

**AGREEMENT**

This AGREEMENT is made and entered into this ~~20th~~ day of July, 2006 by and between the Costa Mesa Sanitary District of Orange County, California, hereinafter referred to as "DISTRICT", and CR&R, Incorporated, a California corporation, hereinafter referred to as "CONTRACTOR."

**RECITALS**

WHEREAS, DISTRICT is a California Sanitary District organized and existing under the authority of Health and Safety Code Section 6400 et seq.; and

WHEREAS, Costa Mesa Disposal Incorporated (hereinafter "CMD") is a California corporation which was awarded and operated the exclusive franchise for single-family and small multi family residents utilizing curb side trash collection within DISTRICT's boundaries; and

WHEREAS, CR&R is a California corporation; and

WHEREAS, CR Transfer Incorporated (hereinafter "CRT") is a California corporation that operates a recycling facility and transfer station at 11292 Western Avenue, Stanton, California; and

WHEREAS CR&R owns 100% of the stock of CRT; and

WHEREAS, CR&R purchased 100% of the CMD stock; and

WHEREAS, as a result of CONTRACTOR's purchase of 100% of CMD's stock, CMD and CRT are both owned and controlled by the same company "CR&R" who does hereby contract for itself and CRT and CMD (hereinafter sometimes referred to as its wholly-owned subsidiaries), and collectively referred to as "CONTRACTOR"; and

WHEREAS, DISTRICT has in effect previous contracts with CMD and CRT; and

WHEREAS, the DISTRICT currently has an agreement and four addenda dated June 9, 1994, June 18, 1997, April 26, 2001, and December 11, 2001 with CMD for trash collection, hauling, special services, and support of DISTRICT programs; and

WHEREAS, DISTRICT also has an agreement with CRT dated July 1, 2002 for recycling services; and

WHEREAS, DISTRICT also has a Franchise Hauler and Transfer Station Acknowledgement dated April 10, 1997 with CMD and CRT that reflects the DISTRICT's waste disposal agreement with the Orange County Integrated Waste Management Department; and

WHEREAS, there is no longer a legal relationship between CMD and Roto Industries, and Roto Industries sold the DISTRICT its standardized trash containers; and

WHEREAS, prior agreement between DISTRICT and CMD requires CMD to obtain written permission from the DISTRICT prior to providing fully automated trash collection; and

WHEREAS, fully automated trash collection is faster, more efficient, and safer for drivers, resulting in greater worker safety and satisfaction and faster collection for residents; and

WHEREAS, workers' compensation costs are greatly reduced because fully automated trash collection results in a decrease of industrially related injuries; and

WHEREAS, labor intensity is greatly reduced eliminating man hours required to perform the collection, which should result in decreased labor costs; and

WHEREAS, fully automated trash collection is safer for local traffic because the driver is not exiting the truck into the street, and safer for pedestrians and bicycle riders because the trucks will be spending less time on the street; and

WHEREAS the savings to CONTRACTOR in workers' compensation rates and labor costs allows CONTRACTOR to offer the service and a complete support program at no cost to the DISTRICT and may lower future rates; and

WHEREAS, DISTRICT and CONTRACTOR recognize that changes of circumstances make it necessary that the terms of the prior agreements and amendments to those agreements between DISTRICT and CMD and CRT be consolidated and updated in recognition of the consolidation of CMD and CRT, under the ownership and control of CONTRACTOR; and

WHEREAS, DISTRICT and CONTRACTOR also recognize that consolidation of prior agreements and amendments thereto is necessary to more accurately express the rights and responsibilities of the parties, with particular reference to the conversion of CONTRACTOR's trash collection method to the fully automated method; and

WHEREAS, this contract is entered into in furtherance of the concern of the State of California and the CMSD for the public health, safety and well being of its citizens as expressed particularly in Sections 40002, 40058, 40059, and 49510 of the Public Resources Code of the State of California, as these sections relate to CMSD authority in the matter of solid waste enterprises and the collection and disposal of solid waste; and

WHEREAS, CONTRACTOR may perform some of the duties set forth in this contract through its wholly-owned subsidiaries but does agree to remain ultimately responsible for each duty described herein; and

WHEREAS, DISTRICT and CONTRACTOR have further been negotiating to reduce DISTRICT's rates to its customers, and desires to freeze its rates for one (1) year and put certain limits in place so that DISTRICT's rates do not increase to unacceptable levels with a goal of achieving rates that are at least "average" in the County; and

WHEREAS, DISTRICT also desires to remove itself from the trash container ownership and management obligations that currently exists, and desires to sell its existing containers to CONTRACTOR and terminate the existing lease/purchase agreement that it has with Municipal Finance Corporation; and

WHEREAS, in consideration of the above, DISTRICT is willing to cooperate with CONTRACTOR in instituting a variable rate trash container charge for containers over and above the basic service provided by DISTRICT and charged to its customers through the annual tax rolls; and

WHEREAS, DISTRICT is further willing to agree to provide CONTRACTOR with an additional four-year term to said contract that will revert to the existing six-year evergreen clause upon the expiration of the initial four-year term;

NOW, THEREFORE, for and in consideration of the terms hereinafter set forth, performed and to be performed, DISTRICT and CONTRACTOR agree as follows:

**COMMON PROVISIONS**

1. Scope of Work. CONTRACTOR agrees to furnish all labor, material and equipment necessary for the collection of all solid waste as hereinafter defined from single family dwellings and multi-family dwellings using curbside service within the boundaries of the DISTRICT except certain residences in the geographical limits of the City of Newport Beach, as said boundaries now exist or may hereafter exist, and the disposal of such solid waste as hereinafter provided.

CONTRACTOR further agrees to provide containers for all single-family and small multi family residents utilizing curb side collection inside DISTRICT as provided hereinafter in this AGREEMENT.

CONTRACTOR further agrees to provide transfer station services for the acceptance of Solid Waste from DISTRICT for the purpose of recovery and reclamation of recyclable materials and the transfer of un-recyclable residue to Orange County landfill sites, as hereinafter provided or otherwise as the DISTRICT may direct.

2. Compensation. In consideration of the aforesaid things to be done by CONTRACTOR, DISTRICT agrees to pay CONTRACTOR the consideration set forth in Exhibit "A" and paragraph 11.

3. Term. The basic term of this AGREEMENT shall be six (6) years. However, because of the new consideration provided to the DISTRICT in the form of the purchase of the DISTRICT's trash containers and the management of that program, the first term of the AGREEMENT shall be ten (10) years. Upon the expiration of the fourth year of that term, the AGREEMENT will thereafter revert to a six-year "evergreen" contract with the contract renewing so that there is a

perpetual six-year term unless said term is terminated as described herein. Said six-year term may be terminated at any time and without cause by the giving of notice of termination, in which case the agreement will terminate six (6) years thereafter. Said agreement may also be terminated for cause at any time in accordance with paragraphs 52 or 55 herein.

4. Definitions.

A. Occupancy. Occupancy is determined to be as follows:

- 1) A single living unit per Assessor's parcel – one occupancy.
- 2) Multiple living units per Assessor's parcel – first living unit – one occupancy; each additional living unit – one occupancy.
- 3) Mobile home lots per Assessor's parcel – one occupancy per trailer lot.

B. Initial Occupancy Calculation. The Occupancy for which CONTRACTOR will be compensated shall be determined from the special assessment roll for each fiscal year of July 1 through June 30 as the same is maintained on file in the DISTRICT office as the basic Occupancy, and will be readjusted annually based upon the special assessment roll for each succeeding year.

