- F. Tahoe Truckee Sierra Disposal.*

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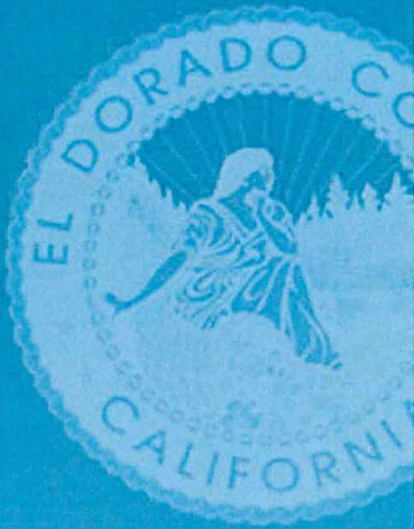
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## Section 2

### Base Year Rate Setting Process



## 2. Base Year Rate Setting Process

This section describes each of the seven (7) steps of the base year rate setting process. Each step includes an overview of the step and a detailed description of the tasks required to complete the step. The section includes seven (7) subsections:

- A. *Step 1 – Prepare and Submit Rate Application*
- B. *Step 2 – Verify Completeness of Rate Application*
- C. *Step 3 – Review Rate Application and Prepare Response*
- D. *Step 4 – Prepare Draft Report and Final Report*
- E. *Step 5 – Notify Customers of Rate Hearing*
- F. *Step 6 – Seek Approval from County Board of Supervisors*
- G. *Step 7 – Implement New Rates.*

### A. Step 1 – Prepare and Submit Rate Application

**Responsibility:** Franchise hauler

**Timing:** Completed seven (7) months prior to the date new rates become effective

- Tasks:**
- a. Prepare Cost Information
  - b. Prepare Revenue Information
  - c. Prepare Operating Information
  - d. Calculate Allowable Operating Profit
  - e. Determine Franchise Fee
  - f. Calculate Revenue Requirement
  - g. Calculate Net Surplus/Shortfall and Percent Change in Rates
  - h. Calculate New Percentage Rate Change and Rates
  - i. Prepare and Submit Rate Application.

#### Overview

During this step, the franchise hauler prepares the *Base Year Rate Application*. This three-page form includes detailed financial and operating information and is used to determine the actual costs and revenues of the franchise hauler. Blank copies of the *Base Year Rate Application* are provided in **Appendix A**.

Several lines in the application contain three columns. These columns are intended to show the relationship between the most recently completed year, the current year, and projections for the new "base" year. These columns are organized as follows:



- **Column one** includes actual audited information for the franchise hauler's prior fiscal year (for business under the franchise agreement). This is the most recent year that financial information is available and that actual costs and revenues can be verified.
- **Column two** is for estimating performance during the current fiscal year. The "current year" is the franchise hauler's fiscal year prior to the new base year. The *Base Year Rate Application* is prepared during the course of the current year. Data in this column shall include year-to-date performance plus estimated performance during the remaining months of the current fiscal year.
- **Columns three** is used to report projected performance during the new base year. This information is entirely a projection and is utilized to determine any rate changes. Projected information shall be developed by estimating anticipated service levels during the base year, and determining the revenues and expenses which will be incurred to provide these services. Each cost element in the application shall be reviewed and any anticipated change in specific line items shall be included in the base year projection. For example, if labor rates are scheduled to change, or if landfill disposal costs are expected to change, these changes shall be included in projections for the base year.

The relationship between these three (3) columns for any given line item shall be consistent. Any substantial difference between each of the three (3) years shall be explained by the franchise hauler and considered by the County during the review process.

The franchise hauler shall provide a copy of audited financial statements, for business done under the franchise agreement, for the most recently completed fiscal year. Financial information from the audit, for business done under the franchise agreement, is consolidated into specific categories identified in the application. All financial information shall be in

accordance with generally accepted accounting principles. The franchise hauler shall prepare supplemental documentation which reconciles the financial audit, for business done under the franchise agreement, for the most recently completed fiscal year to information provided in the application. This documentation shall be included in the application package.

