

5-020-129-272

AMENDED AND RESTATED
REFUSE, RECYCLING AND YARD WASTE AGREEMENT
BETWEEN THE CITY OF SHASTA LAKE
AND
USA WASTE OF CALIFORNIA, INC.

THIS AMENDED AND RESTATED REFUSE, RECYCLING AND YARD WASTE AGREEMENT (this “**Agreement**”) is between the City of Shasta Lake (the “**City**”) and USA Waste of California, Inc. (the “**Company**”). Unless otherwise specified in this Agreement, any action authorized or required to be taken by the City may be taken by the City Council (the “**Council**”) or by the City Administrator.

In consideration of the mutual covenants in this Agreement, as amended and restated, and intending to be legally bound, the parties agree as follows:

1. DEFINITIONS

For purposes of this Agreement, the following words or phrases shall have the following meanings.

1.1. Act. The California Integrated Waste Management Act of 1989, California Public Resources Code (“**PRC**”) sections 40000 et seq., as amended, supplemented, superseded, and replaced by the California legislature from time to time. All state code references are to the PRC unless otherwise noted. In the event of any inconsistency between the definitions set forth below and those in the PRC or the California Code of Regulations (“**CCR**”) related to solid waste, the PRC and/or the CCR shall prevail.

1.2. Applicable Law. All laws, ordinances, municipal code, resolutions, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the Franchise Services that are in force on the execution date of this Agreement, and as they may be enacted, issued or amended during the term of this Agreement.

1.3. Bins. A metal or plastic container, with a capacity of one (1) cubic yard up to and including ten (10) cubic yards, designed or intended to be mechanically dumped into a loader packer type truck, that is used for the Collection of C&D Debris, Green Waste, Recyclable Materials or Refuse.

1.4. Bulky Waste. Large discarded items including, but not limited to, household appliances, furniture, un-mounted tires, carpets, mattresses, and other oversize materials whose large size precludes or complicates their handling by normal Collection methods, but can be Collected without the assistance of special loading equipment (such as forklifts or cranes) and without violating collection vehicle legal load limits. Bulky Items do not include abandoned automobiles, large auto parts, or trees.

- 1.5. City Representative.** The City Administrator or his/her designee.
- 1.6. Cart.** A heavy plastic receptacle with wheels and a rated capacity not exceeding ninety-six (96) gallons, having a hinged tight-fitting lid, and wheels for the Collection of Green Waste, Recyclable Materials or Refuse.
- 1.7. City Services.** The Collection and Disposal or Processing of Refuse and Recyclable Materials from City-owned and operated Premises.
- 1.8. Collect or Collection.** The process whereby C&D Debris, Green Waste, Recyclable Materials or Refuse is removed from a Premises and transported to a Disposal Site, Processing Facility or other appropriate facility.
- 1.9. Commercial Green Waste Service.** The Collection and Processing of Green Waste from Commercial Premises.
- 1.10. Commercial Premises.** A Premise in the Service Area that is engaged in commercial activities, industrial uses, manufacturing processes, demolition or construction, and includes Multi-Family Complexes.
- 1.11. Commercial Recycling Service.** The Collection and Recycling of Recyclable Materials from Commercial Premises.
- 1.12. Commercial Refuse Service.** The Collection and Disposal of Refuse from Commercial Premises.
- 1.13. Commercial Services.** Commercial Green Waste Service, Commercial Recycling Service, and Commercial Refuse Service.
- 1.14. Compactor.** Any Roll-Off Container that has a compaction mechanism, whether stationary or mobile.
- 1.15. Construction and Demolition Debris or C&D Debris.** Used or discarded materials resulting from construction, remodeling, repair or demolition operations on any type of structure, but not including any Excluded Waste.
- 1.16. C&D Debris Services.** The Collection and Disposal or Recycling of C&D Debris, including Recyclable C&D, from Premises in the Service Area.
- 1.17. Container.** Any and all types of receptacles, including Carts, Bins and Roll-Off Containers, used pursuant to the terms of this Agreement for the Collection of Refuse, Recyclable Materials, Green Waste, C&D Debris, or other Solid Waste.
- 1.18. Curb or Curbside.** That part of a Premise within five feet of the Public Street or alley, without blocking sidewalks, driveways or on-street parking. If extraordinary circumstances preclude such a location, Curbside shall be considered a placement suitable to the Premises,

convenient to the Company's equipment, and mutually agreed to by the Premises and the Company.

1.19. Disposal. Has the meaning provided in PRC Section 40120.1 or successor laws and regulations as may be amended from time to time.

1.20. Disposal Site. The facility or facilities at which Refuse Collected under this Agreement is disposed. As of the Effective Date, the Disposal Site shall be West Central Landfill.

1.21. Effective Date. July 1, 2014, the date that Franchise Services shall commence under this Agreement.

1.22. Excluded Materials or Excluded Waste. Material that: (a) is prohibited from receipt at a Disposal Site by state, federal or local law, regulation, rule, code, ordinance, order, license, permit or permit condition; (b) is or contains Hazardous Waste as defined below or any bio-solids; (c) Company reasonably believes would, as a result of or upon disposal, be a violation of local, state or federal law, regulation or ordinance, including land use restrictions or conditions applicable to a Disposal Site; or (d) in Company's opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Company or City to potential liability.

1.23. Franchise Materials. All Solid Waste generated or coming to exist in the Service Area, except where excluded pursuant to Section 2.3. At the Company's option, "Franchise Materials" shall also include any other materials that can now or in the future be disposed of in Class III landfills or Processed. It is the intention of the Parties to maximize the scope of the Company's exclusive franchise within the Service Area by including within the definition of "Franchise Materials" those materials that can be safely Collected, Disposed of or Processed using commercially reasonable methods.