The Occupancy count shall be increased or decreased monthly and it is understood and agreed by and between the parties hereto that said increase or decrease will be determined by CONTRACTOR on a continual basis based on a field survey of the residences that are provided service. CONTRACTOR shall provide DISTRICT a written account of the monthly additions and deletions to the occupancy count. The occupancy count may be affected by occupancy permits and demolition permits issued by the building department of the City of Costa Mesa or other entity having such jurisdiction within the DISTRICT. The Occupancy count may also be increased whenever CONTRACTOR is able to determine to the satisfaction of DISTRICT that any parcel coming within the exemptions as hereinafter set forth is no longer exempt and that CONTRACTOR is in fact actively engaged in the weekly collection of trash from said Occupancy.

C. Occupancy Exemptions. The following properties may be exempt from charges:

1) With respect to solid waste charges, certain property both within the boundaries of the DISTRICT and within the City of Newport Beach. (Certain property inside the DISTRICT and inside the City of Newport Beach receives service from the City of Newport Beach while other property inside the DISTRICT and inside the City of Newport Beach receives service from the DISTRICT.)

2) With respect to solid waste charges, multiple residential properties including mobile home parks contracting for or using private services and having qualified for DISTRICT exemption.

3) Undeveloped parcels until one or more living units are constructed thereon.

4) Parcels incapable of generating Solid Waste as defined herein.

5) Parcels with improvements requiring a type of service unavailable from CONTRACTOR.

6) Those parcels, which have applied for and been granted an exemption by DISTRICT, in accordance with DISTRICT rules and regulations.

7) Those parcels, irrespective of zoning, which are subject to commercial and industrial use.

D. Solid Waste. Solid Waste shall be as defined in Section 40191 of the Public Resources Code as may from time to time be amended with the exceptions as set forth herein, and includes all "trash" as defined in the Costa Mesa Sanitary District Operations Code providing further that Solid Waste shall not include large item pickup provided for elsewhere in this AGREEMENT. Solid Waste shall include Christmas trees and telephone books not disposed of by separate event provided for elsewhere in this AGREEMENT.

5. Corporate Structure. CONTRACTOR shall provide DISTRICT with the Articles of Incorporation, Bylaws and Stock Register, or equivalent, showing ownership for all entities

involved in providing services under this contract, and shall promptly provide District with any amendments thereto. On the anniversary date of the AGREEMENT, DISTRICT shall be provided with the latest Annual Statements of Domestic Stock Corporation as filed with the state. CONTRACTOR shall provide DISTRICT with an organization chart showing all related corporate entities providing services or having any interest in this AGREEMENT, showing the Board of Directors, Officers, Key Employees and ownership of assets.

*No CHANGE*

**TRASH COLLECTION SERVICES**

6. Conversion to Fully Automated Trash Collection Service. DISTRICT agrees to permit CONTRACTOR to convert to fully automated trash collection service. CONTRACTOR and DISTRICT agree to work together in a cooperative manner to institute a successful and comprehensive fully automated trash collection program for residents of the DISTRICT.

CONTRACTOR shall provide an education program with components designed to inform current and future residents of the details of the fully automated program including the procedure for using fully automated containers and a list of the special recycling programs currently available to residents. CONTRACTOR shall produce a flyer explaining the above information and shall distribute the flyer to each residence served in the DISTRICT. Thereafter, copies of the flyer shall be distributed to new residents upon request of the DISTRICT for a new resident. Copies of the flyer shall be made available to DISTRICT staff for distribution as appropriate and revisions to the flyer shall be made by CONTRACTOR when mutually deemed appropriate. CONTRACTOR shall distribute the flyer to every residence served at least once every two years.

*GREEN CARD*

7. Frequency of Collection. CONTRACTOR shall collect all Solid Waste from its respective residential areas once each week. "Residential Area" is defined generally as any area located within the DISTRICT zoned for residential or agricultural use by the government body having jurisdiction over such area and used for residential purposes.

8. Schedule of Collections

A. Initial Schedules- Beginning with the date hereof, the existing routes, schedules and times for the collection of solid waste shall be maintained and continued by CONTRACTOR.

B. Change of Schedules- From time to time during the period of this AGREEMENT, the Manager of DISTRICT may change the existing routes and schedules and time of collection and CONTRACTOR shall thereupon maintain such new schedule. The Manager of DISTRICT shall have the right at all times during the term of this AGREEMENT to require CONTRACTOR to maintain routes, schedules and times for collection of Solid Waste as required by said Manager.

All notices required to be given pursuant to this AGREEMENT shall be given by CONTRACTOR at its own expense.

9. Days/Hours of Collection. The DISTRICT Manager shall have the right to direct CONTRACTOR to collect Solid Waste at scheduled hours that said Manager finds would not constitute a nuisance to the neighborhood. Collection of Solid Waste shall not be made on Sunday. Collection of Solid Waste shall not be required on the following legal holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas, except in cases of emergency or as otherwise required by DISTRICT. Whenever a regular collection falls on such holiday, the collection shall be made on the following working day, and collections throughout the DISTRICT shall become current within one week thereafter.

10. Disruption of Schedule.

A. Holiday Collection. Collection on holidays not set forth in Paragraph 9 must be collected on the regularly scheduled day unless DISTRICT Manager authorizes otherwise.

B. Disruption. In the event of a disruption of service in any area due to weather, an act of God, failure of equipment or otherwise, CONTRACTOR shall make such collection within



forty-eight (48) hours. Labor disputes shall not be considered as excuses for nonperformance hereunder as defined in Section 1511, California Civil Code and CONTRACTOR shall provide for Solid Waste collection service within one week of any disruption due to strike, lock-out, walk-out, boycott or other labor dispute.

C. Continuation of Service after Disruption. In no event shall CONTRACTOR disturb the remaining schedule for Solid Waste collection or pickup. On the holiday mentioned, and in the event of a disruption of service by reason of an act of God, or otherwise, the regular schedule shall be maintained within one week and the missed pickup shall be made without disturbing in any way the rest of the regular schedule.

D. Notice of Labor Disputes. CONTRACTOR shall forthwith advise DISTRICT in writing at the time any negotiations are undertaken between CONTRACTOR and its employees relating to wages and benefits and CONTRACTOR shall be obligated to report the status of said negotiations from time to time in a frequency established by DISTRICT, which said frequency shall not be burdensome upon CONTRACTOR but shall be sufficient to advise DISTRICT of the status of said negotiations including any pending strike, lock-out, walk-out, boycott or other labor dispute. CONTRACTOR may also be required, at the option of DISTRICT, to provide DISTRICT in writing with CONTRACTOR'S plan of procedure to serve DISTRICT in the event of a disruption of service by labor dispute.

11. Containers. CONTRACTOR shall purchase all trash containers presently being purchased by DISTRICT and shall thereafter maintain a trash container program for DISTRICT's single-family residential customers with containers that are approved by DISTRICT. The details of the container purchase and management by CONTRACTOR are as follows:

A. Purchase. CONTRACTOR shall pay to DISTRICT the sum of \$1,795,000 by noon, Monday, July 24, 2006 by wire transfer. DISTRICT shall hold said sum in trust for CONTRACTOR until DISTRICT terminates the lease and transfers title to the containers to CONTRACTOR. Those containers shall be described in the draft Bill of Sale attached hereto. If

DISTRICT cannot transfer title to CONTRACTOR, or an alternate agreement cannot be reached, DISTRICT shall return said money to CONTRACTOR. Until said title transfers, CONTRACTOR shall be entitled to any interest collected on said sum. DISTRICT shall cause the lease with Municipal Finance Corporation to be paid off and shall take such further actions necessary to purchase the containers. Upon obtaining ownership of the containers, DISTRICT shall cause transfer of ownership of the containers described in the draft Bill of Sale attached hereto to be made to CONTRACTOR. DISTRICT shall further transfer any and all warranties that it possesses to CONTRACTOR.