### a. Prepare Cost Information

Cost information from the franchise hauler is provided in the *Base Year Rate Application*. Cost information is reported for the most recently completed fiscal year, the current fiscal year, and the new base year. Information reported in each line item represents the total combined costs for all franchised services, including residential, commercial, and industrial, business. Segregation of costs by service type (i.e., residential, commercial, and industrial services) is not required.

Cost information includes:

- **Allowable Costs**
  - Direct Labor
  - Truck and Equipment Costs
  - Indirect Operational Labor
  - Administrative Labor
  - Supplies and Administration
- **Pass Through Costs**
  - Disposal Costs
  - Franchise Fees.

Definitions and specific components of these cost categories are described in Appendices B through F for each hauler, respectively.

By aggregating costs into these line items, the County, and franchised hauler, can focus on major changes without becoming distracted by large changes in insignificant cost components. For example, if licenses and fees doubled from \$10,000 in the current year to \$20,000 in the base

year (i.e., a 100 percent increase), this might only cause General and Administrative Costs to increase by one percent, resulting in little impact on the overall rate. Minor components of General and Administrative Costs may decrease between the current year and the base year, while others may increase.

If one of the major cost line items in the application changes at an unusual rate, then the franchise hauler shall be required to explain the change. An unusual change in a cost is any change which is greater than the change in the U.S. City Average Garbage and Trash Collection CPI. The CPI used in the analysis shall be based on the most current actual information for the U.S. City Average Garbage and Trash Collection CPI. This information is available from the United States Department of Labor, Bureau of Labor Statistics.

Cost information for the current year, and base year, must account for any increases or decreases in the number of customers served, or tons of waste and recyclable material collected. Actual increases in costs also must be included. For example, if health benefit costs will increase in the base year as a result of increases in premiums, this additional cost shall be included.

Cost information provided in the application is added to profit to calculate the franchise hauler's Revenue Requirement. This Revenue Requirement is compared to anticipated revenues to determine whether a rate change is necessary.

**b. Prepare Revenue Information**

Revenue information is provided in this task. Similar to cost information, revenues are reported for the most recently completed fiscal year, the current fiscal year, and the projected base fiscal year. Revenues are reported in four (4) separate categories:

- Residential
- Commercial and industrial

- Transfer station
- Recycled material sales.

Revenues in the base year are projected without any changes in rates. Revenue projections are prepared based on existing rates and the number of customers which the franchise hauler anticipates serving in the base year.

**1. Determine Residential Revenues.**

To calculate projected residential revenues for the base year, enter the current monthly rates by service type page 2 of 3 of the *Base Year Rate Application*. Then enter the projected number of accounts by service type on page 2 of 3 of the *Base Year Rate Application*. Total revenues for each service type are calculated based on the following:

$$\begin{array}{r} \text{Current rate per month} \\ \text{Multiplied by} \quad \text{Twelve months} \\ \hline \text{Equals} \quad \text{Rate per year} \end{array}$$

$$\begin{array}{r} \text{Multiplied by} \quad \text{Projected residential accounts} \\ \hline \text{Equals} \quad \text{Revenues by service type.} \end{array}$$

Revenues by service type then are entered on page 2 of 3 of the *Base Year Rate Application*. These values then are added together, entered, and totaled. Residential revenues shall reflect all revenues generated for providing curbside collection services of refuse, recyclables, and yardwaste, if applicable.

The number of accounts in each service category may change throughout the year. For example, some customers may request one can service part of the year and an additional can during the remainder of the year. The average number of accounts by service type shall be used in these calculations. In addition, the number of accounts identified for these calculations must agree with operating data provided in Section VIII (page 3) of the *Base Year Rate Application*.

Multi-family can, cart, and bin services, and mobile home park can, cart, and bin services, shall be included in residential revenues.



2. **Determine Commercial and Industrial Revenues.** Commercial and industrial (i.e., debris box) revenue information is entered on page 2 of 3 of the *Base Year Rate Application*. In the first column of this line, actual revenues generated by commercial and industrial accounts during the prior year are reported. This year amount must reconcile with the financial audit for that same year. Commercial and industrial revenues for the current year are based on actual revenue to-date plus an estimate of the revenues that will be received through the end of the fiscal year. Commercial and industrial revenues in the current year shall be comparable to revenues in the prior year, after taking into account changes in accounts and service levels.

