

**AMENDMENT TWO TO AGREEMENT
FOR SOLID WASTE HANDLING AND RECYCLING SERVICES**

This Amendment Two to the Agreement for Solid Waste Handling and Recycling Services (the "Amendment") is made this _____ day of _____, 2019, by and between the County of Lake, a political subdivision of the State of California ("County"), and Lake County Waste Solutions, Inc., a California corporation ("Company").

WHEREAS, the County entered into an Agreement for Solid Waste Handling and Recycling Services with Company on December 9, 2014, as amended by that certain Amendment One dated June 26, 2018 (the "Agreement"); and

WHEREAS, the Agreement allows for the modification of service rates based on extraordinary events outside the control of either party; and

WHEREAS, changing recyclable material market conditions resulting from China's and other countries' new import policies have created extreme market volatility for recyclable materials; and

WHEREAS, County and Company wish to amend the Agreement to provide for a customer recycling surcharge or credit in response to the market volatility; and

WHEREAS, the Agreement may only be modified by a written amendment thereto;

NOW THEREFORE, in and for the mutual covenants herein, the receipt and sufficiency of which are hereby acknowledged, County and Company wish to amend the Agreement on the following terms:

1. Section 6.4 is deleted and replaced with the following:

"6.4 Surcharges or Credits.

(a) **Fuel.** Company shall apply an automatic fuel surcharge or credit by separate line item to each customer's monthly or quarterly bill(s) to reflect increases and decreases in Company's fuel costs as described in this Section 6.4(a).

(i) The procedure for calculating fuel surcharges and credits under this Section 6.4(a) shall be as follows:

(A) The fuel surcharge or credit for each calendar quarter shall equal a positive (surcharge) percentage or negative (credit) percentage of the amount of each customer bill obtained by (I) subtracting \$2.60 (the average per gallon price for diesel fuel for 2009) from the average per gallon price for diesel fuel as reported in the California No.2 Diesel Retail Sales by all Sellers (Dollars Per Gallon) from the Energy Information Agency published monthly by the Department of Energy (the "Fuel Index") for the three (3) consecutive calendar month period ending one month before the beginning of such calendar quarter, (II) dividing the result in (I) by \$2.60, (III) multiplying the resulting percentage in (II) by Company's diesel fuel cost in performing its services under the Prior Agreement for 2009, and (IV) dividing the result in (III) by Company's gross revenue actually collected from customers under this Agreement during the four (4) consecutive calendar quarters ending three (3) months before the calendar quarter in question.

(B) Not later than the beginning of each calendar quarter during the term of this Agreement, Company shall calculate the fuel surcharge or credit percentage for such

calendar quarter. Company shall then apply the fuel surcharge or credit to each customer's quarterly bill or monthly bills for such calendar quarter by adding a surcharge or subtracting a credit equal to the applicable percentage multiplied by the amount of such bill.

(C) In the event that the Fuel Index shall be discontinued or materially modified during the term of this Agreement, the parties shall use their reasonable business efforts to substitute a replacement index and/or otherwise change this Section 6.4(a) so as to replicate, as nearly as possible, the mutual intention of the parties to rely on the results of the Fuel Index as in effect on the date hereof.

(b) **Recycling.** On a quarterly basis, Company shall apply an automatic recycle surcharge or credit by separate line item to each customer's monthly or quarterly bill to reflect increases and decreases in Company's recycling costs as described in this Section 6.4(b).

(i) The procedure for calculating recycle surcharges and credits under this Section 6.4(b) shall be as follows:

(A) Pacific Recycling Services, Inc. operates the material recovery facility (the "MRF") where recyclables collected by Company in County are processed. The MRF has implemented a monthly per ton Tip Fee Charge or Recycle Payment based upon the Composite Market Value Grid. The percentage composition of the Composite Market Value Grid is adjusted monthly based upon actual commodity throughput from the MRF. The recyclables are weighed at the MRF or Company's facility, as agreed by the parties, and proof of weight is provided to both parties on a monthly basis with an invoice showing the types and number of tons of recyclables processed by the MRF during the preceding calendar month and the total amount due therefor, including the Tip Fee Charge or Recycle Payment, if any. The weighted average market value per ton is set and adjusted monthly in accordance with current market values for Grid Commodities reflected in RecyclingMarkets.Net – Regional Low Price (Market Index) and CRV values.