B. Maintenance. CONTRACTOR shall upon transfer of the containers by DISTRICT, provide and maintain the containers for all of DISTRICT's residential customers. Said maintenance obligation shall be met if CONTRACTOR provides at least two containers similar to those currently provided to each single-family residence. Basic service shall be defined as two 60-gallon containers with additional containers being subject to additional charges. Those residents that presently have two 90-gallon containers shall be "grandfathered" for the life of those containers. New service shall be entitled to two 60-gallon containers. Service over and above the basic service shall pay an additional container charge as described below. CONTRACTOR shall provide a bond or other security, including U.C.C. filing or lien rights, in an amount approved by DISTRICT to guarantee CONTRACTOR's performance of said container management program for a ten-year period, which may be in addition to the bond provided for in Paragraph 44.

C. Container Charges. A container charge shall be implemented for "additional" containers (third or more) at a rate of \$8 per container per month, or as the parties may later agree, said charge includes the cost of the containers. Charges for new and replacement containers shall be in accordance with DISTRICT's current policy or as the parties may agree in writing.

DISTRICT's current policy is as follows:

DISTRICT charges for containers fall under the following conditions and per DISTRICT's Operations Code Section 10.01.052 and 10.01.054:

1. Standard charges based on gallon size of container (subject to increase as actual cost increases):
  - a. 35-gallon: \$55.00
  - b. 60-gallon: \$60.00
  - c. 90-gallon: \$70.00
2. New customer (Development):
  - a. New owners/New residence: Standard charge for containers as specified above.
3. Existing customer
  - a. New owners/Existing residence and missing container(s): No charge.
  - b. Damaged container(s): No charge. Replaced free of charge under manufacturer's warranty.
  - c. Exchange of container(s): No charge.
  - d. Disability hardship/economic factor: No charge, within reason.
  - e. Only one container and requesting a second container: No charge.
  - f. Missing/Stolen container(s): No charge when customer provides police report number.

Billing for new and replacement containers shall be by CONTRACTOR and the proceeds thereof shall be the property of CONTRACTOR. Billing for "additional" containers shall be by CONTRACTOR or an independent bonded billing service, as DISTRICT may direct, with all proceeds paid to DISTRICT forthwith. For the first year, CONTRACTOR shall be entitled to

90% of the money collected from the "additional" container charge. Revenue generated from said billings shall be DISTRICT's sole revenue to be used at the discretion of DISTRICT. Prior to the 2007-08 Budget Year Review, and every other year thereafter throughout the term of this AGREEMENT, DISTRICT and CONTRACTOR shall review in good faith the status of the "Additional" Container Charge Program. This review shall include, but is not limited to the following: total revenues generated and distributed between parties relative to establishing rate stabilization and the stated goal of charging an average rate for customers of that charged within the County, CONTRACTOR costs of administering and operating the Program, as well as a review of customer overall satisfaction.

D. Repurchase Guarantee. In consideration of CONTRACTOR's purchase of the containers from DISTRICT, DISTRICT agrees that if DISTRICT terminates the contract for any reason before the expiration of ten (10) years from the effective date of this AGREEMENT, DISTRICT guarantees that it will repay CONTRACTOR for the depreciated value of the containers in accordance with how depreciation was calculated for CONTRACTOR's purchase. Upon payment, CONTRACTOR shall transfer title and all warranties back to DISTRICT.

12. Contractor's Equipment. CONTRACTOR shall provide adequate equipment for the collection of solid waste. Each vehicle used for the collection of Solid Waste shall have the name Costa Mesa Disposal Inc., plainly visible on the outside of said vehicle for the purpose of identification. All vehicles used for collection shall also prominently display an identification number on both sides of the vehicle. CONTRACTOR's trucks shall have a clean appearance, shall be driven in compliance with the Vehicle Code, and shall have a display meeting the approval of the DISTRICT. New signage shall be purchased every two (2) years if requested by DISTRICT. In addition, CONTRACTOR will rotate the signage at least once per quarter to promote the appropriate recycling program (i.e. Christmas Tree recycling collection with dates), special program (i.e. electronic waste collection event, date and location) or as DISTRICT may request.

CONTRACTOR shall apprise the DISTRICT of the type of fuel used by each truck in the fleet assigned to the DISTRICT along with the status of legislation or court cases regarding the use of environmentally safer fuels. In accordance with current legal requirements pertaining to fleet requirements, CONTRACTOR will implement an environmentally friendly fuel program for its trucks.

All equipment used for collection of Solid Waste shall be enclosed to ensure that Solid Waste is not spilled on streets and private property. CONTRACTOR shall comply with all requirements of the Vehicle Code, Health Department and the District Operations Code and all equipment used for collection of Solid Waste shall be watertight and shall be covered with suitable waterproof tarpaulins, metal covers or other satisfactory covers. No Solid Waste shall be permitted to leak, fall or be spilled upon streets or alleys or onto private property. Any such leakage or spillage shall be immediately corrected and the area cleaned by CONTRACTOR.

CONTRACTOR shall provide DISTRICT with a list of all trucks and other vehicles including identification numbers to perform this agreement. All equipment used by CONTRACTOR for the collection of Solid Waste, pursuant to this AGREEMENT, shall be subject to inspection by the Manager of DISTRICT or designee and any defects in such equipment found to exist shall be immediately corrected by CONTRACTOR.

13. Limitations on Solid Waste Collection. CONTRACTOR shall not be obligated to collect Solid Waste in the following cases:

A. Where the Solid Waste is not placed in an adequate container. ("Adequate container" shall be any container approved by the DISTRICT from time to time as set forth in the DISTRICT's Operations Code.)

B. In addition to the foregoing, reference is hereby made to the rules and regulations adopted by DISTRICT, for the collection of Solid Waste and regulations as set forth in the DISTRICT's Operations Code, as the same may be amended, and are incorporated herein as a part of this AGREEMENT.

14. Trash Accumulation. CONTRACTOR shall report any accumulation of trash observed not put out for collection.

15. Special Programs

A. Telephone Directories-Annually. DISTRICT for approximately ninety (90) days each year engages in a telephone directory recycling program in conjunction with the AT&T Directory, publisher of the directory. CONTRACTOR agrees that it will, without cost to DISTRICT or the directory publisher, for so long as the program exists yearly, provide no less than twenty (20) bins, and as many more as may be needed from time to time placed at locations selected by DISTRICT for the collection of said directories. CONTRACTOR further agrees to service said bins as they fill, to count and report the contents to DISTRICT, and to periodically transport them to CRT'S recycling facility in Stanton or to such other recycling center as may be designated by DISTRICT, at no cost to DISTRICT.