Projected commercial and industrial revenues for the new base year are entered in the third column. The amount, net of any projected uncollectible accounts, is based on the estimated annual revenues received during the current fiscal year plus any additional revenues generated from additional accounts.

Operating data provided in Section VIII (page 3) of the *Base Year Rate Application* shall support any service level changes. In order to analyze changes in commercial and industrial rates, prior, current, and projected rate information must be provided for specific commercial and industrial services.<sup>1</sup>

Depending on the company, these services generally include:

**Bin Service**

- 3 Yard Bin – once per week
- 4 Yard Bin – once per week
- 6 Yard Bin – once per week
- 3 Yard Bin – twice per week
- 4 Yard Bin – twice per week
- 6 Yard Bin – twice per week.

**Debris Box Service**

- 6 Yard Box – per pull
- 20 Yard Box – per pull
- 30 Yard Box – per pull.

The franchise hauler enters the rate for these services for the prior year, the current year, and the base year, respectively. Year to year percentage changes then are entered. This information substantiates previously approved changes in commercial and industrial rates.

The franchised hauler shall be prepared to provide a complete list of all services provided, and approved rates, following the base year review (and following all interim year reviews). The franchised hauler shall change services provided to customers only during base years (i.e., not interim years). In cases where there are situations where the County requires the franchise hauler to change services in interim years, the franchise hauler shall identify these new programs and rates in conjunction with an interim year rate application.

3. **Determine Allowance for Uncollectible Accounts.** The franchise hauler likely will not be paid by all customers served. While this amount is expected to be relatively small, it must be accounted for in the calculation of base year net revenues. These amounts are reported on the allowance for uncollectible residential accounts line, and the allowance for uncollectible commercial and industrial accounts line of the application.

The accounts shall be calculated using a formula based on actual experience, with a not-to-exceed amount of one percent (1%) of anticipated revenues. Assumptions related to the projection of uncollectible accounts must be documented and included as a supplement to the application.

4. **Determine Net Revenues from Recycled Material Sales.** In addition to revenues generated through residential, commercial, and industrial services, additional revenues are generated by selling recyclable materials collected through the curbside recycling

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<sup>1</sup> This list is not meant to be inclusive of all commercial and industrial rates.

program and commercial recycling program. The amount of recycling revenues generated through the sale of these materials is dependent upon the quantity of material collected and the market price for these materials. Both of these factors are outside the direct control of the franchise hauler. Therefore, revenues generated by recycled material sales are not subject to an across-the-board rate change. Revenues generated from charging residential customers for curbside recycling services shall not be included here, but shall be included as part of residential revenues (#1 above).

5. **Calculate Total Revenues.** The calculation of total revenue is as follows:

	Total residential revenues
<i>Plus</i>	Total commercial & industrial revenues
<i>Plus</i>	<u>Net recycled material sales</u>
<i>Equals</i>	Total revenues.

**c. Prepare Operating Information**

During this task, non-financial operating information is compiled by the franchise hauler. Operating information, requested in the application, provides an important indicator of the franchise hauler's performance. If costs are changing at an unusual rate, operating data may provide some explanation of these changes. For example, cost increases could be attributed to the increased level of service provided (i.e., accounts served). The franchise hauler shall provide the following information:

- Number of accounts
- Quantity of refuse tonnage collected
- Quantity of recycling tonnage collected
- Quantity of yard waste tonnage collected.

Similar to cost data, the first year is "historical," the second year is the "current" year, and the third year is the "base" year. Historical data are based on actual annual operating statistics during the most recently complete fiscal year and reflect the same

year used in the financial sections of the application. Current year performance is based on performance to-date plus estimated performance for the remaining months of the current year. Projected base year data represents the franchise hauler's best projection of service levels during the new base year.

Year-to-year percentage changes then are determined for each set of operating metrics. The franchise hauler shall be required to explain any significant changes. A significant change in an operating characteristic is an increase or decrease of more than two (2) percent.

This information allows both the County, and the franchise hauler, to monitor changes in the service characteristics, estimate total revenues at existing rates, and compare these to changes in total costs. The franchise hauler shall clearly identify to the County any operating information submitted as part of the application that it considers confidential.

