

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. PRAMOS
 DATE: 7/14/16

Departmental Concurrence

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

256



FROM: Department of Waste Resources

SUBMITTAL DATE:
 July 14, 2016

SUBJECT: Waste Delivery Agreement (WDA) with CR&R, District 1, 3 & 5; [\$0 -Department of Waste Resources Enterprise Funds], CEQA Exempt

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that the Project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3) (General Rule for Exemption), Section 15273 (Rates, Tolls, Fares, and Charges), and Section 15301 (Existing Facilities); and
2. Approve the attached WDA with CR&R for the disposal of residual waste from the Perris Transfer Station/Material Recovery Facility ("Project") and authorize the Chairman to execute the agreement on behalf of the Board.

**BACKGROUND:
 Summary**

(commences on page 2)

Hans Kernkamp
 General Manager-Chief Engineer

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 0	\$ 0	\$ 0	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: N/A

Budget Adjustment: No
 For Fiscal Year: 16/17

C.E.O. RECOMMENDATION:

APPROVE
 BY:
 Steven C. Horn

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

- A-30
- 4/5 Vote
- Positions Added
- Change Order

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Waste Delivery Agreement (WDA) with CR&R, District 1, 3 & 5; [\$0 –Department of Waste
Resources Enterprise Funds], CEQA Exempt**

DATE: July 14, 2016

PAGE: 2 of 2

BACKGROUND:

Summary

Almost 75% of the County's waste is delivered to the system via transfer stations under long-term (typically 20 years) waste delivery agreements with the County's waste haulers. In 1996, the County entered into such an agreement with CR&R, Inc., which is set to expire on August 20, 2016. Both parties have indicated a desire to enter into a new, 20-year agreement, and have been in negotiations for several months to reach the proposed agreement. Under the terms of the agreement, the disposal rate will initially remain the same as it is today and be subject to annual CPI increases. In order to keep pace with increasing costs and liabilities beyond CPI adjustments, the agreement adjusts the disposal rate by \$1 per ton (above CPI) for four consecutive years, beginning in FY 20/21. These future increases will provide ample time to notify customers and rate payers.

Additionally, another hauler's (WMI) existing waste delivery agreement with the County is set to expire in FY 20/21 and delaying increases to CR&R's rate until 20/21 will avoid a disposal rate differential between the two haulers. It is anticipated that similar increases will be incorporated into WMI's waste delivery agreement in FY 20/21. The Board should take note that this agreement, similar to the previous agreement with CR&R, will allow out of county imports into the system, up to a maximum of 250 tons per day (none planned immediately).

Impact on Residents and Businesses

Spreading the rate increases over 4 years will minimize the financial impact on residents and businesses, while the potential for the importation of out of county waste could provide future rate stability within the county waste system. The proposed \$1.00/ton rate increases (from 2020 to 2024) will increase the residential monthly rate by approximately \$0.10 to \$0.15, each year, above CPI. Depending on the size of a business, level of service and frequency requested, the commercial disposal rate can vary significantly. Generally speaking, the disposal component of a trash bill comprises only 20% to 30% of the overall charge. The proposed \$1.00/ton increases (from 2020 to 2024) represent approximately 3.5% of the current per ton rate. Thus, the increases could result in a 0.7% to 1.05% increase to the typical commercial customer for each of those four years, above CPI.

SUPPLEMENTAL:

Additional Fiscal Information

None

Contract History and Price Reasonableness

The initial per ton rate is amongst the lowest rates in Southern California.

California Environmental Quality Act (CEQA) Findings

The Project is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) (General Rule for Exemption), Section 15273 (Rates, Tolls, Fares, and Charges), and Section 15301 (Existing Facilities). The Project contemplated in this Form 11 merely involves the continuation of a WDA between the County and CR&R. In addition to establishing rates, the WDA will continue to direct waste to designated landfills already receiving such waste. The Project involves no expansion of approved uses and would not have a direct, indirect, or cumulatively significant effect on the environment. A Notice of Exemption (NOE) to this effect will be filed with the County Clerk upon Project approval.

1 **WASTE DISPOSAL AGREEMENT FOR**
2 **DISPOSAL OF SOLID WASTE**

3
4 RIVERSIDE COUNTY, a political subdivision of the State of California, hereinafter
5 referred to as "County" and CR&R Incorporated, a California Corporation, on behalf of itself, its
6 subsidiaries, affiliates, partners, contractors and subcontractors, collectively hereinafter referred
7 to as "Facility Operator", hereby agree as follows:

8 RECITALS

9 **WHEREAS**, County owns, manages and operates a sanitary landfill system for the
10 disposal of municipal solid waste generated by the cities and the unincorporated area within the
11 County (the "Disposal System"); and

12 **WHEREAS**, Facility Operator is obligated to provide for the collection and disposal of
13 solid waste generated within the boundaries of its franchise cities and the unincorporated county
14 area and to dispose of the solid waste in a manner consistent with the protection of public health
15 and safety; and

16 **WHEREAS**, Facility Operator operates a transfer station/material recovery facility (the
17 "Facility") in the City of Perris with which to provide processing, composting and transfer of
18 solid waste residual; and

19 **WHEREAS**, Solid Waste received by the Facility Operator at the Facility historically
20 has been and currently is delivered by the Facility Operator to the COUNTY for disposal in the
21 Disposal System; and