1.24. Franchise Services. City Services, Commercial Services, C&D Debris Services, and Residential Services.

1.25. Green Waste. All tree and plant trimmings, grass cuttings, dead plants, weeds, leaves, branches, and similar materials that fit into a Green Waste Cart, but not including Excluded Waste or items with a diameter greater than 10 inches.

1.26. Green Waste Processing Facility. The facility(ies) used by the Company for handling, processing, and preparing collected Green Waste for marketing or other use.

1.27. Hazardous Waste. Has the meaning provided in PRC Section 40141 or successor laws and regulations as may be amended from time to time.

1.28. Household Hazardous Waste (or HHW). Has the meaning set forth in California Health and Safety Code Section 25218 and in Title 14, CCR, Section 18502 or successor laws and regulations as may be amended from time to time, but not including any

Excluded Waste.

1.29. Inaccessible Area. Any road, alley or property that does not allow safe access, turn-around, or clearance for standard collection vehicles.

1.30. Multi-Family Complex. Any building or structure, or portion thereof, used for residential purposes and having four (4) or more distinct living units; Multi-Family Complexes shall be considered Commercial Premises. Any building or structure with three (3) or fewer distinct living units shall be Residential Premises, receiving Residential Services. For purposes of this Agreement, mobile home parks utilizing Bin-based Refuse services and centralized billing shall be Multi-Family Complexes.

1.31. Owner. The person(s) or entity(ies) holding legal title to a Premises. For the purposes of provisions in this Agreement pertaining to the sending of notices, billings or other communications by Company to an Owner, Company may regard as Owner the person or entity shown in the records of the assessor of Shasta County or as may be indicated by documents recorded in the Shasta County Clerk-Recorder's Office.

1.32. Parties. The City and the Company.

1.33. Premises. Any parcel of real property in the Service Area where Solid Waste is produced, generated or accumulated, and includes Commercial Premises and Residential Premises.

1.34. Private Drive(s). A privately owned or maintained way serving less than one Residential Premises for every 100 yard distance.

1.35. Private Road(s). A privately owned or maintained way that allows for access by a small wheel base service truck and which serves four or more Residential Premises.

1.36. Processing or Process. An operation or series of operations, whether involving equipment, manual labor, or mechanical or biological processes, that sorts, enhances, upgrades, concentrates, decontaminates, packages or otherwise prepares Solid Waste and returns them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Processing begins at the time Solid Waste is delivered to the Processing Facility and ends when the finished Processed materials are sold or reused, and the residue is properly Disposed.

1.37. Processing Facility. Any facility selected by Company which is designed, operated and legally permitted for the purpose of receiving and Processing Green Waste, Recyclable C&D and/or Recyclable Materials.

1.38. Public Street(s). A public way used for public travel.

1.39. Recyclable C&D. C&D Debris that is placed in a Bin, Roll-Off or other receptacle, at least 95% of which will be recycled.

based Residential Refuse Services, and dwellings within buildings or structures that have three (3) or fewer distinct living units.

1.52. Solid Waste. Defined in California Public Resources Code Section 40191, as that section may be amended from time to time, but excluding Exempt Waste.

1.53. Special Services. Specific service-related activities, including without limitation lock, gate, and long walk services, or other services for which no rate is established by the City, that is provided by the Company to customers for which the Company may charge an additional fee.

1.54. State. The State of California.

1.55. Unacceptable Materials. Microwave trays, mirrors, window or auto glass, light bulbs, ceramics, porcelain, plastics unnumbered, plastic bags, coat hangers, glass cookware/bake ware, household items such as cooking pots, toasters, etc., and materials containing chemical or other properties which are deleterious or capable of causing material damage to any part of Company's property, its personnel or the public, or materially impairing the strength or the durability of the Company's structures or equipment.

1.56. Uncontrollable Circumstances. Any acts of God, such as landslides, lightning, fires, storms, floods, pestilence, freezing, and earthquakes; explosions, sabotage, civil disturbances, acts of a public enemy, wars, blockades, riots, labor unrest, eminent domain, condemnation or other taking, unfavorable market conditions for those commodities associated with Recyclable Materials, or other events of a similar nature, not caused by the negligence or willful misconduct City or Company, which event is not reasonably within the control of the Party claiming the excuse from its obligations due to such event, to the extent such event has a material adverse effect on the ability of a Party to perform its obligations thereunder. Events which could have been prevented by reasonable precautions, including compliance with agreements and applicable laws, shall not be considered an Uncontrollable Circumstance. Labor unrest, including but not limited to strike, lockout, work stoppage or slowdown, sickout, picketing, or other concerted job action conducted by the Company's employees or directed at the Company, or a subsidiary, are considered Uncontrollable Circumstances for the first seven (7) days of such labor unrest.

2. GRANT OF EXCLUSIVE AGREEMENT

2.1. Scope of Exclusive Franchise. Except as provided in Section 2.3 below, City hereby grants to Company, for the term hereinafter set forth, the exclusive right and privilege to perform the Franchise Services. Except as provided in Section 2.3 below, participation in the Company's Franchise Services shall be mandatory for all Premises in the Service Area.

The Company shall dispose of all Refuse collected under this Agreement at a licensed Disposal Site (which must be a Class III disposal site) suitable for municipal waste. Pursuant to a Joint Powers Agreement among Shasta County, the City of Anderson, and the City of Shasta Lake, as of the Effective Date, the Company must deliver all Refuse collected under this Agreement to

West Central Landfill for Disposal.

2.2. Company Responsibility. The Company hereby accepts and assumes responsibility to perform and fulfill all the terms, covenants, conditions, and obligations required under this Agreement. Company agrees to perform all of its obligations under this Agreement for the term hereof. Company shall furnish all the labor and equipment necessary for the Franchise Services, subject to the terms, conditions and provisions of this Agreement.

