

1 **SERVICE AGREEMENT**

2 This Service Agreement ("Agreement") is dated January 24, 2023 and is between
3 Clean Earth Environmental Solutions, Inc., 933 First Avenue, Suite 200, King of Prussia,
4 Pennsylvania 19406, a Delaware corporation ("Consultant"), and the County of Fresno, a
5 political subdivision of the State of California ("County").

6 **Recitals**

7 A. The County of Fresno, on behalf of the Department of Public Works and Planning,
8 requested proposals from qualified vendors to provide the following: an experienced consultant
9 to serve as the County's Regional Household Hazardous Waste (HHW) Facility Manager,
10 implementing various HHW-related programs, providing staffing, overseeing the day-to-day
11 operations/maintenance of one or more HHW Facilities, meeting Federal, State and County
12 reporting protocols, and ensuring proper disposal/recycling/placement of collected materials.
13 The consultant would serve for a period of three (3) years with the option of two (2) additional
14 one-year term extensions.

15 B. The County recently constructed a new HHW Facility to replace the HHW Facility
16 located within the footprint of the American Avenue Disposal Site (AADS) in western Fresno
17 County, approximately seventeen (17) miles southwest of the City of Fresno and approximately
18 six (6) miles southwest of the City of Kerman which closed on May 16, 2022.

19 C. The new Permanent Regional Household Hazardous Waste Collection Facility
20 (PRHHWCF) is called the Environmental Compliance Center (ECC). It is located at 310 South
21 West Avenue, at the corner of South West Avenue and Dan Ronquillo Drive in Fresno,
22 California. The location is best accessed from Highway 180 at Marks Avenue. The site is 2.66
23 acres and when completed will include the PRHHWCF with office and restrooms, a 2,400 sq. ft.
24 warehouse, and a Conference and Education Center. Construction on the new facility started on
25 September 13, 2021, and the PRHHWCF and Warehouse were completed in September 2022.
26 The Conference and Education Center will be constructed in a second phase with design work
27 beginning in January 2023.

28 The parties therefore agree as follows:

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Article 1

Consultant's Services

1.1 **Scope of Services.** The Consultant shall perform all of the services provided in Exhibit A to this Agreement, titled "Scope of Services."

1.2 **Representation.** The Consultant represents that it is qualified, ready, willing, and able to perform all of the services provided in this Agreement.

1.3 **Compliance with Laws.** The Consultant shall, at its own cost, comply with all applicable federal, state, and local laws and regulations in the performance of its obligations under this Agreement, including but not limited to workers compensation, labor, and confidentiality laws and regulations.

Article 2

County's Responsibilities

The County Resources Manager shall provide a County HHW Program Coordinator (HHW Coordinator) who will perform the following duties and services:

2.1 Serve as the Consultant's office County contact person for any required input, feedback and or authorizations required and to facilitate the operation of the HHW Facility and its programs.

2.2 Ensure that all official documents, including permits, applications, and required reports are reviewed, and if required, signed by the appropriate County representative.

2.3 Arrange for permitting/reviewing agencies, the Consultant, and their respective staff/representatives to have access to the Facility.

2.4 Confirm that the Facility Manager is complying with regulatory and contract requirements, including providing the agreed upon deliverables in a timely manner.

2.5 Review and provide comments in a timely manner on all deliverables submitted by the Consultant, including written confirmation when each deliverable has been deemed completed.

2.6 Provide the Consultant with timely, written confirmation when a Consultant-proposed expenditure has been pre-authorized by the County.

1 2.7 Arrange for the Consultant to be compensated or reimbursed, as appropriate, for
2 pre-approved and properly invoiced expenditures in the manner, at the rates and not exceeding
3 any of the maximum amounts stipulated in this Agreement.

4 2.8 Manage any HHW Facility-related grants, including overseeing disbursement of the
5 grant funds and compliance with grant agreement provisions.

6 2.9 Seek any additional funding and jurisdictional support required to establish and
7 maintain the Local Network Program, including, but not limited to, submitting an application to
8 CalRecycle for a grant.

9 2.10 When applicable, arrange with the Facility Manager for the County to exercise its
10 option to directly pay for an authorized documented program-related expenditure to the
11 purveyor of goods and/or services.

12 2.11 Arrange and pay for the day-to-day accounting billing and auditing services required
13 to manage the HHW Facility accounts. This responsibility does not include:

14 (A) Costs associated with the billing, collection and reconciliation of Conditionally
15 Exempt Small Quantity Generators (CESQG) - related accounts;

16 (B) Costs associated with any special auditing/accounting services required to
17 address possible mismanagement or fraud on the part of the Capacity Manager, one of
18 his/her employees and/or subcontractors;

19 (C) Any costs associated with implementation of the provisions stipulated in the
20 Agreement pertaining to Audits, Accounting and Inspections Access.

21 **Article 3**

22 **Compensation, Invoices, and Payments**

23 3.1 The County agrees to pay, and the Consultant agrees to receive, compensation for
24 the performance of its services under this Agreement as described in Exhibit B to this
25 Agreement, titled "Compensation."

26 3.2 **Maximum Compensation.** The maximum compensation payable to the Consultant
27 under this Agreement for performance of HHW Facility Operations, Collection, Disposal and
28 related program services, which includes an approximate ten percent (10%) contingency factor,

1 is One Million Five Hundred Thousand Dollars (\$1,500,000) per year, commencing as of the
2 effective date, for the term of the Agreement, and the total amount of Four Million Five Hundred
3 Thousand (\$4,500,000) for the initial term of the Agreement; and One Million Five Hundred
4 Thousand Dollars (\$1,500,000) for each one year extension period, which likewise includes an
5 approximate ten percent (10%) contingency factor, and the total maximum amount of Seven
6 Million Five Hundred Thousand Dollars (\$7,500,000) for the entire term of the Agreement with
7 extensions, including the approximate percent (10%) contingency factor. The Consultant
8 acknowledges that the County is a local government entity and does so with notice that the
9 County's powers are limited by the California Constitution and by State law, and with notice that
10 the Consultant may receive compensation under this Agreement only for services performed
11 according to the terms of this Agreement and while this Agreement is in effect, and subject to
12 the maximum amount payable under this section. The Consultant further acknowledges that
13 County employees have no authority to pay the Consultant except as expressly provided in this
14 Agreement.

15 **3.3 Invoices.** The Consultant shall submit monthly invoices to:

16 County HHW Program Coordinator
17 Fresno County Department of Public Works and Planning.
18 Resources Division
19 2220 Tulare Street, 6th Floor
20 Fresno CA 93721-2104

21 The Consultant shall submit each invoice within 90 days after the month in which the Consultant
22 performs services and in any case within 90 days after the end of the term or termination of this
23 Agreement.

24 **3.3 Payment.** The County shall pay each correctly completed and timely submitted
25 invoice within 45 days after receipt. The County shall remit any payment to the Consultant's
26 address specified in the invoice.