The base year rate application also shall clearly identify all vehicles and equipment in use by the franchised hauler, the date of purchase, and the purchase price of the vehicle or equipment. This list shall identify all vehicles and equipment in use by the franchised hauler, the date of purchase, and the purchase price of the equipment.

**d. Calculate Allowable Operating Profit**

For the historical year of actual data, the franchise hauler will calculate the actual Operating Ratio. The actual Operating Ratio will reveal how well past base year projections corresponded to actual results. Similarly, the franchise hauler calculates the Operating Ratio for the current year (Section II, column 2 of the *Base Year Rate Application*). The actual profit received by the franchise hauler in the most recently completed fiscal year is in Section II, column 1 of the *Base Year Rate Application*. The estimated profit for the



current fiscal year also is entered in Section II, column 2 of the *Base Year Rate Application*.

To calculate the allowable operating profit in the base year, the equation below is utilized:

$$\begin{array}{r} \text{Allowable operating costs} \\ \text{Divided by} \quad \text{Operating ratio} \\ \text{Equals} \quad \text{Allowable operating revenues} \\ \text{Minus} \quad \text{Allowable operating costs} \\ \text{Equals} \quad \text{Allowable operating profit.} \end{array}$$

The allowable operating profit is entered in Section II, column 3 of the *Base Year Rate Application*.

In each base year, the Operating Ratio can range from 88 to 92 percent, without a rate change, which will help stabilize the need for rate changes and afford the franchise hauler an incentive to reduce costs.

**e. Determine Franchise Fee**

The calculation of the franchise fee is not a straightforward exercise because as revenue is increased (e.g., via a rate change), so does the amount of franchise fees increase because franchise fees are based on a percent of gross revenues. To calculate the franchise fee for the base year requires the hauler to calculate the franchise fee to be paid to the County based on the revenues after a rate change is applied. Projected franchise fees shall be entered in Section VI, column 3 of the *Base Year Rate Application*.

**f. Calculate Revenue Requirement**

The Revenue Requirement establishes the level of revenues needed to meet the franchise hauler's Allowable Costs and Pass-Through Costs and profits. This includes residential, commercial, and industrial waste and recycling costs, and assumes a reasonable profit margin based on the Operating Ratio calculation.

The Revenue Requirement (without franchise fees) is entered in Section IV of the *Base Year Rate Application*.

**g. Calculate Net Surplus/Shortfall and Percent Change in Rates**

In Sections VI and VII of the *Base Year Rate Application*, the net surplus/shortfall is determined based on the following calculation:

$$\begin{array}{r} \text{Revenue requirement without} \\ \text{franchise fees} \\ \text{Plus} \quad \text{Residential, commercial, and} \\ \text{industrial franchise fees} \\ \text{Less} \quad \text{Total revenues} \\ \text{Equals} \quad \text{Net surplus/shortfall.} \end{array}$$

The projected amount of revenue generated during the base year from the sale of recycled materials was calculated in Step 1, #4 of subsection b.; therefore, any increase or decrease in revenues required must come from an increase or decrease in rates.

If applicable, the percent change in existing rates is calculated as follows:

$$\begin{array}{r} \text{Net surplus/shortfall} \\ \text{Divided by} \quad \text{Total revenues without rate change} \\ \text{Equals} \quad \text{Percent change in rates.} \end{array}$$

The percent change in rates is entered in Section VII of the *Base Year Rate Application*.

**h. Calculate New Percentage Rate Change and Rates**

If applicable, the percentage rate change identified on page 2 of the *Base Year Rate Application* is transferred to page 1, line 1, of the *Base Year Rate Application*. Current residential rates for solid waste collection shall be entered on page 1 of the *Base Year Rate Application*. The requested new rates for the County then are calculated by multiplying the current rate by one

plus the rate change identified in line 1 of the *Base Year Rate Application*.

To determine requested new residential rates on page 1, column one of the *Base Year Rate Application* shall be added to column two and the result shall be entered in column three. This column provides the new rate schedule.

Complete current and revised commercial and industrial rate schedules shall be provided by the hauler as an attachment to the *Base Year Rate Application*.