2.3. Exceptions to Franchise. The following services and materials are expressly excluded from this Agreement. However, the granting of this franchise shall not preclude a Premises from contracting for the categories of services and materials described below to be delivered to, collected and/or transported by the Company or others, provided that nothing in this Agreement is intended to or shall be construed to excuse any person from any authorization from the City which is otherwise required by law.

2.3.1. Compactors for Recyclables. Rental, lease or sale of Compactors, provided that such equipment is compatible with Company equipment and that the Company shall have the exclusive right to provide Collection services for Compactors (unless Section 2.3.4 applies).

2.3.2. Self-Hauling. Self-Haul materials, which are delivered by a person or entity directly to a disposal facility. Persons or entities cannot subcontract any portion of the Self-Haul to any entity other than the Company. This provision does not allow persons or entities to purchase, borrow or rent Containers and have them collected by a third-party. Regardless of this Self-Haul exception, each Commercial and Residential Premises must pay for the Commercial or Residential Services, respectively.

2.3.3. Gardeners and Landscapers. The collection, transportation, and disposal of Green Waste and related Solid Waste by a gardener, or landscaper, as an incidental part of the gardening or landscaping services provided to its customers, rather than as a hauling service, provided that such Solid Waste is not collected or transported by a third party hired for the primary purpose of collecting and transporting said materials.

2.3.4. Incidental Hauling of Construction and Demolition Debris. C&D Debris that is incidentally removed by a duly licensed construction or demolition contractor, or as part of a total service offered by such licensed company, and where the licensed company uses its own equipment and employees.

2.3.5. Sold Recyclable C&D. Collection and Recycling of Recyclable C&D by a third party, provided at least ninety-five percent (95%) of each load is actually Recycled and for which the generator receives payment. To the extent permitted by law, if the generator is required to pay monetary or non-monetary consideration for the collection, transportation, transfer, or processing of Recyclable C&D to any person or entity other than Company, the fact that the generator receives a reduction or discount in price (or in other terms of the consideration the generator is required to pay) shall not constitute "receiving payment," and such Recyclable C&D shall be exclusive to Company.

2.3.6. Donated or Sold Recyclables. The sale or donation of Recyclable Material by the person or entity that generated such Recyclable Material to any person or entity other than Company; provided, however, to the extent permitted by law, if the generator is required to pay monetary or non-monetary consideration for the collection, transportation, transfer, or processing of Recyclable Material to any person or entity other than Company, the fact that the generator receives a reduction or discount in price (or in other terms of the consideration the generator is required to pay) shall not be considered a sale or donation.

2.3.7. Governmental Entities. The Company's exclusive franchise in this Agreement shall not include governmental entities if and to the extent the City has no legal power to include them in the exclusive franchise.

2.4. Term of Agreement. The initial term of this Agreement shall be for the period commencing on the Effective Date and ending on the last day of the month in which the tenth anniversary of the Effective Date occurs (the "**Initial Term**"). Thereafter, this Agreement will automatically continue beyond the Initial Term for eight successive additional periods of one year (each a "**Renewal Term**") unless either Party gives the other Party at least 180 days' prior written notice of its election to terminate the Agreement at the end of the Initial Term or any applicable Renewal Term.

2.5. Title to Solid Waste. It is expressly understood that all Franchise Materials collected under this Agreement shall remain the property of the Commercial or Residential Premises until such time as they are collected. Ownership of C&D Debris, Green Waste, and Recyclable Materials shall transfer to Company once they are collected. The Company is hereby granted the right to retain, dispose of, and otherwise use such C&D Debris, Green Waste, and Recyclable Materials, or any part thereof, in any fashion or for any lawful purpose desired by the Company, and to retain any benefit or profit resulting therefrom. Upon Collection, ownership of Refuse shall transfer to the Disposal Site. Title to and liability for Excluded Materials shall remain with Owner at all times.

2.6. Anti-Scavenging Enforcement. The City shall use good faith efforts to protect and enforce the exclusive rights of Company through appropriate ordinances and reasonable enforcement of those ordinances against third party violators. Contractor may independently enforce the exclusivity provision of this Agreement against third party violators, including but not limited to seeking injunctive relief, and the City shall use good faith efforts to cooperate in such enforcement actions brought by Company.

3. FRANCHISE FEE

3.1. City Franchise Fee. Exhibit 2 attached hereto contains the rates (the "**Rates**") Company shall charge hereunder for the Franchise Services. On or before each August 1 during this Agreement, Company shall pay City a "**Franchise Fee**" of six percent (6%) of all Gross Revenue received by the Company under this Agreement during the 12 month period ending on the previous June 30. For purposes of this Agreement, "**Gross Revenue**" means revenue actually received from Commercial and Residential Premises for their payment of Rates. Gross Revenue

location may cause safety or other concerns, City may make the final determination of the Collection location.

4.1.4. Frequency. Except as otherwise provided herein, (a) Residential Refuse Service shall be provided one (1) time per week in compliance with the approved Collection schedule, (b) Residential Recycling Service shall be provided every other week in compliance with the approved Collection schedule, and (c) Residential Green Waste Service shall be provided every other week in compliance with the approved Collection schedule. Collection shall be scheduled so that a SFR receives Residential Refuse Service, Residential Recycling Service, and Residential Green Waste Service on the same weekday. The Company will only provide Residential Recycling Service to Residential Premises that receive and pay for Residential Refuse Service.

4.1.5. Schedule. Collections from SFRs will be between 5:00 a.m. and 5:00 p.m., Monday through Friday. The hours, day, or both of Collection may be extended due to extraordinary circumstances or conditions with the prior verbal or written consent of the City. Notwithstanding the foregoing, in the event required by unusual or emergency circumstances, or temporary changes needed to accommodate seasonal fluctuation in Collection needs, the City may authorize a modification to the above time limitations.

4.1.6. Company shall provide SFD Collection Service with as little disturbance as possible and shall leave any Cart in an upright position at the same point it was collected without obstructing alleys, roadways, driveways, sidewalks or mailboxes.