27 **3.4 Incidental Expenses.** The Consultant is solely responsible for all of its costs and
28 expenses that are not specified as payable by the County under this Agreement.

Article 4

Term of Agreement

4.1 **Term.** This Agreement is effective from February 1, 2023, for a period of three years and terminates on January 31, 2026, except as provided in section 4.2, "Extension," or Article 6, "Termination and Suspension," below.

4.2 **Extension.** The term of this Agreement may be extended for no more than two, one-year periods only upon written approval of both parties at least 30 days before the first day of the next one-year extension period. The Fresno County Director of the Department of Public Works and Planning or his or her designee is authorized to sign the written approval on behalf of the County based on the Consultant's satisfactory performance. The extension of this Agreement by the County is not a waiver or compromise of any default or breach of this Agreement by the Consultant existing at the time of the extension whether or not known to the County.

Article 5

Notices

5.1 **Contact Information.** The persons and their addresses having authority to give and receive notices provided for or permitted under this Agreement include the following:

For the County:
HHW Coordinator
County of Fresno
2220 Tulare Street, Ninth Floor
Fresno CA 93721
(559) 600-4259 Fax: (559) 600-4552

For the Consultant:
Chendy Chea, Facility Manager
Clean Earth Environmental Solutions, Inc.
30677 Huntwood Ave.
Hayward, CA 94544
cchea@harsco.com
(510) 429-1129 x 2913 Mobile: (209) 431-9631

5.2 **Change of Contact Information.** Either party may change the information in section 5.1 by giving notice as provided in section 5.3.

1 (A) Modify the services provided by the Consultant under this Agreement; or

2 (B) Terminate this Agreement.

3 **6.2 Termination for Breach.**

4 (A) Upon determining that a breach (as defined in paragraph (C) below) has
5 occurred, the County may give written notice of the breach to the Consultant. The written
6 notice may suspend performance under this Agreement, and must provide at least 30
7 days for the Consultant to cure the breach.

8 (B) If the Consultant fails to cure the breach to the County's satisfaction within the
9 time stated in the written notice, the County may terminate this Agreement immediately.

10 (C) For purposes of this section, a breach occurs when, in the determination of the
11 County, the Consultant has:

12 (1) Obtained or used funds illegally or improperly;

13 (2) Failed to comply with any part of this Agreement;

14 (3) Submitted a substantially incorrect or incomplete report to the County; or

15 (4) Improperly performed any of its obligations under this Agreement.

16 **6.3 Termination without Cause.** In circumstances other than those set forth above, the
17 either party may terminate this Agreement by giving at least 60 days advance written notice to
18 the other party.

19 **6.4 No Penalty or Further Obligation.** Any termination of this Agreement by the County
20 under this Article 6 is without penalty to or further obligation of the County.

21 **6.5 County's Rights upon Termination.** Upon termination for breach under this Article
22 6, the County may demand repayment by the Consultant of any monies disbursed to the
23 Consultant under this Agreement that, in the County's judgment, were not expended in
24 compliance with this Agreement. The Consultant shall promptly refund all such monies upon
25 demand. This section survives the termination of this Agreement.

1 **Article 7**

2 **Independent Contractor**

3 7.1 **Status.** In performing under this Agreement, the Consultant, including its officers,
4 agents, employees, and volunteers, is at all times acting and performing as an independent
5 contractor, in an independent capacity, and not as an officer, agent, servant, employee, joint
6 venturer, partner, or associate of the County.

7 7.2 **Verifying Performance.** The County has no right to control, supervise, or direct the
8 manner or method of the Consultant's performance under this Agreement, but the County may
9 verify that the Consultant is performing according to the terms of this Agreement.

10 7.3 **Benefits.** Because of its status as an independent contractor, the Consultant has no
11 right to employment rights or benefits available to County employees. The Consultant is solely
12 responsible for providing to its own employees all employee benefits required by law. The
13 Consultant shall save the County harmless from all matters relating to the payment of
14 Consultant's employees, including compliance with Social Security withholding and all related
15 regulations.

16 7.4 **Services to Others.** The parties acknowledge that, during the term of this
17 Agreement, the Consultant may provide services to others unrelated to the County.

18 **Article 8**

19 **Indemnity and Defense**

20 8.1 **Indemnity.** The Consultant shall indemnify and hold harmless and defend the
21 County (including its officers, agents, employees, and volunteers) against all claims, demands,
22 injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and
23 liabilities of any kind to the County, the Consultant, or any third party that arise from or relate to
24 the performance or failure to perform by the Consultant (or any of its officers, agents,
25 subcontractors, or employees) under this Agreement. The County may conduct or participate in
26 its own defense without affecting the Consultant's obligation to indemnify and hold harmless or
27 defend the County.

28 8.2 **Survival.** This Article 8 survives the termination of this Agreement.

1 **Article 9**

2 **Insurance**

3 9.1 The Consultant shall comply with all the insurance requirements in Exhibit D to this
4 Agreement.

5 **Article 10**

6 **Inspections, Audits, and Public Records**

7 10.1 **Inspection of Documents.** With fifteen (15) days advanced written notice, the
8 Consultant shall make available to the County, and the County may examine at any time during
9 business hours and as often as the County deems necessary, all of the Consultant's records
10 and data with respect to the matters covered by this Agreement, excluding attorney-client
11 privileged communications. The Consultant shall, upon (15) fifteen days advanced written notice
12 by the County, permit the County to audit and inspect all of such records and data to ensure the
13 Consultant's compliance with the terms of this Agreement.

14 10.2 **State Audit Requirements.** If the compensation to be paid by the County under this
15 Agreement exceeds \$10,000, the Consultant is subject to the examination and audit of the
16 California State Auditor, as provided in Government Code section 8546.7, for a period of three
17 years after final payment under this Agreement. This section survives the termination of this
18 Agreement.

19 10.3 **Public Records.** The County is not limited in any manner with respect to its public
20 disclosure of this Agreement or any record or data that the Consultant may provide to the
21 County. The County's public disclosure of this Agreement or any record or data that the
22 Consultant may provide to the County may include but is not limited to the following:

23 (A) The County may voluntarily, or upon request by any member of the public or
24 governmental agency, disclose this Agreement to the public or such governmental
25 agency.

26 (B) The County may voluntarily, or upon request by any member of the public or
27 governmental agency, disclose to the public or such governmental agency any record or
28

1 data that the Consultant may provide to the County, unless such disclosure is prohibited
2 by court order.

3 (C) This Agreement, and any record or data that the Consultant may provide to the
4 County, is subject to public disclosure under the Ralph M. Brown Act (California
5 Government Code, Title 5, Division 2, Part 1, Chapter 9, beginning with section 54950).

6 (D) This Agreement, and any record or data that the Consultant may provide to the
7 County, is subject to public disclosure as a public record under the California Public
8 Records Act (California Government Code, Title 1, Division 7, Chapter 3.5, beginning
9 with section 6250) ("CPRA").

