

**FIFTH AMENDMENT TO BOARD OF SUPERVISORS
AGREEMENT NO. 10-138**

This Amendment to BOS Agreement No. 10-138 is entered into this 25TH day of September, 2018, by and between the COUNTY OF MENDOCINO, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and Solid Wastes of Willits, Inc., hereinafter referred to as "CONTRACTOR".

WHEREAS, BOS Agreement No. 10-138 was entered into on August 17, 2010; and

WHEREAS, BOS Agreement No's 10-138 A1, 10-138 A2, 10-138 A3 and 10-138 A3 were entered into on March 15, 2011, November 8, 2011, January 23, 2013 and January 7, 2014; and

WHEREAS, upon execution of this document by the Chair of the Mendocino County Board of Supervisors and Solid Wastes of Willits, Inc., this document will become part of the aforementioned contract and shall be incorporated therein; and

WHEREAS, County of Mendocino ("County") and Solid Wastes of Willits, Inc. ("Grantee") entered into a Transfer Station Operations Agreement and Lease between County of Mendocino and Solid Wastes of Willits, Inc. ("Agreement"), for five County-owned transfer stations, including the South Coast Transfer Station, and said Agreement was approved by the Board of Supervisors on August 17, 2010 (BOS Agreement #10-138); and

WHEREAS, Agreement provides in Section 22 (I) that any modification of the provisions must be made in writing and signed by a duly authorized representative of each party; and

WHEREAS, County and Grantee have amended Agreement from time to time to adapt to changing conditions and new information and to make rate adjustments per the terms of Agreement; and

WHEREAS, Agreement sets forth provisions for rate adjustments calculations based on a recycling market with positive economic value; and

WHEREAS, the recycling market, because of recent changes to China's global material import restrictions (known variously as the Green Sword, Green Fence, and Blue Skies initiatives) has a negative economic value; and

WHEREAS, an amendment is necessary to update the rate calculation methodology to accommodate the negative economic value of the recycling market by providing a new formula that will allow an increase or decrease in the collection rate based on a

fee/credit grid that takes into account the current average Composite Market Value compared to the specified Composite Market Value which will determine a fee or credit per ton.

NOW, THEREFORE, we agree as follows:

1. This amendment shall replace and supersede Section 14, subsection C of the original agreement BOS No. 10-138 dated August 17, 2010 in its entirety.

All other terms and conditions of BOS Agreement No. 10-138 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

DEPARTMENT FISCAL REVIEW:

[Signature] 9/14/18
DEPARTMENT HEAD DATE

Budgeted: ☐ Yes ☐ No

Budget Unit: _____

Line Item: _____

Grant: ☐ Yes ☐ No

Grant No.: _____

COUNTY OF MENDOCINO

By: *[Signature]*
DAN HAMBURG, Chair SEP 26 2018
BOARD OF SUPERVISORS

ATTEST:

CARMEL J. ANGELO, Clerk of said Board

By: *[Signature]*
Deputy SEP 26 2018

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

CARMEL J. ANGELO, Clerk of said Board

By: *[Signature]*
Deputy SEP 26 2018

INSURANCE REVIEW:

By: *[Signature]*
Risk Management

CONTRACTOR/COMPANY NAME:

By: *[Signature]*

NAME AND ADDRESS OF CONTRACTOR:

Solid Wastes of Willits

351 Franklin Ave.

Willits, CA 95490

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

COUNTY COUNSEL REVIEW:

APPROVED AS TO FORM:

KATHARINE L. ELLIOTT,
County Counsel

By: *[Signature]*
Deputy

EXECUTIVE OFFICE/FISCAL REVIEW:

APPROVAL RECOMMENDED

By: *[Signature]*
Deputy CEO

Signatory Authority: \$0-25,000 Department; \$25,001-50,000 Purchasing Agent; \$50,001+ Board of Supervisors

Exception to Bid Process Required/Completed ☐

Mendocino County Business License: Valid ☐

Exempt Pursuant to MCC Section: _____

Exhibit A

Section 14, subsection C

The gross market commodity value of Discarded Recyclable Materials collected by Grantee pursuant to this Agreement as mixed Recyclables shall be determined by the current average composite market value per ton for each category multiplied by the market value price including any California Redemption Value, FOB at the Designated Recycling Processing Facility. An increase in rates or a decrease in rates is determined by applying the current Composite Market Value to the Fee/Credit Schedule/Market Value Grid. With tons reported for Discarded Recyclable Materials (single-stream) collected from each area, a fee/credit per ton will be applied against the number of tons divided by revenue to calculate a percentage change in the rate. See Fee/Credit Schedule/Market Value Grid.