4.1.7. Senior Residential Services. Senior citizens may receive Residential Services at the rate provided in Exhibit 2. In order to qualify for the reduced senior rate, the account holder residing at the property must be 62 years of age or older, as shown by driver's license or other identification acceptable to Company.

4.2. Commercial Services

4.2.1. Commercial Refuse Service. Company shall provide Commercial Refuse Service as frequently as negotiated with each Commercial Premises, but in no event less than once per week. Company will work with each Commercial Premises to customize the appropriate level of service. Commercial Customers will have the option to select the appropriate Cart size or 2, 3, 4, and 6-cubic yard bins for Commercial Refuse Service. The 6-cubic yard bins will not have wheels. Refuse Containers shall be provided within fifteen (15) working days of sign-up and provision of a proper site. Refuse Containers shall be sited in accordance with all policies and regulations of the City.

4.2.2. Commercial Recycling Service. Company shall provide Commercial Recycling Service as frequently as negotiated with each Commercial Premises, but in no event less than every other week. Company will work with each Commercial Premises to customize the appropriate level of service. Commercial Customers will have the option to select the appropriate Cart size or 2, 3, 4, and 6-cubic yard bins for Commercial Recycling Service. The 6-cubic yard bins will not have wheels. Recycling Containers shall be provided within fifteen (15)

working days of sign-up and provision of a proper site. Recycling Containers shall be sited in accordance with all policies and regulations of the City.

4.2.3. Commercial Green Waste Service. Commercial Green Waste Service is not mandatory to Commercial Premises, although Company will have the exclusive right to provide such service. For those Commercial Premises desiring such service, Company shall provide Commercial Green Waste Service as frequently as negotiated with each Commercial Premises, but in no event less than every other week. Company will work with each Commercial Premises to customize the appropriate level of service. Green Waste Containers shall be provided within fifteen (15) working days of sign-up and provision of a proper site. Green Waste Containers shall be sited in accordance with all policies and regulations of the City.

4.2.4. Schedule. Collections from Commercial Premises will be between 5:00 a.m. and 5:00 p.m., Monday through Friday. The hours, day, or both of Collection may be extended due to extraordinary circumstances or conditions with the prior verbal or written consent of the City. Notwithstanding the foregoing, in the event required by unusual or emergency circumstances, or temporary changes needed to accommodate seasonal fluctuation in Collection needs, the City may authorize a modification to the above time limitations.

4.3. C&D Debris Services

4.3.1. Company shall have the exclusive right to provide C&D Debris Services, except as provided in Section 2.3.

4.3.2. Company shall provide C&D Debris Services as frequently as negotiated with each Premise. Company will work with each Premise to customize the appropriate level of service. Customers will have the option to select the appropriate sized Bin or Roll-Off Container.

4.3.3. Company shall encourage builders and demolition companies to source-separate their C&D for future recycling. Prior to disposal, Company shall have the right to salvage C&D Debris collected pursuant to this Agreement and to retain funds derived therefrom.

4.4. City Services

4.4.1. Company shall perform the City Services at facilities identified in Exhibit 3 according to the specified service levels and collection frequency.

4.5. Clean-Up Events; Vouchers

Company shall hold two clean-up events per year for the collection of Refuse, which shall be open to Residential Premises in the Service Area. The actual dates and times will be set by the Company in coordination with the City at least ninety (90) days in advance. The Company shall reasonably inform Residential Premises within the Service Area, at least two weeks in advance of a clean-up event, of the date, time, location and other information pertinent to the clean-up event.

In lieu of holding clean-up events, the Company may instead provide each Residential Premises within the Service Area with two "Transfer Station Vouchers," each of which entitles a Residential Premises to dispose at no cost of up to two (2) cubic yards of Refuse at a Company transfer station. To be valid, a voucher must be presented upon entrance to the transfer station. Notwithstanding the foregoing, a voucher shall not permit the disposal of Refuse by Commercial Premises or any materials that under current or future statute, ordinance or regulation require the application of special treatment, handling, or disposal practices beyond those normally required for solid waste, including without limitation dirt, concrete, tires, liquids, toxic or hazardous materials, cathode ray tubes (CRT), materials containing CFC's, and large or heavy metal objects such as auto bodies, engines, transmissions, refrigerators, and air-conditioners; provided, however, that Company may, in its discretion, accept such waste and materials for an additional charge to be determined by Company.

5. OTHER COMPANY REQUIREMENTS

5.1. General

5.1.1. Company Provided Equipment and Vehicles. Company shall provide an adequate number of vehicles and equipment to perform the Franchise Services. All vehicles used by Company under this Agreement shall be registered with the Department of Motor Vehicles of the State of California, shall be kept clean and in good repair, shall be, uniformly painted and shall be washed at least once every seven (7) calendar days during good weather. Company's name, phone number and vehicle number shall be prominently displayed on its vehicles. Company shall furnish a listing of equipment utilized to perform all services included in this Agreement upon request by City. Beginning October 1, 2015, no less than 50% of Contractor's operating front-line collection vehicles shall be fueled by compressed natural gas. Beginning October 1, 2017, no less than 90% of the Contractor's operating front-line collection vehicles shall be fueled by compressed natural gas.

5.1.2. Collection on Holidays. If the day of Collection on any given route falls on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day or Christmas Day, or a holiday observed by the Disposal Site to which the City's Franchise Materials are disposed, Company shall provide Collection for such route on the next workday following such holiday, thereby adjusting subsequent workdays that week.

5.1.3. Private Drives and Inaccessible Areas. For Residential Premises on Private Drives or other inaccessible areas, the Company shall Collect Refuse, Green Waste and Recyclables on the nearest Public Street or Private Road connecting to the Private Drive or other inaccessible area.