10 (E) This Agreement, and any record or data that the Consultant may provide to the
11 County, is subject to public disclosure as information concerning the conduct of the
12 people's business of the State of California under California Constitution, Article 1,
13 section 3, subdivision (b).

14 (F) Any marking of confidentiality or restricted access upon or otherwise made with
15 respect to any record or data that the Consultant may provide to the County shall be
16 disregarded and have no effect on the County's right or duty to disclose to the public or
17 governmental agency any such record or data.

18 **10.4 Public Records Act Requests.** If the County receives a written or oral request
19 under the CPRA to publicly disclose any record that is in the Consultant's possession or control,
20 and which the County has a right, under any provision of this Agreement or applicable law, to
21 possess or control, then the County may demand, in writing, that the Consultant deliver to the
22 County, for purposes of public disclosure, the requested records that may be in the possession
23 or control of the Consultant. Within five business days after the County's demand, the
24 Consultant shall (a) deliver to the County all of the requested records that are in the
25 Consultant's possession or control, together with a written statement that the Consultant, after
26 conducting a diligent search, has produced all requested records that are in the Consultant's
27 possession or control, or (b) provide to the County a written statement that the Consultant, after
28 conducting a diligent search, does not possess or control any of the requested records. The

1 Consultant shall cooperate with the County with respect to any County demand for such
2 records. If the Consultant wishes to assert that any specific record or data is exempt from
3 disclosure under the CPRA or other applicable law, it must deliver the record or data to the
4 County and assert the exemption by citation to specific legal authority within the written
5 statement that it provides to the County under this section. The Consultant's assertion of any
6 exemption from disclosure is not binding on the County, but the County will give at least 10
7 days' advance written notice to the Consultant before disclosing any record subject to the
8 Consultant's assertion of exemption from disclosure. The Consultant shall indemnify the County
9 for any court-ordered award of costs or attorney's fees under the CPRA that results from the
10 Consultant's delay, claim of exemption, failure to produce any such records, or failure to
11 cooperate with the County with respect to any County demand for any such records.

12 **Article 11**

13 **Disclosure of Self-Dealing Transactions**

14 11.1 **Applicability.** This Article 11 applies if the Contractor is operating as a corporation
15 or changes its status to operate as a corporation.

16 11.2 **Duty to Disclose.** If any member of the Contractor's board of directors is party to a
17 self-dealing transaction, he or she shall disclose the transaction by completing and signing a
18 "Self-Dealing Transaction Disclosure Form" (Exhibit C to this Agreement) and submitting it to
19 the County before commencing the transaction or immediately after.

20 11.3 **Definition.** "Self-dealing transaction" means a transaction to which the Consultant is
21 a party and in which one or more of its directors, as an individual, has a material financial
22 interest.

23 **Article 12**

24 **General Terms**

25 12.1 **Modification.** Except as provided in Article 6, "Termination and Suspension," this
26 Agreement may not be modified, and no waiver is effective, except by written agreement signed
27 by both parties. The Consultant acknowledges that County employees have no authority to
28 modify this Agreement except as expressly provided in this Agreement.

1 12.2 **Non-Assignment.** Neither party may assign its rights or delegate its obligations
2 under this Agreement without the prior written consent of the other party.

3 12.3 **Governing Law.** The laws of the State of California govern all matters arising from
4 or related to this Agreement.

5 12.4 **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno
6 County, California. Consultant consents to California jurisdiction for actions arising from or
7 related to this Agreement, and, subject to the Government Claims Act, all such actions must be
8 brought and maintained in Fresno County.

9 12.5 **Construction.** The final form of this Agreement is the result of the parties' combined
10 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be
11 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement
12 against either party.

13 12.6 **Days.** Unless otherwise specified, "days" means calendar days.

14 12.7 **Headings.** The headings and section titles in this Agreement are for convenience
15 only and are not part of this Agreement.

16 12.8 **Severability.** If anything in this Agreement is found by a court of competent
17 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in
18 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of
19 this Agreement with lawful and enforceable terms intended to accomplish the parties' original
20 intent.

21 12.9 **Nondiscrimination.** During the performance of this Agreement, the Consultant shall
22 not unlawfully discriminate against any employee or applicant for employment, or recipient of
23 services, because of race, religious creed, color, national origin, ancestry, physical disability,
24 mental disability, medical condition, genetic information, marital status, sex, gender, gender
25 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to
26 all applicable State of California and federal statutes and regulation.

27 12.10 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation
28 of the Consultant under this Agreement on any one or more occasions is not a waiver of

1 performance of any continuing or other obligation of the Consultant and does not prohibit
2 enforcement by the County of any obligation on any other occasion.

3 **12.11 Entire Agreement.** This Agreement, including its exhibits, is the entire agreement
4 between the Consultant and the County with respect to the subject matter of this Agreement,
5 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,
6 publications, and understandings of any nature unless those things are expressly included in
7 this Agreement. If there is any inconsistency between the terms of this Agreement without its
8 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving
9 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the
10 exhibits.

11 **12.12 No Third-Party Beneficiaries.** This Agreement does not and is not intended to
12 create any rights or obligations for any person or entity except for the parties.

13 **12.13 Authorized Signature.** The Consultant represents and warrants to the County that:

14 (A) The Consultant is duly authorized and empowered to sign and perform its
15 obligations under this Agreement.

16 (B) The individual signing this Agreement on behalf of the Consultant is duly
17 authorized to do so and his or her signature on this Agreement legally binds the
18 Consultant to the terms of this Agreement.

19 **12.14 Electronic Signatures.** The parties agree that this Agreement may be executed by
20 electronic signature as provided in this section.

21 (A) An “electronic signature” means any symbol or process intended by an individual
22 signing this Agreement to represent their signature, including but not limited to (1) a
23 digital signature; (2) a faxed version of an original handwritten signature; or (3) an
24 electronically scanned and transmitted (for example by PDF document) version of an
25 original handwritten signature.

26 (B) Each electronic signature affixed or attached to this Agreement (1) is deemed
27 equivalent to a valid original handwritten signature of the person signing this Agreement
28 for all purposes, including but not limited to evidentiary proof in any administrative or

1 judicial proceeding, and (2) has the same force and effect as the valid original
2 handwritten signature of that person.

3 (C) The provisions of this section satisfy the requirements of Civil Code section
4 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,
5 Part 2, Title 2.5, beginning with section 1633.1).

6 (D) Each party using a digital signature represents that it has undertaken and
7 satisfied the requirements of Government Code section 16.5, subdivision (a),
8 paragraphs (1) through (5), and agrees that each other party may rely upon that
9 representation.

10 (E) This Agreement is not conditioned upon the parties conducting the transactions
11 under it by electronic means and either party may sign this Agreement with an original
12 handwritten signature.