Two to four months before the end of the Rate Period, beginning with the Rate Period ending December 31, 2017, Grantee shall calculate the average Composite Market Value per ton over the previous 12 months, and apply it to the Fee/Credit Schedule/Market Value Grid to determine a fee or credit. Rates will be adjusted by a fee or credit times the number of tons collected divided by revenue.

Grantee will provide County with all data used for the calculation of this adjustment. Grantee will provide County of weekly brokerage market values from the previous 12 months for each commodity within the Composite Market Value to substantiate that Grantee has received the highest or best market value.

A three step process for determining an increase or decrease in the collection rate based on a fee/credit grid that takes into account the current average Composite Market Value compared to the specified Composite Market Value which to determine a fee or credit per ton is provided below:

Step 1: The foundation of the specified Composite Market Value (CMV) used for the break-even point on the fee /credit grid is provided below.

COMPOSITE MARKET VALUE PER TON
December 31, 2014

Tons "In" Composition Percentage	Recycling Category	Estimated Scrap Value	CRV as of 7-1-14	Weighted Sale Price Per Ton "In"
		Average Price Per Ton	CRV / Ton	
24.97%	Mixed Glass	\$ (40.00)	\$ 82.00	\$ 10.49
15.80%	Cardboard	122.00		19.28
43.27%	Mixed Paper	77.00		33.32
1.20%	Aluminum Can	1,640.00	2,800.00	53.28
1.94%	PET	316.00	1,080.00	27.08
1.07%	HDPE - Natural	713.00	80.00	8.49
1.09%	HDPE - Color	511.00	80.00	6.44
2.30%	Rigid Plastic	207.00		4.76
1.98%	Plastic #3-7			-
2.38%	Tin/Scrap Metal	109.00		2.59
96.00%	% Marketable Material Per Ton			
		Residual Tipping Fee		
4.00%	MRF Residue	(76.54)		(3.06)
100.00%				\$ 162.66

Step 2: Calculate the current CMV from the previous four quarters for the reporting period and apply the new calculated current CMV to the fee/credit grid.

Step 3: The current CMV will be applied to the fee/credit grid to determine the fee or credit that will be applied to the number of tons of Discarded Recyclable Materials that is collected from within Solid Waste Refuse Collection Area One (1). (For example, a \$93.95 CMV would provide a fee of \$60.00 per ton). The \$60.00 fee would be multiplied by the number of tons collected from within Area One (1) and divided by revenue to calculate a percentage increase or decrease to collection rates. The number of Discarded Recyclable Material tons collected from within Area One (1) will be derived from the volume and revenue reports prepared annually by Grantee.

Fee or (Credit) Schedule
Market Value Grid

	From	To	Fee/Credit
Break Even	160.00	162.66	\$ -
Fee	\$ 140.00	\$ 159.99	\$ 10.00
	\$ 130.00	\$ 139.99	\$ 20.00
	\$ 120.00	\$ 129.99	\$ 30.00
	\$ 110.00	\$ 119.99	\$ 40.00
	\$ 100.00	\$ 109.99	\$ 50.00
	\$ 90.00	\$ 99.99	\$ 60.00
	\$ 80.00	\$ 89.99	\$ 70.00
	\$ 70.00	\$ 79.99	\$ 80.00
Credit	\$ 162.66	\$ 169.99	\$ (10.00)
	\$ 170.00	\$ 179.99	\$ (20.00)
	\$ 180.00	\$ 189.99	\$ (30.00)
	\$ 190.00	\$ 199.99	\$ (40.00)
	\$ 200.00	\$ 209.99	\$ (50.00)

[END EXHIBIT A]