22 **WHEREAS**, in 1996, County and Facility Operator entered into a waste disposal
23 agreement (the "Original WDA"), pursuant to which County agreed to provide disposal capacity
24 for waste generated in the County and delivered to the Disposal system by the Facility Operator,
25 and the Facility Operator agreed to deliver or cause the delivery of waste generated in the County

1 to the Disposal System, as more specifically set forth in, and subject to the terms and conditions
2 of, the Original WDA; and

3 **WHEREAS**, the Original WDA will expire by its terms on August 20, 2016, unless the
4 Facility Operator and the County agree to enter into a new WDA; and

5 **WHEREAS**, Facility Operator and the County desire to enter into this agreement to
6 extend, amend and restate the Original WDA, on the terms and conditions set forth herein. The
7 County and Facility Operator acknowledge that the Original WDA shall remain in full force and
8 effect until the Commencement Date; and

9
10
11 **NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

12
13 **SECTION 1. DEFINITIONS**

14
15 A. Applicable Law

16 Applicable law means all statutes, rules, regulations, permits, orders, or
17 requirements of the United States, State, County and local government authorities and agencies
18 having applicable jurisdiction that apply to or govern the duties or actions of FACILITY
19 OPERATOR related to this Agreement.

20
21 B. Solid Waste

22 Solid Waste to be delivered by FACILITY OPERATOR to COUNTY and
23 acceptable to COUNTY, shall all be non-hazardous residential and commercial refuse, garbage
24 and/or rubbish and Construction/Demolition Debris which COUNTY's Landfills may receive
25 under its permits and standard operating policies and includes or excludes any other materials
that COUNTY designates in writing from time to time upon at least ninety (90) days' prior

1 written notice to FACILITY OPERATOR. As used in this Agreement, Solid Waste shall also
2 include "Solid Waste Residue," as that term is hereinafter defined. Notwithstanding the
3 foregoing, Solid Waste shall not include the following:

4 **(1) Unpermitted landfill wastes**, including all materials at Lamb Canyon and
5 Badlands, or other site(s) which the COUNTY designates for disposal, which are
6 not allowed to be landfilled;

7 **(2) Hazardous Wastes:**

8 (a) "Hazardous Waste" pursuant to Section 40141 of the California
9 Public Resources Code; regulated under Chapter 7.6 (commencing with
10 Section 25800) of Division 20 of the California Health and Safety Code;
11 all substances defined as hazardous waste, acutely hazardous waste, or
12 extremely hazardous waste by Sections 25110,02, 25115, and 25117 of the
13 California Health and Safety Code (the California Hazardous Waste
14 Control Act), California Health and Safety Code Section 25100 et seq.,
15 and future amendments to or recodification of such statutes or regulations
16 promulgated thereunder, including 23 California Code of Regulations
17 Sections 2521 and 2522; and

18 (b) Materials regulated under the Resource Conservation and
19 Recovery Act, 42 U.S.C. Section 6901 et seq., as amended (including, but
20 not limited to, amendments thereto made by the Solid Waste Disposal Act
21 Amendments of 1980), and related federal, State and local laws and
22 regulations;

23 (c) Materials regulated under the Toxic Substance Control Act, 15
24 U.S.C. Section 2601 et seq., as amended, and related federal, State of
25 California, and local laws and regulations, including the California Toxic

1 Substances Account Act, California Health and Safety Code Section
2 25300 et seq.;

3 (d) Materials regulated under the Comprehensive Environmental
4 Response, Compensation and Liability Act, 42 USC 9601, et seq., as
5 amended, and regulations promulgated thereunder; and

6 (e) Materials regulated under any future additional or substitute
7 federal, State or local laws and regulations pertaining to the identification,
8 transportation, treatment, storage or disposal of toxic substances or
9 hazardous wastes.

10 (3) **Industrial** solid or semi-solid wastes which are prohibited at the landfill
11 or are inconsistent with the operation of the facility including cement kiln dust,
12 and ore process residues.

13 (4) **Infectious wastes** which have disease transmission potential and are
14 classified as Hazardous Wastes by the State Department of Health Services,
15 including pathological and surgical wastes, medical clinic wastes, wastes from
16 biological laboratories, syringes, needles, blades, tubings, bottles, drugs, patient
17 care items, such as linen or personal or food service items from contaminated
18 areas, chemicals, personal hygiene wastes, and carcasses used for medical
19 purposes or with known infectious diseases;

20 (5) **Liquid wastes** which are not spadeable, usually containing less than fifty
21 percent solids, including cannery and food processing wastes, landfill leachate
22 and gas condensate, boiler blowdown water, grease trap pumpings, oil and
23 geothermal field wastes, septic tank pumpings, rendering plant byproducts, and
24 sewage sludge, which liquid wastes may be Hazardous Wastes;

25 (6) **Radioactive wastes** under Chapter 7.6 (commencing with Section 25800)
of Division 20 of the State Health and Safety Code, and any waste that contains a

1 radioactive material, the storage or disposal of which is subject to any other State
2 or federal regulation;

3 (7) **Sewage sludge** comprised of human and industrial residue, excluding grit
4 or screenings, removed from a waste water treatment facility or septic tank,
5 whether in a dry or semidry form.

6 (8) **Semi-solid waste** which contains less than 50 percent solids.

7 (9) **White Goods** which refers to commercial and residential appliances such
8 as washing machines, clothes dryers, water heaters, refrigerators, trash
9 compactors, microwaves and stoves/ovens which commonly contain mercury,
10 PCBs, Freon and oil.