B. Christmas Trees-Annually. DISTRICT conducts an annual Christmas tree recycling program for Occupants within DISTRICT. CONTRACTOR agrees that it will, for a period of approximately twelve (12) days, without cost to DISTRICT, so long as the program is in effect, make a daily pickup of trees placed at curbside and will transport the trees to a location within the DISTRICT selected by DISTRICT for recycling into alternative daily cover, biomass fuel or mulch. As an option, DISTRICT may choose to have CONTRACTOR dispose of said trees through its green waste program.

C. Excess Boxes & Household Furnishings. CONTRACTOR shall provide up to twelve (12) pick-ups per year of excess boxes or household furnishings left at a location vacated by a resident. The service shall be provided at no charge if requested by either the Assistant Manager or Manager of the DISTRICT.

D. Large Item Pickup. DISTRICT conducts programs for pickup of large items not normally eligible to be picked up as part of this AGREEMENT. Large Item Program includes annual summer collection plus one call-in per residence per calendar year. As part of this

AGREEMENT, and for the consideration set forth herein, CONTRACTOR will provide for the pickup of discarded mattresses, refrigerators, water heaters, washers, driers, sofas, stoves, tables, lumber of not more than four (4) feet in length, and other furniture and appliances on an annual basis. CONTRACTOR will not be required to pickup tires, tree limbs, asphalt, car bodies, chemicals, hazardous waste, concrete, oil drums, paint cans, building materials or soil.

CONTRACTOR shall provide written notification to residents of DISTRICT of services to be provided no fewer than ten (10) working days prior to commencing such service. Notices of such service shall be either delivered by hand to each resident in person or placed on the door of each residence. The notices delivered to residents by CONTRACTOR shall contain CONTRACTOR's name and business telephone number. The notices shall specify those articles, which will and will not be collected. Large Item Program includes annual summer collection plus one call-in per residence per calendar year. CONTRACTOR pays all costs except landfill fees, which DISTRICT pays. Metallic or white goods shall be collected in a separate truck and taken to a recycler with the salvage value paid to DISTRICT.

Additionally, CONTRACTOR may be required to provide additional large item collections, not to exceed five per month, at the request and discretion of DISTRICT. Such items shall be collected within five days of the request by DISTRICT.

16. Payment for Trash "Collection" Services. As compensation for the performance by CONTRACTOR of the Trash Collection and related Work as set out in this AGREEMENT, DISTRICT shall pay to CONTRACTOR each calendar month during the term of this AGREEMENT the rate specified in Exhibit "A" attached hereto. DISTRICT agrees to promptly process CONTRACTOR'S invoices, which shall be supported by weight tickets.

17. Occupancy Count. DISTRICT shall prepare and utilize an assessor's parcel based list for CONTRACTOR to conduct its occupancy counts. CONTRACTOR agrees to continually update the monthly occupancy count. Contractor payment shall be based upon occupancy count as approved by the Board of Directors each month.

18. Justification of Rates. CONTRACTOR shall submit an annual review of other cities' comparable trash collection rates and a justification of CONTRACTOR's rates as being reasonable. Said review shall be made a part of CONTRACTOR's annual performance review.

19. Landfill Charges. In the event the County of Orange imposes a new charge by the day, or by the ton, or upon each truck, or upon each company for the privilege of disposing of solid waste in the County facilities, CONTRACTOR shall have the right to request a meeting with the Board of DISTRICT for the purpose of negotiating with said Board to determine what share, if any, of said charge shall be paid by DISTRICT. The agreement to negotiate by DISTRICT is not to be regarded by CONTRACTOR as a commitment on the part of DISTRICT to pay any portion of said landfill charge imposed by County of Orange, and DISTRICT will be obligated to pay only that portion, if any, of said landfill charges that are determined as the result of the negotiations as provided for herein.

20. Customer Satisfaction. CONTRACTOR shall strive to make customer satisfaction its number one priority. CONTRACTOR shall employ an Operations Manager, to be approved by DISTRICT, to be assigned to the DISTRICT operation, to oversee the work and to handle complaints arising from the operation pursuant to this AGREEMENT. Said Operations Manager shall be assigned full time to the DISTRICT and his entire expenses shall be paid by CONTRACTOR.

21. Office Hours. Office hours shall be at least 8:00 a.m. to 5:00 p.m., Monday – Friday, excluding holidays. A responsible and qualified person shall be available by phone, toll-free, during all regular hours. Services shall be adequate to handle all calls on the busiest days. A recorder with voice mail message with next business day follow up shall be available for after hours calls.

22. Complaints. CONTRACTOR shall provide its log of complaints received to DISTRICT on a monthly basis. CONTRACTOR shall also provide DISTRICT with a copy of any report,



complaint, pleading or any other communication related to CONTRACTOR's performance of the AGREEMENT.

23. Manager as Agent. DISTRICT hereby designates the Manager of DISTRICT, as its agent for the purpose of receiving complaints and investigating and rectifying failures of service to the extent CONTRACTOR has not satisfied a customer. DISTRICT shall have the right to charge CONTRACTOR for each service call, as hereinafter defined, made by Manager of said DISTRICT; provided however, that the maximum charge for service calls for any one month shall not exceed Five Hundred (\$500.00) Dollars. The amount of such service charges for each month shall be deducted from the payment due CONTRACTOR by DISTRICT for the next month.

"Service Call" as herein defined shall mean an actual trip made by DISTRICT Manager, or an employee of the DISTRICT, to verify and/or rectify a failure of service on the part of CONTRACTOR in solid waste collection that was not rectified by CONTRACTOR.

24. Contractor Interface. The parties shall jointly appoint a designated contact that a DISTRICT Director, staff member, or other officer or agent can readily contact who is familiar with the DISTRICT's program and who can readily assist the caller in a professional and knowledgeable manner. Calls shall be returned promptly and in no event later than twenty-four (24) hours after the call or other contact.

25. Information Cards. CONTRACTOR shall review the existing "Green Card" (the card left at a residence to explain violations of the program) and suggest revisions thereto. The revisions shall include producing a two part form that allows CONTRACTOR to track violations and keep records thereof on an individual parcel basis as is currently done for other agencies serviced by CONTRACTOR. CONTRACTOR shall produce said Green Cards at no cost to DISTRICT.

26. Driver Conduct / Uniforms. CONTRACTOR agrees that drivers will be properly outfitted with uniforms and name identification thereon, will be courteous and accommodating to residents of the DISTRICT, will not scavenge through trash left at the curb, and will not solicit or

accept gratuities for performing services. CONTRACTOR will provide its employee handbook to DISTRICT staff to demonstrate that these points are covered with the drivers.

27. Solid Waste Disposal. CONTRACTOR is to provide Transfer Station services for the acceptance of Solid Waste from DISTRICT for the purpose of recovery and reclamation of recyclable materials and the transfer of unrecycled residue to Orange County landfill sites, as set out in Paragraphs 1 and 29.

In the event CONTRACTOR no longer provides Transfer Station Services as set out in this AGREEMENT, DISTRICT reserves the right to direct the flow of Solid Waste produced and collected hereunder to any succeeding recycling firm with which DISTRICT has contracted, provided however, that in the event mileage to the succeeding recycling firm has increased ten percent (10%) over the mileage presently in effect between DISTRICT and CR Transfer, CONTRACTOR shall be entitled to additional compensation based upon acceptable proof submitted to DISTRICT of actual increased cost; and provided further, that if the mileage decreases in excess of the same percentage, DISTRICT shall be entitled to a reduction in compensation it is obligated to pay.