5.1.4. Employees. Company shall exercise reasonable care to hire responsible employees, to supervise the work of such employees, and to discipline and, if necessary and consistent with Company's legal and contractual obligations, discharge an employee failing to meet reasonable standards for performance of work under this Agreement. Company shall comply with applicable state and federal law pertaining to employment including, but not limited to, applicable equal opportunity employment and affirmative action requirements.

5.1.5. Manner of Collection. The Company shall collect Containers in a quiet and courteous manner and ensure that all Carts and Bins are placed on the premises from which they were removed in an upright position, with lids closed, and within five (5) feet of where they were originally placed before collection.

5.1.6. Service Schedule. In January of each calendar year, the Company shall provide calendars (which may be in “pdf” or other similar format) identifying the schedule for Refuse, Recyclables, and Green Waste Collection for that calendar year. The calendar shall provide adequate detail for customers to identify specific service days for specific service areas. Hard copies of the calendars shall be made available to customers upon request.

5.1.7. Code Revisions. The City shall use reasonable efforts to update the municipal code to be consistent with the terms of this Agreement and to reflect new program requirements if requested by the Company.

5.1.8. Service Complaints. All service complaints shall be directed to Company. Company shall record all complaints duly received and Company agrees to use its best efforts to resolve all such complaints within the two (2) business days next following the date on which such complaint is received.

5.1.8.1. Complaint. The Company agrees to maintain a written log of all oral and written service complaints registered with the Company from customers, service recipients, or the public within Service Area (“Complaint Log”). The Company shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all complaints. Complaints that cannot be reasonably resolved may be appealed to the City Administrator or designee for final resolution. The Company shall record in the Complaint Log all written and oral complaints, noting the name and address of complainant, date and time of complaint, nature of complaint, and nature and date of resolution. Such log shall be kept so that representatives of the City, upon request, may conveniently inspect it.

5.1.8.2. Complaint Response. The Company shall respond to all complaints, other than missed pickups, within twenty-four (24) hours if the complaint is received during a weekday or by the next business day if the complaint is received on a Saturday, Sunday or a holiday.

5.1.8.3. Missed Pickups. In the event of a missed pickup, the Company shall complete the pickup the same day if the complaint is received by 12:00 p.m. or by 12:00 p.m. the following day if the complaint is received after 12:00 p.m.

5.1.8.4. Telephone. The Company shall maintain a toll-free telephone system during office hours (8:00 a.m. to 5:00 p.m.), which will have available service representatives sufficient to handle the volume of calls typically experienced by the Company. Customers must be able, with reasonable convenience, to reach the Company’s office by phone during office hours.

5.2. Change in Operations, Administration or Schedule. The Company shall notify the City in writing of any material changes to its operations relating to the Franchise Services (e.g. vehicle routes, collection schedule, equipment type, crew size, management) five (5) days in advance of the time such material change is implemented. Any changes to the Company's Collections operation shall meet the service requirements and performance standards and all other terms of this Agreement. In the case of changes to the Collection schedule the Company must notify all affected customers at least (14) days prior to any change in the Collection day. The Company shall not permit any customer to go more than seven (7) days without Refuse Collection service in connection with a Collection schedule change other than in the event of an Uncontrollable Circumstance.

5.3. Addition of New Non-Franchise Services. Upon receiving a written request from the City, the Company shall provide any other exclusive or non-exclusive services not covered by this Franchise, and that it is qualified to provide, including, but not limited to, assistance to the City in the event of natural disasters, subject to establishment of appropriate and mutually agreed upon compensation for providing the service.

6. SERVICE RATES

6.1. Amount of Service Rates. As of the Effective Date of this Agreement, the rates for Franchise Services (the "Rates") are as set forth in Exhibit 2. The Company may establish charges for Special Services that are not specified in Exhibit 2.

6.2. CPI Adjustment. The Rates shall be adjusted on July 1st of each year, beginning July 1, 2014, and annually thereafter to reflect one hundred percent (100%) of the annual change in the U.S. City Average, Consumer Price Index (CPI), All Items, 1982-84 100 for All Urban Consumers (CPI-U), compiled and published by the United States Department of Labor; Bureau of Labor Statistics, based on one hundred percent (100%) of the annual percentage change in the Consumer Price Index for twelve months ending December 31 of the previous year as compared to the twelve months ending December 31 of the next previous year; provided, however, that no single adjustment shall exceed six percent (6%) (the "CPI Change").

6.3. Redirection of Refuse. In the event that the City redirects Refuse to a different facility and such change result in a material increase or decrease in costs and/or increase or decrease in revenues to the Company, the Company and the City shall have the right to receive an adjustment in the Rates sufficient to offset in full such increase or decrease, and in no event shall the Company be required to implement any redirection until such time as adjustments in the Rates have been made in order to compensate the Company for such increase in costs and/or decrease in revenues.

6.4. Extraordinary Rate Adjustments. The Company's Rates set by this Agreement are calculated to pay certain expenses and costs that are of a contingent and uncertain nature. Therefore, in addition to the adjustments provided in this Section 6, Rates shall, upon written request of Company, be further adjusted on an interim basis for increased expenses associated with performance of the services hereunder due to any one or more of the following causes: (a) material changes in Company's costs resulting from an Uncontrollable Circumstance; (b)

changes in the scope or method of services provided by Company, changes in the Franchise Fee, or other changes or fees required, initiated, or approved by the City; (c) any change in law, statute, rule, regulation, ordinance, order or requirement of any federal, state, regional or local government that is effective after the Effective Date of this Agreement; (d) any increase in fees for disposal of Solid Waste or the processing of Recyclables or Green Waste, if such Solid Waste, Recyclables or Green Waste are being disposed of or processed at a third party facility not owned or operated by Company; (e) any increase in surcharges, fees, assessments or taxes levied by federal, state or local regulatory authorities or other governmental entities upon the collection or disposal of Refuse, Recyclables, or Green Waste; (f) any other extraordinary circumstances or causes or reasons that are not within the reasonable control of Company.