13 **12.15 Force Majeure:** Neither party shall be held liable or responsible to the other party nor
14 be deemed to have defaulted under or breached this Agreement for failure or delay in
15 fulfilling or performing any obligation under this Agreement when such failure or delay is
16 caused by or results from causes beyond the reasonable control of the affected party,
17 including but not limited to fire, floods, embargoes, war, acts of war, insurrections, riots,
18 strikes, lockouts or other labor disturbances, or acts of God; provided, however, that the
19 party so affected shall use reasonable commercial efforts to avoid or remove such causes of
20 nonperformance, and shall continue performance hereunder with reasonable dispatch
21 whenever such causes are removed. Either party shall provide the other party with prompt
22 written notice of any delay or failure to perform that occurs by reason of force majeure.

23 **12.15 Counterparts.** This Agreement may be signed in counterparts, each of which is an
24 original, and all of which together constitute this Agreement.

25 [SIGNATURE PAGE FOLLOWS]
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The parties are signing this Agreement on the date stated in the introductory clause.

CLEAN EARTH ENVIRONMENTAL SOLUTIONS, INC.

COUNTY OF FRESNO

DocuSigned by:

John Avdellas

Sal Quintero

John Avdellas, Vice President of Manufacturing and Industrial Sales

Sal Quintero, Chairman of the Board of Supervisors of the County of Fresno

933 First Avenue, Suite 200
King of Prussia, PA 19406

Attest:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

12/09/22 | 7:07 AM PST

By: *Haname*
Deputy

For accounting use only:

Org No.: 9015
Account No.: 7295
Fund No.: 0701
Subclass No.: 15001

Exhibit A

Scope of Services

1. **Facility Operations.** The contractor shall do everything necessary to operate and maintain the Permanent Regional Household Hazardous Waste Collection Facility (PRHHWCF or Facility). The PRHHWCF is currently operated every Saturday, except Holiday weekends, from 9 a.m. to 1 p.m., to accept household hazardous waste from residents of Fresno County, limited to household items and small quantities (15 gallons or 125 pounds). Additional days of operation or increased hours of operation may become necessary as residents increase use of the Facility.
The Facility will also be made accessible at a low cost to small businesses, also known as Conditionally Exempt Small Quantity Generators (CESQG). The CESQG shall arrange with the contractor for drop off at the Facility, limited to not more than 220 pounds per month, with not more than 2.2 pounds per month being identified as acutely hazardous. Additionally, the contractor shall make the Facility available to municipalities and first responders, which shall be handled in the same manner as a CESQG.
The contractor shall keep the Facility well maintained and clean and ensure that all conditions of the permit to operate are adhered to.
2. **Network Programs.** In addition to the Facility Drop Off Program, the contractor shall service when requested, maintain, and expand on Network Programs, which currently consist of a Battery and Fluorescent Light Bulb Collection Program, a Mobile (Drop Off Event) Program, a Sharps Drop Off (Kiosk) Collection Program and a Door-to-Door Collection Program.
3. **Network Sites.** There are approximately 80 network sites located throughout the County. The contractor will be responsible for ensuring timely collection from each of those network sites. Contractor shall not allow a network site's collection receptible to overflow. Sharps will be collected similar to that of network sites.
4. **Mobile (Drop Off Event) Program.** The contractor shall provide an operations plan to the County 3 weeks prior to each drop-off event, and provide drop-off event labor, restroom facilities, collection, and disposal services. At the request of County, the contractor may provide additional services such as traffic control.
5. **Door to Door.** Occasionally, residents who are unable to attend a drop-off event or dispose of their HHW at an approved facility due to a medical disability will request a door-to-door collection. The Contractor will, upon approval by the County, provide door-to-door service to that resident.
6. **Reporting Requirements.** The contractor shall keep records of all HHW that is collected as well as the jurisdiction & business the HHW is collected from, whether it is collected at the Facility or through a regional program. The contractor shall assist the County with all reporting requirements, including but not limited to, the Cal Recycle Form 303. Data reports shall be compiled in a format acceptable to the County.
7. **Permit.** The contractor shall assist the County obtaining permits for any new facilities. The contractor shall also assist renewing permits for existing facilities.
8. **HHW Future Facility Services and Responsibilities.** The contractor may be called upon to assist with the development and servicing of additional HHW Facilities. This may

Exhibit A

include but is not limited to; consultation on the design and operation of new HHW Facilities, meet and respond to questions from a variety of regulatory agencies, make presentations, participate in public outreach meetings, and prepare all required regulatory documentation and permits through to submittal and regulatory approval.

The Consultant shall provide staffing for any new HHW Facilities at the rates specified in Exhibit B – Compensation.

9. Meetings

If requested by the County, the contractor shall attend County facilitated meetings to discuss items related to this scope of work.

Exhibit B

Compensation

The Contractor will be compensated for performance of its services under this Agreement as provided in this Exhibit B. The Contractor is not entitled to any compensation except as expressly provided in this Exhibit B.

The annual allocation and disbursement of the Total Compensation over the term of this Agreement shall be detailed in the Annual Plan/Budget and includes but is not limited to:

1. Operations to cover the cost of operating the HHW Facility for all three (3) Service Years (and Service Years 4 and 5 if applicable), including Salaries and Operating, Collection and Disposal Expenses.
 - a. Reimbursement to the Consultant for three years of service (and Service Years 4 and 5 if applicable) provided by the Primary HHW Transporter, and supplemented by additional local subcontractors, for the transport, management, and disposal of the HHW collected from County Residents.
 - b. The Consultant shall be reimbursed for its expenditures on salaries over the three years of Operations (and Service Years 4 and 5 if applicable). Upon receipt of a Proper Invoice, the County shall reimburse the Consultant on a monthly basis for its expenditures on the Facility Manager's and staff salaries, based upon the documented number of hours actually worked and at the hourly rates stipulated in this Exhibit B.
2. Approximately ten percent (10%) of the maximum Agreement Expenditures, referenced as the "contingency factor" in Article 3, Section 3.2 of this Agreement, is allocated to "Additional Services and Contingencies." Such funding will be available for unanticipated expenditures on items including but not limited to equipment failure, larger than anticipated disposal or salary costs and Additional Meeting Fees, as more thoroughly detailed hereinafter in this Exhibit B. The Director has been authorized by the Board to approve properly documented and submitted requests for payments using funds allocated to Additional Services and Contingencies.
3. So long as the Total Compensation authorized in this Agreement is not exceeded, unexpended funds

Exhibit B

from one Annual Plan may be reallocated to the next Annual Plan, to maximize the number of County Residents the program will be able to serve.

4. An overview of the Salary Cost Assumptions and Calculations is provided later in this Exhibit B.

Payment will be made to Consultant only for those hours actually worked and such hours must be correctly documented in writing on a Proper Invoice in order to be considered for reimbursement. An overview of HHW Facility and Program Cost Assumptions and Calculations is provided later in this Exhibit B.