DISTRICT represents that it has in force a contract with the CITY OF COSTA MESA, dated November 5, 1993, exempting DISTRICT from certain fees established by the City relating to the City's obligations under the Integrated Waste Management Act of 1989 (commonly referred to as AB-939). Certain provisions of that contract require that DISTRICT rely upon the cooperation and performance of CONTRACTOR and CONTRACTOR agrees that such cooperation and performance, which is attributable to CONTRACTOR, will be performed. Specifically, CONTRACTOR will participate in the education program required by AB-939 either in money or services at the option of DISTRICT with the level of participation to be set by DISTRICT and will provide such reports as are required of the DISTRICT by the City.

DISTRICT will provide CONTRACTOR with copies of all agreements, and amendments thereto, which affect CONTRACTOR's performance hereunder including, but not limited to,

contracts with any other recycler transfer station or green waste facility with which DISTRICT may contract; and any subsequent contract with City of Costa Mesa or any other entity relating to DISTRICT's obligations affecting solid waste pickup and disposal. CONTRACTOR agrees to provide DISTRICT with copies of its contracts with others related to the performance of this contract.

28. Ownership of Solid Waste. CONTRACTOR shall become owner of all solid waste when collected and shall have the exclusive right to market all recycled material reclaimed from Solid Waste generated by DISTRICT pursuant to this AGREEMENT and shall be entitled to any and all income derived from said marketing over which DISTRICT shall have no claim. CONTRACTOR shall provide DISTRICT with an accounting of said revenue, as discussed below.

#### **TRANSFER STATION, RECYCLING AND DISPOSAL SERVICES**

29. Residue / Flow Control. CONTRACTOR acknowledges that a Franchise Hauler and Transfer Station Acknowledgment dated April 10, 1997 provided for the ultimate disposal of any Residue of City Acceptable Waste to a County Designated Facility. (The capitalized terms are taken from that acknowledgment.) The purpose of these provisions is to provide flow control for the County's landfill operations, which will be in the DISTRICT's best interests. Towards that end, DISTRICT entered into a Disposal AGREEMENT with the County dated 1997. The following provisions supplement that flow control agreement.

CONTRACTOR shall deliver or cause to be delivered all Controllable Waste (including all residue from the processing, by any means, whenever conducted, of Controllable Waste), to the Transfer Station, and CONTRACTOR shall then deliver any Residue (as that term is described above) to a County Designated Facility and shall otherwise assist the DISTRICT in complying with its obligations.

CONTRACTOR shall not haul Controllable Waste to any materials recovery facility, composting facility, intermediate processing facility, recycling center, transfer station or other

waste handling or management facility unless the contract or other agreement or arrangement between the CONTRACTOR and the operator of such facility is sufficient in the opinion of the County to assure that the Residue from such facility constituting City Acceptable Waste (or tonnage equivalencies) and the City Acceptable Waste transferred by such facility shall be delivered to the Designated Disposal Discovery Facility in compliance with the Waste Disposal Covenant.

CONTRACTOR shall pay the Contract Rate imposed by the County at the Designated Disposal Facility for the disposal of all Controllable Waste, which rate shall be subject to potential adjustment necessary to reflect the circumstances set forth in the Disposal AGREEMENT.

DISTRICT and CONTRACTOR agree that the County shall be an express third party beneficiary of this paragraph, and shall be entitled to independently enforce the obligations of this paragraph.

30. Waste Diversion. CONTRACTOR acknowledges that each City must reduce its solid waste by 50% of amounts previously established pursuant to the California Integrated Waste Management Act. CONTRACTOR agrees that it will divert such amounts of the DISTRICT waste stream to comply with said 50% reduction. For purposes of this paragraph, only the amounts of waste processed by CONTRACTOR shall be considered both as the baseline and as the amount reduced. For example, amounts generated and collected by the City of Costa Mesa relating to commercial waste shall not be considered. CONTRACTOR shall prepare and maintain all appropriate documentation showing how those diversion requirements were met. If the state substantially changes those requirements, the parties may request renegotiation.

31. Most Favorable Rate. CONTRACTOR guarantees DISTRICT that its rate is the most favorable rate given to any customer using service similar to DISTRICT. If contractor negotiates a more favorable rate with any customer, that rate shall become the rate for the DISTRICT.

32. Education Programs. CONTRACTOR shall participate in AB 939 programs by taking the following actions:

- a) Providing tours of CONTRACTOR's facility each year.
- b) Conducting one seminar per year.
- c) Preparing and mailing one brochure to each resident every two years if requested by DISTRICT and if DISTRICT provides mailing addresses.  
CONTRACTOR to provide postage. Said brochure shall be prepared and mailed within six months of request by DISTRICT.
- d) CONTRACTOR shall establish a Public Education Fund in an amount not to exceed Ten Thousand Dollars (\$10,000) per year for the purpose of supplying public education and information about source reduction, recycling, and composting. Funds can be used by the DISTRICT for purchasing small giveaway items such as pencils, stickers, activity books, or publishing informational brochures or advertisements or for other public education purposes.
- e) CONTRACTOR shall provide a cash donation to support local recycling efforts, in an amount not to exceed Five Hundred Dollars (\$500) annually.
- f) CONTRACTOR and DISTRICT shall work together to provide a Household Hazardous Waste residential pickup program for recyclable household hazardous waste (Antifreeze, Car Batteries, Used Oil, Paint) approximately once every three years. CONTRACTOR shall be financially responsible for up to \$10,000 per year in either financial consideration or services.
- g) CONTRACTOR shall provide static displays of baled recyclables (plastic, aluminum, paper, cardboard) at the annual City of Costa Mesa Safety EXPO event and shall provide \$200 for prizes.

- h) CONTRACTOR shall provide the AB 939 education program described in Paragraph 6 above.
- i) All of said money shall have been paid or expended by CONTRACTOR by July 31 of each fiscal year.

33. Green Waste. CONTRACTOR shall have an agreement in place throughout the term of this AGREEMENT for composting or processing green waste with a properly licensed facility. CONTRACTOR shall use its best efforts to process green waste by composting.

34. Audit of Recycling Revenue. CONTRACTOR shall make available to DISTRICT its audited financial statement, which shall be performed on at least a yearly basis including internal trail reports supporting the financial statements. Such financial statement shall show revenue derived from all recycled materials. Such financial statement shall not become a public record and DISTRICT will use its best efforts to protect such information from becoming available to competitors.

35. Telephone Books. CONTRACTOR shall separate telephone books at its materials recovery facility at no additional cost to DISTRICT if DISTRICT determines to pursue such a program.

36. Anti-Scavenging and Other Special Programs. CONTRACTOR shall provide support to an anti-scavenging program up to \$5,000.00 per year if so requested by DISTRICT. Said \$5,000.00 to be increased or decreased yearly according to the U. S. Department of Labor February-to-February Consumer Price Index for all Urban Consumers for Los Angeles, Riverside and Orange (CPI-U) beginning July 1, 2007 using the same procedure as specified in Exhibit A hereto. In addition, CONTRACTOR shall agree to keep its trash containers free of graffiti and will provide identification for such trash containers if requested by residents.

37. Master Manifests. CONTRACTOR shall maintain a master manifest in which the transportation and disposal of all waste from DISTRICT shall be logged. Such manifest shall show disposal volumes, nature of the waste, transporter and disposal sites. All of such records

shall be provided to DISTRICT upon request. CONTRACTOR shall also document all tonnages by truck identification number, route and date and provide this compiled data electronically to the DISTRICT on the first business day of each month for the previous month. All of such records shall be kept for 50 years. Such records shall be provided to DISTRICT upon request.

