

**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 South Lake Refuse Company, LLC, a California limited liability company ("Company").

WHEREAS, 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 for recyclable materials; 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) The recyclables collected by Company in County are transported to the material recovery facility (the "MRF") operated by Upper Valley Disposal Services, where they are weighed and processed. The MRF has implemented the Composite Market Value Grid for recyclables. The percentage composition of the Composite Market Value Grid is adjusted monthly based upon actual commodity throughput at the MRF. 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 recycle surcharge or credit; however, a weighted average market value less than \$115.00 per ton triggers a recycle surcharge per ton of recyclables delivered to the MRF for the corresponding month, and a weighted average market value per ton greater than \$154.00 per ton triggers a recycle credit per ton of recyclables delivered to the MRF for such month, each as determined in accordance with Exhibit D and subsection (C) below. 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 Composite Value Market Grid 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 (1) calculating the average initial recycle surcharge or credit for the three (3) consecutive calendar months preceding the calendar month prior to the relevant quarter per Exhibit D, (2) multiplying the amount in (1) above by the total tons of recyclables collected in County by Company and delivered to the MRF during such three-month period, and (3) dividing the amount in (2) above 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 average initial recycle surcharge or credit, recyclables collected, 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: Bob Dentoni
President

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

APPROVED AS TO FORM:
ANITA L. GRANT
County Counsel

Anita L. Grant

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