11 (10) **Tires** which refers to passenger vehicle tires, on-road/off-road heavy
12 equipment tires and agricultural tires that are of a commercial or residential nature
13 in any size, primarily constructed out of vulcanized rubber, polyester fibers and
14 steel belts.

15 (11) **E-Waste** which refers to electronic products nearing the end of their
16 "useful life." Computers, televisions, VCRs, stereos, copiers, and fax machines
17 are common electronic products. Many of these products can be reused,
18 refurbished, or recycled.

19 (12) **Universal Waste** means any of the following wastes that are conditionally
20 exempt from classification as hazardous wastes pursuant to section 66261.9:

21 (a) Batteries as described in section 66273.2;

22 (b) Thermostats as described in section 66273.4;

23 (c) Lamps as described in section 66273.5;

24 (d) Cathode ray tube materials as described in section 66273.6;

25

1 Note: The above referenced sections for Universal Waste are found in California
2 Code of Regulations, Title 22. Social Security. Any other wastes that become
3 categorized as Universal Waste will also not be considered Solid Waste.
4

5 C. Solid Waste Residue

6 Solid Waste Residue means Solid Waste that remains after undergoing any
7 processing, including the separation and removal of recyclables, and is then loaded into transfer
8 trailers for delivery to landfills.
9

10 D. Construction/Demolition Debris

11 Construction/Demolition debris means building materials together with packaging
12 and rubble resulting from construction, remodeling, repair and demolition operations on
13 pavements, houses, commercial buildings, and other structures. Construction refers to SIC
14 (Standard Industrial Code) 152 through 1794, 1796 and 1799. Demolition refers to SIC Code
15 1795.
16

17 **SECTION 2. COMPLIANCE WITH APPLICABLE LAW**

18 FACILITY OPERATOR shall perform all of its respective duties hereunder, and shall
19 cause all of its employees, contractors and agents to perform all of their respective duties
20 hereunder, in accordance with Applicable Law and permits.
21

22 **SECTION 3. DELIVERY OF SOLID WASTE**

23 A. Designated Landfills:

24 The landfill(s) designated to receive Solid Waste shall be the Lamb Canyon
25 Landfill, Badlands Landfill or El Sobrante Landfill ("Designated Landfills") provided that

1 COUNTY reserves the option to require FACILITY OPERATOR to deliver Solid Waste to any
2 other landfill if the daily capacity is exceeded, anticipated to be exceeded, or in the event of short
3 term unforeseen circumstances prevent FACILITY OPERATOR from disposing Solid Waste at
4 the Designated Landfills.

5
6 B. Tonnage Notification:

7 FACILITY OPERATOR will notify COUNTY as soon as possible on any day it appears
8 that information about the day's tonnage being delivered would be helpful for the landfill site
9 staff to know as they operate the facility (for example, an inordinate amount of one waste type,
10 unusually high daily peak, etc.).

11
12 C. Size and Type of Delivery Equipment:

13 The size of tractors and trailers used to transfer Solid Waste to Designated Landfills will
14 be appropriate to properly fulfill the task and conform to all standards of the California Highway
15 Patrol. Transfer trailers used to deliver Solid Waste to Designated Landfills will be limited to
16 models with "walking floors" or if an unloading lift is available at the landfill, to those vehicles
17 which can be serviced by the landfill operator. Walking floor transfer trailers (with a single
18 door) shall be equipped with a speed control door hinge (or equivalent as approved by
19 COUNTY), if COUNTY determines such technology is available.

20
21 D. Hazardous Waste Load Check Program:

22 FACILITY OPERATOR shall ensure that an active hazardous waste load check program
23 is operating at the facilities from which Solid Waste is delivered, as required by California law
24 and by County of Riverside Ordinance 779.

25
E. Rejection of Solid Waste; Rights of Refusal

1 COUNTY shall reject receipt of any material that does not meet the definition of Solid
2 Waste included herein. FACILITY OPERATOR shall remove any material that is unloaded at
3 COUNTY'S landfills by FACILITY OPERATOR and does not meet the definition of Solid
4 Waste included herein within 24 hours and dispose of it in a safe and lawful manner at
5 FACILITY OPERATOR'S sole expense.

6
7 F. Tonnage Tracking Compatible with COUNTY's Current System:

8 FACILITY OPERATOR shall ensure that a tonnage tracking system is operated at
9 FACILITY OPERATOR owned and contracted facilities that will determine on a daily basis the
10 amount and origin of generation for the entire waste stream delivered to Designated Landfills.
11 The tonnage tracking system shall be fully compatible with the COUNTY'S current system.
12 FACILITY OPERATOR shall provide COUNTY with monthly reports broken down by the
13 origin of generation for the waste stream (including source separated and other diverted
14 recyclables reported separately) delivered to the Transfer Stations and all disposal sites within
15 thirty (30) days of the end of the calendar month. The format of said reports shall be approved
16 by the COUNTY.

17 FACILITY OPERATOR shall provide COUNTY with information on the users of the
18 Facility (i.e. names, number of visits, dates of visits, tonnage, etc.) whenever requested by
19 COUNTY.

20 FACILITY OPERATOR will notify COUNTY of any discrepancies of more than 5%
21 between tonnage weights reported by FACILITY OPERATOR and by COUNTY when the
22 discrepancy becomes apparent to FACILITY OPERATOR. Both parties agree to have their
23 scales recertified within five (5) working days of said notice. COUNTY will continue using
24 weights as reported by its certified scales.