If Company requests an adjustment due to the extraordinary circumstances set forth above, Company shall prepare a rate adjustment request setting forth its calculation of the increased costs and accompanying rate adjustment necessary to offset such increased costs. The City may request any and all documentation and data reasonably necessary to evaluate such request by Company, and may retain, at its own expense, an independent third party to audit and review such documentation and such request. If such third party is retained, the City shall take reasonable steps, consistent with state law, to protect the confidential or proprietary nature of any data or information supplied by Company. The City shall act within ninety (90) days of receipt of the request from Company, and shall either approve or disapprove the request, provided that approval shall not be unreasonably withheld.

Notwithstanding the foregoing, if the request is based upon any new or increased third party fees, taxes, assessments or charges, the City shall approve the interim rate adjustment within such time period as necessary to ensure that such fees, taxes, assessments or charges are passed on to customers by the date the same are effective.

6.5. Billing and Collection of Accounts. The City shall bill Residential Premises for all Residential Services. The City shall pay to the Company the monthly Residential Services Rates set forth in Exhibit 2, as they may be adjusted pursuant to the terms of this Agreement, for each Residential Premises, which amount shall be due on the tenth day of the month for the preceding month. The Company shall bill all other Franchise Services (e.g., Commercial Services, C&D Debris Services). Such billings may cover the periods and be collected by the methods hereinafter set forth. The Company shall bill for Commercial Services monthly in advance; C&D Debris Services may be billed in arrears. Payment with respect to each such non-Residential bill shall be due within 30 days; thereafter the bill shall be considered delinquent, and the Company may discontinue service and may charge interest not to exceed the interest rate for judgments in California for such time as the bill remains unpaid after the due date. The Company shall also bill and receive fees for performance of special services as agreed upon in separate contracts between Company and each customer requesting such special service.

6.6. Reduction of Services. In the event Company is unable to charge all or a portion of any Rate due to an order of a court or regulatory agency, or pursuant to an agreement between City and any third party in relation to a legal challenge to the Rates, Company and the City will negotiate in good faith reductions to Company's services hereunder so that Company will recoup lost revenue.

7. **REPORTS.** The Company will provide the City with reports that contain the information required by the City for compliance with AB 939 and for the City to measure the Company's performance of items in this Agreement, but limited to information directly attributable to the Franchise Services provided under this Agreement. The frequency and content of the reports shall be determined by agreement of the City and the Company.

8. **INDEMNITY, INSURANCE**

8.1. **Indemnification of City.** The Company agrees to and shall indemnify, defend, with counsel acceptable to the City, and hold harmless City, its officers, officials, employees, volunteers, agents and assigns from and against any and all damages (whether special, general or punitive), loss, liability, fines, penalties, forfeitures, claims, demands, actions, proceedings or suits (whether administrative or judicial), in law or in equity, of every kind and description, (including, but not limited to, injury to and death of any person and damage to property, strict liability, product liability, or for contribution or indemnity claimed by third parties) arising or resulting from or in any way connected with: (i) the operation of the Company, its agents, employees, affiliates and subcontractors, in performing or failing to perform this Agreement; (ii) the failure of the Company, its agents, employees, affiliates and subcontractors to comply in all respects with the provisions of this Agreement, Applicable Laws; (iii) the acts of Company, its officers, employees, agents, affiliates and subcontractors in performing services under this Agreement (whether or not third parties may also be contributory negligent); (iv) the acts of the Company, its officers, employees, agents, affiliates and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including without limitation strict liability under environmental laws), subject to the Company's right of contribution, if any, against the City; and (v) the processing, marketing, and end use of Recyclable Materials and Green Waste. The foregoing indemnity shall only apply to the extent such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is not caused by the negligence or willful misconduct of the City, its officers, employees, agents or volunteers.

8.2. **Insurance Scope and Limits.** The Company shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Company, his agents, representatives, employees or subcommands. The maintenance of claims made against any insurance required of the Company shall not be considered a waiver by City of any claim or liabilities it may have against the Company.

8.2.1. Minimum Limits of Insurance. The Company shall maintain insurance coverage of the following type and with limits no less than:

8.2.1.1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.

8.2.1.2. Worker's Compensation and Employer's Liability: Statutory limits.

8.2.2. Deductible and Self-Insured Retentions. The deductibles or self-insured retentions for the General Liability and Auto Liability policies are for the account of the

Company and shall be the sole responsibility of the Company.

8.2.3. Verification of Coverage. The Company shall furnish the City with endorsements effecting coverage required by this clause or certificates evidencing such coverage. The endorsements or certificates are to be signed by a person authorized by that Insurance Company to bind coverage on its behalf.

9. DEFAULTS

9.1. **Events of Default.** Each of the following, if material, shall constitute an event of default (“Event of Default”) hereunder, in each case subject to any applicable cure rights, including without limitation the cure rights provided in Section 9.2:

9.1.1. Failure to correct breach. Failure to correct any breach of this Agreement within the applicable cure period (as defined below).

9.1.2. Company bankruptcy. The Company files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or consents to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of equipment no longer useful to the Company or necessary for this Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator (or similar official) of the Company for a part of the Company’s operating assets or any substantial part of the Company’s property, or shall make any general assignment for the benefit of the Company’s creditors, or shall fail generally to pay the Company’s debts as they become due.

9.1.3. Court order or decree. Any court having jurisdiction shall enter a decree or order for relief in respect of the Company, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or the Company shall consent to or shall fail to oppose any such proceeding, or any such court shall enter a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Company or for any part of the Company’s operating equipment or assets, or order the winding up or liquidation of the affairs of the Company.