5. **Major Equipment, Small Tools and Equipment and Operating Supplies.** Whenever possible, the types and quantities of Major Equipment, Small Tools and Equipment, and Operating Supplies required to properly operate the HHW Facility, and its related programs shall be identified and budgeted for in the HHW Facility's Annual Plan/Budget. Items not included in the Annual Plan/Budget shall be pre-approved in writing by the HHW Coordinator.

- a. Consultant shall be responsible for identifying the types, quantities and lead time required to acquire any additional items needed to properly operate the HHW Facility and its related programs.
- b. Pre-authorized and properly documented purchases of Small Tools and Equipment and Operating Supplies acquired by the Facility Manager shall be reimbursed by the County at "cost" plus 10%, up to but not to exceed the maximum stipulated in this Agreement (Article 3, Section 3.2).
- c. The pre-authorization requirement shall ensure that the County is given the option by the Facility Manager of purchasing one or more Small Tools and Equipment and Operating Supplies directly from the vendor of its own choosing or to acquire such items through alternative sources (e.g., County Surplus). The County shall not be obligated to reimburse the Consultant in any way for items the County acquires directly.
- d. All fixed assets, fixtures, leasehold improvements, or major pieces of equipment, including a

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forklift (provided by the County), shall either be acquired, paid for, or directly provided by the County. After initial acquisition, the repair and and/or replacement of said fixed assets, fixtures, leasehold improvements, or major pieces of equipment shall be paid for/provided by the County.

- e. Unless specifically listed in this Agreement, the Consultant shall not be responsible for paying for any one time or annual application, certification, or monitoring fees or similar services related to the development or ongoing operation of the Facility and its related programs. The County shall pay for CUP application fees and/or additional studies, routine monitoring by the CUPA, Unified Program Facility Permit annual fees, California Department of Fish and Wildlife Fees and/or other fees imposed by State or local agencies. The Facility Manager shall be responsible for the timely preparation, maintenance and/or submittal of such applications, documentation, additional data, and fees. All fees applicable to the operation of the Consultant's HHW management and collection business (i.e., business license, all business-related taxes, permit application, training, certification, and similar requirements that apply to the business and/or its employees) are the sole responsibility of the Consultant.

6. Facility Vehicles and Mileage Reimbursement. The Consultant has agreed to provide, insure, and maintain all vehicles prior to operating the HHW facility and all its programs (both on-site and off-site) efficiently and safely. This includes providing adequate fuel and appropriate drivers for said vehicles. Reimbursement to the Consultant for the use of such vehicles shall be limited to actual miles driven with reimbursement to be calculated at the Internal Revenue Service (IRS) Optional Standard Mileage Rates for use of passenger vehicles and the IRS Optional Standard Mileage Rates plus twenty-five percent (25%) for trucks/commercial vehicles designed primarily for the transport of cargo other than passengers.

7. Reimbursement for Services Provided by Primary HHW Transporter and by approved subcontractors engaged in HHW Transport. As of the effective date of this Agreement, the Primary

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HHW Transporter will be the Consultant and only as agreed upon by the County can any separate subcontractor agreement be issued by the Consultant for transport of the HHW as needed. Any subcontract agreement by Consultant and an approved subcontractor must be with a company registered and permitted by the State of California to transport HHW in accordance with State hazardous waste laws, to permitted treatment, storage, disposal facilities (TSDF) and/or recycling facilities for management or disposal as appropriate.

- a. The HHW brought to the Site by the public or collected from off-site programs will be identified, consolidated, properly packed, and placed in designated on-site storage areas by the Operations Staff until it is taken to appropriate recyclers by vendors or HHW Facility staff or taken to commercial HHW management facilities by a certified HHW Transporter.
- b. It is anticipated that the Primary HHW Transporter will need to remove the HHW collected no more than once a month during the period covered by this Agreement. (This does not preclude more frequent service by an HHW Transporter if required.)
- c. Upon presentation of a Proper Invoice by the Consultant or its Facility Manager, the County shall reimburse the Consultant for the services provided by the Primary HHW Transporter at the rates stipulated in Agreement Exhibit B. In addition, the County shall reimburse the Consultant for Cost-of-Living Adjustments (COLA Surcharges) charged by the Primary HHW Transporter. In order to be reimbursable, COLA Surcharges must be tied to changes in the CPI during Service Year 1, Service Year 2 and Service Year 3 (and Service Years 4 and 5 as appropriate), and shall be the greater of five percent (5%) or CPI each year and shall be calculated as described below:
 - i. Consumer Price Index (CPI) means the Consumer Price Index All Urban Consumers for San Francisco-Oakland-San Jose, CA, Standard Metropolitan Statistical Area as published by the United States Department of Labor, Bureau of Labor Statistics (Labor Department), or any other successor index. If the CPI is discontinued or revised by the

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Labor Department during the term of this Agreement, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or revised.

- ii. "CPI Adjustment Rate" means a figure that reflects the change in the annual inflation rate measured as the percentage increase or decrease in the CPI over the twelve (12) month period ending on December 31 of the calendar year preceding the recalculation. The CPI Adjustment Rate shall be recalculated and take effect annually during the Service Year 1, Service Year 2 Start Date (February 1, 2024) and then again on the Service Year 3 Start Date (February 1, 2025), with the following limitations:
 1. If the recalculation results in a negative number, the new CPI Adjustment Rate will be set at zero (0);
 2. If the recalculation results in a number higher than five percent (5%), the new CPI Adjustment Rate shall be set at the greater of five percent (5%) or CPI; and
 3. The quotient of the recalculation shall be rounded up or down to the nearest tenth of a percent.
- iii. For purposes of illustration, the CPI Adjustment Rate for a Service Year Start Date of February 1, 2024, would be equal to the most recent December 31st CPI, which for this illustration would be December 31, 2023, divided by the previous CPI on December 31, 2022 (CPI for the 12-month period ending on December 31 of the calendar year preceding the Service Year Start Date) minus 1. This would equate to the New CPI Adjustment Rate. Therefore, if the Current CPI for December 31, 2023 is 260.289 and the Previous CPI for December 31, 2022 was 252.273, the New CPI Adjustment Rate would equal $(260.289/252.273) - 1 = .0311775 = 3.2\%$.
- iv. "Cost of Living Adjustment" (COLA) means an additional charge that may be added to each of the Primary HHW Transporter's invoices for disposal/management services

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provided during Service Year 2 and Service Year 3 to offset increases in costs that are not reflected in the disposal/management rates committed to in Agreement Exhibit B. Agreement Exhibit B represents the HHW Transporter's Price List for residential and CESQG Transport and Disposal Costs. Only the items listed in Agreement Exhibit B are eligible for COLA. The dollar amount of the COLA shall be calculated by multiplying the total dollar amount for disposal/management services as applicable to the monthly invoice prepared and submitted to the County in Service Year 2 and Service Year 3 by the CPI Adjustment Rate. The COLA should then be added to the invoice as an additional separately identified charge. If an invoice includes services provided in more than one Service Year, the services should be grouped on the invoice by the Service Year in which they were provided and separate COLAs calculated for each group, each using the appropriate CPI Adjustment Rate. For purposes of illustration, if the invoice for disposal/management services provided in Service Year 1 costs Five Hundred Dollars (\$500) and the same service is provided in Service Year 2 costing Five Hundred Dollars (\$500) with the CPI Adjustment Rate of 3.2% as shown in the example above, the following calculation would apply: $[\$500 + (\$500 \times 0.032)] = \$516$.