25 COUNTY shall have the right to obtain copies of FACILITY OPERATOR'S weight
tickets on ten (10) sequential transfer loads once a month upon request.

1
2 G. Unloading Safety:

3 FACILITY OPERATOR and/or its subcontractor shall unload its transfer vehicles at the
4 landfill in a safe and orderly manner. It will observe all of the operational rules of the landfills
5 and take direction in regard to site management from landfill staff while on the premises.
6 COUNTY will provide a safe and accessible unloading area at the landfill.
7

8 H. Out of County Solid Waste:

9 FACILITY OPERATOR may dispose of up to an average of 250 tons per day of Out of
10 County waste from the Facility, as directed by COUNTY, to either the Badlands Landfill or
11 Lamb Canyon Landfill ("COUNTY Disposal Sites"). COUNTY retains the right to terminate
12 this right to dispose Out of County waste at COUNTY Disposal Sites upon giving thirty (30) day
13 written notice to FACILITY OPERATOR.

14 An out of County import charge for each ton will be billed to FACILITY OPERATOR
15 for all Out of County waste disposed at Designated Landfills, with rates consistent with the then
16 current policy of COUNTY'S Board and the Riverside County Board of Supervisors. It is agreed
17 that said import charge shall be deposited with the COUNTY who will direct a portion of the
18 charge, consistent with Board policy, to the County General Fund.

19 In the event FACILITY OPERATOR proposes to utilize the Facility for Out of County
20 sources of waste, in excess of an average amount of more than 250 tons per day, FACILITY
21 OPERATOR shall notify COUNTY in writing sixty (60) days in advance stating the source,
22 amount and nature of the waste it wishes to dispose. The COUNTY's Board will then be
23 consulted on the policy issue of whether to allow the import residual to be delivered and to
24 which COUNTY Disposal Site. All potential deliveries of import residual to COUNTY Disposal
25 Sites will be evaluated in regards to the resultant impact on the appropriate facility operating

1 permit and any other COUNTY policies or agreements. COUNTY retains the right to reject the
2 receipt of residual quantities of all such additional Out of County waste.

3 FACILITY OPERATOR may dispose of Out of County waste processed at the Facility at
4 an out of County disposal site. Out of County waste that is not disposed of at Designated
5 Landfills will not be subject to the out of County import charge referenced herein. FACILITY
6 OPERATOR will provide COUNTY with an accounting of out of County tons processed and
7 then disposed of at Designated Landfills and/or out of County disposal sites as a part of the
8 tonnage tracking system.

9
10 I. Source Separated Recyclables:

11 Source separated recyclables and substantially green and/or wood waste loads shall not
12 be delivered by FACILITY OPERATOR to the landfill without prior written approval from
13 COUNTY.

14
15 J. Conflicts:

16 In the event that this agreement conflicts with or violates other existing contractual
17 arrangements or agreements regarding the delivery of Solid Waste that COUNTY is party to,
18 then FACILITY OPERATOR shall indemnify, defend and hold harmless the County of
19 Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors,
20 officers, Board of Supervisors, elected and appointed officials, employees, agents and
21 representatives from any liability, claim, damage or action whatsoever relating thereto. With
22 respect to any action or claim subject to indemnification herein by FACILITY OPERATOR,
23 FACILITY OPERATOR shall, at its sole cost, have the right to use counsel of its own choice
24 and shall have the right to adjust, settle, or compromise any such action or claim as has been
25 approved by COUNTY (which shall not unreasonably withhold its approval).

1 **SECTION 4. ACCEPTANCE OF SOLID WASTE**

2 COUNTY anticipates that during the term of this agreement, as hereinafter defined, it
3 will have sufficient disposal capacity at the Designated Landfills to enable it to accept all of the
4 Solid Waste delivered under this agreement. Notwithstanding the foregoing, COUNTY shall
5 have no obligation to accept or dispose of the Solid Waste if:
6

7 (1) The Designated Landfills are closed due to weather or other operational or
8 regulatory concerns, or because of the exhaustion or anticipated exhaustion of
9 their respective permitted disposal capacity; COUNTY may direct FACILITY
10 OPERATOR to the landfill not impacted by the closure and/or if available, may
11 designate a new COUNTY Class III sanitary landfill for use by FACILITY
12 OPERATOR.
13

14 (2) The Designated Landfills are closed concurrently for a period of twenty-
15 four (24) or more continuous hours, FACILITY OPERATOR may utilize a
16 facility of FACILITY OPERATOR'S choice during this period of no access.
17

18 COUNTY shall not voluntarily close all the Designated Landfills permanently during the
19 term of this Agreement for any reason, with the following exceptions: (i) as required by state or
20 federal law, (ii) exhaustion of permitted disposal capacity, or (iii) force majeure.
21

22 **SECTION 5. LANDFILL HOURS**

23
24 Landfill hours will be established within the parameters of the landfill facility operating
25 permit.

1 (1) The Lamb Canyon Landfill will be open between 6:00 a.m. and 4:30 p.m.
2 Monday through Saturday to receive Solid Waste from the Facility. Longer
3 operating hours each day are possible, but not guaranteed. COUNTY will notify
4 FACILITY OPERATOR when (and if) longer hours are available.