9.2. **Cure Rights.** Notwithstanding any other provision of the Agreement to the contrary, the City shall provide the Company with reasonable notice of and a reasonable opportunity to cure any breach of this Agreement during the time periods set forth below or such longer period as may otherwise be provided in the Agreement (the “Cure Period”). Any breach that is timely cured by the Company shall not be determined to constitute an event of default or give rise to the City’s right to terminate or suspend the Agreement or pursue its other remedies for breach. The Company shall begin cure of any breach as soon as it becomes aware of the breach, whether discovered by the Company or through notice from the City. Upon becoming cognizant of the breach, the Company shall proceed to cure such breach as follows:

9.2.1. Immediately, if the breach is such that in the determination of the City, the health, safety, or welfare of the public is endangered thereby; or

9.2.2. Within thirty (30) days of giving or receiving notice of breach; provided that if the nature of the breach is such that it will reasonably require more than thirty (30) days to cure, the Company shall have such additional time as is reasonably needed to expeditiously complete a cure. During any breach cure period, the Company shall provide the City weekly written status of progress in curing such breach.

9.3. Right to Terminate upon Default. Upon an Event of Default by the Company, the City shall have the right to terminate this Agreement, subject to review as provided in Section 9.6.

9.4. Cumulative Specific Performance. The City's right to terminate the Agreement under Section 9.3 is not exclusive, and the City's termination of the Agreement shall not constitute an election of remedies. Instead, all remedies provided for in this Agreement shall be in addition to any and all other non-duplicative legal and equitable rights and remedies which the City may have under law or as otherwise provided in this Agreement.

9.5. Excuse from Performance. The Parties shall be excused from performing their respective obligations hereunder to the event they are prevented from so performing by Uncontrollable Circumstances. The Party claiming excuse from performance shall, within two (2) business days after such party has notice of such cause, give the other party notice of the facts constituting such cause, efforts undertaken by the Company to attempt to perform this Agreement, the estimated timelines for such performance, and asserting its claim to excuse under this Section; provided, that failure to give such notice shall not eliminate the excuse from performance except to the extent the other Party shall have been prejudiced by such failure.

9.6. Dispute Resolution.

9.6.1. Reference of dispute. Any dispute seeking damages and any dispute seeking other legal or equitable relief, including but not limited to specific enforcement of any provision hereof, shall be heard and determined as provided below in this Section 9.6.

9.6.2. Dispute Resolution Procedures.

9.6.2.1. Negotiations. In the event that any dispute may arise, the parties shall first seek to resolve any disputes by negotiations between a senior executive of the Company and the City Administrator (the "Senior Executives").

9.6.2.2. Notification. When a party believes there is a dispute relating to the Agreement, the party will give the other party written notice of the dispute.

9.6.2.3. Meeting among Senior Executives. The Senior Executives shall meet at a mutually acceptable time and place within thirty (30) days after the date of the notice to exchange relevant information and to attempt to resolve the dispute. If a Senior Executive intends to be accompanied at a meeting by an attorney, the other party's Senior Executive shall be given at least three (3) business days' notice of such intention and may also be accompanied

by an attorney.

9.6.2.4. Confidentiality. All negotiations are confidential and shall be treated as compromise and settlement negotiations under the State of California Rules of Evidence.

9.6.2.5. City Council. If the dispute has not been resolved within thirty (30) days after the date of the notice of a dispute, or if the party receiving such notice fails or refuses to meet within such time period, either party may submit the dispute to the City Council for resolution by making written request to the City Council. The City Council shall consider the dispute at a meeting to be held within thirty (30) days following receipt of such request.

9.6.2.6. Litigation. If a dispute has not been resolved to the satisfaction of the parties within sixty (60) days after the written submission to the City Council, then either party may initiate litigation in the courts of the State of California, which shall have exclusive jurisdiction over such disputes. The exclusive venue for such disputes shall be Shasta County.

9.6.3. Interim Measures. Notwithstanding the requirements for alternative dispute resolution procedures (such as negotiation and submission to the City Council), either party may apply to the courts of the State of California for equitable relief, including temporary restraining orders, injunctions, attachments and conservation orders in appropriate circumstances.

9.6.4. Costs and Attorney's Fees. In the event of any action or litigation to enforce this Agreement, for interpretation or construction of this Agreement, or on account of any default under or breach of this Agreement, each party to such action, or litigation shall bear its own costs and expenses in connection with such action or litigation.

9.6.5. Punitive Damages. Penal, punitive, treble, multiple, consequential, incidental or similar damages may not be recovered or awarded.

10. MISCELLANEOUS.

10.1. Compliance with Applicable Law. Company agrees that it will comply with all Applicable Law and those provisions of the Shasta Lake Municipal Code which are applicable to the work or business in which it is herein franchised, and with any and all amendments to such applicable provisions during the term hereof, but only to the extent they are not inconsistent with or do not conflict with the terms and conditions of this Agreement without regard to this Section.

10.2. Amendment. Except for rate and fee adjustments made pursuant to Section 5.3 of this Agreement, this Agreement may be amended or modified only by a written agreement duly authorized and executed by both City and Company.

10.3. Independent Company. It is expressly understood and agreed that Company shall perform all work and services described herein as an independent company and not as an officer, agent, servant or employee of City; that Company shall have the exclusive control over

the details of the services and work performed hereunder and all persons performing the same; that Company shall be solely responsible for the acts and omissions of its officers, agents, employees, and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Company. Neither Company nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees.

10.4. Right of Entry. Company shall have the right, until receipt of written notice revoking permission to pass is delivered to Company, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting Franchise Materials of the Owner of or Premises located on the private street, easement, or property, or its lawful occupant.

10.5. Law to Govern. It is understood and agreed by the Parties hereto that the laws of the State of California, other than laws regarding choice of law, shall govern the rights, obligation, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

10.6. Fees and Gratuities. Company 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 Franchise Materials otherwise required to be collected under this Agreement, other than acceptance by drivers of holiday gifts offered by customers of a reasonable value.