- d. As applicable, no more than ninety (90) days after receiving the County's reimbursement for Primary HHW Transporter services, the Consultant or its Facility Manager shall provide to the County documentation demonstrating that the Primary HHW Transporter, and all subcontractors of Consultant having performed HHW hauling services, have been paid in full and have properly managed the HHW.
8. **Used Oil Certified Collection Center Payments.** The Facility Manager shall collect the data related to Used Oil Certified Collection Center Payment Program, as necessary for the County's completion of the payment forms and shall provide such data to the HHW Coordinator or his designee who will file the forms with CalRecycle. All such payments received shall be the sole property of the County,

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deposited in the appropriate Surcharge Trust Fund and used to fund the HHW Facility and/or other AB 939 programs.

9. **CEW Payment System Payments.** As provided for in 14 CCR Section 18660.5 (a)(18), the Director shall designate the Consultant as the County's "Designated Approved Collector" for all E-Waste collected at the HHW Facility and any HHW Facility-related program. In return for the right to apply for and retain all of the CEW System Payments related to that E-Waste, the Consultant shall be responsible to collect, transport and arrange for proper management of all E-Waste collected at Drop-off Sites, both that covered and that not covered by the CEW Payment System, at the rates stated in the HHW Transporter's Price List.
10. **Network Temporary Event Collection Program Costs.** The County will hold Network Temporary Events within Fresno County that will utilize a temporary event site and workers to collect and dispose of all of the same materials accepted at the HHW Facility (i.e., it is a Full-Service program). It is anticipated that the Temporary Event Program may serve as many as five (5) locations each year. The costs for the Consultant to provide services at any such Local HHW Network: Temporary Event Collection Programs are included in Exhibit B.
11. **Additional Services and Contingencies.** In order to respond to potentially significant and unpredictable fluctuations in program participation rates, the wide variability of disposal costs, and the potential need for additional staff to appropriately respond to unforeseen events, this Agreement includes an allocation for Additional Services and Contingencies.
 - a. In order for an allocation of Additional Service and Contingencies funds to be authorized by the Director, a request for additional funds shall be made in writing by the Consultant and submitted to the HHW Coordinator for review. The HHW Coordinator will then submit the request to the Director for his authorization.
 - b. Payment for Additional Services shall be at the same rates stipulated in Agreement Exhibit B unless another rate has been previously authorized in writing by the Director. The Consultant

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will not be reimbursed for Additional Services that have not been authorized by the Director.

- c. If the Consultant becomes aware of potential unforeseen expenses or services that would not be covered by this Agreement, Consultant shall inform the County in writing within 15 days of the extent and nature of such expenses or services.
- d. Payment for any Additional Services and Contingencies that would cause the maximum amount of Total Compensation allocated under this Agreement to be exceeded is unauthorized, and such services may only be provided and payment can only be made pursuant to a prior written amendment to this Agreement that specifically provides for an increase in the maximum Total Compensation authorized under this Agreement.
- e. In the event the Director or his designee expressly authorizes Additional Services or Contingencies, Consultant shall:
 - i. Keep complete records showing the hours and description of activities worked by each person who works on the program and all costs and charges applicable to the Additional Services/Contingencies work authorized.
 - ii. Should there be a claim for payment of Additional Services/Contingencies, the Consultant understands and acknowledges, and hereby specifically agrees that the invoice must identify the activity, performer of the activity, reason for the activity, and County official requesting the activity, or the claim will be denied.
 - iii. The Consultant shall be responsible for all subcontractors keeping similar records.
 - iv. The Consultant shall not stop the work, including in other areas unrelated to the Additional Services request or claim, unless it can be shown the program cannot proceed while a claim or request for Additional Services is being evaluated.

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12. Hourly Salary Rate for Balance of Fiscal Year 2022-23 (February 1, 2023 through June 30, 2023)

Regular Hourly Rate/Overtime Hourly Rate for Consultant, Facility Manager and Operations Staff

	Consultant Hourly Rates	Facility Manager Hourly Rates	Title: Chemist Hourly Rates	Title: Site Supervisor Hourly Rates	Title: Technician Hourly Rates	Title: Driver Hourly Rates	Title: Duties: Hourly Rates
Hourly Rates Regular Time (Between 5:00 a.m. & 6:00 p.m.)	N/A	\$99.90	\$64.50	\$68.85	\$57.75	\$61.25	N/A

Hourly Salary Rate for Fiscal Year 2023-24 (July 1, 2023 through June 30, 2024)

Regular Hourly Rate/Overtime Hourly Rate for Consultant, Facility Manager and Operations Staff

	Consultant Hourly Rates	Facility Manager Hourly Rates	Title: Chemist Hourly Rates	Title: Site Supervisor Hourly Rates	Title: Technician Hourly Rates	Title: Driver Hourly Rates	Title: Duties: Hourly Rates
Hourly Rates Regular Time (Between 5:00 a.m. & 6:00 p.m.)	N/A	\$105.00	\$68.00	\$73.00	\$61.00	\$65.00	N/A

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Hourly Salary Rate for Fiscal Year 2024-2025

(July 1, 2024 through June 30, 2025)

Regular Hourly Rate/Overtime Hourly Rate for Consultant, Facility Manager and Operations Staff

	Consultant Hourly Rates	Facility Manager Hourly Rates	Title: Chemist Hourly Rates Duties: _____	Title: Site Supervisor Hourly Rates Duties: _____	Title: Technician Hourly Rates Duties: _____	Title: Driver Hourly Rates Duties: _____	Title: _____ Hourly Rates Duties: _____
Hourly Rates Regular Time (Between 5:00 a.m. & 5:00 p.m.)	N/A	\$111.00	\$72.00	\$77.00	\$65.00	\$69.00	N/A

Hourly Salary Rate for Fiscal Year 2025-2026

(July 1, 2025 through June 30, 2026)

Regular Hourly Rate/Overtime Hourly Rate for Consultant, Facility Manager and Operations Staff

	Consultant Hourly Rates	Facility Manager Hourly Rates	Title: Chemist Hourly Rates Duties: _____	Title: Site Supervisor Hourly Rates Duties: _____	Title: Technician Hourly Rates Duties: _____	Title: Driver Hourly Rates Duties: _____	Title: _____ Hourly Rates Duties: _____
Hourly Rates Regular Time (Between 5:00 a.m. & 6:00 p.m.)	N/A	\$117.00	\$76.00	\$81.00	\$69.00	\$73.00	N/A