5 (2) The Badlands Landfill will be open between 6:00 a.m. and 4:30 p.m.
6 Monday through Saturday to receive Solid Waste from the Facility. Longer
7 operating hours each day are possible, but not guaranteed. COUNTY will notify
8 FACILITY OPERATOR when (and if) longer hours are available.

9 (3) The El Sobrante Landfill will be open between 12:00 a.m. and 12:00 am
10 (24-hours per day) Monday through Saturday to receive Solid Waste from the
11 Facility.

12 Each landfill is closed on legal holidays (New Years Day, Memorial Day, Independence
13 Day, Labor Day, Thanksgiving and Christmas).

14 COUNTY will provide FACILITY OPERATOR with reasonable notice any time landfill
15 operating hours are planned to change.

16 FACILITY OPERATOR agrees it has examined access routes to Designated Landfills
17 and shall make no claims as to deficiencies thereof.

18
19 **SECTION 6. TERM**

20
21 The term of this Agreement shall commence on August 21, 2016 (“the Commencement
22 Date”) and shall end on August 21, 2036, unless extended by mutual agreement of COUNTY
23 and FACILITY OPERATOR.

24 **SECTION 7. DISPOSAL FEE, BILLING, and SECURITY**

1 A. Disposal Fee:

2 FACILITY OPERATOR shall be charged a per ton disposal fee (\$28.53) on the Effective
3 Date of this Agreement for solid waste that is transported to the landfill in a transfer vehicle
4 (typically minimum 20+ tons per pay load) or “possum belly” trucks (typically 23+ tons per pay
5 load). The disposal fee shall be adjusted annually according to the provisions of Section 8, with
6 an additional increase as noted below to address increasing costs in closure and post closure and
7 other regulatory requirements affecting the landfill operation.

- 8
- 9 • July 1, 2020 - \$1.00 per ton
 - 10 • July 1, 2021 - \$1.00 per ton
 - 11 • July 1, 2022 - \$1.00 per ton
 - 12 • July 1, 2023 - \$1.00 per ton
- 13

14 The disposal fee may be revised by the COUNTY in the event of a change in law or
15 regulations after the Effective Date of this Agreement affecting COUNTY’S landfill costs. The
16 out of County import charge referenced in Section 3H shall be added to the fees stated herein.

17

18 B. Billing:

19 COUNTY shall bill FACILITY OPERATOR monthly, based upon certified weigh tickets
20 prepared by COUNTY, for each load of Solid Waste delivered to the landfill. Monthly payments
21 shall be made by FACILITY OPERATOR to COUNTY by the thirtieth (30th) day of each
22 calendar month for the previous month’s deliveries of Solid Waste.

23

24 C. Security:

25 Security deposits (i.e. bonding, late fees, etc.) will be in accordance with current practice
established by the Riverside County Department of Waste Resources.

1
2 **SECTION 8. DISPOSAL FEE ADJUSTMENT**

3
4 A. CPI Adjustment:

5 The disposal fee will be subject to adjustment annually every July 1st following public
6 hearings. The maximum increase or decrease allowable any one year will be equal to the percent
7 change in the Consumer Price Index (CPI) during the year which shall immediately precede the
8 adjustment. Computation of the change in the CPI shall be equal to the change in the Consumer
9 Price Index for all Urban Consumers (CPI-U) for the Los Angeles/Anaheim/Riverside
10 Metropolitan Area, (1982-84=100), as published by the United States Department of Labor,
11 Bureau of Labor Statistics. Said change shall be measured for the twelve (12) month period
12 January through December. The first increase may be effective July 1, 2017, based upon
13 changes in the Consumer Price Index formula for the period January, 2016 through December,
14 2016.

15
16 B. Disposal Fee Parity:

17 COUNTY recognizes the fact that disposal rate parity is a key element in determining
18 solid waste rates. In an effort to avoid any unintended potential rate impacts when competitively
19 bidding or proposing on new or existing contracts, for the term of this agreement, the COUNTY
20 agrees to offer the FACILITY OPERATOR the lowest Waste Delivery Agreement disposal rate
21 ("the Parity Rate") in effect at that time if any Riverside County jurisdiction, Special District or
22 School District were to go out to bid for the term of this agreement. FACILITY OPERATOR
23 agrees that the Parity Rate, as established under this section, shall be adjusted by CPI per section
24 8A of this agreement until March 10, 2029. After March 10, 2029, the Parity Rate shall continue
25 to be adjusted by CPI per section 8A of this agreement and also mirror any future rate increases
that exist in the lowest Waste Delivery Agreement in effect at that time.

1 In order to protect the Facility Operator from any potential future Disposal Fee disparity,
2 both parties agree that at no time during the term of this agreement shall the Facility Operator's
3 Waste Delivery Agreement disposal rate be greater than the Moreno Valley Transfer Station
4 Waste Delivery Agreement disposal rate charged to Waste Management Incorporated (WMI),
5 provided the rate comparison is for substantially similar services and contract terms. In addition,
6 County and Facility Operator also agree that, after March 10, 2033 (four years after the current
7 Burrtec Waste Industries (BWI) Waste Delivery Agreement disposal agreement at the Robert A.
8 Nelson Transfer Station terminates), the Facility Operator's Waste Delivery Agreement disposal
9 rate shall not be greater than the new BWI Waste Delivery Agreement rate in effect at that time.
10 If an Agreement is executed with WMI or BWI with services and contract terms different from
11 those in this Agreement, the Facility Operator will be offered an opportunity to amend and/or
12 sign a new Agreement with services and terms similar to the new executed Agreement with
13 WMI and/or BWI.