10.7. Assignment. Neither this Agreement nor any portion thereof may be assigned by the Company (except to an entity that controls, is controlled by or is under common control with the Company) without the written consent of the City Council, which consent shall not be unreasonably withheld.

10.8. Notices. All notices, demands, requests, consents or other communications which this Agreement requires a party to give to the other shall be in writing and shall be personally delivered, or sent by registered or certified mail, postage prepaid, return receipt requested or a nationally recognized overnight delivery service (receipt requested), addressed to the respective party as follows:

To CITY: City of Shasta Lake
 P.O. Box 777
 Shasta Lake, CA 96019
 Attn: John N. Duckett, Jr.

To COMPANY: USA Waste of California, Inc.
 Attn: Vice President
 1333 East Turner Road
 P.O. Box 241001
 Lodi, CA 95241

or to such address as either party may from time to time designate by notice to the other given in accordance with this Section. Such notice shall be deemed effective on the date personally served or received, if by certified mail or overnight delivery service.

10.9. Severability. If any 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, which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

10.10. Good Faith and Exercise of Options. The Parties will exercise any approval, disapproval, consent, option, discretion, election, opinion or choice under this Agreement, make a requirement under this Agreement, or interpret this Agreement (“Discretionary Action”) reasonably. The Parties will exercise their rights and remedies in good faith in accordance with Applicable Law. Any referee, court or other decision-maker must find the party’s exercise to be reasonable.

10.11. Entire Agreement; Prior Agreements; Waiver. This Agreement, including all Exhibits and Attachments attached hereto, constitutes the full and entire agreement between the parties with respect to the matters covered herein. All prior and contemporaneous agreements, understandings, negotiations, writings and other communications between the parties are hereby superseded and are no longer of any force and effect, except to the extent that the terms of such communications are expressly addressed in this Agreement or survive pursuant to an express provision of such previous agreement. As of the Effective Date, this Agreement shall supersede any and all prior agreements between the parties. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver.

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

10.13. Interpretation. The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

10.14. Third Parties. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give to any person or entity other than the Parties hereto and their successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

10.15. Authority. All individuals executing this Agreement on behalf of the City or the Company represent and warrant that they are duly authorized to execute and deliver this Agreement to the other Party.

USA WASTE OF CALIFORNIA, INC.

By: Alex Osquera
Name: Alex Osquera
Title: VP & General Manager
Date: 10-9-14

CITY OF SHASTA LAKE

By: J. Duckett
Name: JOHN N DUCKETT, JR.
Title: CITY MANAGER
Date: 8/20/2014

USA WASTE OF CALIFORNIA, INC.

By: Alexandro Oseguera
Name: Alex Oseguera
Title: VP & General Manager
Date: 10-9-14

CITY OF SHASTA LAKE

By: J. Duckett
Name: JOHN N DUCKETT, Jr.
Title: CITY MANAGER
Date: 8/20/2014

Exhibit 1 Recyclable Materials

- Aluminum cans
- Glass jars and bottles
- Paper junk mail
- Colored paper and bags
- Steel, bi-metal, and tin cans
- Mixed paper
- Brown paper bags
- Plastic bottles and jugs
- Chip board
- Catalogs
- Mixed plastic containers (#1-7)
- Clean foil containers
- Paper egg cartons
- Corrugated cardboard
- Small scrap and cast aluminum
- “Bagged in bag” film plastic
- Rigid plastics that fit in Recycling Cart

All glass containers must be empty.

All tin cans, bi-metal cans, and aluminum cans must be empty.

All aerosol cans must be empty and punctured.

All plastic containers must be empty.

All fiber must be dry and free of food debris and other contaminating material.

Tissues, paper towels or other paper that has been in contact with food is not acceptable.

Recyclables not meeting the specifications above may be rejected in whole or in part by COMPANY.

**Exhibit 2
Service Rates**

| Residential Premises Rates | Current Rates |
|--|----------------------|
| Senior Citizen (62 and older) Residential Service (64 gallon carts only) | \$11.44 |
| 64 Gallon Cart Residential Service | \$18.63 |
| 96 Gallon Cart Residential Service | \$20.02 |
| Additional 64 Gallon Solid Waste Cart | \$14.50 |
| Additional 96 Gallon Solid Waste Cart | \$15.59 |
| Additional Green Waste Cart | \$6.75 |

**Exhibit 3
CITY FACILITIES**

Company shall provide the following services at no charge to the City:

Dumpsters:

| Size | Location | Frequency |
|--------------------------------|---------------------------------|----------------------|
| 1.5 yd & 2 yd | Wastewater Plant | Every Tues and Thurs |
| 4 yd | Polf Park | Every Tues and Thurs |
| 4 yd | Bizz Johnson Park | Every Tues and Thurs |
| Two 4 yd | Industrial Park | Every Tues and Thurs |
| 4 yd | Law Enforcement Center | Every Tues and Thurs |
| 6 yd | Community Center | Every Tues and Thurs |
| 2 yd | Wynne Price Field | Every Tues and Thurs |
| 30 yd, 2 yd & 4 yd (cardboard) | Public Works Yard | Every Tues and Thurs |
| 3 yd | Water Plant (Fisherman's Point) | Every Tues and Thurs |
| 6 yd | City Hall | Every Tues and Thurs |
| 3 yd | Animal Control Facility | Every Tues and Thurs |
| 30 yd | Misc. Clean-up Projects | Twice a year |

Containers shall be free of graffiti and in good repair. Containers must be clearly marked and identifiable as belonging to Company. Special consideration shall be given when determining the pick-up area for temporary Containers to ensure that the flow of traffic is not impeded and that it does not result in aesthetic degradation of an area. The designated pick up area, if disputed by service recipient or Company, shall be determined by City. Additionally, if in City's opinion the location of an existing pick-up area is inappropriate, City may require the service recipient or Company to relocate the pick-up area.