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Hourly Salary Rate for Fiscal Year 2026-2027

(July 1, 2026 through June 30, 2027)

Regular Hourly Rate/Overtime Hourly Rate for Consultant, Facility Manager and Operations

Hourly Rates	<i>Consultant Hourly Rates</i>		<i>Facility Manager Hourly Rates</i>		<i>Title: Chemist Hourly Rates</i>		<i>Title: Site Supervisor Hourly Rates</i>		<i>Title: Technician Hourly Rates</i>		<i>Title: Driver Hourly Rates</i>	
Regular Time (Between 5:00 a.m. & 6:00 p.m.)	N/A	\$123.00	\$80.00	\$86.00	\$73.00	\$77.00	N/A					

Exhibit B

HHW Transporter's Price List: Part 1 of 3 Parts

Part 1: Residential HHW Transport and Disposal Costs

- A. For each waste category listed below, indicate the total cost of the various sizes of packing units, packing options and management options
- B. Us N/A (not applicable) to indicate an alternative which is not available or not appropriate.
- C. Clearly indicate any item(s) subject to a minimum charge and when a charge per unit is applicable (e.g., per lamp or propane tank.)
- D. See the key below for descriptions of the various management and packing options.

Notes:

- Prices must include all costs related to the removal of the HHW from the site, getting it to its final destination and them properly managing it, including but not limited to removing the HHW from its location on the site, providing appropriate transport vehicles, loading HHW into the transport vehicles, all transport-related cost (such as driver, fuel, tolls, vehicle licensing, insurance), shipping supplies (such as pallets, tie-downs, required placards), maintenance including clean-up of spills and equipment, all paperwork and related materials, (labels, manifests, reports, notifications, signage, authorizations, releases), all disposal-related costs (e.g., assessments, gate, surcharge, management and disposal fees, permits, facility surcharge, taxes) and all HHW transporter administrative and overhead costs (e.g., insurance, postage, office staff, contract preparation and monitoring licenses and permits).

- Facility staff will be responsible for the proper packing, labeling, tracking and storing of the HHW until it is collected by the HHW Transporter

MANIFESTED WASTES	WASTE CATEGORY Column A	MO Column B	PO Column C	\$/5-Gal Column D	\$/30-Gal Column E	\$/55-Gal Column F	\$/Cubic Yard Box Column G	Optional: Columns H through K					
								Alternative MO Column H	Alternative PO Column I	Alternative Unit (e.g., roll-off box, per bulb, per car battery, per pound, per gallon) Column J	Alternative Unit \$/ Column K		
Flammable & Poison	Flammable Liquid	FI	LO	\$80.00	\$210.00	\$279.00							
	Flammable Solid	FI/LF	LP	\$95.00	\$195.00	\$257.00	\$437.00						
	Flammable Solid, Spnt. Comb	DI	LP								Per Pound	\$	8.15
	Flammable Solid, H2O Reactive	DI	LP	\$145.47									
Acid	Bulked flammable liquids	FI	BU	\$80.00	\$190.00	\$225.00					275 gal Tole	\$	850.00
	Oil-base Paint Related	FI	LO	\$90.00	\$225.00	\$245.00							
Base	Oil-base Paint Related	FI	TB				\$595.00						
	Poison Liquid and Solid	DI	LP	\$135.00	\$290.00	\$313.32	\$951.15						
	Poison Liquid and Solid	DI	BU										
	Inorganic/Organic Acid	NE	LP	\$145.00	\$275.00	\$295.00							
Oxidizer	Inorganic/Organic Acid	NE	BU	\$112.00	\$249.00	\$351.00							
	Inorganic/Organic Acid	DI	LP	\$135.00	\$290.00	\$476.00							
PCB	Inorganic/Organic Base	NE	LP	\$145.00	\$275.00	\$295.00							
	Neutral Oxidizer	NE/LF	LP	\$125.00	\$225.00	\$275.00							
Aerosol	Organic Peroxides	DI	LP										
	Corrosive Oxidizer	DI/NE	LP	\$125.00	\$225.00	\$275.00							
Aerosol	Other PCB Waste (Ballasts)	DI	LP										
	PCB Containing Paint	RC	TB										
Aerosol	Corrosive Aerosols	NE, RC	LO	\$100.71	\$225.00	\$313.32	\$738.54						
	Flammable Aerosols	FI, RC	LO	\$100.71	\$225.00	\$313.32	\$738.54						
Aerosol	Cylinders, Comp Gas	DI	LO	\$115.00	\$341.00	\$521.00	\$1,256.00						
	Cylinders, Comp Gas	RC	P										
Aerosol	Poison Aerosols	DI	LO	\$100.71	\$225.00	\$313.32	\$738.54						
	Poison Aerosols	DI	LO	\$100.71	\$225.00	\$313.32	\$738.54						

Exhibit B

HHW Transporter's Price List: Part 2 of 3 Parts																						
If the prices for Part 2 are the same as the prices for Part 1, you may sign-off here and leave Part 2 blank:																						
Please use Part 1 Prices for Part 2: Name: <u>John Avdellas</u> Title: <u>VP M&I Sales</u>																						
Part 2: CESQG Transport and Disposal Costs																						
A. For each waste category listed below, indicate the total cost of the various sizes of packing units, packing options and management options																						
B. Us N/A (not applicable) to indicate an alternative which is not available or not appropriate.																						
C. Clearly indicate any item(s) subject to a minimum charge and when a charge per unit is applicable (e.g., per lamp or propane tank.)																						
D. See the key below for descriptions of the various management and packing options.																						
Notes:																						
- Prices must include all costs related to the removal of the HHW from the site, getting it to its final destination and then properly managing it, including but not limited to removing the HHW from its location on the site, providing appropriate transport vehicles, loading HHW into the transport vehicles, all transport-related cost (such as driver, fuel, tolls, vehicle licensing, insurance), shipping supplies (such as pallets, tie-downs, required placards), maintenance including clean-up of spills and equipment, all paperwork and related materials, (labels, manifests, reports, notifications, signage, authorizations, releases), all disposal-related costs (e.g., assessments, gate, surcharge, management and disposal fees, permits, facility surcharge, taxes) and all HHW transporter administrative and overhead costs (e.g., insurance, postage, office staff, contract preparation and monitoring licenses and permits).																						
- Facility staff will be responsible for the proper packign, labeling, tracking and storing of the HHW until it is collected by the HHW Transporter.																						
MANIFESTED WASTES	WASTE CATEGORY	Column A	MO	Column B	PO	Column C	\$5. Gal	Column D	\$100. Gal	Column E	\$55. Gal	Column F	\$/ Cubic Yard Box	Column G	Optional: Columns H through K			\$/ Alternative Unit	Column K			
															Alternative MO	Alternative PO	Alternative Unit (e.g., roll-off box, per bulb, per car battery, per pound, per gallon)			Column I	Column J	
Flammable & Poison	Flammable Liquid		FI	LO																		
	Flammable Solid		FU/LS	LP																		
	Flammable Solid, Spnt. Comb		DI	LP																		
	Flammable Solid, H2O Reactive		DI	LP																		
	Bulked flammable liquids		FI	BU																		
	Oil-base Paint Related		FI	LO																		
	Oil-base Paint Related		FI	LO																		
	Poison Liquid and Solid		DI	LP																		
	Poison Liquid and Solid		DI	BU																		
	Poison Liquid and Solid		DI	LP																		
Acid	Inorganic/Organic Acid		NE	LP																		
	Inorganic/Organic Acid		NE	LP																		
Base	Inorganic/Organic Acid		DI	LP																		
	Inorganic/Organic Base		NE	LP																		
Oxidizer	Neutral Oxidizer		NE/ LF	LP																		
	Organic Peroxides		DI	LP																		
PCB	Corrosive Oxidizer		DI/ NE	LP																		
	Other PCB Waste (Ballasts)		DI	LP																		
Aerosol	PBC Containing Part		RC	LP																		
	Corrosive Aerosols		NE, RC	LO																		
	Flammable Aerosols		FI, RC	LO																		
	Cylinder's, Comp Gas		DI	LO																		
	Cylinder's, Comp Gas		RC	P																		
	Poison Aerosols		DI	LO																		