#### i. Prepare and Submit Rate Application

The franchise hauler submits the completed *Base Year Rate Application* to the County. The application shall include the following items:

- **Management Representation Letter.** The management representation letter transmits the application to the County, and shall provide a listing of included documents. The letter shall identify the requested adjustment in rates and include a discussion of specific issues which impact new rates (e.g., significant increases in labor costs). The letter shall state that:
  - Management reviewed and accepts responsibility for the rate application
  - The application is based upon management's judgment of the most likely set of conditions and course of action
  - All significant relevant information is reflected the application
  - Assumptions are reasonable and are accurate.

An authorized representative from the franchise hauler shall sign and date the application. This signature provides a certification by the franchise hauler that the application is complete, accurate, and consistent with the instructions provided in this Manual.

- **Base Year Rate Application.** The franchise hauler shall provide a *Base Year Rate Application*, including the completed

application forms and supporting documentation. Supporting documentation includes the current and proposed rate schedules for residential, commercial, and industrial customers:

- **Supplemental Audited Financial Information.** Applications shall include audited financial statements, for business done under the franchise agreement, for the most recently completed fiscal year, as well as other documentation which support operating and financial data provided in the application. Because audited financial statements, for business done under the franchise agreement, serve as base documents for the application, statements of revenues, expenses, and other reports contained in the application shall be reconciled to the audited financial statements, for business done under the franchise agreement, to provide assurance that all activities are accounted for.

Once the application materials have been prepared, the franchise hauler submits three (3) reproducible hard copies and one electronic copy formatted to the County's specifications. The application is submitted directly to the County. The thirty (30) day review for completeness will begin upon receipt of the application.

## B. Step 2 – Verify Completeness of Rate Application

**Responsibility:** County

**Timing:** Completed within thirty (30) days upon receipt of the rate application

- Tasks:**
- a. Verify Financial Data and Format
  - b. Verify Supporting Documents and Schedules
  - c. Notify Franchise Hauler.

### Overview

During this step, the County ensures that the application has been fully completed by the franchise hauler and that the data provided are



consistent. During the 30-day period, the franchise hauler will provide all of the information necessary to complete the application.

**a. Verify Financial Data and Format**

The County staff reviews the application package to determine if it is complete and ready for analysis. Detailed analysis of the contents of the application occurs during Step 3.

The County reviewer should determine the following:

- Has the applicant included all required forms?
- Are all forms complete?
- Are audited financial statements, for business done under the franchise agreement, included?
- Are all financial calculations mathematically correct?

**b. Verify Supporting Documents and Schedules**

Various documents may be included in the application package to support the rate change. The purpose of these supporting documents shall be clearly identified by the franchise hauler.

**c. Notify Franchise Hauler**

If the application is complete, the County will notify the franchise hauler in writing that it will begin the process of evaluating the application. If incomplete, the hauler shall provide additional required information within the 30-day verification period. A revision of rates shall not be authorized until the 1<sup>st</sup> day of the first calendar month following a six (6) month period from the date that an application is verified to be complete.

## C. Step 3 – Review Rate Application and Prepare Response

**Responsibility:** County

**Timing:** Completed within one and one half (1½) months after determining that the application package is complete

- Tasks:**
- a. Review Actual and Projected Revenue Requirements
  - b. Review Actual and Projected Revenues
  - c. Review and Verify Operating Ratio
  - d. Determine Components of Requested Change in Rates
  - e. Review Performance Data
  - f. Request Additional Data and Clarification, if Necessary
  - g. Document Staff Review.

### Overview

During this step, County staff evaluates the entire rate application. This review includes examining significant changes in costs or operating performance and evaluating explanations of these changes provided by the franchise hauler.

**a. Review Actual and Projected Revenue Requirements**

In this task, costs and operating profits are reviewed and analyzed for reasonableness. Reconciliations of costs to audited financial statements, for business done under the franchise agreement, are checked for consistency. Explanations are sought from the franchise hauler for items significantly different than would otherwise normally be expected.

Percentage changes in costs for the three years identified in the application shall be calculated and reviewed. Projections prepared from previous years in prior *Base Year Rate Applications* are compared with results presented in the current application. Costs are correlated with operating collection