38. Access to Site. CONTRACTOR will allow regular inspections by DISTRICT's personnel or agents to monitor the recycling of DISTRICT's solid waste. Said inspections shall include the right to test scales and review books and documentation, as further described in Paragraph 41.

39. Tours of the Site CONTRACTOR will arrange tours of the recycling plant whenever requested by Board members or staff of the DISTRICT in addition to the annual tour established in Paragraph 32.

#### **GENERAL PROVISIONS**

40. Yearly Performance Review. DISTRICT shall complete a performance review of the trash collection and recycling program on a yearly basis and CONTRACTOR and DISTRICT shall meet to discuss and resolve problems that may be occurring in the programs. DISTRICT shall prepare a performance review form that allows for evaluation of services provided at the residences as well as administrative services including report preparation, accuracy, timeliness of transmittal, responsiveness to inquiries, database management, service levels and helpfulness.

41. Audit Rights. In addition to any other audit and access rights that DISTRICT shall have under this AGREEMENT (see Paragraph 34), DISTRICT shall have the right at reasonable times, to audit any facet of CONTRACTOR's performance under this agreement. Said rights shall include a right of access to the site and equipment used to perform this contract, a right of access to books and records relating to the business operations as it pertains to this contract, and a right to an annual audit of the performance of the contract and, if deemed warranted by DISTRICT, the right to demand an independent certified audit at CONTRACTOR'S cost.

CONTRACTOR agrees to cooperate with DISTRICT in all of the above. Such right to audit will

include CONTRACTOR and its owned subsidiaries performing work under this CONTRACT. Such rights shall include a right of access to internal trail reports.

42. Indemnification of DISTRICT. CONTRACTOR agrees to indemnify, defend and hold DISTRICT, and its offices, agents and employees, harmless from any and all liability arising out of the performance of this contract or the award thereof to CONTRACTOR, or the exclusive nature thereof or the rates charged, save and except any liability caused by the sole active negligence of DISTRICT. Said indemnification shall extend to payment for any penalties for failure to meet state mandated diversion rates.

43. CERCLA. CONTRACTOR agrees that its obligations to indemnify defend and hold DISTRICT and its officers, agents and employees harmless shall extend to all liability arising from the Comprehensive Environmental Response, Compensation and Liability Act (CERLA), the Resource Conversation and Recovery Act (RCRA), and the Hazardous Waste Control Act.

44. Bond. CONTRACTOR shall furnish a Faithful Performance Bond guaranteeing CONTRACTOR's performance of this AGREEMENT in the sum of Fifty Thousand (\$50,000.00) Dollars written by a surety company licensed to do business in the State of California and in a form approved by the Attorney for DISTRICT.

45. Public Liability and Property Damage Insurance. CONTRACTOR shall be required to maintain in full force and effect during the term of this AGREEMENT a public liability policy with a combined single limit of Five Million Dollars (\$5,000,000.00) for the benefit of third persons who may be injured or damaged as a result of any negligent operation of CONTRACTOR in the performance of work under this AGREEMENT, which said policy shall name DISTRICT as an additional insured thereunder. DISTRICT shall be provided with a current endorsement of such policy evidencing said coverage in a form approved by DISTRICT.

CONTRACTOR further agrees to keep on file with DISTRICT a certificate or certificates of insurance, duly executed by CONTRACTOR's insurance carrier or carriers, which shall serve as evidence of the continued existence of said insurance policies.



DISTRICT shall not, nor shall any officer or employee thereof, be liable or responsible for any accident, loss or damage happening or occurring in the CONTRACTOR's performance of work under this AGREEMENT, and CONTRACTOR shall indemnify and hold harmless the DISTRICT and its Board, officers and employees from any and all liability arising therefrom, including any attorney fees incurred in the defense of any such action.

DISTRICT and CONTRACTOR agree that the extension of this AGREEMENT beyond its due date for good and valuable consideration is not a DISTRICT project as defined by Section 20801, Public Contracts Code. In the event, however, that any action is instituted raising the question of said requirements, the indemnity and hold harmless provisions herein include any attorney fees incurred in the defense of any such action.

46. Worker's Compensation Insurance. CONTRACTOR shall also maintain in full force and effect during the term of this AGREEMENT a workers' compensation policy and such other forms of insurance as shall be required by law, and shall provide a certificate or certificates of insurance naming DISTRICT as an additional insured in each case. CONTRACTOR agrees to indemnify DISTRICT for any damage resulting to DISTRICT from failure of CONTRACTOR or any SUBCONTRACTOR to take out or maintain such insurance.

47. Compliance with all Laws. CONTRACTOR shall abide by all the rules, laws and regulations of DISTRICT, the City of Costa Mesa, County of Orange, State of California and all other governmental agencies having jurisdiction.

48. Licenses and Permits. CONTRACTOR agrees to maintain during the life of this AGREEMENT all licenses and permits required by any governmental agency. CONTRACTOR further agrees to comply with such rules and regulations of the City of Costa Mesa adopted by ordinance or resolution relating to City's requirements under the California Integrated Waste Management Act of 1989 (Section 41070, et seq., Public Resources Code) and to promptly rectify any default, which may occur.

49. Employment / Non-Discrimination. No regular employee of DISTRICT will be employed by CONTRACTOR while this AGREEMENT is in effect. In performing this AGREEMENT, CONTRACTOR will not engage in, nor permit its agent to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code. Violation of this provision may result in the imposition of penalties referred to in Labor Code Section 1735.

CONTRACTOR shall perform the services herein contemplated in compliance with the Federal and California laws concerning minimum hours and wages (Davis-Bacon Act, 40 U.S.C. 276a, et seq., and California Labor Code, Section 1171, et seq.), Occupational Health and Safety (29 U.S.C. 651, et seq., and California Labor Code, Sections 6300, et seq.), Fair Employment Practices (29 U.S.C. 201, et seq., and California Government Code, Section 12900, et seq.), Workers' Compensation Insurance and Safety in Employment (Division 4 and 5 of the California Labor Code) and all amendments thereto, and all similar State or Federal laws to the extent they are applicable; and CONTRACTOR shall indemnify and hold harmless DISTRICT from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including attorney fees and costs, presented, brought or recovered against DISTRICT for or on account of any liability under any of the above-mentioned laws which may be incurred by reason of any work performed by CONTRACTOR under this AGREEMENT.

CONTRACTOR is and shall be acting at all times as an independent contractor and not as an employee of DISTRICT. CONTRACTOR shall secure, at his expense, and be responsible for any and all payment of income tax, social security, State disability insurance, unemployment compensation and other payroll deductions for CONTRACTOR and its officers, agents and employees, and all business licenses, if any, that are required in connection with the services to be performed hereunder.

50. Drug-Free Workplace. CONTRACTOR shall establish a Drug-Free Awareness Program to inform employees of the dangers of drug abuse in the workplace, the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace, and the employee assistance programs available to employees. Each employee engaged in the performance of a DISTRICT contract must be notified of this Drug Free Awareness Program and must abide by its terms. Failure to establish a program, notify employees or inform the DISTRICT of a drug-related workplace conviction will constitute a material breach of contract and cause for immediate termination of this AGREEMENT by DISTRICT.

51. Non-Assignability. This AGREEMENT may not be assigned without the prior consent of DISTRICT. For purposes of this paragraph a transfer of 40% of the stock of the CONTRACTOR Corporation will be considered an assignment.