14
15
16
17 **SECTION 9. INSURANCE**

18 FACILITY OPERATOR shall obtain, and keep in force for the term of this Agreement
19 the following insurance policies which cover any acts or omissions of FACILITY OPERATOR,
20 its employees, contractors, and agents engaged in the provision of service specified in the
21 Agreement:
22

23
24 A. Worker's Compensation coverage in accordance with the statutory requirements
25 of the State of California.

1
2 B. FACILITY OPERATOR shall obtain and maintain in full force and effect
3 throughout the entire Term of this Agreement a Broad Form Comprehensive General Liability
4 (occurrence) Policy with a minimum limit of three million dollars (\$3,000,000.00) aggregate and
5 two million dollars (\$2,000,000.00) per occurrence for bodily injury and property damage. Said
6 insurance shall protect FACILITY OPERATOR, the County of Riverside, its Agencies, Districts,
7 Special Districts, and Departments, their respective directors, officers, Board of Supervisors,
8 employees, elected or appointed officials, agents or representatives, from any claim for damages
9 for bodily injury, including accidental death, as well as from any claim for property damage
10 which may arise from operation of the transfer vehicle while on the landfill site, whether such
11 operations be by FACILITY OPERATOR itself, or by its agents and/or employees. Copies of
12 the policies or endorsements evidencing the above required insurance coverage shall be filed
13 with the General Manager-Chief Engineer.

14
15 C. Automobile Liability. FACILITY OPERATOR shall maintain liability insurance
16 for all owned, non-owned or hired vehicles so used in an amount not less than two million
17 dollars (\$2,000,000) per occurrence combined single limit. If such insurance contains a general
18 aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the
19 occurrence limit. The Policy shall name the County of Riverside, its Agencies, Districts, Special
20 Districts, and Departments, their respective directors, officers, Board of Supervisors, employees,
21 elected or appointed officials, agents or representatives as Additional Insureds.

22
23 All of the following endorsements are required to be made a part of the insurance policies
24 required by this Section:
25

1 (1) "This policy shall be considered primary insurance as respects any other
2 valid and collectible insurance COUNTY may possess including self-insured
3 retention COUNTY may have, and any other insurance COUNTY or District does
4 possess shall be considered excess insurance and shall not contribute with it."

5
6 (2) "This insurance shall act for each insured, as though a separate policy had
7 been written for each. This, however, shall not act to increase the limit of liability
8 of the insuring company."

9
10 (3) FACILITY OPERATOR shall cause its insurance carrier(s) to furnish
11 COUNTY and District by direct mail with certificate(s) of insurance showing that
12 such insurance is in full force and effect, and the County of Riverside, its
13 Agencies, Districts, Special Districts, and Departments, their respective directors,
14 officers, Board of Supervisors, employees, elected or appointed officials, agents
15 or representatives are named as additional insureds with respect to this
16 Agreement and the obligations of FACILITY OPERATOR hereunder. Further,
17 said certificate(s) shall contain the covenant of the insurance carrier(s) that thirty
18 (30) days written notice shall be given to COUNTY and District prior to
19 modification, cancellation or reduction in coverage of such insurance. In the
20 event notice has been provided to COUNTY and District of any such
21 modification, cancellation or reduction in coverage and on the effective date
22 thereof, COUNTY and District shall have the right to terminate this Agreement,
23 unless County and District receive prior to such effective date another certificate
24 from an insurance carrier that the insurance required herein is in full force and
25 effect.

1 The limits of such insurance coverage, and companies, shall be subject to review and
2 approval by the Riverside County Board of Supervisors every year and may be modified at that
3 time at the Board of Supervisors' sole discretion and a demonstration of reasonable need. The
4 County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective
5 directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or
6 representatives shall be named as additional insureds on all policies and endorsements.

7
8 **SECTION 10. INDEMNIFICATION**

9
10 A. General Indemnification of County

11 FACILITY OPERATOR shall indemnify and hold harmless the County of Riverside, its
12 Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board
13 of Supervisors, elected and appointed officials, employees, agents and representatives from any
14 liability, claim, damage or action whatsoever, based or asserted upon any act or omission of
15 FACILITY OPERATOR, its officers, employees, subcontractors, agents or representatives
16 arising out of or in any way relating to this Agreement, including but not limited to property
17 damage, bodily injury, or death.

18 It is the responsibility of the FACILITY OPERATOR, its officers, employees,
19 subcontractors, agents or representatives to discuss, point out or otherwise apprise the COUNTY
20 of any safety concern or issue, potential or actual, occurring at a Designated Landfill that could
21 impact or affect FACILITY OPERATOR, its officers, employees, subcontractors, agents or
22 representatives.

23 FACILITY OPERATOR shall defend, at its sole cost and expense, including but not
24 limited to attorney fees, cost of investigation, defense and settlements or awards, the County of
25 Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors,
officers, Board of Supervisors, elected and appointed officials, employees, agents and

1 representatives in any such action or claim. With respect to any action or claim subject to
2 indemnification herein by FACILITY OPERATOR, FACILITY OPERATOR shall, at its sole
3 cost, have the right to use counsel of its own choice and shall have the right to adjust, settle, or
4 compromise any such action or claim without the prior consent of COUNTY; provided,
5 however, that any such adjustment, settlement or compromise in no manner whatsoever limits or
6 circumscribes FACILITY OPERATOR's indemnification of COUNTY. FACILITY
7 OPERATOR's obligations hereunder shall be satisfied when FACILITY OPERATOR has
8 provided to COUNTY the appropriate form of dismissal (or similar document) relieving the
9 COUNTY from any liability for the action or claim involved. The specified insurance limits
10 required in this Agreement shall in no way limit or circumscribe FACILITY OPERATOR's
11 obligations to indemnify and hold harmless the COUNTY.