Exhibit C

Self-Dealing Transaction Disclosure Form

In order to conduct business with the County of Fresno ("County"), members of a Consultant's board of directors ("County Consultant"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest."

The definition above will be used for purposes of completing this disclosure form.

Instructions

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.

The form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

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(1) Company Board Member Information:			
Name:		Date:	
Job Title:			
(2) Company/Agency Name and Address:			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to)			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code § 5233 (a)			
(5) Authorized Signature			
Signature:		Date:	

Exhibit D

Insurance Requirements

1. Required Policies

Without limiting the County's right to obtain indemnification from the Consultant or any third parties, Consultant, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement.

- (A) **Commercial General Liability.** Commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. Coverage must include products, completed operations, property damage, bodily injury, personal injury, and advertising injury. The Consultant shall obtain an endorsement to this policy naming the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, as additional insureds, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insureds will apply as primary insurance and any other insurance, or self-insurance, maintained by the County is excess only and not contributing with insurance provided under the Consultant's policy.
- (B) **Automobile Liability.** Comprehensive automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for property damages. Coverage must include any auto used in connection with this Agreement. The MCS-90 is a required endorsement to the business automobile policy for hazardous material/waste transporters.
- (C) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.
- (D) **Employer's Liability.** Employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for disease.
- (E) **Property Insurance.** Consultant shall maintain a policy of all Risk Property Insurance covering, County-owned personal property, including County owned vehicles used in the operation of the HHW facility. Consultant shall name the County as an Additional Loss Payee on this policy. The policy shall be written for replacement value for all County personal property.
- (F) **Consultant's Pollution Liability and/ or Asbestos Pollution Liability and/or Errors & Omissions Liability.** Applicable to the work being performed, with a limit of no less than Three Million Dollars (\$3,000,000) per claim or occurrence and Five Million Dollars (\$5,000,000) aggregate per policy period of one (1) year. Consultant agrees that it shall maintain, at its sole expense, in full force and effect for a period of five (5) years following the termination of this Agreement, one or more policies of pollution liability and/or Asbestos Pollution liability insurance with limits of coverage as specified herein. If the services involved lead-based paint or asbestos identification/remediation, the Consultant Pollution Liability shall not contain a mold exclusion and the definition of "Pollution" shall include microbial matter including mold.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or

Exhibit D

the higher limits maintained by the Consultant /subcontractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2. Additional Requirements

- (A) **Verification of Coverage.** Within 30 days after the Consultant signs this Agreement, and at any time during the term of this Agreement as requested by the County's Risk Manager or the County Administrative Office, the Consultant shall deliver, or cause its broker or producer to deliver, to the County Risk Manager, at 2220 Tulare Street, 16th Floor, Fresno, California 93721, or HRRiskManagement@fresnocountyca.gov, and by mail or email to the person identified to receive notices under this Agreement, County HHW Coordinator, at 2220 Tulare Street, Sixth Floor, Fresno, California 932721 or CNickel@fresnocountyca.gov, certificates of insurance and endorsements for all of the coverages required under this Agreement. Certificates of insurance are to include the contract number at the top of the first page.
- (i) Each insurance certificate must state that: (1) the insurance coverage has been obtained and is in full force; (2) the County, its officers, agents, employees, and volunteers are not responsible for any premiums on the policy; and (3) the Consultant has waived its right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under any insurance policy required by this Agreement and that waiver does not invalidate the insurance policy.
 - (ii) The commercial general liability insurance certificate must also state, and include an endorsement, that the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, are additional insureds insofar as the operations under this Agreement are concerned. The commercial general liability insurance certificate must also state that the coverage shall apply as primary insurance and any other insurance, or self-insurance, maintained by the County shall be excess only and not contributing with insurance provided under the Consultant's policy.
 - (iii) The automobile liability insurance certificate must state that the policy covers any auto used in connection with this Agreement.
- (B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.
- (C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Consultant shall provide to the County, or ensure that the policy requires the insurer to provide to the County, 30 days' notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Consultant shall, or shall cause the insurer to, provide written notice to the County no less than 30 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Consultant shall, or shall cause the insurer to, provide written notice to the County -not less than 30 days in

Exhibit D

advance of cancellation or change. The County in its sole discretion may determine that the failure of the Consultant or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.

- (D) **County's Entitlement to Greater Coverage.** If the Consultant has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the County requires and is entitled to the broader coverage, higher limits, or both. To that end, the Consultant shall deliver, or cause its broker or producer to deliver, to the County's Risk Manager certificates of insurance and endorsements for all of the coverages that have such broader coverage, higher limits, or both, as required under this Agreement.
- (E) **Waiver of Subrogation.** The Consultant waives any right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under the policy of worker's compensation insurance required by this Agreement. The Consultant is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Consultant's waiver of subrogation under this paragraph is effective whether or not the Consultant obtains such an endorsement.
- (F) **County's Remedy for Contractor's Failure to Maintain.** If the Consultant fails to keep in effect at all times any insurance coverage required under this Agreement, the County may, in addition to any other remedies it may have, suspend, or terminate this Agreement upon the occurrence of that failure, or purchase such insurance coverage, and charge the cost of that coverage to the Consultant. The County may offset such charges against any amounts owed by the County to the Consultant under this Agreement.
- (G) **Subcontractors.** The Consultant shall require and verify that all subcontractors used by the Consultant to provide services under this Agreement maintain insurance meeting all insurance requirements provided in this Agreement. This paragraph does not authorize the Consultant to provide services under this Agreement using subcontractors.