52. Default. Failure on the part of CONTRACTOR to comply with the terms and provisions of this AGREEMENT shall be grounds for the DISTRICT to terminate the AGREEMENT. In the event of the breach of contract, or default on the part of CONTRACTOR, DISTRICT may, at its option, notify CONTRACTOR of its intention to terminate this AGREEMENT. Said notice shall be by certified or registered mail and by facsimile transmissions. Said notice shall be given in writing and mailed to the address of CONTRACTOR on file with the DISTRICT or DISTRICT Manager. Said AGREEMENT shall thereupon be deemed terminated thirty (30) days thereafter if CONTRACTOR has not cured the breach within said thirty (30) days. In the event of such cancellation, CONTRACTOR shall remain liable for any damage and loss sustained by DISTRICT in the collection of solid waste, including all costs incurred by DISTRICT in the negotiation of a new contract.

In the event of a default as herein described, DISTRICT shall have the authority to take whatever steps are necessary to ensure the collection of residential Solid Waste including, but not necessarily limited to, the employment of another contractor or contractors, employment of its own work force with rental equipment, or by such means as the DISTRICT, in its sole

discretion, may employ for this purpose. In the event of a default as heretofore set forth, because of work stoppage or for any other reason, DISTRICT reserves the right to be reimbursed for its expenses incurred in maintaining residential Solid Waste service as provided for in this AGREEMENT, and in the event after demand CONTRACTOR fails to reimburse DISTRICT, DISTRICT reserves the right to call upon CONTRACTOR's performance bond for said reimbursement. DISTRICT agrees to first make demands upon CONTRACTOR for said reimbursement prior to applying to CONTRACTOR's surety for this purpose.

Additionally, in the event of a strike or non-performance of this AGREEMENT, DISTRICT shall have the right to use CONTRACTOR's equipment at no cost to the DISTRICT.

The waiver of any breach of the terms of this AGREEMENT shall not be deemed a waiver of any recurrence of the same or any other subsequent breach of said AGREEMENT.

53. Venue. This AGREEMENT shall be interpreted and enforced in accordance with the laws of the State of California. Any suit to enforce its provisions shall be filed and prosecuted in the Orange County Superior Court or if a federal action, in the Central District of California.

54. Liaison. DISTRICT and CONTRACTOR shall each designate an individual to act as liaison between DISTRICT and CONTRACTOR as the respective agents of each which are named as follows:

DISTRICT

Thomas A. Fauth

628 W. 19<sup>th</sup> Street

Costa Mesa, CA 92627

949-645-8400, ext. 222

CONTRACTOR

Dean Ruffridge

11292 Western Avenue

Stanton, CA 90680

714-826-9049

Said designated agents may designate alternates by notifying the other in writing of such designation.

55. Franchise Alternative. It is further understood and agreed by and between the parties hereto that certain legislative and Constitutional tax limitations may render DISTRICT unable to meet its financial obligations with CONTRACTOR. In such event and upon notice duly given by DISTRICT to CONTRACTOR in writing, this AGREEMENT shall be deemed null, void and of no further force or effect. In such event DISTRICT shall be obligated to pay CONTRACTOR through and including the last week of Solid Waste collection immediately preceding such termination date and DISTRICT shall not be obligated to make any payment to CONTRACTOR beyond said termination date.

In the event of such termination, CONTRACTOR may apply to DISTRICT for a franchise for the collection of residential refuse within the DISTRICT and may be granted a franchise under terms and conditions as determined by the Board of Directors of DISTRICT at the time said franchise is granted. Any franchise granted shall comply with the California Integrated Waste Management Act of 1989 as amended (heretofore cited) and shall meet all lawful franchising requirements of the City of Costa Mesa.

Said franchise shall, among other things, provide that CONTRACTOR shall be fully responsible for collection of fees from individual residences serviced and shall establish a system of invoicing and charges for said services. Said franchise shall also include, among other things, the right of DISTRICT to determine whether or not CONTRACTOR's charges are excessive and to require adjustments in said charges to ensure reasonable profit to CONTRACTOR and to ensure a fair and equitable charge to residences being served.

56. Cost of Notices. All notices required to be given pursuant to this AGREEMENT shall be given at CONTRACTOR's cost unless specified otherwise.

57. Legal Fees. In the event that litigation is brought by any party in connection with this AGREEMENT, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including attorneys' fees, incurred by the prevailing party in the exercise of any

and expenses, including attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions or provisions hereof, all as authorized by Section 1717 of the California Civil Code.

58. Severability. If any portion of this AGREEMENT shall be invalidated on any ground by a court of competent jurisdiction, the balance of said AGREEMENT shall continue to be binding on the parties hereto.

59. Integration. This AGREEMENT constitutes the sole and exclusive agreement between the parties and the intent is to supersede all previous agreements unless a contrary intention is specified or the agreement is peripheral to and not directly related to the subject matter of this agreement. This agreement cannot be amended, changed or otherwise modified except in writing signed by both CONTRACTOR and DISTRICT.

IN WITNESS WHEREOF, we have placed our hands and seals, making this AGREEMENT effective on the day and year first written.

DATED:

July 20, 2006

COSTA MESA SANITARY DISTRICT OF ORANGE COUNTY

By:

James M. Ferryman  
President

By:

Arthur R. [Signature]  
Secretary

DATED:

July 20, 2006

CR&R, INCORPORATED

BY:

[Signature]

ATTEST:

By:

[Signature]

**Exhibit A.**

**1. Example Calculation of Consumer Price Index Annual Adjustment:**

|   |       |
|---|-------|
| Consumer Price Index Feb 2006*            | 207.5 |
| Consumer Price Index Feb 2005*            | 197.4 |
| Total Change in CPI Increase/(Decrease)** | 5.12% |

\* Source = Consumer Price Index for Los Angeles/Riverside/Orange County, California  
 \*\*Formula = Total Change in CPI Increase/(Decrease) = (207.5-197.4)/197.4=5.12%

**2. Example Calculation of Consumer Price Index Cumulative Cap:**

| <u>Fiscal Year</u> | <u>Feb to Feb<br/>CPI</u> |
|--------------------|---------------------------|
| 7/1/2001           | 0.03000                   |
| 7/1/2002           | 0.02830                   |
| 7/1/2003           | 0.02080                   |
| 7/1/2004           | 0.03000                   |
| 7/1/2005           | 0.03000                   |
| 7/1/2006           | <u>0.03000</u>            |
| Total 6 Year CPI   | 0.16910 (A)               |

(A) Amount exceeded six year rolling cap of 16% therefore FY 7/1/06 would be the 3% less the .00910 for a CPI adjustment of .02090.