12
13 **B. General Indemnification of Facility Operator**

14 COUNTY shall indemnify and hold harmless the FACILITY OPERATOR, its respective
15 directors, officers, employees, agents and representatives from any liability, claim, damage or
16 action whatsoever, based or asserted upon any act or omission of COUNTY arising out of or in
17 any way relating to this Agreement, including but not limited to property damage, bodily injury,
18 or death. COUNTY shall defend, at its sole cost and expense, including but not limited to
19 attorney fees, cost of investigation, defense and settlements or awards, the FACILITY
20 OPERATOR, its respective directors, officers, employees, agents and representatives in any such
21 action or claim. With respect to any action or claim subject to indemnification herein by
22 COUNTY, COUNTY shall, at its sole cost, have the right to use counsel of its own choice and
23 shall have the right to adjust, settle, or compromise any such action or claim without the prior
24 consent of FACILITY OPERATOR; provided, however, that any such adjustment, settlement or
25 compromise in no manner whatsoever limits or circumscribes COUNTY's indemnification of
FACILITY OPERATOR. COUNTY's obligations hereunder shall be satisfied when COUNTY

1 has provided to FACILITY OPERATOR the appropriate form of dismissal (or similar document)
2 relieving the FACILITY OPERATOR from any liability for the action or claim involved.
3

4 C. CERCLA Indemnification

5 COUNTY shall indemnify, defend with counsel approved by FACILITY OPERATOR
6 and hold harmless FACILITY OPERATOR, its respective officers, employees, agents, assigns,
7 volunteers and any successor to FACILITY OPERATOR'S interest, from and against all third
8 party claims, actual damages (including but not limited to special and consequential damages),
9 natural resources damages, punitive damages, injuries, costs, response remediation and removal
10 costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative
11 proceedings, interest, fines, charges, penalties, and expenses, (including but not limited to
12 attorneys' and expert witness fees and costs incurred in connection with defending against any of
13 the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered
14 by, or asserted against, FACILITY OPERATOR or its respective officers, employees, or agents
15 arising from or attributable to any pickup, repair, cleanup, or detoxification, or preparation and
16 implementation of any removal, remedial, response, closure or other plan (regardless of whether
17 or not undertaken due to governmental action) concerning any hazardous substances or
18 hazardous wastes including the release of such substances or wastes arising out of the deposit of
19 FACILITY OPERATOR'S Solid Waste at the Designated Landfills.
20

21 Notwithstanding any of the foregoing terms and provisions, COUNTY'S CERCLA
22 indemnification shall not extend to any such claims for actual damages (including but not limited
23 to special and consequential damages), natural resources damages, punitive damages, injuries,
24 costs, response remediation and removal costs, losses, demands, debts, liens, liabilities, causes of
25 action, suits, legal or administrative proceedings, interest, fines, charges, penalties, expenses
(including but not limited to attorneys' and expert witness fees and costs incurred in connection

1 with defending against any of the foregoing or in enforcing this indemnity), of any kind
2 whatsoever paid, to the extent that such claims are, or can be shown to have been, caused by the
3 failure of FACILITY OPERATOR, its respective officers, employees, agents, assigns,
4 volunteers, and any successor to FACILITY OPERATOR'S interest to properly operate the
5 required hazardous waste load check program at the Facility as required by California law and
6 COUNTY Ordinance and as set forth in this Agreement.

7
8 The foregoing indemnity is intended to operate as an agreement pursuant to Section 107
9 (e) of the Comprehensive Environmental Response, Compensation and Liability Act,
10 ("CERCLA"), 42 U.S.C. Section 9607 (e) and California Health and Safety Code Section 25364,
11 to insure, protect, hold harmless, and indemnify FACILITY OPERATOR from all liability (with
12 the exception noted above). The CERCLA indemnity provided here is separate and in addition
13 to the general indemnification described above.

14
15 **SECTION 11. FORCE MAJEURE**

16
17 Neither FACILITY OPERATOR or COUNTY shall be in default under this Agreement
18 in the event that the delivery of Solid Waste or the disposal of Solid Waste are temporarily
19 interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil
20 disturbances, insurrection, explosion, natural disasters such as floods, earthquakes, landslides,
21 and fires, strikes, lockouts, and other labor disturbances or other catastrophic events which are
22 beyond the reasonable control of FACILITY OPERATOR and COUNTY. Other catastrophic
23 events do not include the financial inability of FACILITY OPERATOR or COUNTY to perform
24 or failure of FACILITY OPERATOR or COUNTY to obtain any necessary permits or licenses
25 from other governmental agencies or the right to use the facilities of any public utility where
such failure is due solely to the acts or omissions of FACILITY OPERATOR or COUNTY.

1
2 **SECTION 12. DISPUTES**

3
4 The parties shall make a good faith effort to settle any dispute or claim arising under this
5 Agreement. If the parties fail to resolve such disputes or claims, they shall submit them to
6 nonbinding mediation in Riverside County, California. If mediation does not arrive at a
7 satisfactory result, litigation may be pursued.