(B) A weighted average market value between \$115.00 per ton and \$154.99 per ton does not trigger either a Tip Fee Charge or a Recycle Payment; however, a weighted average market value less than \$115.00 per ton triggers a Tip Fee Charge per ton of recyclables delivered to the MRF for the corresponding month, and a weighted average market value per ton greater than \$154.99 per ton triggers a Recycle Payment per ton of recyclables delivered to the MRF for such month, each as determined in accordance with Exhibit D. In the event that the Market Index shall be discontinued or materially modified during the term of this Agreement, the MRF and Company have agreed to use their reasonable business efforts to substitute a replacement index and/or otherwise change the Tip Fee Charge and Recycle Payment arrangement so as to replicate, as nearly as possible, their mutual intention to rely on the results of the Market Index as in effect on the date hereof.

(C) The recycle surcharge or credit, if any, for each calendar quarter (a "relevant quarter") under this Agreement shall equal a positive (surcharge) or negative (credit) percentage of the amount of each commercial and residential customer bill for the relevant quarter (on one bill if billing is quarterly and on three bills if billing is monthly) obtained by cumulating the total Tip Fee Charges and Recycle Payments, if any, between the MRF and Company for the three (3) consecutive calendar months preceding the calendar month prior to the relevant quarter, and dividing that amount by Company's gross residential and commercial revenue collected from customers under the Agreement during such three-month period. For example, if July, August and September constitutes the relevant quarter, the recycle surcharge or credit on commercial and residential customer bills for such relevant quarter will be based on the total Tip Fee Charges and Recycle Payments, if any, between the MRF and Company, and Company's gross residential and commercial revenue collected from customers under the Agreement, during the three (3) consecutive calendar

months of March, April and May immediately preceding the relevant quarter.

(D) Not later than the beginning of each calendar quarter during the term of this Agreement, Company shall calculate the recycle surcharge or credit percentage for such calendar quarter. Company shall then apply the recycle surcharge or credit to each customer's quarterly bill or monthly bills for such calendar quarter by adding a surcharge, or subtracting a credit, equal to the applicable percentage multiplied by the amount of such bill."

2. Section 6.3 is amended to delete the word "fuel" from the first line thereof, and Section 6.5 is amended to delete the word "fuel" from the second line thereof.

3. A new Exhibit D in the form attached to this Amendment is attached to the Agreement.

4. Except as specifically modified herein, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

COUNTY OF LAKE

COMPANY

By: _____
Chair, Board of Supervisors

By:  _____
President

ATTEST:
CAROL J. HUCHINGSON
Clerk of the Board of Supervisors

APPROVED AS TO FORM:
ANITA L. GRANT
County Counsel



EXHIBIT D

RECYCLING SURCHARGE OR CREDIT SCHEDULE

Tip Fee or (Credit) Schedule			
	Market Value Grid		Tip / Credit
	From	To	
Zero Point	\$115.00	\$154.99	\$0.00
Tip Fee	\$110.00	\$114.99	\$35.00
Charge to Customer	\$105.00	\$109.99	\$40.00
	\$100.00	\$104.99	\$45.00
	\$95.00	\$99.99	\$50.00
	\$90.00	\$94.99	\$55.00
	\$85.00	\$89.99	\$60.00
	\$80.00	\$84.99	\$65.00
	\$75.00	\$79.99	\$70.00
	\$70.00	\$74.99	\$75.00
	\$65.00	\$69.99	\$80.00
	\$0.00	\$64.99	\$85.00
PMT	\$155.00	\$159.99	\$17.50
Payment to Customer	\$160.00	\$164.99	\$20.00
	\$165.00	\$169.99	\$22.50
	\$170.00	\$174.99	\$25.00
	\$175.00	\$179.99	\$27.50
	\$180.00	\$184.99	\$30.00
	\$185.00	\$189.99	\$32.50
	\$190.00	\$194.99	\$35.00
	\$195.00	\$199.99	\$37.50
	\$200.00	\$204.99	\$40.00
	\$205.00	and Up	\$42.50

For example: A composite market value of \$83 (highlighted grid line) results in a customer tip fee charge of \$65.00 per ton for each ton of recycle material processed by the MRF