**3. Example Calculation of Hauler CPI Rate Increase:**

|   |              |
|---|--------------|
| Fiscal Year Base Rate per Occupancy           | 9.1554       |
| Max CPI increase Cap of 3%                    | <u>1.03%</u> |
| Fiscal Year per Resident per month Trash Cost | \$ 9.4301    |

**4. Example Calculation of Recycling/Disposal CPI Rate Increase:**

|                                       |              |
|---------------------------------------|--------------|
| Fiscal Year per Ton Base Rate         | 41.22        |
| Max CPI increase Cap of 3%            | <u>1.03%</u> |
| Fiscal Year per Ton Base Rate         | \$ 42.46     |
| Landfill Fee per Ton @ 50% Recycled   | <u>11.00</u> |
| Total Recycling/Disposal Rate per Ton | \$ 53.46     |

**5. Example Calculation Customer Trash Rate = or < 2nd Highest:**

|              | <u>Estimated<br/>FY XX/XX</u> |
|--------------|-------------------------------|
| CMSD         | 19.95                         |
| Placentia    | 19.49                         |
| HB           | 18.62                         |
| Fount Val    | 17.83                         |
| Anaheim      | 16.61                         |
| Brea         | 16.77                         |
| Fullerton    | 17.09                         |
| Garden Grove | 18.22                         |

As of 6/XX these were the projected trash rates for FY XX/XX. One of these agencies would have to surpass CMSD and a second agency would have to pass or equal CMSD's \$19.95 rate before CR&R would receive a CPI increase on either the Hauler or Recycling/Disposal rates. Partial CPI increases will be split equally between the Hauler and Recycling/Disposal Base Rates.

6. Example Calculation Possible Additional Monies Due CMSD to Freeze Rate @ \$19.95:

Costa Mesa Sanitary District  
Budget with No CPI Increase

| <u>Revenue</u>                            | Frozen 19.95     | Frozen 19.95     | Frozen 19.95     |
|---|------------------|------------------|------------------|
|   | <u>FY2006-07</u> | <u>FY2007-08</u> | <u>FY2008-09</u> |
| Secured Property Tax                      | 30,000           | 30,000           | 30,000           |
| Investment Earnings                       | 50,000           | 50,000           | 50,000           |
| Add'l Can Fees \$8/mo x 3000 (B)          | 28,800           | 255,000          | 255,000          |
| Spec Assessment Charges                   | 5,079,801        | 5,079,801        | 5,079,801        |
| Contributions                             | 25,500           | 25,500           | 25,500           |
| Other Reimbursements                      | 1,000            | 1,000            | 1,000            |
| Other Financing Sources                   | -                | -                | -                |
| <b>Total Revenue</b>                      | <b>5,215,101</b> | <b>5,441,301</b> | <b>5,441,301</b> |
| <br><u>Expenditures</u>                   |                  |                  |                  |
| <b>Total Salary &amp; Benefits</b>        | <b>128,071</b>   | <b>134,475</b>   | <b>141,199</b>   |
| <b>Total Maintenance &amp; Operations</b> | <b>178,269</b>   | <b>187,182</b>   | <b>196,541</b>   |
| Trash Hauler                              | 2,340,120        | 2,340,120        | 2,340,120        |
| Recycling/Disposal                        | 2,412,564        | 2,485,672        | 2,558,780        |
| Principle Payment                         |                  |                  |                  |
| Interest Payment                          |                  |                  |                  |
| Rate Stabilization                        | 28,800           | 255,000          | 255,000          |
| Contingency                               | 35,000           | 35,000           | 35,000           |
| Sharps Program                            | 10,000           | 10,000           | 10,000           |
| Household Hazardous Waste                 | 20,000           | 20,000           | 20,000           |
| Telephone Bk Recycling Program            | 15,000           | 15,000           | 15,000           |
| Large Item Pick-up                        | 5,000            | 5,000            | 5,000            |
| Used Tire Roundup                         | 500              | 500              | 500              |
| Educational Tours                         | 5,000            | 5,000            | 5,000            |
| Trash Containers                          | -                | -                | -                |
| <b>Total Special Program</b>              | <b>4,871,984</b> | <b>5,171,292</b> | <b>5,244,400</b> |
| <b>Total Expenditures</b>                 | <b>5,178,324</b> | <b>5,492,949</b> | <b>5,582,140</b> |
| <br>Net Profit (Loss)                     | <br>36,777       | <br>(51,648)     | <br>(140,839)    |

(B) Revenue will be split 90% CR&R/10% CMSD in FY 2006-07. Thereafter 100% goes to CMSD Rate Stabilization Fund. Monies owed the District will be deducted from the last month of the fiscal year's contractor payments for Hauler and/or Recycling/Disposal services. "Additional Container Fee" Revenue is not included in the calculation when CR&R is eligible for CPI increases.

7. Administrative Charges:

Some part of the annual rate charged to customers constitutes a component to compensate DISTRICT for its administrative costs in operating its solid waste and recycling operations. This component is currently \$\_\_\_\_\_ or \_\_\_\_\_% of the annual charge for residential collection. DISTRICT acknowledges that if the administrative charges substantially exceed this percentage of the annual charges, CONTRACTOR shall be entitled to a review of rates so that monies previously allocated to CONTRACTOR out of the annual assessment are not unfairly absorbed by DISTRICT's administrative costs.



## BILL OF SALE

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the Costa Mesa Sanitary District ("Transferor"), hereby transfers, conveys and assigns to CR&R ("Transferee"), its successors and assigns, all of Transferor's right, title and interest in and to those certain items of personal property described in "Exhibit "A," attached hereto and incorporated herein ("Transferred Property").

1. Transferor warrants and represents that Transferor is the sole owner of the Transferred Property and that the Transferred Property is free and clear of all liens, encumbrances, security interest and any claims to title.

2. This Bill of Sale may be relied upon as conclusive proof that each and all of the Transferred Property has been transferred to Transferee.

3. This Bill of Sale has been prepared, negotiated and executed, and shall be construed in accordance with, the laws of the State of California.

4. Any action or proceeding relating to or arising out of this Bill of Sale shall be filed, if a state action, in the Superior Court of the State of California for the County of Orange, or if a federal action, in the United States District Court for the Central District of California.

5. Except as may be otherwise provided in this Bill of Sale, Transferor and Transferee acknowledge and agree that this is a non-warranty Bill of Sale and that Buyer is purchasing the Transferred Property without any warranties, whether express or implied, and whether pursuant to the California Uniform Commercial Code, or otherwise. To the extent any warranties would apply to the Transferred property of this transaction, Transferor unconditionally waives, and Seller disclaims, any such warranties.

Transferee further expressly acknowledges that Transferee is purchasing the Transferred Property in an "As Is," "Where Is" condition, with all its faults. Transferee has inspected the Transferred Property and is satisfied that the Transferred Property is completely as described in Exhibit "A" and is in good condition. Transferor makes no representation

concerning the value of the Transferred Property.

Transferor does not warrant the merchantability of the Transferred Property or whether it is fit for any particular purpose, or even if the Transferred Property is fit for the ordinary purpose for which it is normally used, and Transferee specifically waives any implied warranty of merchantability of the Transferred Property or warranty that the Transferred Property is fit for any particular purpose or the purpose for which it is normally used.

Notwithstanding the above, Transferor will transfer any warranties that it owns to the containers described herein to Transferee.

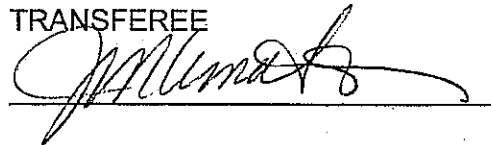
6. If Transferor breaches its warranty of title, Transferee's sole and exclusive remedy shall be limited to the recovery of an amount equal to the fair market value of the Transferred Property as of the date hereof and, in no event, shall Transferee be entitled to consequential, exemplary or punitive damages of any kind or nature whatsoever.

IN WITNESS WHEREOF, Transferor and Transferee have executed this Bill of Sale as of \_\_\_\_\_, \_\_\_\_\_.

TRANSFEROR

\_\_\_\_\_

TRANSFEEE

  
\_\_\_\_\_