8
9 Should any dispute arise between the parties concerning the terms, interpretation, effect
10 or operation of this Agreement, and should such dispute result in litigation or mediation between
11 parties, or any of them, the prevailing party in such litigation or mediation shall be entitled to
12 recover from the unsuccessful party(ies) any and all attorneys' fees, disbursements and costs
13 incurred by the prevailing party in such litigation or mediation. In the event neither party
14 prevails, but a compromise position is imposed, both parties shall bear their own legal expenses.

15
16 **SECTION 13. ASSIGNMENT**

17 Neither this Agreement nor any part thereof shall be assigned by FACILITY
18 OPERATOR without the prior written consent of COUNTY.

19 If COUNTY relinquishes its ownership of a landfill used by FACILITY OPERATOR, or
20 no longer operates a landfill used by FACILITY OPERATOR as specified in the landfill's
21 operating permit, FACILITY OPERATOR reserves the right to cancel this Agreement.
22 FACILITY OPERATOR'S opportunity to approve COUNTY'S successor in interest and cancel
23 this Agreement upon transfer of ownership or operating permit of a Designated Landfill site must
24 be exercised within thirty (30) days after FACILITY OPERATOR has received written notice
25 from COUNTY that ownership has formally changed hands or will be lost to FACILITY
OPERATOR.

1
2 **SECTION 14. LAW TO GOVERN**

3
4 The law of the State of California shall govern this Agreement.

5
6 **SECTION 15. NOTICES**

7 All notices, consents or other communications which are required or permitted by this
8 Agreement to be served on or given to any party shall be in writing and shall be deemed served
9 or given when personally delivered or, in lieu of personal delivery, on receipt, rejection or return
10 undelivered, when deposited in the United States mail first-class, certified or registered, postage
11 prepaid, return receipt requested or overnight mail delivery service, addressed to the applicable
12 party at the address set forth below:

13
14 To COUNTY: Riverside County Department of Waste Resources
15 14310 Frederick Street
16 Moreno Valley, CA 92553

17 To FACILITY OPERATOR: CR&R Incorporated
18 11292 Western Avenue
19 Stanton, CA 90680

20 or to such other address as either party may from time to time designate by notice to the other
21 given in accordance with this Section.

22 **SECTION 16. PRE-EXISTING RIGHTS AND LIABILITIES**

23
24 COUNTY and FACILITY OPERATOR agree that their respective rights and liabilities to
25 each other outside of the parameters of this Agreement remain intact.

1 **SECTION 17. WAIVER**

2
3 No waiver by either party of any one or more defaults or breaches by the other in the
4 performance of this agreement shall operate or be construed as a waiver of any future defaults or
5 breaches, whether of a like or different character.

6
7 **SECTION 18. BINDING UPON SUCCESSORS**

8 All agreements, covenants, conditions, and provisions of this Agreement shall be binding
9 upon and inure to the benefit of the successors and assigns of each of the parties hereto.

10
11 **SECTION 19. SEVERABILITY**

12
13 If any non-material provision of this Agreement shall for any reason be held to be invalid
14 or unenforceable, the invalidity or unenforceability of such provision shall not affect the validity
15 and enforceability of any of the remaining provisions of this Agreement.

16
17 **SECTION 20. NON-DISCRIMINATION**

18 FACILITY OPERATOR shall not discriminate in its recruiting, hiring, promotion,
19 demotion or termination practices on the basis of race, religious creed, color, national origin,
20 ancestry, physical handicap, medical condition, marital status or sex in the performance of this
21 contract and, to the extent they shall be found to be applicable hereto, shall comply with the
22 provisions of the California Fair Employment Practices Act (commencing with Section 1410 of
23 the Labor Code), and the Federal Civil Rights Act of 1964 (P.L. 88-352).

1 **SECTION 21. ENTIRE AGREEMENT**

2 This Agreement embodies the entire agreement between COUNTY and FACILITY
3 OPERATOR. Each represents that in entering this Agreement it does not rely on any previous
4 oral or implied representations, inducement or understanding of any kind or nature. This
5 Agreement may not be modified or amended, in whole or in part, except by a written amendment
6 signed by authorized representatives of both parties.
7

8 **SECTION 22. CONSTRUCTION OF AGREEMENT**

9
10 The parties hereto have negotiated this Agreement at arm's length and with advice of
11 their respective attorneys, and no provision contained herein shall be construed against
12 COUNTY solely because it prepared this Agreement in its executed forms.
13

14 IN WITNESS WHEREOF, this Agreement has been executed and is effective on the
15 Commencement Date.

16 RIVERSIDE COUNTY DEPARTMENT
17 OF WASTE RESOURCES
18 14310 Frederick Street
Moreno Valley, CA 92335

CR&R Incorporated
11292 Western Avenue
Stanton, CA 90680

19 Dated: July 14, 2016

Dated: July 14, 2016

20 RECOMMENDED FOR APPROVAL

21 By: [Signature]
22 Hans Kernkamp
23 General Manager-Chief Engineer

By: [Signature]
David Fahrion
Division President

24 RIVERSIDE COUNTY

25 By: _____
Chairman, Board of Supervisors

FORM APPROVED COUNTY COUNSEL
BY: [Signature] 7/14/16
NEAL R. KIPNIS DATE